

## CHARTER REVIEW COMMISSION

**AUGUST 13, 1996**

**5:30 PM**

Chairman Pappas called the meeting to order.

Commissioner Sullivan called the roll.

**Present: Commissioners Pappas, Baines, Cook, Dolman, Dykstra  
Stephen, and Sullivan**

Chairman Pappas addressed item 3 of the agenda:

Review of comments received at the public hearing held on August 8, 1996 relative to the Preliminary Report and the Preliminary Draft of the proposed City Charter.

Commissioner Cook began by recommending that the Commissioners form a subcommittee to look into the legality of changing the description of the School District.

Chairman Pappas stated that Kevin Clougherty from the City Finance Department would be available to meet with either a subcommittee or the full commission some time next week regarding budget issues, timeline, etc.

Commissioner Sullivan supported the idea of forming a subcommittee, and advised the Commissioners that she had copies of RSA 49-C:23 to hand out, which was the section that the Attorney General wished to have inserted into the Charter. Also handed out was a copy of a letter from Rick Samuels containing proposed language for the Water Works.

Chairman Pappas stated it was important that the Commission connect with Kevin Clougherty.

Commissioner Sullivan stated she had spoken with Tom Clark who advised her that his conversations with the Attorney General had consisted of only general discussion items, no written opinions had been submitted.

Commissioner Dolman suggested the Commission do legal research into the School District issue.

Commissioner Baines commented that the School District will continue to function as it always has until the District decides to file suit against the City in order to affect changes in the way things are run.

Commissioner Cook stated if the law states a specific thing, we must be careful what we are intending. He did not think the intention of the Commission was to have the School District become off limits to the governing body of the City.

Commissioner Dykstra stated if the Attorney General says the School District proposed changes are legal, then we should see what the public thinks. On the issue of the budget timeline, maybe a subcommittee would be in order.

Commissioner Cook stated but only to discuss the budget timeline.

Commissioner Stephen disagreed with having a subcommittee, citing the fact that time was running out and he had many points to discuss regarding various issues. He advised that he personally had 65 items noted that he would like to discuss.

Commissioners commented that time was running out and they should discuss very early next week any lingering issues and vote for changes next week to be able to prepare the final draft in time to submit it to the Board of Mayor and Aldermen.

Commissioner Sullivan asked if everyone would please look at the items she handed out. Looking at the copy of RSA 49-C:23, certain sections of the statute establish fiscal control.

Commissioner Baines stated this language must be put into the Charter.

Commissioner Sullivan felt they should incorporate the statute into article 6 relating to budgets and appropriations.

Commissioner Dykstra stated she felt the budget timeline should be kept in June in order for the Aldermen to be able to do a good job with it.

Commissioner Baines agreed but felt that the budget process gets dragged down due to political reasons, but the budget should be completed in June when people are still around.

Commissioner Sullivan suggested the Commissioners recommend to the full Commission that they change 6.04(c) to read the 30th of April and the second Tuesday in June for adoption of a final budget, and move current dates back by six weeks.

Commissioner Stephen advised that Commissioner Lopez feels that the budget process should remain as it is and that he agreed with that.

Commissioner Cook stated the way we were intending to change the budget process would require the Board of Mayor and Aldermen to complete the budget by a certain date, but with the ability to change it if something came up. In other words the budget could be passed but the line items could be discussed and changed if necessary.

Commissioner Dolman stated there are other issues with the budget timeline besides hiring issues for school employees.

Commissioner Stephen asked if anyone could clarify for him the comment that Alderman Wihby made regarding the extra 3 million?

Commissioner Cook answered that a lot of non-tax revenue monies must be considered when formulating a budget for the City, and those monies must be estimated. In preparing a budget, the more time that passes, the clearer the issues become, that is why the Aldermen do not want to have to pass the budget before the 1st of June. The extra 3 million Alderman Wihby referred to is money that was discovered late in the budget process, and it would have fallen after the proposed

deadline in the new Charter. Either way there would be at least a working knowledge of what revenues could be expected, and a budget should be able to be formulated from that knowledge.

Commissioner Dykstra stated more time is better in formulating a budget, because no matter what, something is always discovered after the fact, but the longer they have to gather information and estimates, the more accurate the budget will be. Projections are more realistic.

Commissioner Sullivan recommended that the Commission request John Groulx to work on drafting changes to reflect the present discussions with the help of Kevin Clougherty to try to come up with a feasible time frame for budget adoption. She also suggested the Commissioners forward comments and concerns regarding this issue to John Groulx to assist in drafting.

Commissioner Cook stated there were some issues concerning State requirements that were not addressed, and the suggestions of the Bond Counsel, and maybe the Commission should speak to as many of the people involved as possible.

It was decided to have John Groulx work on re-drafting of specific areas of the Charter to bring before the full Commission on August 21.

Commissioner Sullivan suggested they quote the State law in the Charter with regard to the School District. She recommended that on the specific issue of care and control of School Buildings the Charter carry quotes of the State Statute pertaining to that issue. It was an issue she felt very strongly about but did not want it to be the sole reason for the proposed charter to fail.

Commissioner Baines suggested the Commission revert to the present wording of the Charter to describe School District.

Commissioner Dykstra asked if he meant the existing Charter.

Commissioner Baines answered yes, because the present wording specifically states "all laws governing", and maybe if this was going to continue to be such a hot issue, in order for the other proposed changes to have a chance, the Commission ought to

just revert back to the existing wording.

Commissioner Stephen agreed and stated he felt it should have stayed that way all along. He also commented that too many changes would make the charter revisions difficult to pass.

Commissioner Sullivan stated for the record, she wished it to be known that if they left it at it's present wording, she did not want the Board of Mayor and Aldermen to have authority over things they thought they should have authority over.

Commissioner Cook stated he appreciated her point of view but felt it was wrong not to have flexibility or to tie the hands of the Aldermen. He commented that the system was a mess, but he did not want the commission to give out a mixed message, or squander the expertise of the Board in decisions regarding the Schools.

Commissioner Sullivan stated she felt the problem was that the School Board had not stood up to the Board of Mayor and Aldermen on issues, and also did not want to destroy the charter revisions because of this issue.

Commissioner Cook stated the vote would be 8-1 in favor of keeping the wording the same because he felt very strongly that the present system in place was a disaster. The school district should have control over their own funds, and the maintenance of the school buildings.

Commissioner Stephen stated he did not want to ruin the charter revisions over this issue either, and thought the financial issues could be worked out.

Commissioner Dykstra stated people will vote down the revisions based on the school issue alone.

Commissioner Baines quoted from Tom Bowen's testimony regarding the water works.

Commissioner Sullivan suggested they refer to the full commission the change to Article 4.03 Superintendent of Schools to read "The School Committee shall nominate and appoint subject to the requirements and procedures of State law, a candidate for Superintendent of Schools."

It was agreed to refer the change to the full commission by an informal vote of 6-1.

Commissioner Cook suggested they refer to the full commission the proposed change to section 6.05 regarding the school budget to say "adjustments to the School District budget after adoption shall be made as required by State law".

Commissioners agreed to refer the change to the full commission by an informal vote of 5-2.

Commissioner Cook suggested removing the Executive Assistant to the Mayor provision from the new charter.

Commissioners present agreed to eliminate the provision for an Assistant to the Mayor from the proposed charter changes, and felt that the Commissioners who were not present, Lopez and Shaw, would not object.

Commissioner Sullivan suggested looking at 2.02 (b) and 5.1(7) regarding qualifications to be an Alderman.

Commissioner Stephen commented that in his interpretation of 5.17 and 5.18, someone from out of the City could run for office within the City, and that they should change the wording a bit to convey that any person filing to run for office within the City be a current resident of the City.

Commissioner Sullivan suggested quoting State Statute on that issue also.

Commissioner Stephen agreed, noting that they should put a reference to RSA 49-C:9 in 5.17 and 5.18.

Commissioner Dykstra addressed the concerns of Tom Bowen's testimony that the proposed changes in the new charter regarding the Water Works may not be in line with State Statutes.

Commissioner Sullivan stated the Attorney General had said it was in line with general laws, but that there are special laws in effect that could change the meaning somewhat.

Commissioner Stephen commented that Commissioner Lopez felt that the Commissions of Water Works and Airport should be kept as they are.

Commissioners agreed and decided to bring it up for discussion by the full commission.

Discussion ensued regarding how to come up with suitable language to describe the Commission functions to be in accordance with State law.

Commissioner Sullivan advised that she would be unavailable the week of August 19-23 but would check in with Commissioner Cook at some point during the week to see how discussions were going. She also advised the Commissioners of the points she felt most strongly about.

Discussion ensued regarding the Mayor's response to the proposed Charter. Commissioners were in agreement that they should try to meet with the Mayor to clarify certain points and obtain his opinion on various matters, particularly the budget.

Commissioner Cook brought up the issue of whether the Mayor had the authority to break a tie on matters of nominations.

Commissioners were unsure whether that could be done, and decided to look into the matter further for discussion at the next meeting.

Commissioner Dykstra commented that they were not going to be able to correct everything that might be wrong, but that they should concentrate on the most important issues and weed out the not as important issues.

Commissioner Baines suggested another public hearing.

Chairman Pappas advised that there probably was not going to be enough time, but they could decide next week to hold a public information session to let the public know what the final decisions were shaping up to be.

Commissioners discussed meeting with Mayor, Aldermen, City Officials and newspaper staff once voting on final matters was complete to advise them what to expect in the final version of the proposed Charter.

Commissioners addressed the Standards of Conduct area of the proposed Charter.

Commissioner Dykstra stated she still believed that the Standards of Conduct was a good thing and was consistent with the way State law was written regarding ethics, and also the ordinance regarding ethics.

Commissioner Stephen agreed and stated he felt strongly that the Standards of Conduct should remain in the proposed Charter as is.

Commissioner Baines stated he was still of the opinion that Standards of Conduct would be interpreted in too broad a manner, bringing unjust accusations onto innocent people.

Commissioner Cook was still unsure whether or not Standards of Conduct actually belonged in the Charter.

Discussion ensued regarding the upcoming meeting schedule for the Commission.

It was decided to meet on August 19, 21 and 22 if necessary.

Commissioner Dykstra informed the Commission that she would be away the week of August 26-30.

Chairman Pappas advised that the Commission had to have their final report to the Board of Mayor and Aldermen by September 3, 1996.

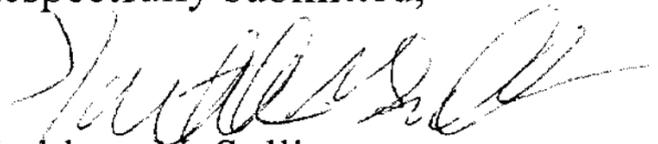
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Commissioners asked the Clerk to send memo's to the Board of Aldermen and the Mayor inviting each to attend the meetings scheduled for August 19, 21 and/or 22 to add their input into the final decision making for the proposed Charter.

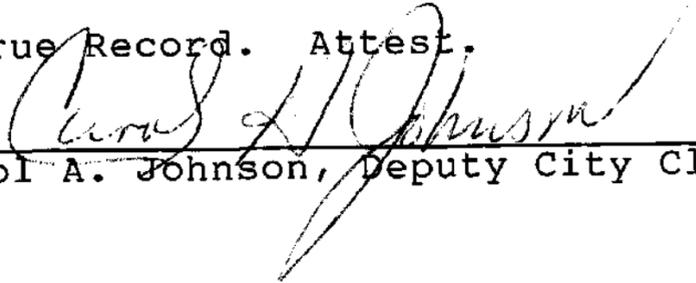
There being no further business to come before the Charter Review Commission, on motion of Commissioner Cook, duly seconded by Commissioner Dolman, it was voted to adjourn.

Respectfully submitted,



Kathleen N. Sullivan  
Secretary

A True Record. Attest.

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Carol A. Johnson, Deputy City Clerk

## CHARTER REVIEW COMMISSION

August 19, 1996

5:30 PM

Chairman Pappas called the meeting to order.

**Present:** Commissioners Stephen, Baines, Cook, Pappas, Dykstra,  
Lopez

**Absent:** Commissioners Sullivan, Shaw and Dolman were absent.

Chairman Pappas advised that the Commissioners needed to make decisions on certain items.

Commissioner Dykstra asked if there was a list of items that had been agreed upon last week.

Commissioner Cook answered the first one was the school vote, to change the language back to the old charter...we took out the executive assistant to the Mayor...

Chairman Pappas advised that there was three people present who would like to address the commission.

Mr. Beaurivage from the Water Works addressed the commission.

Mr. Beaurivage stated the main concern the Water Works has with the charter recommendations is to eliminate any possible confrontation or conflicts between statutes and what was in the Charter. We thought by interjecting a couple of brief modifications to what you have now, any confusion could be eliminated. In section 10.03, transfer of powers, there should be a list of Boards, Commissioners and Authorities.

Chairman Pappas advised that the commission was aware of that, and the list would be added.

Mr. Beaurivage stated in section 3.10, number of members, the last commission on the list is the Water Works commission, and there should be a five asterisk symbol next to it to designate the footnote. On the next page where the five asterisk note is, the Board of Water Works should be added to it.

Commissioner Cook stated no, that should not be added to it. Those two are federally created, and federally mandated municipal corporations and the Federal statute sets forth the operating procedure. If the appropriate way to deal with this was with asterisks, you don't want to lump with federally created ones.

Mr. Beaurivage stated in the second sentence of that section it says "in the event this charter is inconsistent with State or Federal law" so that was why I thought it would be appropriate because the other two authorities were also cited in State statute.

Commissioner Cook stated I don't think the Water Works is a municipal corporation, it might have the effect of a municipal corporation. In Richard Samuels letter from 1991 it says "it's relationships and the special legislation that created it gives it the effect of being a municipal corporation, as opposed to being one" that may be very technical, but we want to get it right.

Mr. Beaurivage asked would it be appropriate if we went to six asterisks with a footnote that indicated what the Water Works is?

Commissioner Cook answered I think that would be better.

Chairman Pappas asked would that work if we added another description for the Water Works?

Commissioner Baines stated this would clarify for the first time that there are special statutes that govern the way the Water Works exists.

Commissioner Lopez stated we were trying to make an exception, we go back to the same situation we talked about before, about putting a special section for Water Works, this department, that department, that the Board of Mayor and Aldermen can't do. We said under 3.01, all the authority that exists in 3.01, the departments that exist, they still exist until the Aldermen change it. I don't know where the exception comes in.

Commissioner Cook stated I think the confusion isn't that we didn't grandfather in or transfer over whatever existed before to the new charter, the problem is that the people who have been reading this thing, and the testimony we received and the letters we received, especially from the Water Works, because the State statutes exist, and do whatever they do, and because the charter that we wrote says things sort of by implication subject to the state law and subject to whatever exists now, I think that they said this creates inherent confusion. I think what they are hoping we could straighten this out.

Mr. Beaurivage stated exactly, to clarify issues.

Commissioner Lopez stated let's say this is approved as it is. Wouldn't the Water Works or the Airport or other departments have the opportunity to appear before the Board of Mayor and Aldermen and explain that under state law they can't do this or that, or do we have to spell everything out.

Commissioner Cook stated I don't think they would even have to appear, I think that would be straightened out by the City Solicitor advising the Mayor and Aldermen what the law was. Under the present Charter there is no special reference to budgetary authority and yet we are told by everybody that the operation of the Water Works is as you describe it. Why do we have to do anything differently now seeing as its a multi-community, rate setting, etc.

Mr. Beaurivage stated I agree with you, I just think that since you are writing the Charter and as you pointed out you want to make it technically correct, why not make a couple of changes that clarify the issues at this time? It only makes sense.

Chairman Pappas advised the commission would take the suggestions under advisement.

Commissioner Dykstra asked are we going to keep the nominations the same, is the department head going to be nominated by the commission or are we going to relieve them of that authority as the other commissions are?

Mr. Beaurivage stated that is very clearly written in state law, how many commissioners there are, when they are nominated and so forth. I would be happy to read the section of the statute.

Commissioner Dykstra stated I bring it up because when we sent the charter out to be looked at by the Attorney General's office and the Secretary of State, they sent it back without noting any conflicts.

Commissioner Cook stated Commissioner Sullivan told us that the Attorney General's office said they were comparing it to the general statutes of the State and not the special statutes.

Mr. Beaurivage stated when I began my discussion I mentioned section 3.10, again by including asterisks it would bring to attention the special statutes.

Commissioner Stephen stated we should have someone obtain the laws for us. There are three things that bother me in regard to the Water Works, for the sake of consistency we have put in section 2.14 certain powers regarding the Mayor's removal authority, and my position is the Mayor should be given the same removal power for all department heads, and I don't agree if Mr. Tessier is saying the Mayor can't remove a department head. If there is a statute that says the Mayor can't remove the department head I would like to see it. The second thing is the appointments by the Mayor, maybe there is a statute that says the commission has to appoint the department head or the Board of Aldermen may have to partake in the commissions appointments. The third thing is term limits, on that issue alone, with regard to commissioners hearing the people, we may want to revisit that issue, do we or don't we want term limits on the commissions with regard to Water Works.

Commissioner Cook stated we are neither going to have the time or the capacity to answer all those questions on every department which is why I think when we did 3.08(c), we said the commission shall have no responsibility for personnel decisions or administration of the department unless otherwise required by State statute or this Charter, because we were including them by implication. That would cover both the appointment of the department head and administrative matters that might be included in the special legislation's of the Water Works. I think the issue of removal, unless it is put into the special statutes someplace, in which case we wouldn't be able to give the Mayor that power anyway. I would be shocked if the special statute prohibited term limits from an appointment. I don't think we have to study the special legislation on every department to see how it integrates with what we said, because we have set up the situation to accommodate whatever the state statutes are.

Commissioner Stephen stated with regards to removal power of the Mayor, I would strongly want to retain that power and to make it clear that the Mayor can remove a department head based on what we have decided with regard to all department heads. On the term limit issue, I would like to know, isn't the Water Works commission going to be in control based on statute? Do we want to retain the term limits issue when we are dealing with commissioners who are so much involved with the day to day operations, or so much more than other commissions.

Mr. Beaurivage read from the statute; section 5 of chapter 183; "for the convenient management of the Water Works, the same authority shall be placed under the direction of a board of several water commissioners to be appointed by the Board of Mayor and Aldermen in said City in the month of September each year, of whom the Mayor from time to time shall be one of, such commissioners shall hold their office for six years, and the first commissioner appointed shall determine by lot, the term for which they shall hold their office. The term of one commissioner shall become vacant each year, such term of office shall commence with the first Tuesday of January in each year." This goes on for pages and pages in great detail, the authority of the Water Commissioners has been in existence since 1893. The point we are making is that this is on the books, and we are trying to eliminate the issues that conflict with what is in the Charter and what is in statute.

Commissioner Baines stated if in fact after this charter is adopted and those issues come to light, nothing would prevent the Aldermen from going to the legislators to have the laws changed. I think that is one of the good parts of what we have done, because I think we have raised issues that perhaps need to be dealt with legislatively to streamline government and make it more efficient.

Mr. Beaurivage stated if you go to the electorate with this charter, there is a gray area, and we are just asking you to clarify it.

Commissioner Lopez stated I don't know if we could clarify it. Addressing Mr. Groulx: John, remember when we were discussing this and you indicated to us that this would take care of any special acts?

Mr. Groulx answered I thought, and based on what Tony Simon wrote, that the special acts could be repealed by a vote of the citizens, and this being a complete vote of the citizens, that the special acts that were deemed inconsistent were repealed. It says that in 49(c) where it says "special acts inconsistent with this are hereby repealed". I don't know if special statutes and special acts are one in the same.

Discussion ensued regarding what exactly a special act is.

Commissioner Cook stated a special act is a law that is enacted for a special purpose and does not go into the RSA. There are a lot of them.

Commissioner Dykstra asked can you tell me when this was adopted?

Mr. Beaurivage stated that was in the charter for the Manchester Water Works.

Commissioner Lopez stated I think Commissioners Baines and Cook are right, in the end what is going to happen is once the Charter is approved, your case will go before the Board of Mayor and Aldermen and Solicitor, and I think the Water Works is going to work the same, and I think the Airport is going to work the same until somebody looks into and researches all this.

Commissioner Cook stated in reference to the term limit questions, I would guess there is nothing in any Water Works section that prohibits the City of Manchester from adopting a term limit charter provision that would be applicable to the Water Works because that would be inconsistent with what you read. All of the testimony we have heard about the Water Works, nobody has said either that any of the revenue from the Water Works can go into the City budget unrestricted, which it can't, or that the Water Works isn't well run, which it is. The major policy question being talked about last week was do we want to recognize the fact that the Water Works is well run and give it special status or leave it the way that we wrote this knowing that's protected just by saying "unless otherwise provided in State law".

Commissioner Baines stated in 49(c) it says all special legislation relative to the government of the City not expressly saved is hereby repealed, all general laws relative to the government of the City shall remain in force in the City so far as consistent with this charter. So it would seem to me that the less we say in the charter that they have special status, they lose their special status. But it also re-emphasizes the argument that you can't change what is law.

Commissioner Dykstra asked what is the lifespan of a special act?

Discussion ensued regarding same.

Commissioner Lopez stated if we did put one thing in there, there is five other things that I would like in there, like the Police, Fire, Schools, Airport, etc.

Mr. Beaurivage stated I don't believe that those agencies have on the books that statutes that the Water Works does.

Commissioner Cook stated we have to decided if we intended, when we passed what we passed, to change the status of the Water Works.

Commissioner Baines stated I am not sure what the answer is because as we went through the process we learned for example, that the Board of Water Commissioners presents their budget to the Aldermen, just like any other

department in the City, historically, it's just been received and filed, I don't think the Aldermanic Board has ever given away it's authority if in a time of crisis, that they could take a hard look at that budget and do whatever they felt was right. The BMA cannot get involved in rate setting because that is prohibited, I am assuming, by State Statute. My question would be is there anybody that we can get a quick answer from to make sure that we are interpreting this correctly that in fact this charter, if adopted by the City, does make null and void, these special acts. And finally what we need is to see what the Mayor and Aldermen think.

Commissioner Stephen asked what is the problem with leaving 3.18 in the old charter as is with the proviso that we want to make sure that we specifically state that removal powers, term limits, etc. apply to the Water Department.

Commissioner Cook stated if the Water Works has the power under State law that it tells us it has, and if the issue is are we inadvertently repealing a special act of some other law established, wouldn't another way to do this in the Transition Section be to say "nothing in this Charter shall be deemed to repeal any portion of the special acts regarding the Water Works."

Commissioner Baines asked what wouldn't you want the Board of Mayor and Aldermen to have authority over regarding the Water Works. Mr. Beaurivage answered I don't think that is an issue, it is just to try to maintain what we have and make sure it is consistent with the statute.

Commissioner Stephen asked what is the problem with 3.18, section (a) talks about the management of the Water Department, and somehow make an exception for this department that the management should be held in the Commission rather than the Mayor and the Department Heads.

Commissioner Cook stated there are two departments of the city, the revenue from which cannot be shared with the general fund by law, they comprise businesses separate and distinct which cannot contribute to the budget, the question then becomes, are those two businesses or enterprises entitled to, or should they have, Boards of Directors that run them like a business where everything else gets treated like we do it.

Commissioner Dolman stated Commissioner Baines raised the right questions, let's get the questions answered and then go from there.

Chairman Pappas stated let's take a look at the possibility of a new section.

Commissioner Cook stated last week at the meeting, we took Samuel's letters, and I drafted something accordingly.

Commissioner Stephen stated we should just raise the issue and decide if we want to do it, I still think we should put it in the Commission and Board section, and state it's Water Commission and Airport Commission and here's the management authority, versus the others.

Commissioner Baines stated the only thing that I have trouble with is if we eliminate or lessen the Commissions, then we go on to say that the Airport should remain, but others should go. The whole concept of giving more management power to departments, if we have the opportunity to control it, why would we want to give special status to Water Works? Why can't the manager of that department manage it as the manager of Parks and Rec will manage his department.

Commissioner Lopez stated I agree with that, let me add that under the Commission, where possibly some language could be put into 3.08 to solve the problem if we work on the concept that the BMA are the executives of the City, and if they want to give the authority to the Water Works or the Airport, or whatever, then they could.

Commissioner Cook stated I cannot speak for the Water Works because I don't know anything about it's operation, but if we did what we said in here, on the authority of the Director or the Department Head at the Airport, to do what we have let them do here.

Chairman Pappas advised that there were two School Board Members present who would like to address the Commission, Leslee Stewart and Lynn Zebrowski.

Ms. Stewart stated I am here to talk about two of the sections that you are dealing with. One, as a new school board member, I have a real appreciation for the non-partisan versus partisan issue, the reason I say that is I am so pleased at how well the non-partisanship works on our Board. People are very open, I don't think they are territorial. When you have a non-partisan board the issue of at-large is not as important and the reason I say that is I don't feel as though the territorial issue comes into it. Secondly, I urge you to reconsider amending the Charter to provide the Board of School Committee with the authority and the responsibility over our buildings and grounds. Because about a week and a half ago, two constituents called to tell me that the lawn at Webster School was a disgrace. I called Mark Hobson to find out who takes care of the schools' grounds. Mr. Hobson answered it's not Parks, it's Buildings and Grounds, and Buildings and Grounds calls whatever department they can find that has time that day to go and take care of our lawns. Fortunately three days later a gentleman appeared at the school with a lawnmower. When I look back at something like that I think "is that streamlining in government?", and I'd like to believe that if the School Department were in charge of our own buildings and grounds we'd have a plan to keep the grounds maintained. A group of school board members went to visit a group of schools recently to see how they were coming along in preparation of school opening, and we were told that the first school visited was 90% complete, yet we did not find one classroom totally back in order, there were desks and chairs piled one on top of another and had not been washed yet. The walls had not been washed, that was all that had been done, even maintenance items that should have been taken care of had not been addressed yet. At the other end of the spectrum, Parkside Junior High was in great shape, there is such a variation from building to building. Last year at Central High School I was on a committee that parents went in from December 1 through the end of the school year every single school day, twice during each day to check the bathrooms to check to make sure those issues were addressed. It never really got better all year long even though reports were being filed. The issue was that we did not have a final say. The people who have a vested interest in these schools are the people who should be taking care of the buildings and grounds. If we look upon those as an advertisement for the quality of the system we have, we don't have any internal spit and polish.

We just don't have any control and it's very frustrating when we get calls and we are not able to respond.

Commissioner Cook stated most of the items you are talking about are policy issues, not structure, most of it is due to the fact that the City of Manchester refuses to incorporate enough money to take care of the problems that you are talking about. We went at this with the intention of putting all things that come under the school department with the school department to handle. Not because we were trying to do something wild or radical, but for two primary reasons, one is we understood that was what the law said already, and if you look at the State laws that applied to Manchester, you don't need a charter change, you need a school board that will say to the City, "this is what the law says" because the State statute says that the school department, once buildings are constructed, will be entrusted to the School Board, and the school board has authority over it. You don't need a new charter, you don't need anything, you need guts enough to say it. I have inquired of some people in City Hall to find out how is it that the responsibilities became so split? In each case it was a budgetary decision at some point, not a long range structural prediction on what ought to happen. It was not done without the acquiescence of the School Board to have those items taken away. We received a lot of criticism for doing what we thought complied with the State law. We wanted the responsibility along with the authority to be with the School Board. Last week when this Commission tentatively recommended changing it back to the present structure, what we did was say if the State law as we understand it, we don't need to change the charter for this, the School Board already has that power.

Commissioner Dykstra stated Ms. Stewart you stated that you did not think it was important to have school board members at-large.

Ms. Stewart answered I don't think it is necessary but I have a short history with the School Board.

Ms. Zebrowski stated she did not think it was necessary because the School Board thinks of itself as a district as a whole.

Commissioner Baines stated I think my whole frustration with the School District issue is that the issues we are talking about dramatically affect our ability to project a positive image of our community. After seventeen years as school principal I still do not know who is in charge of the school grounds.

Commissioner Lopez stated the Parks Department is responsible for the grounds and the reason that Northwest has a playground is because of Clem Lemire. When the school was built they did not have a playground, but one of the things that you should do with the management and the policy involved, it to work it out with Dick Houle to try to get language in the contract that they have with the cleaning company so that person reports to the principal.

Commissioner Dolman stated what the School Board members were saying is true, I don't know how many custodians we went through at Wilson School last year. We are putting more and more technology in the schools which costs a lot of money, and we went through at least eight custodians last year who all had the security code, all have keys. In the past we had custodians that were there constantly and became part of the family. It gave the children a secure feeling. Now they change from day to day.

Commissioner Cook stated if the School Department was given too little money and had to figure out how to provide custodial services and had their backs to the wall, and had decided to contract out custodial services, if they had responsibility for it instead of Mr. Houle having responsibility for it, you would have the same problem. That issue isn't a charter issue. I don't think anyone disagrees with what the problem is, I think the problem is you are trying to solve it with a charter provision where we think, if we have been properly advised, somebody at the School Board, some day, ought to say to the City, "we don't acquiesce in the system we have now, here's the statute, get an opinion from the City Solicitor" .

Ms. Zebrowski asked if it was within the power of the charter commission to make part of the public buildings services report directly to the Superintendent of Schools. That way we would have a School District person at all contract hearings with outside agencies.

Commissioner Baines asked of the School Board members, I have discussed with other City officials, and I realize it is in an ordinance, but I still think it is wrong, under conflict of interest, "no City official shall participate in the decision making process of any matter in which the Official or a member of the official's immediate family has a personal or financial interest. One of you had mentioned that you have a child in the school system, you might feel that this would be in violation of the ordinance, voting on just about any issue that came before the school board.

Ms. Stewart answered I think that the way that it is worded, and Alderman Domaingue expressed that to you, the fact that you live in the City, could you vote on the issues and sit on the Aldermanic Board, and the same holds true that if you were voting on the School Board and voting on issues that obviously directly affected you own children, would that be acceptable. I think it depends on how closely you read and accept those issues. There could be a time when someone would really be on the carpet over certain things.

Commissioner Dykstra stated you can now be called for a vote. By ordinance within the City regarding conflict of interest, does force a vote if one board member feels that another board member has a conflict. When the people elect you they feel you are a person of good character and a person who should know when they should not vote.

Commissioner Dolman stated at the last meeting, I still have a problem with people having a double standard interpretation.

Commissioner Stephen quoted from RSA 673.14 "no member of the zoning board of adjustment, building code, planning board, heritage commission, historic district commission, shall participate in deciding or shall sit upon the hearing of any questions which the board is to decide in a judicial capacity if that member has direct personal or pecuniary interest" this is very consistent with State law, possibly we could put in the word "direct" to alleviate some concerns.

Commissioner Baines stated of all the times we've discussed this issue, my concern way back was, we can create a circus in the City with all the important issues that this City is facing, this could create a circus if it is not well defined.

It was decided to discuss it further at the next meeting.

Commissioner Dykstra stated the state level is very similar to the City ordinance, but deals with all local land use boards and commissions.

Commissioner Cook stated we should either deal with the advisory votes we took last week or go through a lot of little technical things that could be straightened out tonight.

Commissioner Dolman stated I have one change in Section 5, political calendar, the way it states now, the swearing in ceremony could take place on January 1, so maybe it should say the first Tuesday after the first Monday.

Commissioner Lopez stated under 2.03 we took out part-time, is that correct?

Commissioner Baines asked Mr. Groulx to advise.

Commissioner Cook made a motion to remove part-time from 2.03.

Commissioner Lopez seconded the motion.

All Commissioners agreed.

Commissioner Lopez made a motion to remove from 2.12, executive assistant. Seconded by Commissioner Stephen.

All Commissioners agreed.

Commissioner Cook stated there is an issue on that page which we had talked about last week which is not technical. There was a concern about inadvertently putting department heads in their jobs for life. The issue is having nine people having to vote for a removal instead of eight. The argument was that is going to create department heads for life as opposed to just being a protection for removal. The issue becomes should you make it eight to confirm a removal?

Commissioner Lopez stated the department head for life, if he's doing the job, who cares?

Commissioner Cook stated that is not the issue, the issue is have we made it so hard to confirm a removal in a political environment, that somebody who isn't doing his job but can convince a bunch of aldermen, can stay there and it would hinder, not help the rationale of the Mayor and his power.

Commissioner Dykstra stated before we discuss those numbers, it is imperative that this Commission decide whether there will be fourteen or twelve aldermen.

Motion by, to remove the two at-large school board members from the proposed charter, seconded by Commissioner Lopez.

Commissioner Dolman stated we are going to reach a point where this will become a drop-dead issue and we have worked very hard on this charter and have done some compromising, before we all entrench ourselves, please do not make it a drop dead issue.

Commissioner Baines stated I will be very much opposed to this issue. If we are going out to sell this to the City, to get the support we need, I think we need this at-large. The debate on this issue focused around having more at-large to bring a City perspective to the issue.

Commissioner Lopez moved to table the issue until other issues are resolved.

Commissioner Dolman stated we need to take a vote on putting in ward lines, because if we don't put the ward lines in..

Commissioner Cook stated the present districts, or ward lines, are they set by state statute, and if so, should we put them in referencing the RSA?

On motion of Commissioner Dolman, seconded by Commissioner Lopez it was voted to keep ward lines included in the Charter.

All Commissioners were in favor.

Commissioner Lopez stated we need to find out what the official City departments are so we can put them in the charter.

Commissioner Stephen stated we talked about this before, but do we need to have a section that lists all the departments when we already have a section that says "all the departments existing at the time that this charter was written are in effect", we are not institutionalizing anything by leaving that section there.

Commissioner Cook stated wasn't the issue that some of the departments presently in existence were created by ordinance and some were created by charter, and the danger that was perceived was that by listing these we were making charter created departments out of ordinance created departments. Certainly we did not intend to do that. What we said was that we were not inherently changing anything by doing this. The question is whether adding a sentence to the charter as we wrote it that nothing herein shall be deemed to be giving special charter status to departments created by ordinance.

Commissioner Baines stated could we clarify it by saying all departments of the city that exist in accordance with city ordinance?

Commissioner Cook stated in 3.01(A) we said it takes nine votes to change a department, if its an ordinance created department I think it only takes a majority, if its a charter created one it is set in concrete.

Commissioner Stephen stated I have heard so many different things about departments that I would not even trust that list right now. My position would be to list the ones that are contained in the charter and don't list any others.

Commissioner Stephen stated I have an issue with vacancies, we need to address that. On 2.05 with regard to the Board of Mayor and Aldermen, we need to look at detailing what votes were required to approve a replacement. It does not say anything about a majority of the Aldermen, does the Mayor's vote count? We are not defining it enough to give them the interpretation of how that vacancy could be filled.

Commissioner Baines stated they are governed by the rules of the board, in terms of an issue like that.

Commissioner Dolman stated it would be decided by the board of aldermen, just like for a chairman, the aldermen would vote.

Commissioner Stephen asked is it majority vote? Because that's not in here.

Commissioner Cook stated in every instance that the Board of Mayor and Aldermen's power to do things by majority vote less some other requirement has been made. The difference here is we have not made any requirement that the nominating power for the person on whom they are going to vote be one person or another. I think that would be appropriate in this case because in one case it is filling the Mayor's job, if the Mayor should pass away. I would read this as it is a majority, if it is a 7-7 vote the Mayor gets to break the tie, and that is that.

Commissioner Dykstra stated State statute is written relating to vacancies, I think the Aldermen vote. What happens is when the new Board convenes they get together and adopt the rules of the Board.

Chairman Pappas asked do you want to try Commissioner Baines' suggestion that we say you go according to the rules of the Board?

Commissioner Stephen stated I just do not want any argument about it.

Commissioner Cook stated we should just make it consistent with State law. In 5.10(a) we are taking out the words "Mayor and" so that it says "the Board of Aldermen shall fill the vacancy".

All Commissioners agreed.

Commissioner Stephen stated do we need to put in something regarding holdover status? Should we in terms of a vacancy for a commission member, what happens if the Mayor doesn't want to appoint someone. Does our definition of holdover, should we have a section that talks about a Mayor must fill vacancies on boards or commissions.

Commissioner Cook stated we already said that.

Discussion ensued and it was decided that something should be added to 5.10.

Commissioners decided to add a provision that states "the provisions of (b) and (c) shall apply to the filling of a vacancy otherwise created, except by expiration of a term".

Commissioner Stephen stated in 3.07, City Officers, what happens in the situation where there is a vacancy in a department head, or City Officer, should the Mayor be required to appoint the successor department head in the same fashion.

Commissioner Cook answered I think what we said was this applies to commissioners, department heads and officers is a little weightier question and we are not going to... we might not be able to find somebody within ninety days to be the Parks Commissioner or department head or whatever. We made that specific to commissioner unless the ordinary process as it presently exists...

Commissioner Stephen asked do we need to be more clear so that when people read this they know that we did not intend to have that ninety day rule apply in that?

Commissioner Cook answered I thought it was sufficiently clear.

Commissioner Lopez stated while we are on that subject, I think Commissioner Sullivan suggested something that I agree with “ the Board of Assessors shall consist of three members and shall continue to act in its current capacity as a Board of Appeals for abatements unless nine members of the Board of Mayor and Aldermen vote to reorganize the Assessors pursuant to 3.01” I would like to move that we adopt that wording.

Commissioner Baines seconded.

Commissioner Cook stated I have no objection to Kathy’s language except that it is redundant because we have already said that, but if it is good for clarity maybe we should use it.

Commissioners agreed.

Commissioner Stephen stated there was an issue that came up regarding whether or not term limits were going to apply to Assessors?

Commissioners answered no. But we better make it clear because they are members of a Board.

Commissioner Cook asked did we ever get an answer to the question addressing the Mayor’s criticism of the charter? Where they said we don’t like the Mayor not being able to break a tie on his appointments of department heads?

Commissioner Cook asked Mr. Groulx to look into it Mr. Girard, on behalf of the Mayor, said, I don’t like the fact that the Mayor doesn’t get to break a tie on appointments because you have required eight votes, and that would be diminishing the Mayor’s power.

Commissioner Lopez asked in the preliminary report we stated that the Aldermen could bring nominations in for department heads, and I cannot find it in the Charter. Can the Aldermen bring in nominations for department heads?

Commissioners answered no.

Commissioner Lopez stated but in the preliminary report, it did stated that the Aldermen could bring nominations in for department heads.

Commissioners agreed that was in error.

Commissioner Lopez read "permit the Aldermen to bring nominations forward when the Mayor fails to fill a vacant department or commission".

Discussion ensued regarding that issue.

Commissioner Lopez stated I raised this issue because we have a personnel officer who is a temporary department head and we do not address temporary in the Charter.

Chairman Pappas left the meeting. Commissioner Baines took over as chairman.

Commissioner Cook stated as a matter of policy we have said that the Mayor appoints department heads, if the Mayor doesn't want to appoint a department head, I am not being facetious, we should get a new Mayor.

Commissioner Stephen stated I agree, the situation is not going to happen where there is a number of department heads not being appointed, because if that happens people are not going to vote for this Mayor.

Commissioner Lopez stated let me just bring a couple of things to your attention, first of all, we have a personnel officer who has been there for seven years as a temporary, we lost the City Coordinator position because he would not bring anybody in, so now they won't fund it. So if we start eliminating this, are we creating a major problem for whoever the Mayor is.

Commissioner Dykstra stated he's been there seven years, is he getting all the health benefits, getting his salary, getting everything a permanent person would get? What is a temporary for seven years?

Chairman Baines stated the issue is whether you want to preclude that situation from continuing to exist by Charter. So if in fact a permanent replacement has not been named within so many days, that authority shall revert. I suggest we either get a motion on the table or move away from this issue.

Commissioner Dykstra stated right now we have the commissioners doing this for the department heads, we moved it to the Mayor, now if you want you can say if the Mayor does not do it within ninety days the commissioners can come in?

Commissioner Lopez stated let's table it until Wednesday.

Commissioner Stephen asked in section 2.06(b), where we refer to the majority of Aldermen, in other places in the Charter we use numbers, we say eight or nine. What is the problem with saying "majority and two-thirds?"

Commissioner Cook answered because two-thirds of 14 is an unknown number, that is the reason why we got away from two-thirds. Bob Shaw's reasoning was if you are going to have at-large Aldermen have 3 so that you will have a number divisible by 3.

Commissioner Stephen stated if we are going to go with numbers we should just be consistent.

Commissioner Stephen moved to change the language in 2.06(b) to read "eight Aldermen" in place of "majority".

All Commissioners agreed.

Commissioner Dykstra stated in 2.09, veto power, someone asked why we mentioned the laying out of highways. She made a motion to strike that language.

Commissioner Stephen seconded.

Commissioners agreed to strike the language "the laying out of highways" from section 2.09.

Commissioner Stephen stated in section 2.11(a) why when we were discussing this issue early on, did we make a distinction in saying you have to remove commissioners for cause but yet you don't for department heads. When I saw the language for cause regarding commissions that was what brought up this question.

Commissioner Cook answered because the department head is part of the administrative structure, a commissioner...

Brief discussion ensued regarding the issue.

Commissioner Dolman asked in section 3.10 should the Board of Registrars and the Board of Recount be the same board?

Commissioner Cook answered substantively they serve very different functions. The Registrars register voters and go over all the technical stuff of getting people onto the registration rolls. Very different function from being on a quasi-judicial appeals board on the recount, on the qualifications for office.

Commissioner Stephen stated in section 3.10(b) I have strong feelings about this; I would like a section added that if the city unions have some ability to give the Mayor a list of people that they would like to have considered for the nomination of the commission spot that is a union member...

Commissioner Stephen moved that a section be added to say, in effect "give the city unions the ability, authorize them to list the individuals that they would recommend, that the Mayor could select from."

Commissioner Dolman seconded.

Commissioner Dykstra asked does this really belong in the Charter?

Commissioner Cook stated I don't think Commissioner Stephen meant to do this, but it would be putting an obligation in the Charter that the unions would come up with a list, not that the mayor would have to solicit a list.

We cannot make the unions do anything in the Charter because they are not part of City government, so we would have to make it mandatory on the Mayor to solicit a list. That being said, I agree with Commissioner Dykstra who said that anybody can suggest nominees for anything.

Commissioner Stephen stated but I am talking about the union representative on the commission.

Commissioner Lopez stated Commissioner Stephen is correct, although I don't know how to word it, if there was maybe some qualification of the labor representative...

Commissioner Dykstra stated I support having labor representation but I think we should draw the line there, I think the Mayor would accept them and look at them, and if they want to present a list, they can make sure the list is all union card-holding labor representatives. To elevate them above another group is not right.

Commissioner Cook stated the point is we have an enforcement of the charter provision that if some Mayor is playing with this thing and putting people in there who are not really labor reps, then you go to the enforcement provision and correct it.

Commissioner Dykstra stated it would approval of the Aldermen.

Chairman Baines stated maybe the commission should direct Mr. Groulx to come up with language to indicate that the Mayor would be required to solicit from the unions names of potential people which he could nominate for commissions.

Motion failed at this time.

Commissioner Stephen stated on 3.03 regarding merit, the language that we put in, is this something the we might reconsider beefing up that language? We do make a suggestion that the Board of Mayor and Aldermen come up with an ordinance indicating merit qualifications.

Commissioner Cook stated no matter how often you say certain things in a document, it is the quality of the people performing the task in

administering the system that make it work. Good committees, good executives, good search committees find good candidates. We said merit, we said qualifications, what we are trying to say is we do not want political hacks, we want merit based selections.

Commissioner Stephen stated I raised this issue because of the discussion we had with Aldermen Pepino, which concerned the Board of Assessors, and it had to do with qualifications for Assessors. When he stood up at the public hearing and said "I could be on the Board of Assessors" if that's the way we want to go, that's fine.

Chairman Baines stated that has been a concern of mine throughout this whole process, for example, if you are looking for a new assessor or department head, I wish we could mandate it that those process should have to go through some sort of classified system, be advertised so that people can apply. I would like that to be addressed in this process. Because if there is an opening on the Board of Assessors it would seem to me that it should be advertised so that people could apply. What happens now is, and correct me if I'm wrong, if you want one of those positions, you go out and campaign amongst the Board of Mayor and Aldermen, to get the necessary votes to get the job. That is wrong, it is not efficient or good government.

Commissioner Dolman stated you are right to some extent, but depending on the situations and the people involved, in a lot of cases we advertise.

Chairman Baines asked let's say there was a vacancy tomorrow on the Board of Assessors, would that position be advertised?

Discussion ensued regarding advertisement of openings.

Commissioner Stephen stated what we are talking about is something that I saw in the City of Concord, in their charter they have a section that says within nine months after adoption of the charter, the Mayor will come up with an administrative code that contains information as far as each department, the qualifications for positions and job postings. It is more than we have here.

Commissioner Cook stated I know the Assessors experience that we have had, the politicization of the Assessors Board, makes them a bad example. I know each time there is a position in city government at this time to be filled, there is an extensive program with the personnel department to review the applications, they come up with job descriptions, the job gets published. I think we have gone a long way from the city government that people all remember. I think we should be careful to not take shots at what is.

Subject was tabled until the meeting on Wednesday.

Commissioner Lopez stated under 3.04, no department head can sit on any boards unless it was required by state law, where did we put that?

Commissioner Lopez moved that they include that no department head shall serve on any boards unless required by state law.

Seconded by Commissioner Stephen.

Motion failed at this time.

Commissioner Lopez stated under 3.08, I would like to insert another section.

Chairman Baines stated we will accept the recommendation and discuss it on Wednesday.

Commissioner Lopez stated under 3.13, did anyone address that regarding the letter from the State in reference to removal for cause of the commissioners?

Commissioner Lopez stated I will hold that until Wednesday.

Commissioner Stephen stated 3.06 removal of department heads, and 2.11 regarding the Mayor's authority of removal, both sections have the same exact language, do we want to keep it that way because it is repetitive.

Chairman Baines stated if I'm correct there was a decision made on the section of the Mayor and the section on departments should be all inclusive so that if someone is looking in a certain section to see what the authority of the Mayor or department head is it will be in there.

Commissioner Stephen stated in section 2.06(c) in testimony by Ald. Domaingue, she wanted to know if we would include a thirty minute time period for the Public Meetings.

Commissioner Dolman stated first of all it was once a month, and it would go well over thirty minutes.

Chairman Baines stated I would recommend that we leave it at "the Board of Mayor and Aldermen shall provide a period of public comment at least monthly."

Commissioners agreed.

Commissioner Cook stated I think all public bodies of the City should provide for public comment, this is a big issue for some people to have the right to address boards and commissions.

Chairman Baines asked if the Committee on Accounts was meeting, would they be required to hold a public session?

Chairman Baines stated so under Boards, section 3.08 we could add some kind of a section to provide for that.

Commissioner Cook stated or we could put in the general provisions of the charter.

Chairman Baines requested Mr. Groulx to come up with some language to address that issue.

Commissioner Stephen stated the section on commissions, regarding party affiliation section, I would want to bring the issue up, if we are going to non-partisan elections, why would we want to keep that limitation on commissions?

Commissioner Cook stated I think we went through this, and a lot of people who read this for the first time raise some type of superficial issues appropriately. There is an entirely different philosophy and rationale for opening up the electoral process to independence and non-partisan elections, which is different from saying that we will allow a board or commission to be comprised solely of the members of one party or the other.

Commissioner Lopez stated the August 9, 1996, letter from the Secretary of State in reference to the procedure for make up of boards, election, appointment and removal of board members may be inconsistent with general law pertaining to such board. For example RSA 202(a)(8) provides the trustees of library shall exempt in certain circumstances, be elected as provided by City Charter. We might want to have Mr. Groulx look at the language.

Commissioner Cook stated I think last week we discussed taking all the letters we received and make all the technical corrections needed and then review it.

Commissioner Stephen stated in section 3.09 membership limitations and boards, I wanted to have us consider making a section in there as it applies to only city residents, because as it reads now a non-resident can be on a commission.

Chairman Baines stated you are suggesting that there be a (c) included in section 3.09 to provide for residents requirement.

Commissioner Cook suggested "members of commissions shall be residents of the city of Manchester except as otherwise required by law."

Commissioners agreed.

Commissioner Lopez stated in section 3.04(a) I would like to add the following after "Board of Aldermen", "or from Boards and Commissions in accordance with 2.04(a)."

Chairman Baines stated we will accept that for further discussion on Wednesday.

Commissioner Stephen stated I am concerned about the Finance Department, does that exist as a department, because if it is not included in the list of departments, do we need to define the authority of the Finance Officer.

Commissioner Cook stated section 5.01 is wrong, all city officers will not be selected by non-partisan ballots, the Mayor, Aldermen, School Board members and Commissioner of Welfare will be selected by non-partisan ballot.

Commissioners agreed to change the wording as such.

Commissioner Dolman reminded Mr. Groulx to check with the Secretary of State regarding inauguration day.

Commissioner Stephen stated on section 5.11 Board of Registrars, the section (c) should read "the 4 registered voting members of the Board" to be consistent with section (a). Just to keep it consistent.

Commissioner Stephen stated at the last meeting we discussed the issue under 5.17 and 5.18 where domicile, we were going to put some language in there to make it consistent with RSA 49(c):9. I would move that we come up with language to make sure anyone running for office has to be a qualified resident and registered voter in the City of Manchester.

Chairman Baines suggested in section 5.18 "to hold any elective city or ward office a person must be a registered voter in the city of Manchester".

Commissioner Cook suggested adding "to be a candidate for".

Chairman Baines suggested "to be a candidate for or hold any elective city or ward office, a person must be a registered and qualified voter in the City of Manchester."

Commissioner Dolman stated in section 5.14, prohibition against holding other public offices, should this apply to the Board of Recount?

Commissioner Stephen stated in section 5.33, is it inconsistent?

Chairman Baines stated it says now "the City shall be divided into the same number of wards as are set by law at the date of the adoption of this charter as such may be revised from time to time." So the suggestion would be that it read "the City shall be divided into twelve wards as are set by law at the date of the adoption of this charter such may be revised from time to time."

Commissioner Stephen asked there is a difference between ward lines and ward numbers.

Commissioner Cook stated we have left the flexibility for revision.

Commissioner Dykstra asked can the legislature make it fourteen wards?

Commissioner Cook stated I don't think the legislature can do that until it is instituted by the Board of Aldermen and ratified by the legislature.

On motion of Commissioner Dykstra, duly seconded by Commissioner Stephen, it was voted to adjourn.

Respectfully submitted,



Kathleen N. Sullivan

A True Record. Attest.

  
Carol A. Johnson, Deputy City Clerk

## CHARTER REVIEW COMMISSION

**August 21, 1996**

**5:30 PM**

In the absence of Chairman Pappas, Vice-Chairman Baines called the meeting to order.

The Clerk called the roll.

**PRESENT:** Commissioners Baines, Cook, Dolman, Dykstra, Lopez, Stephen  
Commissioner Pappas arrived late.

**ABSENT:** Commissioner Shaw and Sullivan

**MESSRS.:** Assistant Solicitor Arnold, K. Clougherty,  
R. Girard, M. Hobson, S. Tellier

Vice-Chairman Baines stated people had been invited this evening to respond to some questions or make comments as they bring this process to a close, hopefully, this evening noting Mayor Wieczorek would be requested to address the Commission first asking him if he had any comments or wished to respond to questions and give them some of his guidance.

Mayor Wieczorek stated what I would like to say is that in looking all of this over and I understand some changes have been made which I'm not aware of, so I might be addressing some items that are no longer appropriate. But, initially with everything that I looked at, it looked like a terrible mish/mash that we were not really going to be able to get anything accomplished because I looked at this and said instead of making it easier from the things that I've seen for the Mayor to operate, it was going to make it more difficult with some of the proposals I saw here. Now, I understand that some other changes have taken place and, maybe, that will address the concerns that I had because it seemed as though everything that was done effectively protected everybody against everything except the taxpayer, that seemed to be the only person that wasn't protected, so with that maybe you

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very well formulated question, but we were at a loss. Because what we said was you have the right to appoint, or the Mayor has the right to appoint, it's the Mayor has the right to appoint any, all department heads except as otherwise set by law - all commissioners, all board members. The Mayor now has the authority to appoint everybody, he just has to get eight votes for confirmation and I guess the question is because the concern then was raised, but if it's a tie vote in confirmation and I've made the appointment, I should have the right or the Mayor should have the right to break the tie, do you, in fact, does the Mayor presently have that power.

Mayor Wieczorek replied, I think I do. If I remember correctly, I think it's the Police Commission or its the majority of the Aldermen elected asking Tom to correct me, if I'm wrong, but I've gone through this with the City Solicitor's Office in the past on appointments and it seems to me that was the only one.

Commissioner Cook stated but the difference, I think, Mayor, is you don't have the right to appointment them. What we were trying to do was say, the appointment power comes from the Mayor, not a commission, not a someplace else, it's the Mayor that appoints all of the people. Right now, you may have a right to break a tie when somebody else has nominated the department head, but you didn't get the right to make the appointment to begin with and hopefully in a well-running government somebody would have consulted with you and you all would have had a consensus on where you're going, but if that were not the case what we've done here is given the Mayor the right to make all of those appointments and if the argument was - we've given the power to the Mayor to make all of the appointments, we think that's making a very strong Mayor out of the Mayor. We've given the Mayor, we've preserved your veto power and we've added a line item veto. We think we've struck in it substantially and I was very disappointed and we want to understand your reasoning because when you came back and said it made it harder for the Mayor to operate not easier because that wasn't the intent and I guess that's what confused us.

Mayor Wieczorek stated I guess we ought to clarify the first point on appointments that are made. Let's take the City Coordinator, my appointment, the Personnel Director, my appointment. If there is a 6/6 tie currently on the Board...

Assistant Solicitor Arnold interjected I have not got all of the various positions committed to memory, but it can be varied by various positions or commissions because some of the ordinances provide that they must be confirmed by a majority of the Board and if they have to be confirmed by a majority of the Board which a 6/6 vote isn't sufficient to confirm you wouldn't have the necessity of breaking a tie and there are other positions where you might have that power and as I said I don't have the various positions committed to memory, so different positions would require a different process.

Mayor Wieczorek stated there I think there is a mixed bag there, but I don't know exactly what it is.

Commissioner Cook stated there was certainly a mixed bag on where the appointments come from, where the appointment powers come from and we tried to straighten it out and when the Mayor's going to run the City, we elect the Mayor to run the City, give him a living wage which we had a debate on the Board about what a living wage is, but we came up with a consensus on what a living wage was.

Mayor Wieczorek asked what is it?

Commissioner Cook replied \$68,500. But, we have a living wage for the Mayor, tried to give powers to the Mayor, the Mayor has the power to fire. Now, another criticism and this is the reverse side of the thing is we were criticized by saying we've created lifetime appointments for department heads. We did not intend to create lifetime appointments for department heads, but the reasoning was the Mayor can fire a department head anytime. Has to explain the reasons and give the department head the reason and give the department head the right to respond, it doesn't say for cause that was subject of two or three meetings. But, then the firing has to be confirmed by nine, I guess. Now, maybe that did inadvertently create lifetime - that wasn't out intent - and I think we understand the criticism, I think that's something we either talked about, either agree with or don't agree with, but the intent was the Mayor could hire and fire and have absolute authority because there are checks and balances and that's why it's so powerful, except for everything else. We really didn't think, compared to what you

asked us to do at the outset this is not as good a Charter and more people agreed toward what you said originally and some people were more vehemently opposed to that. But this is where we came out. What we thought we had done was substantially enhance the Mayor's ability to operate the City.

Mayor Wieczorek stated, well, I don't feel that way, that's the reason why I don't share that opinion with you. You talk about the responsibility the Mayor has, no matter what happens here in the City the Mayor is really the focus that is going to be brought to bear on any situation, I see the Police parading around here with signs. You know, the Mayor takes all the credit and we do all the work. The Mayor doesn't want any credit, I know what my job is. But, can you tell me where the people would go if, in fact, crime went up 40 percent. Are they going to go to the Patrolmen's Association or are they going to come to the Mayor's Office. We know where they're going to go. We got the same thing here with anything else that happens in the City. The Mayor is perceived to be responsible for a lot of these things and he doesn't have the authority to carry out a lot of the functions that he has. Well, geeze, taxes went up - blame the Mayor. Well, the Mayor doesn't raise the taxes. The taxes are voted on finally by the Board, ultimately. Because I get it both ways. You see I get it when we're introducing a budget and people should understand that when you're working on the budget process that's the first step in the process, that's not the end, that's the beginning. Because the numbers that we have to work with are no firmed up numbers. I don't know what the County's going to be charging us, I don't know what the insurance carrier is going to be charging us, I don't know what the retirement systems are going to be charging us, we don't know. So, we really don't get firm numbers until June and that's one of the reasons why it was supposed earlier to moving up the budget process. I said it's not possible. We have a difficult enough time now with the way the thing is structured, so that we really can't get it done.

Commissioner Cook stated you'll be happy to know we changed it.

Mayor Wieczorek stated I hadn't seen the proposed changes that you're making because nothing has come to us, so if we take a look at that and maybe some of the items you have here are going to be addressed, but I don't know then because I haven't seen it and when you're talking about

department head appointments, if the Mayor is the fellow or person whoever it is, it could be a he or a she, it really doesn't matter, but it is the person who is going to be responsible you have to give them the authority to carry out that responsibility. I've heard some people say, gee it's going to be too dictatorial and we have to make sure that we have checks and balances. Well, you have a check and balance every two years. If you do a lousy job, I'm assuming that you won't be voted back in, that's a pretty good check and balance and I can't think of a better one and what we've done here when you're talking about having 8 people do this and 9 people do that, you effectively hog tie the person that has the responsibility to get the job done.

Commissioner Dykstra stated, your Honor, it's probably not the right time to ask this, but it's important to me. When we were speaking the other night, there were about six or seven of us and as you know we are still thinking about keeping commissions and union representations. There was a proposal, I know you don't feel we should have a commission, is that correct, but if we do keep them and in talking about union representations there was a proposal that was brought up and I just wanted your opinion on it where if we do have these commissions that there should be a list that's put forth by the unions given to the Mayor and they would have to be card holding union representatives or labor people in that the Mayor would have to pick from this list, it was something I didn't vote for, but I just wanted to know. It was a requirement and just let me bring this forward again. It was a requirement that the list be brought forth to the Mayor and that the Mayor would have to pick from that list, that is what came forth yesterday, there was a vote on it 3 to 3.

Mayor Wieczorek stated we had something for everybody. I don't even agree that they ought to have the union membership on there. I think what we should have are the people that are qualified. I'm opposed to commissions, I'm opposed to having the commissions set up here because tell me, who in there right mind, who would want to work for 18 people - 12 Aldermen, five commissioners, and a Mayor. If you want to go bananas then try making 18 people happy. It's not possible. And, you know - I don't know where this thing came from with having to have a union representative, you gotta have them distributed by the Board. What the heck is wrong with getting people that are qualified that have something to

contribute to the welfare of the City, no matter where they live. That's what I think is wrong. What we do we have an affirmative action program here that we have to be taking somebody from everywhere that is not necessarily the best. This City doesn't deserve anything less than the best and we have a responsibility to do that.

Commissioner Dolman stated I agree with you that we deserve the best, but I don't think all the best live in Ward 1 and lately most of your picks have been from Ward 1, okay. You made a statement about holding the Mayor's powers back by giving them confirmation of department heads to the Aldermen. What prevents you, if there's a personality clash which has existed with you and some department heads from you to just go in there and fire somebody because there's a personality clash whether it's been this or a personality difference between you and this department head, anybody. With this way for you to do that, you need to be able to convince 8 people that you have a just reason. If you are a leader trying to move forward you should be able to convince 8 people. That is what former Mayor Dupuis said to us - you move forward, you need to convince 8 people that you are doing the right thing and I don't think that's hard to do, if it 8 people that that is the right thing to do - that's the checks and balance.

Mayor Wieczorek stated let's say you do the wrong thing, we'll assume the worse. What do you think **The Union Leader's** going to do, what do you think WGIR's going to do. If it is something that is, in fact, unjust, do you think that they are going to just let somebody get away with that. In our checks in balances, in our elections every two years.

Commissioner Lopez stated, Mayor, I'd like you to comment in reference to a letter that you're opposed to creation of two Aldermen-at-Large.

Mayor Wieczorek replied, I work with 12 now and I think 12 is too many, but that is what we have, you work with 12. If you want 12 and if you want 2 at-large, I don't have a problem with that, but I don't think we want to be expanding the Board - here's where you come up with the eights and the nines, all these different numbers. The more you have the most difficult it is to get anything done. It's difficult enough now to get it done. I remember my first experience when I got to office, I said, how do they get anything done here. And, if you do get it done look at how long it takes you

to get it done, it's the system that we have that makes it so difficult to get anything done.

Commissioner Lopez stated the other issue you might not be able to answer right now, but we have to find out what are the departments in the City in Section 3.02 you indicated that the City Coordinator, Manchester Economic were not a department, so we had a little confusion there, but we need somebody and it seems that we can't get that answer, somebody to tell us exactly what our the departments in this City. So, that's an is that we can probably address later. The other thing is under Section 3.07. I don't know if you're away of the State statutes which requires the Finance Officer, the City Clerk, and the Assessors to be the Officers of the City. Are you aware of that.

Mayor Wieczorek replied, I got a feeling there might be some confusion on that issue - Officers of the City. I don't ever remember the Assessors being in there as Officers of the City.

Commissioner Lopez interjected it's by State statute.

Assistant Solicitor Arnold stated there are State statutes on Assessors, yes.

Mayor Wieczorek asked does it say they're Officers of the City.

Assistant Solicitor Arnold replied that could be so, I don't know.

Commissioner Cook stated we can clarify that one. The State statute that says what Officers of the City will have is one or more Assessors, it doesn't say what we have presently or not what we have presently. It says "among the Officers of the City will be one or more Assessors."

Commissioner Stephen interjected it says "there shall be Assessors".

Commissioner Lopez stated the other issue you indicated, your non-partisan issue. Could you comment a little bit on it.

Mayor Wieczorek replied from things that I have been able to find out, you talk about areas, and we're only one of two cities that have non-partisan

elections. As a matter of fact, I'm not sure what Laconia's doing now. Because it was only Manchester and Laconia that had partisan elections. But, we always had a pretty good turnout in the City of Manchester for our races with partisan elections. Nashua, I can remember when Rob Wagner was first elected came over to City Hall to see me and take a look at our Aldermanic Chambers and the Mayor's Office to see how we were doing, they have non-partisan elections and I asked him is it really non-partisan and he says, no, it isn't. Then what we find out is that the voter turnout is lower where you have non-partisan elections. All you have to do is take a look at our own results here. Take a look at the School Board results as opposed to the Aldermanic races. You'll find there's always fewer people and that's non-partisan because there's always fewer people that vote in the School Board races, right in our own City. I think what you need really if you're going to have people that are going to be offering you different programs. If it's non-partisan what are you going to get. It would appear that you have a group of whether their Republicans, Democrats, Libertarians, whatever you want to have as a party they're going to be presenting an idea just as nationally now you see ideas that are being presented on what they want to do and if you don't have it in a partisan way then how do you know who's going to be supporting whatever's being proposed. You have people that want to run for Mayor in a non-partisan way, what do you do. Do you just say the one that gets the most votes all of a sudden becomes the Mayor or does the Mayor run City-wide. It opens up a whole host of other questions.

Commissioner Lopez stated, I appreciate that. I just want, for the record, for my own that my survey and testimony that I hear from the people which this is a constitution for the people is they, percentage wise enjoy non-partisan elections. As you indicated, we're probably the only City left if Laconia has not gone to non-partisan elections and the other, you've indicated that the City's Welfare Commissioner should be an appointed position. Could you give me some information on that, please.

Mayor Wieczorek replied, I think the Welfare Department is a City department. I don't know why the Welfare Commissioner really has to run for that office. I think and I'm not in any way demeaning Sue Lafond because I've known Sue Lafond probably longer than most people that are sitting here in this room and so in no way is anything I say to be construed

as indicating that I don't think that Sue Lafond is doing a good job. What we're talking about is restructuring government. I think that should be an appointed position just like others so that when Sue Lafond decides she doesn't want to do it anymore, you don't have somebody that's going to be running saying who's most popular politician and who's going to get elected to be the Welfare Commissioner, let's get somebody that is qualified. And, especially now, now that there is going to be a lot of changes that are going to be made in the way that Welfare's distributed. The federal government has finally, finally passed the law that is going to make some major changes. So, I think it's going to be very important that you're going to have a person that is going to be well-versed in how to handle that particular department.

Commissioner Lopez stated again, with all the testimony that we have received and the survey that I've done want it to be an elected position.

Mayor Wieczorek stated I hope it's not like some of the surveys I've seen recently. Not exactly what I'd call a valid survey.

Commissioner Stephen stated I guess I want to echo some of the...first, I want to thank you for coming tonight. I was struck by that letter as well and the reason why, I'll tell you. In your March 6th letter, I looked at the letter and you wanted us to look into putting in a strong Mayor form of government, it's there, it's pretty clear that it's there. You asked about the Board of Aldermen, you wanted them to be properly empowered to debate the policies, you wanted the commission power pretty much gotten rid of and we did pretty much and I think we were limited when this Charter is complete. You wanted department head consolidation, that's there. You wanted to be able to get rid of the terms for department heads, that's there. We got rid of the terms. You wanted the power to hire and fire department heads and Attorney Cook has already spoken about that issue. One thing that was really important to us was that the Board of Mayor and Aldermen have a non-interference clause, that's there. Resembling the clause in RSA 49-C, you want them back as a body and that is very important. You wanted the appointment powers for the commissions there that they stay like Water Works and Airport, that's there. You wanted what you said the Procurement Code was antiquated which we agreed with and that was pretty much, so that's there. Sick leave we're going to address. You were against

School autonomy. There is no School autonomy in the Charter. Conflict of Interest is important too and that's in there. So, I guess there are only two things in that March 6th letter that aren't there - term limits, two 4-year terms and you wanted the School Board to be partisan elections - that's not there. Now, my question - based on all this and after looking at your letter, my question is...let me give you an example. I wanted this ethics code passed in a very important way which I thought, I thought it was a very important thing for the City and there were other Commissioners here who didn't think in terms of getting a constitution in the Charter, they thought that the Mayor and Aldermen should do it, but yet they were willing to compromise and we do have an ethics code in this Charter. But, my question to you is being the Mayor you're going to have a very important function in terms of status, in terms of the people who are really looking at you to determine whether this Charter is going to pass or not. And, I'm asking you based on what you've heard tonight and some of the things you're going to read. Is it true to say that you're willing to compromise some issues, there's going to be some issues here that you're not going to agree with, just like other people on this Commission and I would just hope that in the spirit of reasonable compromise you would look at this and be willing to compromise some of those positions and that's really all I wanted to say.

Mayor Wieczorek stated, well, Commissioner, over the last seven years, I've had to compromise a lot of positions on things I don't agree with. As you know, in the budget process I notice it says "line item veto" or "line item authority in the budget" as it is currently set, I either take it or leave it, whatever I want to do. I think that probably most of the things that you mention and I'm not demeaning the work that has been done by this Commission because I know the many, many hours that was put in by this Commission, I know it isn't easy, but when you get a group of nine together and if you're going to sit and agree on everything, I'm going to worry about all of you. But, I think what we need to do is to probably give us the definition of what some of these things are. When you say line item veto, what does that mean. Does that mean that if I don't like the line item for office supplies then I'm going to line that out. You really need to be a little more specific regarding the definition. While you were talking I wanted to ask you something, but I forgot because you enumerated so many things, but there is another item or two in there that I think you need to have the

definition of and as I say a lot of those things that you've mentioned are good. Now, we may differ on what we consider a strong form of Mayor and what I feel is a strong form as opposed to what's being proposed. There might be some areas where we have a difference of opinion and there might be something if we were going to propose something that we would have to talk about or that we're going to have to compromise and I'm willing to do that. I just need to see where we're at in the process.

Commissioner Baines stated first of all, thank you very much for being here, I think it's going to be very helpful for this entire process, but you made a comment of who would want to work under those kinds or conditions with all those bosses, well, you just described the Superintendent of Schools or a High School Principal. One of the most frustrating parts of this process for all of us is that a lot of us agree with where you're coming from in terms of this respect that we felt the City needed a very strong chief executive and in dealing with an issue like that you have to erase the personalities involved because just the way people view the present chief executive or the past chief executive, so we got through all of that and we said we wanted something that was best for the City in regards to who was in the position and I think we did that. As I said to you the other day, I said I think we've done everything, we've made the Mayor king, we haven't made the Mayor emperor and that's basically where think we're at with this thing and we know that what we've done here in strengthening is not going to sit well with a number of the Aldermen because the Aldermen, I think, are losing some of their discretion and authority, but we had the input from two Aldermen and many times much different perspectives of having had that experience, as well. A lot of us wanted to see more at-large Aldermen. But, we knew we couldn't do that because of the politics in the City, the City tends to be parochial, neighborhood issues are very strong life as in the southend right now, talk about traffic, and you get a bigger crowd than you do at most things, so, that's the nature of Manchester. But, let's go to the commissions and I have a number of things I'd like to get your input on. One of the frustrating things I find, I came to this process thinking that the commission system should be gone, just get rid of it and I saw through my position after this dilemma, we have to have a Water Works, we have to have a Water Commission. There's nothing we can do about it. We have to have an Airport Authority, we have to have a Transit Authority, we can't do anything about it. What else do we have to have. A Housing Authority.

So, we have to have those commissions. Now, at the public hearing the other night a well-intentioned person responded to a question like Commissioner Lopez who is a Commissioner and said what makes these other commissioners okay. Well, they act professionally. Now, after having worked with Commissioner Lopez for four or five months, he is very, very professional at everything he does, so the hard time we're having is we have to have four anyway, so how do you say they're okay in those four places, but they're not okay in Parks & Recreation and Highways.

Mayor Wieczorek stated I get to observe the School Board because I'm there and some of the other commissions that we have around the City. I think, if I'm not mistaken, I think the commission is lost. I sit at these meetings and especially the School Board and I go to some of the other board meetings periodically and what I see is that we've got micro-management; that the commissioners and the School Board are in there really effectively trying to manage the affairs of the departments. Well, we've got a department heads, we've got department heads all over the City. If we don't like the job they're doing because they're not capable of doing it then we ought to get rid of them. But, let's not hamper their efforts to try to get their job done. Let's let them try to do their job.

Commissioner Baines stated my point is, how do we reconcile as a Charter Commission the fact that we have to keep four and if we follow some of your comments that we get rid of two commissions because that's about all we can, if we could, correct me if I'm wrong here. The only two we could substantially, the only two that we could get rid of if we wanted to were Parks & Recreation and Highway, that's it. I'm sorry, Police and Fire too. The point I'm trying to make is that if you're in Parks & Recreation Commission and we said the Water Works by all the testimony that we've heard is the most wonderful department in the City and people say leave them alone because they're functioning. In fact, one part of the testimony it was said just look at the way our streets are, look at the way our schools are, and look at the way the Water Works is running, just leave us alone because we'll become, I'm paraphrasing, like them. So, if that's working so well in the Water with a Water Commission and that's another issue I think we'd like you to comment on - should the Water Works have the same status - but, I'm trying to get at how would you rationalize that process to these commissions that we'd be banishing, if we have to keep the others.

Mayor Wieczorek stated the fewer we have, the better.

Commissioner Cook stated we also heard a lot of people that came to the hearings and we had the input of people on this Commission who have been members of boards and commissions and it seemed to us that the compromise, that your concerns which I personally have advanced in this group but that not be here nor there. But administrative rationality and authority and personnel non-interference we felt were very important. So, we came up with the following that says - duties of boards, commissions and authorities. But, we also thought that having people becoming more familiar with having three or four or five or six or whatever people become more familiar with the issues in a particular department and be able to provide advice and consider things where it might be helpful for the City. Maybe we were wrong. So, we said in order to provide citizen input to City departments the Mayor and Aldermen may establish commissions to consult, advise, and make policy recommendations to department heads and the Board of Mayor and Aldermen on matters appropriate to their department; (b) upon request of the Board of Mayor and Aldermen or to the department head the commission may advise the Board or department head on specific matters referred to them; (c) the commission shall have no responsibility for personnel decisions or administration of the department unless otherwise required by State statute or this Charter; (d) if specifically requested to do so by the Mayor, the commission may serve as a nominating committee to recommend a candidate or candidates to the Mayor for department head. That's the authority we gave these people. All we left them with and there are some significant objections to what we left them with and there's some significant objection to what we left them with on this Charter Commission because this wasn't unanimous, but all we left them with was the ability to become familiar with their department and advise on matters on which they became knowledgeable. And, I have to tell you that Howard Keegan coming and talking about what he's become familiar with at Parks and the way they've been able to help and advise and whatnot, not tell you who the boss is going to be, tell you what you got to do and tell you who you have to have as part of your team. But, to become familiar with the issues and provide advice so that a Mayor or Aldermen who have another job in most cases can't be familiar with all of that stuff and that's how we sorted it out and I have to tell you that everything you

said about the frustrations about being Mayor exist under the present Charter and your frustrations with budget processes and your frustrations with all of the things that make it tough to be Mayor and one of the reasons I wanted a Government Review Task Force many years ago, it seems forever ago now was because I saw those frustrations, but that's all we left them with and so this whole idea that this is big and controversial and we have to knock something out, maybe we didn't leave room enough that they ought to around, maybe it's just a whiff, but we thought having citizen input with term limits because they're in there too with term limits because they're in there too for commissioners, they're limited to two terms so they can't...so the old-boy network as it was called the other day. So, all I'm saying is, we're kind of frustrated, we tried and that's all we left them with.

Mayor Wieczorek stated you have to understand that I'm not going to be here forever, so this is not a personal thing with me because I will be here to serve perhaps part of what happens, if anything happens at all, but it's going to be the people coming on in the future, so what I hope all of us are trying to do, me and all of you that are serving here and all of the people that are involved in the process that what we'll be doing is leaving for the next person who will assume office something better than we currently have because we want him, he's going to be accountable to the people to make sure that he's going to have the authority to do that. I think we have to review, Brad, the things that you were talking about with all of the various aspects there of what you should do. Because, like I said my major objection is really the problems that we've had with people that were respectively bothering the manager, so that they're not able to do their job. A person should not have to work under those conditions and I agree that if we get some extra people that can help. I'll give you an example right on Commissioner Lopez's Commission. When we were trying to make the Recreation Department an enterprise, how much trouble did I have trying to persuade people that this would be the right thing to do, a great deal. We finally get it in and all of a sudden, it's really a wonderful thing because it's working very well. So, that you see now people are going to be paying and getting something for their money. I don't think people mind paying more if they see themselves getting some for the money. It when they pay more and get the same thing or less that they object and I object to that too. So, you should have some people that have certain areas of expertise where you could bring that to bear in the various departments that you have because

that is good, but they shouldn't be the ones that are effectively going to implementing or managing that. But, certainly the things that you mention all of the various ones, B, C, D, E gives us something that we have to look at and I'm sure that we're not going to say, well, whatever I want, I'm going to get everything that I want. That isn't possible. I wish I could always do that, but I can't. I understand that.

Commissioner Dolman stated, Mayor, A, B, C and D before the letter was sent to us, you're latest letter, so I don't know what you need to look at, A, B, C and D and the term limits were all there in the Charter changes. Like Commissioner Stephen's says, we've given a lot.

Mayor Wieczorek interjected, I don't want you to give a lot, I want you to do what's right, there's a difference.

Commissioner Dolman stated we did and you say now that you have to read it, well it was in the original Charter.

Mayor Wieczorek stated look, you're doing something that is going to be the guiding document for this City and the last think in the world I want to see is to have something that you're going to say is going to be set in cement tonight. That's not right. If it's that important then lets give it the time it needs to really make sure it's going to be the right document to guide this City over the next whatever number of years it's going to be the guiding document.

Commissioner Lopez stated I just have one other question. You indicated in your letter that the Airport and the Water Works, the enterprise system. The question I have, Mayor, on these particular subjects and we've been looking at giving the authority to the Mayor and Aldermen and we've had many people comment about State laws and stuff like that, but do you feel that...in working with these people do you feel there should be a part in the Charter that it would not apply to some departments, is that what you're saying in your letter.

Mayor Wieczorek replied, I am going to tell you if you are going to start putting everything that we are talking about into the Charter, why don't you put the Mayor in a straight jacket. You can't do that. Things change and

I've read things here in the Charter where the responsibility is to bring efficiency and accountability to government. Try to do it, when I tried to merge some departments I got sued. So, you can't put yourself in a position where you can't bring change because things change and as things change you have to do the things that are necessary to make sure that we're going to be providing to the citizens that are paying the tab here the best government they can get and only the amount of government they need.

Commissioner Lopez stated and I agree with what you just said, but I'm asking you, do you think that the way that we have it now, all the departments... Water Works, Airport, everything... goes to the Mayor and Board of Mayor and Aldermen period. Whether they're Commissioners of the Water Works, Airport, everything goes under the Board of Mayor and Aldermen. Do you think we should take them out of that and put them separate, all the enterprises, in other words, as you indicate in your letter.

Mayor Wieczorek replied, take them out.

Commissioner Baines asked not have them responsible to the Mayor.

Mayor Wieczorek stated we want to make sure... the Mayor is the person that is ultimately responsible and accountable. I don't care if it's the Water Works, the Airport, whatever it is. He's the person that's going to be accountable, this is the person that the people look to.

Commissioner Lopez stated then you think he should have the... my question is for you to have day-to-day operations over the Airport and Water Works.

Mayor Wieczorek replied, well, you do now. I'm an ex-officio member of the Water Board and I'm the appointing authority to the Airport Authority. It's a City department.

Commissioner Lopez stated the Commissioners sort of run the Department of the Airport.

Mayor Wieczorek stated the Airport Authority is a City department.

Commissioner Lopez stated right, but the Water Works and the Airport the Commissioners sort of make their own contracts and everything else, right.

Mayor Wieczorek stated well, they do. As I said, the Airport is a City department, it's not...

Commissioner Dykstra stated this basically is going to go to our Assistant City Solicitor, just a clarification for me. There was a discussion yesterday by I think it was Mr. Beaurivage from the Water Works. I have no problem with having a Water Works Commission, I just don't feel that, I just feel that they have more power than they should have and in the discussion it came up that Mr. Beaurivage said that they basically got their power from the special act, well, we were looking at State statutes and we knew that we couldn't conflict, so we were wondering why they were able to do these things, then they came up with something that was 1871 or basically that there were special acts or special laws that gave them that power. What I would like to know is that true and if it is can we supersede or override that power by putting something forth in the Charter, would that make it null and void or does that have more power than the Charter.

Assistant City Solicitor Arnold replied there are a number of what we call special acts that deal with the Water Department. Whether you can override those special acts by amending the Charter, I really couldn't answer tonight. It's not a very clear area of the law and quite frankly I have not done a lot of research on it and there are two points of view. So, I'd be hesitant to answer that for you tonight.

Commissioner Stephen stated I want to follow-up on that. Let's assume that under RSA 49-C there a section that seems to indicate that by Charter you can repeal special acts. So, let's assume you can repeal those special acts and powers of the Water Commission. What would be your opinion on the Water Works Department itself. Should we eliminate the Commission and just treat the Water Works Department the same as any other department, have it run by the department head and get rid of the Water Commission. What would be your feeling on that.

Mayor Wieczorek replied I think it's a little more complicated than that and the reason I say that is that it's the Manchester Water Works. But, once you

start serving other communities you will have to comply with other laws, if I remember correctly, is that right. Once it's greater Manchester you have a different set of laws you have to comply with, it's not just the City because they can't say we're only going to have water within the borders. Once they spread out and start dealing with other communities, I think you have some other laws and I don't know what they are.

Commissioner Stephen stated okay, let's assume that's all utility law and have nothing to do with commissions. The question I would like to ask is would it be your opinion that a situation where the Commission, we would say our Commission is done as far as direct authority over the operations, that a department head has direct authority. Would that be something that you feel is beneficial to the future of the City.

Mayor Wieczorek replied the Water Board should be an advisory board. I don't think they're a management board, are they.

Commissioner Stephen replied they are right now.

Mayor Wieczorek stated a management board, they're the ones making the day-to-day decisions on running that department, I hope not.

Commissioner Stephen stated in a lot of areas they are directing policy.

Mayor Wieczorek asked what policy because there's a difference.

Commissioner Stephen stated but let's say we get rid of policy, directing policy and it's left to the control of the department head.

Mayor Wieczorek stated that's a dilemma created there because you're going to have to have somebody creating policies there. The department head is not going to be the one to create the policy, the department head's responsibility is to carry out the policy.

Commissioner Baines stated this pertains to the School District issue which we have settled with, where we have gone back to the language of the existing Charter, but there's still a couple of things that still intrigue me about that and I'd just like to get your response. This is related to the fact

that forget about the nurses and the whole thing and that's all settled, but why do we allow a situation, for example, with support staff, food service people, educational assistants, for Personnel Department in City Hall having to be dealing with those issues where the School District handles personnel hiring and that process for every other employee of the School District. Do you have clue as to how that happened or why that continues.

Mayor Wieczorek replied, I don't know why it happened, but it continues because it's like every other habit that is cultivated. No matter what anybody wants to think, the City of Manchester School District is a City department and I think if the City pursued this to a conclusion, all the way, I think that is what the conclusion would be that it is in fact a City department. There's no reason, no reason for a separate personnel department to be in the School Department, have another Personnel Department in the City, and there's no reason why the School Department has to be doing their budget because we have a Finance Department that does the budget for the City. There's no reason why technologically the School Department has their own system, never tied in with the rest of the system, we're one City. If we're ever going to get efficiencies then we have to avoid the duplication that we have and I think it would work much better. I would hope that this is some of things that might come out of that.

Commissioner Baines stated that may be fine and that may be a great position, but if you have the School District hiring and firing teachers, hiring all people who work for the School District. I'm trying to make some sense of City Hall doing three other areas when the School District does everything else. Those are types of...we read...we listen to **The Union Leader** boys, let's make government more efficient, streamline it, put the authority where the responsibility is and then when you look at an issue like that, the responsibility where everything is with the Superintendent and I hear you at School Board meetings asking School Board members not to micro-manage and the whole thing because you want the Superintendent to run the School District, but you have three specific areas that you take away from him in terms of running his School District. So, those things don't make a lot of sense. If I agreed with everything you said before, maybe there should be one Personnel Department, maybe there should be this and that. I'm having a hard time understanding where you coming from. If you

want the responsibility of where it is, why is that at City Hall and everything else it at Bridge Street.

Mayor Wieczorek asked are you talking about the educational assistants.

Commissioner Baines stated the educational assistants, the people who assist teachers in the classrooms, the teachers hired by the School District. It makes sense doesn't it. But, the people who assists them goes through City Hall and the people working in the cafeterias are hired through City Hall. The secretaries who work for the principals deal with City Hall and Personnel instead of Personnel at the District. But when I hire a teacher, I deal with Personnel at the School District. How is that efficient, how does that streamline, how does that match with you feeling about government and putting responsibility where it belongs, with the Superintendent of Schools in that case.

Mayor Wieczorek replied well, I think the Superintendent of Schools, of course, has the authority to decide what the people are going to be doing and if they're working effectively and efficiently, if they are going to stay.

Mayor Wieczorek stated we have Mark the Personnel Director here, the Resources Director for the School Department and I think it would be much more efficient if we had just the one person and he's doing what he's doing over there, but he's also taking on the responsibility of what we do in the City with the rest of the City, I think it would work much better.

Commissioner Baines asked, Mr. Hobson, would you like to comment on this issue.

Mr. Hobson replied sure. I'm Mark Hobson and I work for the School District Administration, my exact title is Director of Administrative because unlike what **The Union Leader** thinks we've actually scaled down and eliminated positions in the SAU and I'm doing two jobs. One of the, I think one of the things where this has evolved from is that the State Department of Education states in its laws someone who is going to hire someone else who is a certified teacher or a certified principal or administrator has to be certified with the State as an educator. So, I think that's somehow how the split came with the Superintendent and the School Board became

responsible for specifically, principals, administrators, teachers and then everything else became left at City Hall. So, it is a very bizarre process for me, personally. When we go to hire an educational assistant, specifically, everything that I do becomes duplicated down at City Personnel and I don't think that makes any sense. As the Mayor says, you do it one side or another side, for me as a taxpayer I just don't think it makes any sense that we duplicate these efforts and I said that to you previously. I think I wrote a letter to you back in June just saying that forgetting about all of these other things with custodians and whatever that was just my point.

Commissioner Baines asked so, how would you correct that.

Mr. Hobson replied, personally, I'm for streamlining and consolidating different aspects, however, they go. Whether, maybe I'm doing myself out of a job, but if you can do something more effectively at one site for a City department which the School District is a City department. But on the other side of the house, I have to wear a whole other hat according to State statutes and State laws and I have to comply with Concord and the Feds. So, I have to do things that are totally different than what happens down at City Hall. So, I don't really have an answer per se for everything. But, I do think that it's bizarre for the Superintendent to have the authority to hire three classes of people in his district, but the other three classes have to be hired and approved and controlled by five different groups. Because the Board of School Committee approves an educational assistant coming or going, so doesn't the Personnel Committee of the Board of Mayor and Aldermen, so then doesn't the full Board of Mayor and Aldermen. Their contracts are negotiated by the City Personnel Committee and the City Negotiator and approved by the City Negotiator, the City Personnel Committee, the Board of Mayor and Aldermen, and the Board of School Committee. It's kind of inefficient.

Commissioner Baines stated, Mayor before you leave there's one more question I think is very important as we got to it at the end of our meeting the other night. Early on in this process we talked about creating a system or process whereby if there's a vacancy in a department head position that there is some process where there are qualifications that are written, posted and people have an opportunity to apply for the position and I think that at the meeting on Monday, I think that we finally got it clear that that is the

process that is not followed in the City. For example, if there's a vacancy at Parks and Recreation for the Director's position like what has happened, I think this year Parks and Recreation just selects somebody, they don't necessarily advertise it, post the qualifications and apply for it and that would happen at Water Works or Highway or whatever or an Assessor's position I would assume is the same way. Would you support a process where of having some kind of a process where the Mayor is responsible as the Chief Executive responsible for drawing up qualifications for all these positions and ensuring that there is a process of advertisement whenever openings occur in those types of positions.

Mayor Wieczorek replied, I don't think the Mayor can do that anymore than I think...I saw something in here somewhere in this document where the Mayor's going to prepare the job description of department heads within nine months or something like that, there's something in here someplace, I don't remember that. They had something they were talking about where the Mayor...they were talking about the Mayor's Assistant, somebody that's qualified, somebody said government services. You must be kidding, I hope. You know, things change.

Chairman Pappas interjected we took that out.

Mayor Wieczorek stated the things is and what I was looking at was that I might need somebody with certain types of skills. The next Mayor might come in, he may be a CPA and doesn't need anybody with that type of skill and he'll need somebody else. So, I don't think you want to get into that type...

Commissioner Baines stated you wouldn't want to have some type of a system where you'd have qualifications for all of these department heads and have them posted. So, when there's a vacancy.

Mayor Wieczorek stated they do that now. Whenever there's a vacancy, it's always posted in the City as far as I know.

Commissioner Baines asked for department head positions, I think the answer is no to that.

Mayor Wieczorek stated, Michael, you just had a department head appointed in your department, how did you do that.

Commissioner Lopez replied we selected him and made a nomination to the Board.

Mayor Wieczorek stated you didn't post it then. So, are you suggesting that like we just had a new Police Chief that was appointed that we should advertise and say...

Commissioner Baines interjected why wouldn't you want to do that, we have to do it for Superintendent of Schools, we have to do it for principals, we have to do it for teachers. I've seen other municipalities in New Hampshire advertise for Public Works Directors or Assessors, it's a very common practice in City government and correct me if I'm wrong and I'm not saying it's anything to do with the people that are in these places now, but effectively you get a job in one of those classifications of department heads and he obviously getting the majority of the Commissioners to support you and ultimately getting the majority vote of the Aldermen. If you want to be an Assessor in the City how do you get to be an Assessor in the City of Manchester, for example.

Mayor Wieczorek stated don't press me.

Commissioner Baines stated how do you get to be a Parks and Recreation Director.

Mayor Wieczorek replied the Commission appointed.

Commissioner Baines stated it was not advertised.

Mayor Wieczorek stated we've discussed it at various times about doing that. As a matter of fact, some of the Aldermen suggested that we do that. Even if you have somebody that is in the department. But, to me it's a little unfair if you're going to be doing a national search, regional search, statewide search, whatever you want to do.

Commissioner Baines stated we're just saying that there should be qualifications for the positions, it should be posted and people should have any opportunity to apply, is there anything wrong with that.

Commissioner Lopez stated the only comment I'd like to make on that is that I think the feeling is that if the people are working in the department and moving up and then we go out-of-line and go to New York and get somebody, it's not fair.

Commissioner Cook stated I don't mean to be disrespectful to anybody, but we've got the Finance Director of the City, the Mayor of the City, the Assistant to the Mayor of the City, the Personnel Director or Administrator of the School District and the Assistant City Solicitor here and we've been going around and around and around on this question and we've been sitting around. Does anybody know, not as a matter of practice, but how something actually gets filled because we've all seen enough worldwide searches where the guy next door got picked. But, does anybody know that when an opening exists in a department head in the City of Manchester whether we have a job description for that job and whether it has been posted. Forget how they pick who they pick and forget where they come up. Do we or don't we.

Mr. Girard replied no, it doesn't and there are a couple of good examples. As a matter of fact before Police Chief Favreau the Board of Mayor and Aldermen had sent the Police Commissioners a directive to post the position and accept applications from outside of the department. The Commission decided not to and sent Chief Favreau's name forward and said please rescind your directive which the Board out of deference to people as we know is a qualified candidate they did. The Parks and Recreation Commission did not have to post the opening when Superintendent Lemire retired and to my recollection in my five years in the City I have yet to see any department - the Fire Department, Joe Kane's position was not posted. Generally, there is a mind set within the City - the City Solicitor's position was not posted when Elmer Bourque retired which was a promotion from within, a direct appointment.

Commissioner Cook interjected thank you, Richard, you've answered the question. I want to publicly apologize to Mr. Baines because I said the other day I couldn't believe it if that was the case and I guess I was wrong.

Mr. Hobson stated that according to State statute I have to post my positions for Superintendent, it has to be posted.

Commissioner Lopez stated you read the article referred to under 39-C (34), do you interpret it the way we interpret it as special acts that the revision Charter would wipe those out.

Assistant City Solicitor Arnold stated it does specifically state all special legislation relative to Governor and City versus State is hereby repealed, however, I can take that with a grain of salt because obviously all the special acts at this point haven't been repealed that deal with Howard as I said before there are varying interpretations of that particular provision.

Chairman Pappas stated we welcome now, Kevin Clougherty, our Finance Director and if you could lay out the specific changes you'd like to see in our Charter that would be good.

Mr. Clougherty stated I laid out for the Commission a series of items I was concerned about in a letter that was handed out at the public hearing and I think that itemized the concerns that I have. In meetings with John in terms of what language changes would be needed where and to what documents.

Chairman Pappas stated we have made changes since your letter.

Mr. Clougherty stated yes, I know but I haven't had a chance to look at them because I just got them tonight. The Finance Officer in the current Charter has a specific list of duties and responsibilities by State law. There's a job description for the Finance Officer which is required by State law. The thing that was unclear to us in one section of the proposed Charter was that it talked about the Finance Officer and other City Officers being appointed and later one it used the same term of City Officers.

Commissioner Cook interjected we fixed it, we're not electing you anymore, that was a mistake.

Mr. Clougherty stated I think the second concern we had was with respect to the sixty (60) days and the formulation of the budget.

Commissioner Cook stated with all due respect to the Mayor about timing, we've got to have this thing into them by State law, the day after Labor Day, so we don't have a whole lot of time, so we need to get this right and that's what we're trying to do. What we did was change, proposed to change because we haven't actually voted, but proposed a change in the budget cycle so that the final adoption and the rationale for the final adoption being earlier than the very last day of the fiscal year is the deal with the line item vetoes, very frankly. We moved it up to the 15th or the second Tuesday of June for the adoption. We have, as you know, in what we did giving the Board of Mayor and Aldermen more flexibility than what we understand them to have now in adjusting the budget after it's adopted. So, it's not concrete period. So, what we've done and I think the submission by the Mayor is that we said what we are going to do is move that up proportionately, but I don't think we actually talked about it, but he would have to propose it by the end of March, but they'd have to adopt it by the 15th of June. I think that's where we are now and I guess that is what we'd like Kevin to address.

Mr. Clougherty stated, one of the concerns we would have is that the term "line item veto" there's more a term than of just accounting.

Commissioner Cook asked what is a line item called in your budget.

Mr. Clougherty replied from our standpoint, from the accounting standpoint you start with your objects, your organizations that builds up to your agencies, builds up to your City-wide accounts, that's the Chart of Accounts. Now whether you want to appropriate at the department level, if you asked John Hoben several years ago would argue that the line items were only four.

Commissioner Cook stated, Kevin, stop. I think what we meant when we put a line item was every item in the budget could be looked at by the Mayor. The amount of equipment being...

Mr. Clougherty replied that would be in the Chart or Accounts.

Commissioner Cook stated Nashua has the line item, the Nashua Mayor has a line item veto. If we need to John can get us a Nashua Charter and see how they handle it in their language. We, I wrote the thing on that provision and it said he can veto the whole budget or any line item thereof. If there's something we need to say to make it copeful to this budgeting process, so you know what we're talking about as a line item and we won't get ourselves into a jam we need to know it, but we've got to have something.

Mr. Clougherty stated I think the term you're ultimately looking for is Charter of Accounts, but again; that the Chart of Accounts is really what we set up under the Generally Accept Accounting Principles and from the School Department's side, it all of those similar line items and they're a little bit different because they have different needs, but that's the Handbook II Chart of Accounts and it's all incorporated under one master grid that we have. The problem, I guess. The question I would like to throw back to you is if that's the case then he can veto a line item, does that mean that where the School Department represents one line in the City's appropriation process that he could veto the whole budget.

Commissioner Cook replied we didn't give him a line item veto over the School budget anyway. We only gave the Mayor and Aldermen bottom line authority so that makes it a legitimate question, but we didn't give him that power.

Mr. Clougherty stated okay, so long as that's clear because I'm not sure it's clear the way it's been written.

Commissioner Cook stated that's a good question.

Mr. Clougherty stated in that event, I guess the question becomes does that line item or veto or something of that nature because you remember up front that you allow the Mayor to establish the form, organization for teachers preparation for the annual budget and would suggest that he has some determination or could have some determination of what the line item could be as opposed to your Finance Officer and I think you have to revisit that of

what the line item mechanics are. If he were to veto that and I know you're providing two weeks, but once the veto went into effect the rest of the budget is adopted, they're sitting there and there's no resolution because of the School budget.

Commissioner Cook stated my understanding of his powers under what we wrote were he can say this "X" budget, I don't like, I'm vetoing the whole thing and go back and start again or I will accept the budget, but I don't like the personnel expenses in the Highway Department and I don't like the number of pencils being bought by such and such and I don't like this and I don't like this and I have wound out the following \$285,000 worth of spending and the Board of Aldermen can then address each one of the lines that he has lined out to see if they want to override that veto.

Mr. Clougherty stated understanding that what you're saying is that it would just be the Chart of Accounts, it wouldn't be at the department level or the program level.

Commissioner Cook stated he could line out the entire Personnel Department.

Mr. Clougherty stated mechanically does that same power carry over to the capital budget as something I think you want to visit because again at what level are we talking there because there are line items in the capital budget.

Commissioner Cook stated that's an issue I don't think we addressed.

Mr. Clougherty stated does it also apply to your enterprises because when you get into the things with the Airport and other issues. So, John and I have had a very quick discussion about this and I understand you have some more work to do, but that's the issue that we're raising.

Commissioner Lopez stated I'm trying to understand a little bit about the terms of what you're speaking of - Chart of Accounts - a lot of the accounting aspects I'm going to play ignorant to, I don't get, okay. But, I look at the red book and this now and what is in here now some things have to change, we know that because of the School situation we have to change

this aspect. What you have now, what did we do in the paragraphs to make this wrong or right. Do you understand the question.

Mr. Clougherty replied it was my recollection of the term used in the general objective line items, again that's a turn of the cart and it backed up to the Mayor's ability to adjust, to define procedures and format and things of that nature, so that general object line items could be pretty much what the Mayor defines. It's not a Chart of Accounts and object, all those things from an accounting standpoint that you look at in a Chart of Accounts, it's broader than that and the reason for that at the time that that Charter was being adopted was that you had a lot of cities in the midwest and a lot of well-managed city's across the country who treat the Chart of Accounts for appropriation purposes, they're saying if the Chart of Accounts is the level that the department should be at, the policy level of the appropriation level is really where the Board should be at and that should be at salaries, expenses, capital and more of a different level of a hierarchy and that allows, the current Charter allows for those kinds of decisions to remain. If you look at the budget resolution, the actual resolution that has been adopted by the City going back to forever, the actual resolution is on a department level, the actual appropriation on a department level. So, there has been different types of formats with different Mayors and different approaches over the years and I think from my standpoint, it would be a lot easier to clarify what the level is you're talking about and use the proper terminology so that there isn't any debate or argument as to how that's going to be said and that is clear going forward. I think that relationship between the section on budget format and the section on the line item is really important if it's going to go to a line item veto. What's you're talking about and who has the ability to define that and how it's going to be used. When you talk to other cities and towns and the federal government that's what they were wrestling with when you're talking about the Presidential line item veto. How far down in the hierarchy does he go. Does he veto janitors and HUD in Manchester or is he talking up here at a different level, and is it at the department level and how does that work.

Commissioner Lopez stated if we have in there like we have now, line item veto, instead of saying your only give the Mayor Chart of Accounts veto power.

Mr. Clougherty stated I could see if you leave it at general line items, I could see that down the road some general confusion, some discussion, some conflict between people arguing about what that term means more than being specific in terms of what your the Commission is trying to make.

Chairman Pappas asked do you think the Chart of Accounts is the term we should use.

Mr. Clougherty stated in looking at Nashua, you could tell us. We could come in and provide for you the Chart of Accounts, I think I have already provided to you earlier as I had sent that along with other documents so you could look at what the different account structure was and say, okay, in the hierarchy do we want to be down to this level or this level, the department level or program level and I think that carries over to your capital improvement program because you really have to be clear there in terms of what the authority means, if you want to be effective. This is one of those questions where everybody likes the concept and then you sit down and okay mechanically, what does that mean, what do you want. And, I know that you may want some time to think about that and you may want us to come back and explain the Chart of Accounts, we'd be glad to do that.

Chairman Pappas stated we don't have a lot of time.

Mr. Clougherty stated if you want us to meet with John to look at what Nashua has and at what level they do it, then that's something else we could do.

Commissioner Dykstra stated let's take a look at how theirs is worded.

Mr. Clougherty stated the fiscal year under Sections 6.01, 6.02, there aren't any problems there. Section 6.03, again, I think you have to take a look at that requirement. Fiscal year, I guess you're going to change the budget message. We do this stuff anyway. Section (b) 1, I think you want proposed goals and objectives. We had some concerns with the budget adoption process mainly about timing and things of that nature.

Commissioner Cook stated one question we had and we weren't sure about was that at the present time what time period, number of years, does the

capital, the CIP budget projected because we have two years here, is it more than that now.

Mr. Clougherty replied the CIP Program really goes out six years, goes out and takes a look at 5, 6 years. The first year is the actual capital budget appropriation for the fiscal year.

Commissioner Cook stated what we're trying to do is set a capital plan for the City set forth at all times, which was the purpose, but we're not trying to screw up the works here either.

Mr. Clougherty stated under (a) 1 under Section 6.04, the current procedure for budget adoption requires a public hearing and the way it's written in the Charter and the way it's been interpreted over time is that the reason you have a public hearing is so there's a check and balance in terms of what's being appropriated. It's always been the practice of the Board of Mayor and Aldermen under the current Charter that they would not, after a public hearing, make major changes to the budget. Now, what we have proposed here is in amending the budget, it may add or increase programs or may delete or decrease any programs or amounts or expenditure by law for debt service or estimated tax deficit. Provided that no amendment to the budget shall increase the authorized expenditure...which has to add up for tax purposes anyway and I'm not quite sure. It seems to me you have an open invitation here for somebody to bring a budget to the public hearing and then turn around the next day and put in whatever they want and I'm not sure that's good government.

Commissioner Cook stated what Kevin said was you can't increase it a lot because people want to know what they're talking about, so what in fact I think has happened is the maximum figure you're talking about goes to them and usually they get cut after that.

Mr. Clougherty stated, I guess my point is, if you want the budget process to be such that the public is going to have, essentially, a chance to comment on what the budget is that's not what's being proposed here and that's why I heard some people explaining to me is what you've done and that's not the case.

Commissioner Baines asked are you suggesting something specific there, Kevin, the wording, that would be helpful if you would suggest it say "this" way. Tell us how to make it clearer so we don't have to listen to this for two hours on Channel 40.

Mr. Clougherty stated the point of the public hearing is to be at a point in the budget process to allow the public actually to know what's going to happen or is it the point of the public hearing to allow for comment at a point in time that would allow the Board to respond to that and there's two different approaches and there's two different ways that has been explained to me in terms of what you all are trying to achieve and I guess...

Commissioner Cook stated this came out of another charter, of the charters we looked at we thought was one that we thought worked pretty nicely. The concept is the Mayor has to propose, in the eyes of some people, a stronger form of Mayor government in this Charter. The Mayor proposes with his rationale and a budget message what he's trying to accomplish or what she's trying to accomplish in the budget. Sends that with the rationale, with all the detail to the Board of Aldermen who hold a hearing on that budget. The people can come and say it should be higher, people can come and say it should be lower, but that document which is then sent to the Aldermen is the document which they then adjust. We have not said they could not adjust it up, we haven't said they can't adjust it down, they then deal with it. They pass it after getting public input. After they pass it, the Mayor, he's part of the debate...the problem, frankly, now is everybody says Mayor's budget never passes, the Mayor comes in with something, then the Aldermen come in with their budget. We were trying to suggest maybe the Mayor has the responsibility to come up with the whole package, that doesn't mean they won't be able to do what they want with it. But, then the Mayor looks at what they passed and he either says...don't like it...or if we come up with the right language...don't like this part, this part, this part and this part...and then they deal with what he did and then the City has a budget. We're trying to allow the Board of Directors and the Chief Executive to deal like a Board of Directors and a Chief Executive and the suggestion that maybe that's not appropriate...we had that discussion at two public hearings in the process so that the public would have more input. We just didn't know where to put the timing of the second one, very frankly. Then we left the Board of Directors, later on, adjust the budget if

they need to. Now, maybe we've done that imprecisely, so you need more help and we need to know it. But, we're trying to make it a manageable, adjustable budget that allows the Board of Mayor and Aldermen and the Chief Executive to run the place and formulate a budget as they want, therefore, we're trying to give them more flexibility than they presently have. So, in your comment and observation that this is more flexible and allows them more power than they presently have, that's exactly what we intended. If we screwed it up somehow or there's some more input that ought to be had so the people think they're being had, I think we're willing to listen to them.

Mr. Clougherty stated under the current process you have the Mayor's process, the Mayor submits his budget, the aldermen act on it and that document would go to a public hearing. What they're talking about now is that the Mayor's budget goes to the public hearing and that's the only public hearing.

Commissioner Dykstra asked if there's changes, Kevin, doesn't it go back, make changes or reconsider it. I thought it goes back to public hearing if they make changes.

Commissioner Lopez stated the question might be and I think there was and maybe I'm wrong...after the public hearing has there ever been a change.

Commissioner Dolman interjected, of course.

Commissioner Lopez stated they amended it then and then they adopted the budget.

Mr. Clougherty stated the Mayor has today, the Mayor would hand out the budget and the Aldermen would make their changes and send that document, but at least they'd have a chance to comment and that's the trouble with the public hearing. Then, as a result of the public hearing, changes needed to be made, those changes would be made. Whereas now you're saying that the Mayor's budget would go and there's some confusion.

Chairman Pappas asked is that okay.

Commissioner Dolman asked, Kevin, where does it say it's the Mayor's budget that we're sending to the public hearing.

Mr. Clougherty replied that's what Brad just said.

Commissioner Dolman stated I don't think Brad said that.

Commissioner Cook stated if that is what was understood, I didn't mean it.

Mr. Clougherty stated and other people have had the confusion looking at it and I guess in order for me to provide, to comment, I have to know what's being recommended. What was the thought and what was the process being proposed.

Commissioner Dolman stated my rationale behind it was, I don't think we changed the process too much except to allow for line item vetoes and some other date changes. But, we allowed the rationale the Mayor presents a budget, which is apparently the norm, the Aldermen can react to that budget and then send that to public hearing and that's how it existed right now. Then the Aldermen have the right and the power with the Mayor to adjust that budget after the public hearing which they do anyway. The only difference is the Mayor has a line item veto.

Mr. Clougherty stated because the Board currently has the requirement to deal with it those changes are usually minimal after the public hearing. But, if you saying to have a public hearing before.

Commissioner Cook stated you're right, your reading is correct. We have said "the Mayor proposes, the Mayor's budget is made available...we did away with your...it has to be on the day of the hurricane or there can be no other day...there is no reference to any amendment by the Aldermen prior to the public hearing in this document and I think that's something we maybe want to talk about.

Mr. Clougherty stated there are some provisions in the existing Charter that are good and they're there for a reason. There are changes after the public hearing, but they're not of the magnitude where there would be a wholesale

change of what has been presented to the public and that's a lot different and the reason you don't have those wholesale changes is because the Aldermen have already either signed on to where the Mayor is...more or less...or they want to get his promise on a particular issue or because they've actually changed the Mayor's budget substantially and their budget is what's going to the hearing.

Commissioner Cook stated, so we have a couple of choices. We can leave it this way and it's the Mayor's budget that's being commented on and I think you're reading is correct or we can say after the Aldermen have made such adjustments as they may make to the budget but before final adoption it should go to public hearing or we can have a public hearing...this is kind of a pin in the neck, this proposal...but, you could have a public hearing after the Mayor has proposed, but before the Aldermen act so they have the benefit of input. But, then after they have made their adjustments but prior to final adoption there could be a second public hearing where the public could have input again on what they finally did.

Mr. Clougherty stated we'd be happy to respond. We would hope that under adoption that I know you're going through some discussions here about how many members would be on the Aldermanic Board, but that last sentence that says the final adoption shall be subject to veto power of the Mayor and the vote of eight members of the Board, if there's any changes made remember you've got that number there and do it proportionately so that we don't have some...In Section 6.05 Amendments after Adoption. Supplemental appropriations...The Mayor certifies after consultation with and verification by the Finance Officer that there are available for appropriation revenues in excess of those estimated in the budget...and again I think you need public hearings, the votes to adopt that and it's going to be different than what the State laws requires to have certain votes on those types of things and usually what happens now is, it is not the Mayor, the Mayor has to consult with the Finance Officer to make sure that the money's there. So, a Mayor can't come in and say I've got excess dollars, it has to be some sort of verification that it is, in fact, the thing.

Commissioner Cook stated that's good...how about it if said "if during the fiscal year, the Mayor certifies after consultation and verification by the Finance Officer that there are.

Mr. Clougherty stated I think those types of things you're going to have to look at and we'd be happy to comment on the changes.

Commissioner Cook stated, I just gave you one, comment.

Mr. Clougherty stated I think that may get to it, I'd have to read it. I know I've been criticized for having bond counsel look at these things, but we're a \$270 million operation, a couple of utilities and an airport and we're borrowing regularly and we've got to make sure that the language that we're using is not going to cause problems on Wall Street. The next section on "emergency" you can't issue notes for an emergency purpose under the State statute. In New Hampshire, unlike other states where they can do everything unless the state legislature says they can, New Hampshire can only do what the State Legislature says you can do and that makes us unique. What happens is, we saw the first letter from the DRA and then we called up and said well what am I missing. Apparently, what had happened there, there were some people on vacation and they didn't get a chance. If you have an emergency, the reason the State hasn't adopted this, a section allowing for emergency appropriations is because they're afraid that every city and town or board of selectmen is then going to go out and decide that they've got an emergency every other night and appropriate funds. It's very difficult to define emergency and they're afraid that that lack of definition would allow for some type of abuse by boards. Now, if we have an emergency we can issue bonds or we can issue debt if we have to reconstruct a road. If we need to apply for federal and state grants, we're authorized to do that under State law. If we have to get the provisions that would be required through the emergency management agencies and those types of things. The reason that people don't want the language that is proposed here is because if you have an emergency the idea is to spread the emergency over as much time as you can through bonding so that you can deal with the emergency up front with cash and pay it back and structure the debt and not be restricted in terms of your response. So, that's why a lot of cities and towns when looking at this model legislation wording is great for other states.

Commissioner Baines asked how about the State wording, the wording that they suggested would that take care of it.

Commissioner Cook stated it may be that if the State law process only provides for how you deal with an emergency that you don't need...and this provision that came out of another charter, very frankly, is inconsistent with New Hampshire state statutes which already takes care of the problem we do what Kevin says which is just strike (b) and we solve the problem because he already has the power to do something. We just take it out and you have all the powers the State law provides. We were just trying to provide something to give you some power. If you already have more power, get rid of the thing.

On motion of Commissioner Cook moved to strike Section 6.05 (b) from the proposed Charter. Commissioner Stephen duly seconded the motion. There being none opposed, the motion carried.

Mr. Clougherty stated item 6.05 (c) Reduction of appropriations. If at any time during the fiscal year it appears probable to the Mayor that the revenues or fund balances available will be insufficient...again he's not...it's the Finance Officer's role in the current Charter and I think there a role there to be played for verification to make sure that all...there has to be some check on that.

Commissioner Stephen asked what language are you proposing  
Commissioner Cook.

Commission Cook replied "after consultation with and verification by the Finance Officer".

Mr. Clougherty stated under (c) also further down it says "the Board of Mayor and Aldermen shall then take such further actions it deems necessary to prevent or reduce any deficit and may reduce one or more appropriations". The way that we have always dealt with that in the past is through directives of the Board and I'm not sure that that is provision for those directives to continue and those have been very helpful in dealing with situations where something had to be done. So, I think the mechanism in terms of how that happens has to be brought out and that again is something that we talked to John a little bit about in terms of doing some

research. Again, "no reduction of school budget shall be made after adoption".

Commissioner Stephen stated what we discussed was putting in some language like "reduction as required by State law" or something like that.

Commissioner Cook stated what we said was...we've had a debate and maybe you can clear this up Kevin just because it's one of those unanswerable questions in life...we have dueling letters from the City Solicitor's depending on what year they were City Solicitor...which was not a shot Tom and maybe the law changed, but I've given people advice too that's turned out to be adjusted, but, we have one letter from Elmer to the Board some years ago that says once the School budget's been adopted, it can be reduced, here's the State laws - boom, boom, boom, boom, boom - so we likely assumed that that was true. We have hacked over evidence that, in fact, when requested by the Board of Mayor and Aldermen on at least one occasion the School Board has reduced their budget which sort of begs the question because that's political reality sometimes, sometimes it cooperation, sometimes it's growing together, they didn't say no take a flying leap here the statute, they said the City asked us to reduce it and we'll reduce it. Then we have a later letter that says and I think the author is here as a matter of fact, we have a later letter that says if you include in the School budget which we have already reversed, but this is what it said, if you include in the School budget buildings and personnel and all the things we talked about before, which we think there is at least an argument State law says the Board already has authority over it, but forget that...that you can, that those things are subject to reduction unless you send them over there, I think is what the essence of your letter was to Wihby, but I'm not certain of that. So, do you know whether the present State law says once adopted a School budget can't be reduced.

Mr. Clougherty stated that was a question we asked Charlie after I became Finance Officer and realized evaluations were falling and had to do some cuts. At that point they did some research and it was a ruling at that time that the Board of Mayor and Aldermen could issue a directive and it would apply to the School Board and that is what was done.

Commissioner Cook stated I think the intention of this Commission is to leave what is, is and let the parties at issue fight it out. I'm not in favor of these amendments, but if they're going to be consistent I think that lines gone.

Mr. Clougherty stated under Section (d) Appropriations. the language says the Mayor may and we've got to emphasize that the Mayor may "with Board approval" authorize a department head to transfer any unencumbered appropriation balances among programs within a department or organizational unit, and shall report such transfers to the Board in writing prior to its next meeting. The way it works now is he has to go to the Board for approval and it goes in writing to the Board and it's only after that approval from the Board is made that those are transferred.

Commissioner Dolman stated that is one more power we gave to the Mayor.

Mr. Clougherty stated it says "the Mayor may with Board approval" and that suggests that it has to go to the Board before you can transfer any of these things and then you can report it back.

Commissioner Cook stated correct me if I'm wrong, Commissioners, because I haven't looked at this since we discussed it last, but I think what we said was transfers from department-to-department require...

Mr. Clougherty interjected, it's never been done.

Commissioner Cook stated, I understand that, but it says that it's additional flexibility given to the Board of Mayor and Aldermen. We did that with narrow support though. But, transfers from unencumbered funds from department-to-department to deal with the problem have to be Mayor's proposal, I don't care if we get some clarification that it's really the Finance Department or something, Aldermanic approval from department-to-department-within department, the Mayor has the power to authorize department heads to make the transfer between items so that you have two levels of activity (inter and intra-department). Now, if we hear wrong or if there's clarification that needs to be made, I think that was our intent. We need to fix it up a little more, but it's a two-level analysis.

Mr. Clougherty stated I think you're trying to do them both in one sentence.

Commissioner Cook stated no, you've got "at any time during the fiscal year" sentence which is the first sentence which is supposed to be the inter-department one and the next one is authorizing department head within the department. If we did it wrong, please tell us, but that was what we were trying to do - have two different processes for inter and intra-departmental.

Mr. Clougherty stated that's not my problem, unless I'm reading it wrong. What this says is "the Mayor". For the second one, if I understand what you're saying correctly, what you're saying is that the Mayor should be able to say to the Finance Officer - Kevin, you want to move some line items within your budget, you can do that, but I have to report that to the Board at the next meeting - I think that's what I hear you saying.

Commissioner Cook stated, you're right.

Commissioner Stephen stated I have a question and this has to do with this whole section transfer of appropriations. My concern is maybe you can explain something to me. With the extent...now, this is a different section than what we have right now currently, right and if we put this in here could this cause some of the departments with unencumbered funds to be afraid of the Mayor's power and suddenly start to expend all the funds that are left over, so that they can't get their budget cut, is that a problem, do you see a problem.

Mr. Clougherty stated what's going to happen is you're into terminology again and under the way you've written this the Mayor will be really the one who determines because he's the one determining the format and everything else what an unencumbered appropriation is and that's what we can argue, what is an unencumbered appropriation and again if you read the current Charter, the reason the Finance Officer is in there is so that the Finance Officer can say, can bring some fact to the situation and say these are the contracts that are out here, these are things that have to be set because he has payroll coming and layout what the numbers are and provide for some objective data so that a Mayor just doesn't say "hey, I can go and take this department" that there is some data that is produce through a system that is audited and accounted for.

Commissioner Stephen stated just one problem, in your opinion will this section inhibit or I should say with this section cause department heads to spend most of their money rather than save. Would this encumber a savings issue.

Mr. Clougherty replied, I think what you'd see is encumbered money which is not necessarily to spend the money. A contract encumbers funds.

Commissioner Lopez stated once they approve the budget, we spend the money and we transfer from one item to another item and we send it down to the Board of Mayor and Aldermen for them to approve the transfer, the Finance Officer gets involved and it's just a procedure because sometimes you have to, you have no choice. I don't really know, but you give the department head a budget they should be able to operate period. I don't know what the problem is, I'm trying to figure out...

Commissioner Cook stated, I think the difference is, Mike, is that we...in removing commissions from the budgetary process and administrative process of the departments, we had to have a mechanism by which the department head could run the department and somebody and we had the feeling, I think, that somebody had to at least discuss it so they weren't little dictators among themselves down there. So, the Mayor had the right to authorize the transfers and I think that Kevin has a good point about verifying that it's an encumbered or unencumbered thing, I think we can add language there like we have before and then in the interest of sunshine and information and to keep the Board of Directors aware and also that there are no shenanigans going on, those have to be reported to the Mayor and Aldermen because otherwise I think the problem is the department head's unfettered discretion to do it or everything has to be passed on by the Board of Mayor and Aldermen and it becomes an administrative nightmare.

Mr. Clougherty stated right now that responsibility is mine, not the Mayor's. So, if the Mayor came in under this and said I want to transfer something from Steve's budget or Steve wants to move something around in his budget he and the Mayor could do that and then the Mayor would be responsible for reporting to the Board and that doesn't provide for checks and balances and that's why we get involved and if Steve wants to move

some money he'll send it to us, we'll verify that he's moving it from the right line items.

Commissioner Cook stated I think the verification and controller function is important and I think the philosophy is the Mayor's suppose to be running the City with the department heads, we have to align administrative control and so the ability, the truthfulness of the account, the availability of the account and verifying that it is in fact an account that is available and unspent is all stuff that's going to be verified by your office, but we were giving the Mayor and the department head administrative control on doing the actual action and report.

Mr. Clougherty stated the report of that action should be by the Finance Officer and that's the way the Board is assured in their financial statements of getting complete disclosure.

Commissioner Dykstra stated at one time when I was an Aldermen and maybe Steve will remember, every little transfer that came about we had to approve and the Board of Aldermen got to the point is that this is ridiculous, so there was something we did that we had to do, there was some areas where we would allow them to do what they wanted to do and could you remember what that was or what we did at that time.

Mr. Clougherty stated it gets back to the Chart of Accounts issue. Instead of having to give transfer responsibility to every line item as you see in the Chart of Accounts, you said that you'd do it on a hierarchy basis. If a department wants to move money within their expense line, they can move that, but they can't move money from their expense line into personnel. It's worked well, so far.

Mr. Clougherty stated I'm sorry I've taken so long.

Commissioner Cook stated we'd rather do it once, Kevin.

Mr. Clougherty stated the last - appropriations - again, it says "except for appropriation of capital expenditure". I would submit that you have trust, you have your expense lines, you have your enterprises, you have special revenue account, all these things that are allowable under State law, so that

you can provide continuity from year-to-year for projects are important that they not lapse and I think something has to happen there.

Commissioner Cook stated let me ask you this question, do we need a lapse of appropriation section to make anything better.

Mr. Clougherty replied, no, under Generally Accepted Accounting Principles once they adopt a resolution its for a time specific and all those lapse.

Commissioner Cook stated the theory was that if that's the case already and we don't need it, then we'll strike it. The purpose there was that people didn't keep little slush funds around after the end-of-the-year. If you can't do it, let's get rid of it.

Mr. Clougherty stated we go through all of those anyway.

Commissioner Cook stated you don't need this and the City doesn't need this and we're not in any danger if we don't have it, is that what you're telling us.

Mr. Clougherty replied, I don't believe so. Let me again, I'll check with bond counsel, but I don't think you need it.

Commissioner Cook stated if you would check on this, unless you think there's no reason why we need this, we'd like you to get back to us on it.

Commissioner Stephen asked why did you do this, Brad.

Commissioner Cook replied I did it because there's two reasons for it: it was in, it's in the Model Cities Charter and the reason it's in the Model Cities Charter according to the commentary is so that people cannot squirrel away, it's probably reinforcing what Kevin said the rule is - people cannot claim to have had a little money here, a little money there - so that when they come in with their budget they say oh boy, is he efficiently running that thing and then all of a sudden July the 3rd comes along and he says he's also got this \$740,000 here that I can keep spending because I haven't spent and that was why it's there, that was just to sort of hammer the nail shut. If

Kevin's telling us he doesn't need it, it somehow complicates his life and that's the rule already, then we don't need it, but I think we need verification very quickly.

Mr. Clougherty stated I don't think it's in the current Charter, I don't know why it has to be in there.

Commissioner Cook stated that was the rationale, not spend it, available to the people and not to some bureaucrat.

Mr. Clougherty stated I'll talk to DRA and bond counsel.

Commissioner Cook stated I apologize.

Commissioner Cook moved to strike Section 6.06 in its entirety pending review by the Finance Officer. Commissioner Stephen duly seconded the motion. There being none opposed, the motion carried.

Commissioner Cook referenced the School District budget.

Mr. Clougherty stated my understanding is that was, that's being changed, so I'm not commenting on that unless something comes up. The budget hearings, the same thing. I guess the problem I would have with that last line is that it's wound so tight that it could...

Commissioner Cook stated I think the last sentence should be deleted. Your point in your letter was very important, you can't increase it.

Mr. Clougherty stated you don't want to paint yourself into a corner and restrict your options. Section 6.10 was another section. I guess the problem we have here is that it says overspending is prohibited and whenever you have language that says something "prohibited" the one word you hate to see in there is unless. So, I looked at it and said the appropriation is prohibited unless the Mayor or the Mayor's designee, whoever that is, first certifies that there's sufficient unencumbered balance, so he could have someone in his office, I guess, say.

Commissioner Cook stated let me ask you a question, given the flexibility we have given to the Mayor on verification of the Finance Officer and the Board of Aldermen to increase and decrease and transfer is this unnecessary.

Mr. Clougherty replied I think you're really getting into some problems. The current Charter, one of the nice provisions of it is that once you adopt a budget you have that 90 day window in the next year if there is a problem to take a look at it.

Commissioner Cook stated but if there's a problem in 260 days we're trying to give it flexibility.

Mr. Clougherty stated I think that there is probably better supplemental budget language if that's what you're trying to get than what you've got here. Because what you've got here doesn't, the auditors and everybody else rather seem to believe that the Mayor could appropriate.

Commissioner Cook moved that Section 6.10 be stricken in its entirety. Commissioner Dykstra duly seconded the motion.

Commissioner Dolman asked is there some State laws dealing with supplemental budgets, Kevin.

Mr. Clougherty replied there's no State laws, but there is language that I think is, I could give you some different sections and you could look at it and see if it gets close to what you're looking for than what you have here, this is too broad.

Commissioner Cook stated you're the Controller in the municipal budget acts and all the other stuff prohibits overexpenditure of line items, of regular appropriations anyway, right and we have a provision here for adjustments, so we don't need this one.

Mr. Clougherty stated that's my feeling.

Chairman Pappas called for a vote on the motion.

Commissioner Lopez stated I want to understand it.

Commissioner Baines stated I'm with Commissioner Lopez. I'm just concerned with it with Kevin saying maybe there's some language that you should have to deal with it and now we're saying we don't need the language at all. So, why are we saying that.

Commissioner Dolman stated the City has the right to pass a supplemental budget, doesn't it Kevin.

Commissioner Cook stated you need an authorization in being overexpended.

Commissioner Dolman stated, if necessary, the City has a right.

Mr. Clougherty stated under the current Charter the only time that the Board can change a budget is within the first 90 days after the adoption of the budget and that's there. Now, the issues that we have always dealt with is what happens if our budget reduction incurs...and that's what we've looked at, is how you do that and you don't need the supplement budget, you do that through a directive which again is not contained here but you may have something to provide for that. The idea, if you look at it from an economic standpoint and how credit rating agencies and analysts and underwriters look at supplement budgets, they really don't like that provision because they feel: one if you have a mechanism to do a supplemental budget you could change the whole budget at a point and it doesn't force you to do a good job of budgeting again though and second of all, if you have a supplemental process it doesn't provide for hearings and input and two-thirds votes and all those things you have in any other appropriation process, then you can really get to a problem of deficits and things of that nature. So, the idea having to adjust the budget is something under the current Charter that I think is fairly well. If you're halfway through the first quarter of the year you pretty much know where you are and whether things are going to work and what the issues are and you know what's happened with the legislative process and you can make adjustments if you have to. So, that's my point, if you need to put something in there, you feel that you need to put in something to adjust during the year to increase spending then

I guess that's where you're looking at supplemental appropriations under section (a).

Commissioner Cook stated you're satisfied that law and procedures prohibit expenditure over an appropriation. The powers we've provided in here allow for changing an appropriation. But, you're satisfied that we don't need something that prohibits it in the Charter because those charters and the Model Cities Charter have that prohibition.

Commissioner Lopez stated I don't mean this with disrespect, Kevin, we're sitting here and we're changing things on verbal and I wish that this thing was all written out with John and I'm sure you know the law on finances and I'm sure you've got a copy machine that you could cite these laws, so we could understand some of these because all we're doing here is striking this and striking this on verbal say so and I'm the type of individual, I like to see what we're doing. Now, this comes from other charters throughout the United States and especially in New Hampshire and Massachusetts and I just don't understand why the other people in other communities have it and yet we can't have it. Unless there's some State law saying we can't have it or if there's some other type of language we want to put in there. I agree with you that the Mayor's designee, I agree strike him, the word.

Mr. Clougherty stated if you want to limit appropriations then do that. But, don't say you're going to limit it unless something else comes up.

Commissioners Baines stated but you might want to do that though, wouldn't you. Why wouldn't you want to have that flexibility of an unless.

Mr. Clougherty replied I think that comes into a separate issue. If you want to spend more, that's a supplemental approach and that's a different procedure than allowing somebody just to overspend a resolution that's already out there.

Commissioner Baines asked but where are we dealing with that in here.

Mr. Clougherty replied you had that in Sections 6.05 (a). As I said on my comments on that section needs to have language in there about different things and if you put that in we can look at it. The reason we brought this

up isn't that overspending of appropriations, once you make an appropriation, that's it. It shouldn't be unless the Mayor or his designee says you can go over. That's a prescription for disaster.

Chairman Pappas called for a vote on the motion.

Commissioner Cook withdrew his motion.

Commissioner Dolman moved that the word "unless the Mayor or the Mayor's designee" be stricken.

Commissioner Cook stated "no payment shall be made or obligation incurred against any appropriation except in accordance with appropriations made. Any authorization or payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payments made illegal." Take out all that stuff about you can overspend it, if I tell you you can overspend it and I think that's a good point.

Commissioner Baines stated I'll go along with that.

Mr. Clougherty stated you're making changes as we go along here.

Commissioner Cook stated we'll have to look at it, but that's a recommendation.

Mr. Clougherty stated that's my concern, you're addressing it.

Commissioner Baines asked how does this deal under the old Charter of this 90 day issue. You were advocating for the 90 days.

Mr. Clougherty stated the current Section 6, we've come through the worst financial times the City's ever experienced, at least in my generation. We've gone through some real hard times and the existing Charter that we have has helped us retain our credit rating, has helped us get a reputation in the bond markets and Concord that I think is good, so I'm not sure that radical changes to that section are necessary but, again, that's a policy decision you guys can make and we'll comment on that. We just want to make sure that what's different kind of flows together and all works.

Commissioner Cook stated the way this flows into and I appreciate Kevin's comments which is why we want him here because we certainly don't want to (a) screw up the very good financial administration of the City which I have experienced first-hand and watching one of the departments deal with us and the department/administration is not always delighted as can be with Finance, but that's because Finance makes them go through their paces which I would rather have it that way than any other way or so the bond rating would get screwed up and we wouldn't accomplish the things we want to accomplish in the City of Manchester. But, what we were trying to do and if this is wrong, Kevin, tell us it's wrong, but we were trying to do going beyond the 90 days and the criticism, very frankly, and concern that people had about the 90 day thing was of once the 90 days are gone there is a strict limitation, nobody expects this to happen all the time because the Aldermen breath a hefty sigh of relief after they've adopted the budget because they don't want to deal with it either because it's no fun. But, having the flexibility when necessary to deal with the administration of the City is consistent with what we thought we were doing throughout the rest of the Charter, that's the reason for the transfers subject to verification now and a vote of the Aldermen between departments and supplemental appropriations which you've always had and transfers intra-department which you've always had, that was the rationale. directive, if you're not going to be able to do directives then the Now, if there's something that threatens the bond rating of the City because we have that flexibility, we certainly should consider it because nobody here is trying to screw that up.

Mr. Clougherty stated the supplemental appropriations, in the absence of a supplemental appropriation should be taking appropriations down as well as bringing them up. You have to look at that because Section 6.12 the Finance Officer, the language in there excluding School District from accounting control is a serious problem We prefer the language that we have in the existing section of the definition.

Commissioner Baines quoted from the old Charter "Section 6.11 Finance Officer. The Finance Officer, in addition to other duties set forth in this Charter, shall maintain accounting control over the finances of the City, shall make financial reports, and shall perform such other duties relating to

budget management and control as the Board of Mayor and Aldermen by ordinance may require.”

Commissioners asked is that what you want.

Mr. Clougherty replied, yes.

Commissioner Cook stated that is exactly what we have here except for the excluding of the School District, I mean the grammar's a little different, but the language is the same.

Commissioner Dolman moved that “excluding School District” be stricken. Commissioner Stephen duly seconded the motion. The motion carried with Commissioner Lopez recorded in opposition.

Commissioner Cook stated can I ask a question, Kevin, about your powers for the Finance Officer and this may make it redundant, but the Finance Officer in addition to other duties set forth in this Chapter and state law would that help or would that hinder or be irrelevant.

Mr. Clougherty replied, I think the term Finance Officer is defined by the laws, so I think...

Commissioner Cook stated this is not a trick question, would it help in life when people say what are your powers and then they only look in the Charter to have it say in addition to other duties set forth in this Chapter and State law, would that help.

Mr. Clougherty replied, sure, that's what it is anyway.

Commissioner Cook stated otherwise people get into this confusion that we've talked about a lot saying that it's not there, to point out that there are definitions. If we just took out “excluding the School District” does that make the second paragraph of 6.12 irrelevant, redundant, unnecessary.

Mr. Clougherty stated the current Charter there are two sections that deal with the Finance Officer. One, where you establish the position of the Finance Officer as a City Officer. If you look at the current Charter there's

a definition for the City Solicitor, and you look at that and then there's these other duties we have that are just with respect to the budget and they have to be compatible. The other section that I had was with respect to and I think I mentioned it the last time is as Trustee of the Retirement System and making sure that we are able to deal with that and I know that there's been some changes that you proposed with respect to the Trustees being able to make the changes necessary to remain current with IRS. I haven't had a chance to look at those.

Commissioner Cook stated that is in 8.10, that language came from counsel to the Retirement System, Alan wrote it was in anticipation that the Supreme Court wasn't going to win out, so that's still an open question on whether it can, but this is basically saying the Trustees can't change the substance of the thing but they can keep it in compliance with rules and regulations and I guess whether it has to go to referendum to change the substance is still a question that's unresolved, but Alan wrote that.

Mr. Clougherty stated I guess that pretty much summarizes what my concerns were, if I could look at a draft again, I could go back and certainly if John needs to talk to me about anything, I'm available and try to review language.

Commissioner Lopez stated administratively can we make sure that between John and Kevin we have this special section all done by tomorrow.

Commissioner Stephen stated the earliest I could get here is 5:30, I could type something up, but I don't think Kevin's going to see it until the following day.

Mr. Clougherty stated I'll look at it as soon as it's available.

Commissioner Cook asked in lieu of that are you available first thing in the morning.

Mr. Clougherty replied yes.

Commissioner Cook stated, John, if we're going to have what Mike wants and I understand completely why he wants it because we want to see the

thing in an integrate whole, in black and white before we agree on it especially because it's important to you as it is and to the City and why don't you call me after 9:15 or something, I'll bring my notes, you bring your notes and we'll see if we can come up with something on the computer in my office.

Mr. Clougherty stated once there's something that you feel comfortable with we can send it to the auditors and have somebody on the outside take a look at that and make sure that there is continuity.

Commissioner Cook stated tomorrow's probably our last meeting.

Chairman Pappas asked can that happen tomorrow do you think.

Mr. Clougherty replied we'll try, again, I don't know what their schedules are. We don't like to do things rushed and we don't like...

Commissioner Cook stated we have a State law that tells us when we have to do things by, that's the problem, but call me in the morning and see if we can come up with the thing so that we can see something in writing.

Commissioner Lopez stated I don't understand. Here you've got the basic document that's been in existence. We didn't do too much in changing this thing, why in the world do we have to send it out to all these auditors to get their viewpoint on...they come back and they say and who are they to say that we want that language in the Charter, that's what I don't understand. We've already went through and had the document and we've agreed to certain things here and we're going to touch it up and clean it up in conversation, why do we have to send out to everybody and get their okay.

Mr. Clougherty replied, certainly you don't, but I'm just saying my own recommendation is that they look at it. The City of Manchester is not a city-state, we're not self-sufficient, maybe sometimes we like to think we are, but we aren't. We have to go to the credit markets, we have to go to Wall Street to get money to do schools, to do things for Parks and Recreation and there are certain rules, Internal Revenue Code Rules, they're enforced by the Securities and Exchange Commission, there are things...when you approach either an institutional investor or just people on

the street and say will you give the City money or provide it, you have an obligation to provide them with disclosure of the decision-making process that goes into the management of the City, so they can make a decision as to whether we're a good risk or not. The more that a city and the two things that the investors look at is one, is your Charter so restrictive that you can't respond to emergencies. So, if we issued bonds today and we guarantee to repay them over time, if you've got a restriction that says you can only, for example, tax cap legislations, are not well-regarded by the market because if you get out in time and there's an emergency you're not going to have the dollars necessary to pay those back and that's a risk and your rates...your credit rating could go down because your not flexible. On the flip side if you've got a process that allows for so much forward motion by either a mayor or a board of aldermen that they can change a budget at any time without corporate controls like his designee or whatever, then the question becomes if I'm buying those budgets today based on the fund balance that I think you've reported to me they could change that tomorrow, then again they start to look at you in terms of a credit risk and say how reliable is this and how fluid is it. The more deliberate and timing and requirements of a public hearing, the nuisances that they are provide the investment community with that assurance that you're not going to be in a herky-jerky situation and you're not going to be making big changes and it's the combination of all of those controls that you have to explain in your prospectus when you go out and it's important that all those things connect and that there aren't a lot of big holes or opportunities for changes to be made without control. Now, I can look at them tonight and I can take a look at some things and feel they're fine, but I may be going into the market to borrow a couple of times a year, at most. These people are in there every day with other cities and towns, so they know what the SEC is looking at for disclosure, they know what types of controls are being well-received especially in light of what's happened with some other cities like Orange County, New York City and those bankruptcy things that they've had. The investors out there are very particular and much more astute. They no longer just say the credit rating is enough. They want to understand what are, what is the structure of the government and what is the decision-making process. So, that's why we go through pains to make sure that it makes sense.

Mr. Tellier stated I'll read a short letter I felt compelled to write to this Commission. First of all my name is Steve Tellier, I live at 232 Thornton Street, Manchester, NH.

Chairman, Ladies and Gentlemen of the Charter Commission:

I am here to request that you review further, the present Charter recommendations regarding the Board of Assessors. The present system of a full time Board consisting of three (3) members was enacted in 1906 and further reaffirmed in 1982. During the public hearings recently held by this Commission, testimony by former Mayor Sylvio Dupuis, elaborated on the effectiveness and integrity of the present system. Also, stating for the record, that in his opinion, the city's size necessitated a full time Board of Assessors and the "firewalls" between the assessing, tax, and finance functions.

The present recommendations by this Charter Commission has shown a clear desire to allow the present, non-political forum into the possibility of becoming a political football. I have worked with a part time Board and the present system is clearly superior. the taxing and abatement functions of the Board of Assessors, clearly defined by State statute, is unique and should be regard as such. Under the present system in dispensing equity, this Board has remained non-political and influence free from political considerations.

I entreat this Committee to retain the integrity of the present system in which the taxpayers and governing officials have relied upon to deliver equity and exceptional services to the City of Manchester.

Mr. Tellier stated and on a side note there's just a couple other quick observations. Any claim that by changing the structure of the Board of Assessors would save money is misinformed. Our budget is less than Concord, a City less than one-half the size of Manchester and it's also less than Nashua which is also smaller.

Commissioner Cook asked did you see the new language we adopted at our last meeting.

Mr. Tellier replied, yes, I did but the fact remains that when I review the language that you just adopted the possibility still exists that it could be changed to a part-time Board and with all the politics that come with a part-time Board or political appointments. I take my State statutory obligations and fiduciary obligations very, very seriously and that was one of the benefits and, quite frankly, the attractions when I came here. I worked for five years under a part-time Board and that part-time Board allowed the City the size of Nashua to go into a \$5 million deficit and a clear remark that I heard from a part-time Board member was how much responsibility do you think I'm going to take for \$1,400 a year and those are the facts. It was all over the Nashua Telegraph, \$5 million. The integrity of this Board in full-time position allows the tenure and the qualifications to protect this City. Now, you've heard Sylvio Dupuis, you've heard appraisers, you've heard professionals offer testimony before this Board. To my knowledge, I believe it's only one or two people that spoke in the negative about this Board and I believe that those were clearly personality problems and I'd offer myself to answer any questions that you may have.

Commissioner Baines stated, Steve, what you're suggesting is that we maintain the full-time status of the Assessors and that we remove the authority that is given now for consolidation so that the City of Manchester will always have at least, by statute, two full-time Assessors.

Mr. Tellier stated I would say a full-time Board of Assessors and leave it at that. Any quasi-judicial board whether it's the Supreme Court or counsel, any quasi-judicial board that has the authority to dispense equity through a decision-making authority usually has an odd number. If it was one, how quasi-judicial would that Board be, that's why in the infinite wisdom of the previous Charter Committees and reaffirmed again in 1982 they chose the number 3. Now, this present Charter would allow the expansion or addition of certain consolidations, however, the Board of Assessors is very unique. It's a quasi-judicial Board. Inasmuch as that, it doesn't share any other functions that are similar to any other departments. Jane Q. Smith, off the street, the little old lady whose paid taxes for 40 years and needs some relief, she's had a terrible time. Once in her life, do you think she wants to sit in front of a public format and tell the world about her problems when she's worked 40 or 50 years to make her road in life or conversely what about John Q. Mayor who may have made his enemies out on the streets for

years, would a political part-time Board be conducive to lower his assessment even if it was the right thing to do if they were appointed by someone else.

Commissioner Baines stated you brought up in previous testimony and comments there have been accusations in the past since I've been involved in Manchester and just as you said has happened. With the present Board there was a Mayoral campaign plot in the 60's in Manchester that alleged exactly that, that the Board of Assessors had intentionally reduce the properties of an incumbent Mayor, that was an allegation that permeated that whole campaign and caused that Mayor to lose that election. So, whether it was true or not is another story but it was the story of a political campaign, they had pictures of the houses in the paper and showed what the assessments were before this person became Mayor and how they were reduced when the person became Mayor. So, that allegations already been there. The present Charter says that there be three Assessors. The present Charter doesn't even require full-time. We don't say that on any other position that we have in the Charter. We don't say we struck part-time from Aldermen because we don't say full-time Mayor, we don't say full-time City Solicitor, why would we start doing that. We're saying three Assessors.

Commissioners stated they had gone back last evening.

Commissioner Cook stated the only remaining issue on the Assessors was whether we are going to treat the assessment department or the Assessor Department or whatever it is, we've got all the intricacies of three people being Board members, department heads and a department all at the same time which we had to make sure we did, but is whether the Board of Mayor and Aldermen shall have the same power as to that department as they have onto all of the other departments under this Charter, that's the only issue.

Commissioner Baines stated I'm just going to remind the Commissioners that the other night we were thrown out of here at nine o'clock, so I'm assuming the same things goings to happen tonight.

Commissioner Cook stated there are a couple of other minor things we can solve. In General Provisions, Article VIII, I think we have two inadvertent

mistakes that were made in drafting; that in 8.04 (b) I think there are a couple of problems that were addressed at the public hearing and in the newspaper account of what we did. The obligation is that we set the salary at \$68,000 and then we gave the Board of Aldermen the power to reduce it. That was the comment. My suggestion would be in the second line "the Mayor's salary shall not be increased or diminished from the time of any election until" **not till** "the close of the term of the Mayor then elected." I think you can take out the words "**or diminished**" and just say **not be increased from the time of reelection**. In other words, during the term the salary stays the same. "The Board of Aldermen shall have the power to increase the Mayor's salary as they deem necessary." We were talking about it staying the same during a term.

Commissioner Dolman stated I have a question before we nail anything shut, what happens in the case we talked about budget problems and the Mayor and Aldermen set directives and they've cut departments and I know in the past the Aldermen have taken cuts in pay, does this prohibit the Mayor from being, the Aldermen have volunteered, the School Board has volunteered.

Commissioner Cook stated nothing keeps anybody from working for a dollar a year.

Commissioner Dolman stated I just wanted to make sure this isn't prohibited. Someone didn't volunteer it, a motion was made by an Aldermen on the Board of Aldermen to say because of the financial crises that we're in, that we're going to cut out this amount of money to the Aldermen. Can someone still now say, because let's say the crises comes up.

Commissioner Baines stated my response to that is that you would really not want that to happen but the political reality of that would deal with that issue, but I would not want to give the Aldermen the authority to cut that. Being around politics for a while, Steve, you could see that could become a situation.

Commissioner Cook stated you're not going to solve the budgetary situation.

Commissioner Lopez added but shall not lower said salary.

Commissioner Baines moved to adjust the wording of Section 8.04 (b) to read as follows:

“The salary of the Mayor shall be set at sixty-eight thousand dollars (\$68,000) after the election of a new Mayor at the next municipal general election. The Mayor’s salary shall not be increased from the time of any election until the close of the term of the mayor then elected. The Board of Aldermen shall have the power to increase the Mayor’s salary as they deem necessary.”

Commissioner Lopez duly seconded the motion. There being none opposed, the motion carried.

Commissioner Cook stated in 8.12 it was one paragraph in the old Charter, when it was split into three parts, I think it got, and we got some comment on it. One comment was what we discussed and, I think, resolved which is sick pay shouldn’t be in the Charter. I think we’ve already been around that point too many times to change it although we received that criticism, however, 8.12 only applies to sick leave and we’re only trying to preserve what people had as rights. I think what we did could at least be read to at least have expanded that as follows: (a) & (b) don’t talk about sick leave; (c) talks about the basis on which benefits are computed. I think we should add “sick pay benefits are computed” because this section has only and in our discussion only applied to sick leave benefits one and in (e), we pick up sick leave again in (d), but then in (e) it talks about it doesn’t have the restriction on sick leave, so it looks like no benefits, at all, can be reduced in the City after somebody has a job, so I would add the word “sick leave” in the next to last line of (e).

Commissioner Baines stated the people who testified made them uncomfortable because they were not able in good faith and I hope I’m interpreting this correctly, good faith is you can take some of these and turn them around and create other benefits for them within that group and I am in position now is that I think that should be out of there and if we want to deal with some language in the transition section to deal with this issue as

opposed to nailing that into the Charter, I feel that it should not be in the Charter.

Commissioner Stephen stated sick leave should not be in the Charter.

Commissioner Baines stated I don't want us to take it out unless we come up with some wording in a transition that can deal with this issue because you don't want, these people have had this in there and you don't want to arbitrarily wipe it out and I think there should be some process in the transition section that by mutual agreement by the people those benefits.

Commissioner Stephen stated my feeling on this is why don't we include health source benefits or medical benefits and everything else, the gamut of different contractual issues, this is not an issue in my opinion that should be in a Charter unless somebody can explain to me why that is in the Charter as opposed to something like insurance is not in there, explain that.

Commissioner Cook stated from the first day that I read that section, I've said why is that in the Charter. If you recall our discussions, this provision only applies by its terms to those...we changed it to what I think Commissioner Baines is talking about in the transition section because the effect of it now only grandfather's those employees who have those benefits, new employees can have other benefits, we've only changed that. It says "the Board of Mayor and Aldermen may amend the provision of this section, but it shall not decrease the sick leave benefits of any employee employed by the City at the effective date of this Charter." So then, the only people who are covered by it that was our compromise and to speak for the absent Commissioner Sullivan, it was her...and we may have all changed our minds, but it was her insistence on this provision still applying to those unrepresented, unprotected employees who have these rights and benefits that kept us where we are. Now, I don't care if we take this whole section and put it over in transition, but it won't have any different effect than it has here. Is it an aberration, having it here. Was it an aberration in the last Charter, absolutely. But, I think there was a reason for what we did and how we did it.

Commissioner Lopez stated the only reason it's there is because we realized, we wanted to protect them in a transition anyway and I agree with

Commissioner Cook, but the reality is if it's not there in the charter...as long as it's there someplace, I'm comfortable with it myself.

Commissioner Cook stated I want to insert "sick pay" in (c) between "which and benefits" and I want to put "sick leave" between "the and benefits" in (e).

Commissioner Stephen stated can we make a decision on whether we are going to leave it or not.

Commissioner Stephen moved to remove Section 8.12 as applied to sick leave because it does not belong in the City Charter. Commissioner Dykstra duly seconded the motion.

Commissioner Cook stated the minute you bargain, you're not in this section.

Commissioner Dykstra stated can I just address something and you answer it for me, please. This is something that the Mayor had put up...now, you tell me what you think about whether you feel it's correct or not. Sick leave - this whole section should be removed. Retain sick leave accruals are a negotiated benefit as sick leave should be. This institutionalizes the City's unfunded liability in this area which is now roughly \$25 million. What's more, is that it provides benefits without negotiation, it prohibits the City from negotiating short and long-term disability packages in exchange for accruals and, therefore, is unfunded liability. Something should not be removed from the bargaining table by the Charter, it doesn't belong there. Now, I kind of agree with that unless you can show me something that would change my mind.

Commissioner Dolman stated this is for people who don't belong to an association, who don't negotiate. To give you an example, when the negotiations between teachers and City led to a transfer of insurance (Blue Choice) instead of Blue Cross the non-affiliated were automatically transferred over, they had no vote on the issue, if I'm correct, they were transferred over to Blue Choice, it was a decision made by the Aldermen and that was it and I believe they had no choice in the matter. They have no negotiations.

Commissioner Stephen stated there is no charter, I've looked at a number of charters and there's absolutely no charter that has anything close to this in there as far as employment benefits or whatever and there's nothing preventing the Board of Mayor and Aldermen from issuing some type of ordinance that covers this area and I don't think that this area should be...when we deal with employee relations and employment issues shouldn't be in there, it's along the same policy as giving the mayor the authority to say to direct the departments.

Commissioner Cook stated my answer to Leona's question which I think was a good one on the Mayor's point, if you look at (c) we have been told by the Personnel Office because Kathy checked and reported it to me and I certainly believe what she said that this section doesn't apply to anybody except non-affiliated. If you read (c) literally it doesn't allow you to reduce them as to collective bargaining people it only allows you to extend them and if what my understanding of the interpretation or intent or reading has always been, maybe you know we never had a thought of reducing those benefits and, therefore, that's why it's never come up. but, in (c) you might think about saying maybe adjusted through collective bargaining or by vote of the Board of Mayor and Aldermen or increased by the Board of Mayor and Aldermen as to unaffiliated because I can see what the concern about it is. I don't think (c) says what we were told by Personnel, frankly, what it means because you can only extend it through collective bargaining that doesn't mean you can reduce it from collective bargaining. But, I think John is right that it doesn't belong in the Charter. I think the Mayor is right that this screws up one benefit to the exclusion of others. I think Kathy's right that it was there, it's going to offend a whole number of people, it's going to create a whole number of people that will probably be opposed as to why did we take it out and I think we've adjusted it appropriate. We might say that it could be adjusted through collective bargaining instead of only extended though collective bargaining, they don't have to do that unless they want to, at the table you can't make somebody give up a benefit at the table, but you can negotiate it and that might take care of or you may say extended by the vote of the Board of Mayor and Aldermen as to non-affiliated so they could increase it although I think we may have already said that. But, I would keep it even though I started out not liking it, I agree the logic of having it in here is suspect.

Commissioner Stephen stated let's vote on the motion.

Commissioner Lopez stated I really think something must be there, will it be in transition, will it be in the Charter. But, you're talking about people who have had benefits for a long time and I agree with you, John, that negotiations because I'm in a union too and we negotiate, but this is something that's been in this Charter for who knows how long and I think the comment that Commissioner Shaw made, you have 5,000 people out there, you take away a benefit from any employee whether it's collective bargaining or the ones that don't have collective bargaining, they see this out of the Charter and it's not there, they're not going to believe anything on negotiations whatsoever, they've had it and believe me, I think that Bob Shaw was correct that you'll really have an uprising to deal with and if we're going to tear down the Charter just for something that's been there, that has no effect whatsoever on the collective bargaining, I just can't see it.

Commissioner Baines stated I have a question, how do you define permanent employee, what does this mean. We're saying non-affiliated, but I don't see...

Commissioner Cook stated there are definitions in the State statutes.

Commissioner Baines asked am I a permanent employee of the City. So, if it doesn't say un-affiliated, so even if your in a union you really don't have to negotiate this, if my brain is receiving this information correctly.

Commissioner Cook stated the affect of (c) that I think, well Kathy was told and reported to us on examination of this after Ray's comment might need adjusting because if it said...I would say the amount and accumulation of benefits may be adjusted through negotiation, if they want to give this up and get something else they should have the capacity to do that like any other benefit.

Commissioner Baines stated would be a better way to deal with this whole thing, it almost bothers me that you have a section that says sick leave, I mean that's where we get at this thing and put in the transition section something about benefits presently provided to permanent employees, may

not be changed unless negotiated...there is a word that is dealt with it in the field in terms of how you deal with non-affiliated people and I can't think of if, how they deal with it, but they do sit down with these people because wasn't it Connie Roy that came in and talked about how they had sat down with them and they wanted to change some things around and this prevented them from doing it.

Commissioner Dolman stated the City came in and changed their insurance benefits, I'll give you a different aspect. When the City was giving out the raises years ago, they turned around and gave the 6, 6 and 6 whatever it was and the AFSCME people did not get a raise and the non-affiliated who were doing the same positions got a raise where the AFSCME union did not get a raise. So, it's worked both ways, the non-affiliated has benefited.

Commissioner Dykstra stated I certainly don't want to take away any benefits that the non-affiliated, I'm just wondering if there's a way that we can put something in here and I do remember times that there were negotiations and they basically got the same, but the Aldermen gave the same as you said, Steve, and that's what I'd want to see. I just want to make that clear that I don't want to take anything away, but do we have to do it in this kind of a way, you know what I'm saying. There's another way to do it, to protect them other than the way it's listed here with sick leave. I certainly don't want to take away benefits from the non-affiliated just because they're not union.

Commissioner Lopez interjected that's exactly what would happen.

Commissioner Cook stated that's what I mean, before that happens is there a way we can address it other than this way that will protect them is what I'm asking.

Commissioner Dolman stated there's no guarantee that it will happen or won't happen, but there is a possibility it could happen.

Commissioner Cook stated the incongruity here is that this only applies to sick leave, it makes no sense. But, the problem with saying that it applies to all benefits is look at the changing environment we've had in the kinds of benefits that are available. You put no benefits of unaffiliated or something,

however you word it in this thing. First of all, the accrued liability by the City on every benefit goes up and the Mayor's point get made huge. Secondly, it then would straight jacket people from sitting down and saying as to those employees that we've got cafeteria plans out there that we can apply these things when the spouse who works in private industry has coverage so they can take a little more money instead of having benefits because we have to give them benefits. There is a mechanism by which they have a council of unaffiliated employees who sit down and discuss with Personnel to get their...but that's not negotiations...that's to get their impression and there are practices sometime of the stuff that's negotiated when they used to ratify contracts around here, which doesn't happen any more, but they used to give the same benefits to unaffiliated because that was practice, that was not a law that was written and that's normal. AFSCME brought an unfair labor practice complaint when they gave a unilateral.

Commissioner Dykstra interjected I don't want to penalize employees because their non-union.

Commissioner Cook stated the concept that I understood that we were doing and I'm not even sure now that I read this real careful that Kathy was right on the effect was the unions can negotiate this way for increases, that's up to them. But, as to the unaffiliated for creating and we're adjusting that's where we're only creating a floor for those employees who were employed by the City as the new employees the City can do what it wants to do, so, we constricted this thing but we were trying to protect a group of real live existing people as to a benefit that they were protected by before and even if it's incongruous and even if it doesn't belong in the Charter, I think we've got to do it.

Commissioner Stephen stated I don't have a problem with the transition section that you propose. I have a problem with a section here on sick leave benefits and to some extent if we could put in Section X just the language that the Board of Mayor and Aldermen may amend the provisions of this section or maybe say something like cannot decrease the current sick leave benefits that are available to employees existing at the time of the Charter. Just something in the transition piece. Rather than have a whole section on

sick leave which again in my opinion is something that I don't think we should be throwing in the Charter.

Commissioner Lopez stated in reading from Commission Stephen's transition provision - sick leave - each employee of the City prior to the adoption of this Charter shall maintain the sick leave benefits granted to them by the previous Charter. All employees hired after the effective date of this Charter shall be able to negotiate either collectively or individually to amend his or her sick leave benefits.

Commissioner Dykstra stated it sounds good, what's wrong with it.

Commissioner Cook replied what's wrong with it is allowing each employee who isn't affiliated to negotiate; that's incongruous to State law. This City has a right to set, I think that's inconsistent with this provision, frankly, so I think there was a problem with that. But, the City has a right to set by definition under State law, the benefits for unaffiliated employees. If it does it wrong, they're going to become affiliated employees real quick. But, the unaffiliated don't have a right individually to negotiate, the City has personnel policies and a rule book that says this is what your benefits are, if you an unaffiliated employee. Having each one, individually be able to negotiate that makes a horror show out of it.

Commissioner Stephen asked why can't we have the first section of that provision.

Commissioner Cook replied because that grandfathers for unionized people what their flexibility and collective bargaining is. Because it says everybody that's employed, it doesn't say every other affiliated.

Commissioner Stephen stated then make that first section apply to permanent employees.

Commissioner Cook stated a lot of permanent employees are covered by negotiations. My point is, if we are going to let the union, forget this, the union wants to give up two days of sick leave as part of the negotiation to get a better insurance package, okay.

Commissioner Stephen stated just move Section 8.12, sick leave and put it in transition.

Commissioner Cook stated this is how I would amend (c), however. The basis on which sick leave benefits are computed may be adjusted and the limitation on the accumulation of benefits may be adjusted through collective bargaining or extended by a vote of the Board of Mayor and Aldermen for employees not represented in collective bargaining. If your union has negotiated for you and they want to adjust the sick leave why shouldn't they have the power to adjust it. They're going to have hell to pay if they come back and say we just tried to give away your sick days, but maybe there's a reason why their negotiating committee comes up with the rate.

Commissioner Dolman stated in section(e) it should read decrease the sick leave benefits...

Commissioner Cook stated in the transition section strike the existing provision because it becomes redundant because we now have the whole thing in transition.

Commissioner Stephen stated he would amend his motion to the extent that someone would second it and I would just state that I would like to delete Section 8.12 as stated and that they put in the transition section a provision that applies to the sick leave so that all employees existing at the time that the Charter is drafted that have sick leave right now whether it be permanent employees, affiliated, non-affiliated continue to receive their sick leave benefits.

Commissioner Cook stated what you said doesn't do it, John. I don't disagree with what you're saying, what you want, I think, is existing employees of the City who are not protected under collective bargaining and, therefore, are represented in discussing it can't have their sick leave benefits decreased. What you just said did not make the distinction between unionized and non-unionized.

Commissioner Stephen stated in the transition section would be my motion with the intent...

Commissioner Dolman suggested that Section 8.12 be tabled at this time.

Commissioner Stephen moved to table Section 8.12 at this time pending further review. Commissioner Dykstra duly seconded the motion. There being none opposed, the motion carried.

Commissioner Lopez stated he wanted to clear up a couple of things that he's heard and read on Article IV on the schools; that I've been told that everything was going back to the existing Charter, is that correct or incorrect because there's language in here that last night I asked the same question and the same thing said was it's going back to the existing Charter. The same language is in the existing Charter was going to be the same thing.

Commissioner Baines stated there was a motion made by Commissioner Sullivan at our meeting to change this to comply with the Mayor's request.

Commissioner Lopez stated there's nothing in the new draft.

Commissioner Baines stated it's Section 4.03 where it says "the School Committee shall nominate a candidate for Superintendent of Schools for election by the State Board of Education." and she suggested instead of saying that "in accordance with State law." That was passed at that meeting.

Commissioner Lopez stated I think there are some things that have changed here. I was told yesterday when I asked a question that everything was the same under Article IV that was in the existing Charter period. What is in the existing Charter has to go back in here and the only think you're changing is "by State law."

Commissioner Baines stated it was changed to read "in accordance to State laws."

Commissioner Lopez stated to clear it up on the changes received since yesterday because I called the City Clerk's Office and that's why you've got two copies because some of the things were in there such as 2.06 (b) which

says a vote of eight, we discussed it and I just want to make sure that in my notes, my notes were correct because the tape said eight. We agreed on that yesterday or Monday. Under 2.10 (c) change 317 to 315. In 3.02, John, you're going to get the wording from the State, right, on some of these things, right. It's kind of late tonight, so can we take up three and four tomorrow night. I gave you the document last night, the 3.04 the department policy we moved up quite a few weeks ago to...officer to department subject to department policy. We moved that department policy up there and it's still in the same format.

Commissioner Dolman stated all we did was move one part of the Charter to include it in the other section, am I correct.

Commissioner Lopez stated 3.04 (a) I'm talking about now...remove department policy to the second line which was officer to department subject to department policy, we removed that a couple of weeks ago. It's in the wrong area is what somebody brought up. So, does everybody agree with that, that is should read "of the department subject to department policy to supervision." We did all agree once. In 3.04 Authority. (a) we said about three weeks ago, it's suppose to be moved up subject to departmental policies, the supervisory authority of the Mayor as to administration and policy directives.

Commissioner Cook stated that's fine, that's something we missed.

Commissioner Cook stated while Mike's looking, here's what I think we want to say. We are going to delete 8.12, we are going to delete the present transition section on sick leave which was supposed to be consistent and in transition we are going to say whatever the number should be...no permanent employee of the City covered by sick leave benefits on the effective date of this Charter shall have such benefits reduced unless such change is contained in a ratified collective bargaining agreement covering said employee.

Commissioner Stephen stated you have more experience in the labor law area, if that suits your opinion, I would agree with it.

Commissioner Baines moved the adoption of that recommendation from Commissioner Cook. Commissioner Dykstra duly seconded the motion.

Commissioner Cook asked Commissioner Lopez if he wished to hear his suggestion again.

Commissioner Lopez relied yes.

Commissioner Cook stated let Mike hear it again because I respect his desire for precision because it's gotten us out of trouble some of the times around here. We're going to strike 8.12 as written, we are going to strike the present transition section on sick leave which just tried to implement that. We are going to put in the transition section the following: no permanent employee of the City covered by sick leave benefits on the effective date of employment... those collective bargaining negotiations result in a contract that's ratified by both parties and that contract covers the employees. In other words, it's real, binding and covers the person, not if it was ratified by one party and that's why.

Commissioner Lopez stated you just had to explain it me, okay, and what you've read, the only comment I'm speaking of is the people reading this Charter is going to have to understand it without an explanation.

Commissioner Cook stated I think it's pretty clear without an explanation.

Commissioner Stephen stated what it says to me is that that employee or employee rep that's going to partake in that decision-making process and they're going to have to decide if they ratify it and make the decision, it can go back.

Commissioner Cook stated that doesn't mean that Brad Cook as employee who votes against the contract that covers him, but it still passes can't have his things involuntarily under that system done, but that's one of the rights you give up when you enter into collective bargaining.

Chairman Pappas called for a vote on the motion. There being none opposed, the motion carried.

Commissioner Lopez stated I gave you, I don't know if you want to address it tonight because we've all got a headache, but if there's no great debate about it, Section 3.08, I gave you a letter last night and you've got it in the minutes and I'd like to add "upon request the Board of Mayor and Aldermen, the commission may assume the policy-making authority of the Board of Mayor and Aldermen...the commission may assume the policy-making authority of the Board and Aldermen in accordance with 2.04 (a). The document I gave you last night, I'd like to add that into Section 3.08.

Commissioner Cook stated that we have already said in here and I don't think this is inconsistent with that, that the Board of Mayor and Aldermen keep supervisory authority, the Mayor still has administrative control, that doesn't contradict that and that the commissions can take on any other duty that's assigned to them by the Board of Mayor and Aldermen, we've already said that. So, I guess my two questions are how does this change that, I don't think it changes it, but I think they have that authority already under what we've already said here, so I don't necessarily object to saying it twice. I guess the question is this Board of Mayor and Aldermen says that to the Highway Department and the next Board of Mayor and Aldermen wants to take that power back. I want to make sure that there's something in there that says what the Lord giveth, the Lord can take away. In other words, the Board of Mayor and Aldermen tomorrow afternoon says we want the Highway Authority to have our authority to make policy for Highway, the one elected in two years says we want that power back, I want to make sure they can reverse.

Commissioner Lopez stated I think I can do that, the power to delegate authority, you can delegate authority to somebody...

Commissioner Cook interjected I'd just like to say, I don't mind, I think what you said there, Mike, and I don't object to...we've already given them the power to do it and that's why I don't object to it. I just think if we're going to say it twice, we should also explicitly say they have the right, that the Board of Mayor and Aldermen can call back that power.

Commissioner Lopez stated I don't have any problem with that.

Commissioner Baines stated my question would be this, Steve and Leona, is it common when a new Board says, is it a general motion usually to adopt/continue rules. So, that would be the time...so that has to happen right now because I know you can't bind a new Board to an old Board, so part of the business of the first meeting of the Board is either to continue or adopt or whatever the rules of the Board were.

Commissioner Dykstra stated what could happen if the Aldermen want to do something, give them some power. What we do is we probably pass an ordinance or something. Now, the thing is they can, they can put an ordinance in. You could do a directive, but if they want to do something through an ordinance, couldn't they do it.

Commissioner Dolman stated of course, they can do anything they want.

Commissioner Dykstra stated so the thing is once they do that, they can amend all the time, they can amend an ordinance.

Commissioner Cook stated I think that's inherently true, Leona, I just want to make it clear that we're not giving them one, it's not like super glue, we're not giving them the chance to set it in concrete, it could be changed by whatever mechanism they chose.

Commissioner Dykstra stated the Conflict of Interest is an ordinance. If the Aldermen want to go in there, they could make changes.

Commissioner Cook asked could you come in tomorrow night with that language with my thing in it that we can all agree on.

Commissioner Baines stated I may have a personal family situation that may preclude me from being here tomorrow night. I support that kind of language with the proviso and make sure that's very, very clear.

On motion of Commissioner Lopez, duly seconded by Commission Dolman it was voted to add the language suggested to 3.08 (a).

Commissioner Lopez stated in 3.04 (a) Chief Administrative Officer. at the end of that which is in the minutes also after "Board of Aldermen" I'd like

to add "or from board or commission in accordance with 2.04 (a)" and the reason for that, this would be right after "the policy directive of the Board of Aldermen, or from board and commission in accordance with 2.04 (a)" and the reason that is complied and spells it out very clearly that if the Board of Mayor and Aldermen gave the Commission authority.

Commissioner Lopez moved to add his suggested language as referenced above to section 3.04 (a). Commissioner Dolman duly seconded the motion. There being none opposed, the motion carried.

Commissioner Lopez stated he had a question on section 3.07. As we have it in there now and under the old way we don't have anybody nominating the Board of Assessors as we had it before. Should we put that language back in there, keep what we have, but shouldn't somebody nominate them.

Commissioner Cook replied I think our intent was to have the Mayor nominate them.

Commissioner Lopez stated the old Charter said "the Assessors shall be nominated, appointed as provided in Section 3.03 of this Charter. One Assessor appointed the Chairman of the Board of Assessors shall be a department head. We had that language but when we changed it we forgot to put that language back. Is there any objection to that.

Commissioner Dolman stated I have a question. Wasn't there a discussion on whether or not all of the Officers should be elected by the Aldermen, I remember some discussion on it and I don't remember where it went.

Commissioner Lopez stated I did bring it up because the first 3.07 (a) indicates, well by State law, the City Clerk has to be and I said it would be nice if all three of these City Officers would be elected by the Aldermen, but I think the objection that Commissioner Cook had was if we were going to keep consistent with the Mayor...

Commissioner Cook stated I would add to that, I think your point's a good one, the member shall...we still have the question of their objection to letting the think being reorganized, but holding that for a moment, I'd say

“the members shall be appointed as set forth in Section 3.03 of this Charter and one shall be designated Chairman.”

Commissioner Lopez stated it reads as we approved before though, we didn't change any part of that - “The Assessors shall be nominated as provided in Section 3.03 of the Charter. Of the Assessors appointed, the Chairman of the Board of Assessors shall be the department head.” and that's the way it is now.

Commissioner Baines asked how are the Chairmen selected.

Commissioner Cook stated every other department head in the City is appointed by the Mayor. But, the question is, are we going to create a consistent or inconsistent situation. I'd like to personally, within the bounds of not caring, I think consistency's good. I'd let the Mayor appoint the Chairman, he could appoint the members, they have to be confirmed, he can appoint the Chairman as the department head and that person has to be confirmed. He can't do it just by designation.

Commissioner Lopez stated I wished you'd just concede to what we said before, Commissioner Cook. In State statute it's three Assessors and I'm not going to go through all of that, but the way we had it before - all of the Assessors appointed, the Chairman of the Board of Assessors shall be a department head - the three word together, they determine who the department head is. You heard the argument tonight from one Assessor and I think they could work this thing out.

Commissioner Cook stated let me see if I understand what you're saying. The Mayor appoints the three of them, they're ratified by the Aldermen. The three of them get together and elect one of their members as Chairman and that person acts as department head.

Commissioner Lopez stated the three select, they can't do any function unless the three of them meet. The department head is only to answer the questions and provide the information with other department heads, but they can't make any decisions whatsoever unless all three meet.

Chairman Pappas asked do they rotate the department head.

Commissioner Lopez replied, they can, they have, it's up to them.

Commissioner Dolman stated I think Mr. Porter's been the department head for a while because you now have two new Assessors.

Commissioner Lopez asked is it okay if we put that language back in there, I'd like to move on it. The language was already there, we just took it out when we made the change. We don't have anybody, right now, nominating. We don't have anybody whose Chairman and I think that's in the existing Charter too.

Commissioner Cook stated can I make a procedural suggestion. We still have some issues to grapple with tomorrow that aren't going, we have issues to deal with tomorrow night and we may not even have a quorum if these two people can't come and I don't know where Commissioner Shaw is. I've been to the station three times in the last three days and he hasn't been around any other time, so I don't where he is, he may be ill, but I think he would have called if he was ill. But, even if we have a quorum tomorrow night and even if we get through all of the other issues that are still before us we're not going to have a formal document that we've all read and have voted on. So, it seems to me that either and I have no, I am not stuck on either of these, but either we refer all of the recommendations that were made to the Drafting Committee and John to put into some consistent order with no ability to make any substitute changes, to submit to the full group and we'll send it to you wherever you are, you can read it and call us. After all of the integration of the stuff that's been done, so we can still come in and vote.

Commissioner Dykstra stated we still haven't taken that vote on the...

Commissioner Cook stated that's tomorrow night.

Commissioner Dykstra asked why can't we do it right now, we have most of our people here.

Commissioner Cook moved to retain the two (2) Aldermen-at-Large. It was tabled last night.

Chairman Pappas stated the motion that was tabled was to remove the two (2) Aldermen-at-Large and the School Board.

Commissioner Cook moved to remove the two (2) Aldermen-at-Large and the two (2) School Board members at-large.

Commissioner Lopez interjected I don't think it's right that you left my issue and just wrote it out.

Chairman Pappas stated the reason is, I don't think anyone wanted to deal with it tonight regarding the Board of Assessors. I thought we'd address it tomorrow night.

Commissioner Lopez stated if you're going to put it in, it's done.

Commissioner Dolman stated Commissioner Lopez made a motion and I seconded it.

Commissioner Lopez stated he would table his issue until tomorrow night.

Chairman Pappas stated I'm sorry, I didn't realize you had made a motion.

Chairman Baines stated I made the motion to remove the School Board members-at-large.

Commissioner Cook stated the motion was made, it was then tabled, and now the motion was to remove the two (2) Aldermen-at-large and the two (2) School Board members-at-large.

Commissioner Lopez asked who seconded the motion, I didn't think it...

Commissioner Baines stated I don't need a second.

Commissioner Cook stated sure you do.

Commissioner Stephen stated if I amend it, you have to vote on the amendment first, then on the amended version.

Commissioner Lopez stated only if you get a second.

Commissioner Baines stated let me clarify this, last night it was all on the floor as described; that there was a motion to remove the at-large School Board, it was amended, so there were amendments to deal with Aldermen and the School Board, the amendment was moved and seconded on the Aldermen, so there was discussion, then you have to vote on the amendment, then you have to vote on the main motion.

Commissioner Dolman stated I moved to table it last night.

Commissioner Baines stated I'd like to reiterate the points I made the other night. This has been a whole series of compromises back and forth, a lot of us argued for more at-large and we comprised the idea of just putting that concept out there and let the City experiment with it to see if it was a good thing for the City. My perspective in talking to people other than some of the people actually involved in government, on the outside giving a different perspective because there are people...God bless people like Alderman Domaingue as she talks about it being a full-time job and she's dealing with all of these issues, there are people who are interested in serving government on the Aldermanic and School Board level and maybe more so for the Aldermanic rather than the School Board that would like to look at a City perspective and would be interested in being in one of those positions if they were not dealing with the street light issue, the pothole issue, the garbage collection issue and that sort of thing, that's the whole idea of at-large and I feel very strongly about it as opposed to this motion and the amendment for those reasons.

Commissioner Dykstra stated I think I've compromised in some areas too and I just don't think this is in the best interest of the City because as I mentioned before I think being an Alderman, when you mention the experiment, it's ten years and that's a long time before we change the Charter back again and when you're looking at the people who were testifying, you had two School Board members the other night that didn't feel it was a necessity, you had another one from my Ward 12 that didn't want it, the Aldermen didn't want it and those involved in City government probably know the workings better than even myself know even as a former

Alderman and some of the other members who have served as Alderman, so I always felt that I had a City-wide perspective and I have faith in the other 12 Aldermen that they have a City-wide perspective. I don't think that more is better, I don't think we need to spend more money on it, I haven't seen and I'll cry for 14 and I just don't see it and I certainly will just stick with my motion that we stay the way we are on the Board of Aldermen and on the School Board.

Commissioner Dolman stated most of the testimony we've heard at the public hearing the other day was financial, it dealt with the benefits. And, again, those are optional and again there's also a "can be removed by the Board of Mayor and Aldermen". In fact, it nearly came close last year during the budget process, it was because of a certain Alderman that it remained, okay. Otherwise, all part-time employees were going to lose their benefits. All of them did, except for the Aldermen. I think that shouldn't be a factor here, let's not talk about finances. I think that can be rectified, well that's what we were hearing. Current employees discussed the money situation.

Commissioner Stephen stated that the two last night they discussed the fact that they had a city-wide perspective also and then one School Board member didn't even have a school in her ward.

Commissioner Dolman stated I'm sitting here saying to you that I agree with you, as an Alderman I had a city-wide perspective, I'm not arguing that point. I don't want to see us come to a drop dead point here and just have people fighting about it because we've worked real hard and people have made comments and I will offer a compromise to this. I think a lot of the arguments have been about the cost factor, the idea of maybe too many people (Aldermen or School Board members) coming from one ward. Take a look about the financial things about the insurance. Would it make it easier if we said an Aldermen would be elected at-large for half the City since there'd be two.

Commissioner Cook stated I have been contacted since the public hearing by about 10 people. The two issues that were most often mentioned has the attraction of this Charter. We're trying the at-large and there's nothing magic about 14, nobody said that for a minute. The rationale behind 14 we

came up with the Nashua system which is a third of them be at-large and two-thirds not, it was very practical. I'd like to have a lot more at-large Aldermen. Kathy said have nine and have them all at-large. The concept of at-large and the concept of non-partisan, very frankly, are the two most attractive things about this proposal to be a great number of people. There are legitimate, honest, forthright, sincere people who disagree with that without any question and you're one of them. But, we have come on a lot of issues, from a lot of issues to a point where we say we can try. Now, ten years isn't a long time in the life of the City, number one and number two if this turns out to be a disaster, it could be changed by Charter amendment. It can be expanded, it can say we need four more, we need two more, we need one more, we need to take some of the words and change them and make more people at-large. There were a lot of people on this Friday that didn't want to have an Ethics Board and didn't want to have an Ethics provision. Those of you who felt very strongly about that sincerely, I think, have persuaded the other people to at least go along. Everybody here doesn't think it's a panacea of all the ills of Manchester, New Hampshire, to have at-large Aldermen. The question is whether this attempt, along with non-partisan as **The Union Leader** has pointed out will have some affect on broadening and deepening the level of inquiry, it could be a disaster, you could get the two biggest morons in the history of Manchester elected at-large Aldermen. My point on this issue and the at-large and the non-partisan is this. Those of us who feel very strongly about this think has a chance of making this a much better government without hurting it. There's nothing magic about 14 and the problem I have and we've been through this so many times with the six and six is you create and I think you agree with this, you create one Alderman from the north side or the south side or the east side or the west side, whose going to by definition if there are issues rally the other people who are from the same group that he was elected by and create this group versus this group inherently. You don't want that. We want one City, moving ahead, trying to address its issues and do it. There's no indication these are going to be conservatives, liberals, rich, poor, we all got elected by the whole City and I gotta tell you this is very, very important to me and I would say to you all as people who have become my friends and that doesn't mean you have to agree with me because I don't agree with you on everything you do, but don't close it because it hasn't existed, and don't close it because it isn't the status quo, give it a chance

because I think this is the most important thing we're doing to change Manchester government, except strengthening the Mayor.

Commissioner Stephen stated I agree with Commissioner Cook about this, again I stated in the spirit of compromise, the Ethics Code wouldn't be in this Charter if it weren't for Commissioner Cook because I think he was the deciding vote and he knows how important it was to Commissioner Dykstra, myself, and Steve Dolman and I recognize that. I brought the motion about the School Board because I don't think there's a need for the School Board at-large and I wanted to bring in some type of compromise and say, okay, well, let's go with...I will go with the at-large in the spirit of this compromise that you said and I understand I can't get everything I want and you can't get everything you want, but we can all agree and I would vote to the Aldermen-at-Large, but I don't like the at-large School Board issue because I think the School Board is in a different situation. You're dealing with the adoption of a budget, a city-wide budget versus a School budget and I just see the differences and I don't know maybe, Commissioner Baines, you don't agree with me, but I just...it's a chance we're taking and I only want to take that chance with regard to the Aldermen, so I wanted everyone to know that's my position and that's why I originally brought that motion up and it was amended and now I'm put into a quandary here.

Commissioner Dykstra stated you mentioned something about the Ethics and how some did and I certainly appreciate that support, but I really feel, I really believe that the majority of the people wanted some kind of a conflict of interest and code of ethics and I would hope that these members here didn't do it for any other reason other than the fact that you saw that the people wanted something like that and basically gave in or compromises because of that and that's what I would think did happen, didn't it, Brad.

Commissioner Cook replied, no. There's a big difference between recognizing the need for appropriate ethical conduct and I think the people that objected to the provisions that were in there which I think have been improved to a point where they are fine, but I think the position wasn't that anybody thought there should be people acting unethically or in conflict, they thought in a Charter with a Board it invited some kind of disruption and a problem. I was brought to a point, this is acceptable and we'll try it

because if it creates nothing but a ruckus and people are throwing unfounded charges at a Board all the time it feels it has to run with the ball then that can be adjusted because that will be as great as anything else and I think that's something we have certainly rehearsed and certainly we're in an age where people may have to look more closely at ethical conduct than they used to just trust the integrity of the people in office to do. But, I think, getting there and compromising with those who had a stronger view of what should be in the Charter on the subject, not the subject is what got us there. The fact that the number of people who came out and testified on any subject was true or false to what I believe, it hasn't changed what I believe. But, it certainly input an indication of what's right. If I didn't think that everything that we were proposing wasn't acceptable or absolutely imperative...I voted against the changes back on the School stuff several times knowing I wasn't going to win. I happen to think we should have segregated it out and I think that may be important enough to toot the Charter although, I think. But, I think, the real question here is whether we should take two votes - do we vote on the Aldermanic one and then do we vote on the School Board one or do we vote on them as a package.

Commissioner Baines stated the amendment is the one you would vote on first. The reason I feel the concept of at-large is good for both is that as a parent, I just like the ideas of what's happening with sports, what's happening on emphasis on school facilities, what are the issues that are facing the School District and make it a City-wide debate. The Mayor made a comment today about people don't vote for School Board. I'm going to tell you having been on the ballot for School Board way back in the 70's four times, people don't vote because they didn't vote for the School Board because the way it's positioned on the ballot...it has nothing to do with partisan, non-partisan, to get people to vote for School Board when you had the paper ballot it was way over here, even on the machines, that's the issue there. When's the last time you saw anyone...the most important thing we do in this City is educate our kids. Now, we've had testimony that 70 percent of the budget and it's not 70 percent of the budget by the way, but they say it's 70 percent. So, why are we having City-wide debates on this issue, why are we having people run on education agendas. That's the whole idea, you get in your ward, go door-to-door and you represent those constituents. So, that's the idea of this that people are going to be...I think that's going to attract people and it may attract people that really need to be

there. Perhaps a different perspective, people running a City-wide campaign and they're talking about schools, wouldn't that be refreshing in this community. That's the point.

Discussion ensued relative to whether or not to keep the proposed Charter with two (2) At-large School Board Members and two (2) At-large Aldermen.

A vote was taken relative to the removal of the two (2) At-large Aldermen from the proposed Charter, the motion to remove failed on a vote of 6 to 1.

A vote was taken relative to the removal of the two (2) At-Large School Board Members, the motion to remove failed on a vote of 4 to 3.

Commissioner Stephen stated this was confusing.

Commissioner Lopez stated it was in the draft at the preliminary thing, to go out there and see what the reaction of the people would be with adding two more at-large Aldermen and two more at-large School Board Members and I can tell you this has been a nightmare in process trying to make a decision on this and I agree with Commissioner Baines as he said, it would be a better perspective of an individual, but adding more people is, to me, not the solution to City government. There are people that are well-capable that are on the School Committee, right now, do to a lot of these things and if they fail to do them they shouldn't be there. The issue of the Aldermen when we vote on that is another issue that I have been...

Commissioner Cook stated the question is what the effect of the vote on the School Board is, now do you want to poll everybody on the...Katy's in favor of the two at-large School Board, Cook is in favor of the two...

Commissioner Baines interjected Shaw's opposed.

Commissioner Cook stated you'd better check where he is today, because who knows; Baines is in favor, I don't know how the Chairman voted.

Chairman Pappas stated I'm in favor.

Commissioner Lopez stated let's go back, it's a late hour; that when we were talking about the amendment.

Chairman Pappas stated the amendment was to remove two (2) At-large Aldermen and it failed.

Commissioner Lopez stated okay, it failed, but it's still on the table.

Commissioner Dolman stated it's been defeated as in an amendment to a motion.

Commissioner Stephen stated the point that I'm raising is in order to have an at-large for the School, I'm going on the procedure that we have to have a six to three vote because that issue was put out there and you can go back to the minutes to let the people.

Commissioner Lopez stated I'm opposed to the Aldermen.

Commissioner Cook stated okay you're opposed, Shaw's opposed and Leona's opposed, but if you're opposed, it still passed, but the School Board thing is still up in the air. So, let's poll everybody to see what the vote on the School Board is.

Commissioner Lopez called for a roll call vote relative to the proposed two (2) At-Large Aldermen.

Roll call vote taken as follows relative to the removal of the two (2) At-large Aldermen from the proposed Charter:

Commissioners Stephen, Baines, Cook, Dolman and Pappas voted nay. Commissioners Dykstra and Lopez voted yea.

Commissioner Stephen stated it was six to two with Kathy's vote.

Commissioner Cook stated Kathy gave us a letter and told us to record her as yes if a vote was taken.

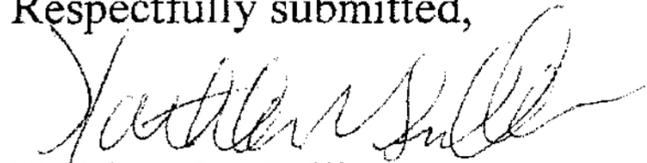
Commissioner Lopez stated I just wanted to make sure that it's legal and parliamentary. We agreed six to three for the preliminary report and if you read Kathy's letter...let me just say, please start taking final votes since Commissioners will not be here the following week, we will not be present for a vote before the deadline. If there is an 8/0 or 7/1 vote on any provision, my vote will not change the outcome. In other words, 8/0, 7/1 vote should be considered. I will call Commissioner Cook or the City Clerk's Office next week to check in on any 6/2 or 5/3 vote, okay. I will try to make arrangements so that you can FAX papers to me if there's a particular language you need to vote on, okay.

Commissioner Stephen's asked if you want a roll call vote on the other one, too, the School Board Members. We should do that also.

A roll call vote was taken relative to the removal of two (2) At-Large School Board Members from the proposed Charter: Commissioners Stephen, Dykstra and Lopez voted yea. Commissioners Baines, Cook, Dolman and Pappas voted nay.

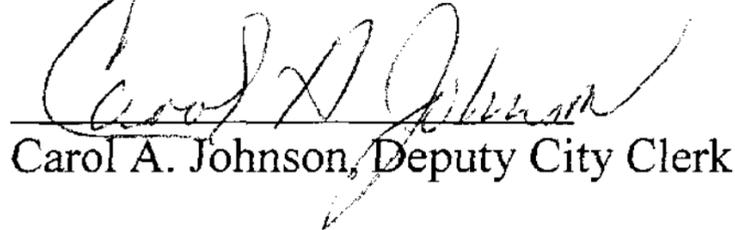
On motion of Commissioner Baines, duly seconded by Commissioner Cook, it was voted to adjourn.

Respectfully submitted,



Kathleen N. Sullivan  
Secretary

A True Record. Attest.

  
Carol A. Johnson, Deputy City Clerk

## CHARTER REVIEW COMMISSION

**AUGUST 22, 1996**

**5:30 PM**

Chairman Pappas called the meeting to order.

Present: Commissioners Pappas, Baines, Cook, Lopez, and Shaw  
Commissioner Dolman arrived late.

Absent: Commissioners Dykstra, Stephen, Sullivan

Commissioner Cook noted that he had spoken with Kathy Sullivan who had commented she was in favor at large aldermen and at large school board members. He had described where they were on the Assessors and she said the language added on the three full time assessors was fine, everything added was fine her inclination was however that they should choose their own chairman, and thought the appointing authority for assessors should be the same as other appointments are, being the mayor. Commissioner Cook noted Commissioner Sullivan was okay on the sick leave provision, and the other issue raised was the concern raised at the public hearing about the permanent department head and she was in favor of discussing that.

Commissioner Stephen asked if Commissioner Sullivan stated anything about Assessor's full time status. Commissioner Cook noted that she had been in favor of it, feeling it should be the same as other departments.

Commissioner Lopez stated they should clean up the language of Section 3.07, noting the way it was stated last night was that "the assessors shall be nominated as provided in Section 3.03 of this charter. One of the assessors appointed the chairman of the board of assessors shall be the department head selected by."

Commissioner Cook noted her statement was the three selected would elect one to be chairman who would act as the department head, he did not think they wanted that as a group.

Commissioner Lopez continued stating one of the assessors appointed the chairman of the board of assessors shall be the department head. Whoever is appointed, the three of them get together and appoint the chairman and he is the department head. Commissioner Shaw noted that then every year it changes.

Commissioner Lopez noted that what they didn't do when they changed 3.07 b) they didn't put the language in and therefore moved to put the language in that the assessors shall be nominated and appointed as provided in section 3.03 of this charter. Of the assessors appointed, the chairman of the board of assessors shall be the department head.

Commissioner Cook noted that this wording would leave in question how the chairman gets elected, the question was does the mayor pick one of them as the chairman who becomes the department head, or does the three so selected elect one of their own as the department head.

Commissioner Shaw asked if there were any state departments where the governor and council did not choose the chairman of the group, he did not think there was and named a few as examples.

Commissioner Lopez suggested "The Chairman of the Board of Assessors shall be selected among the assessors, and he shall be the department head."

Commissioner Cook, stated the two choices to him seemed to be, the mayor shall appoint one of the three assessors as chairman and department head; or the three so selected shall select one of their members to be chairman who shall serve as department head.

Commissioner Shaw moved the wording that the mayor shall appoint one of the three assessors as chairman and department head. Commissioner Baines seconded the motion.

Commissioner Lopez stated that he thought the argument of the assessors had been well documented throughout this session and the mayor being able to appoint them, he thought they sit among three of them as a board and he thought they should select their own chairman. He thought putting the political structure into the game of selecting the chair of the assessors was

not warranted, these were city officers they were speaking of. The city Clerk was appointed by the aldermen and he thought all three of them should be appointed by the aldermen, they were officers of the city.

Commissioner Shaw stated they were city employees, officers was a thing that came after the word employee, officer paid nothing extra, means nothing extra. They are not special only equal to the other 30 something department people, so he did not think they should choose their own chair.

Discussion ensued where it was noted that they had rotated chairmanship in the past but may not now with the seniority of Mr. Porter and that they did receive a higher pay when they were chairman.

It was noted that Commissioner Sullivan and Lopez thought they should select their own chair. Commissioner Pappas indicated she agreed as well. Discussion ensued relative to the importance of the assessors and comments of how they should pick their own chairman. Commissioner Cook noted that he did not think there was any other department head in the city other than the Planning Director and the City Clerk selected by other than the mayor by law. Commissioner Cook noted that another discussion about the assessors would be the term, they are board members and also employees, so the question is whether they have an open thing. Commissioner Shaw noted that since 1985 there had been attempts by the mayor to have the assessors reduced to one like Nashua. Nashua's set up was discussed.

Commissioner Baines commented that there were three assessors being appointed by the Mayor, and confirmed by the aldermen, asking Commissioner Lopez why there would be a problem with the mayor choosing a chair with his having chosen the selection.

Commissioner Lopez responded that if the mayor chose the chairman there would be an ongoing thing, policy, with the mayor as the chair, whereby if the assessors select their chairman it would be easier for them to deal with the issues that they have to deal with, it wouldn't be a one way street, because they have to work as three as it is.

Commissioner Lopez stated he would like to take the politics out of it to some degree whereby the assessors, and he had read the laws and the documents that they have to go through to ensure that the public is well served, he thought state law had indicated that assessors, - and if the board of mayor and aldermen want to change it later on they have that authority, but until such a time he thought the decision as they do now was better than someone dictating to them.

Commissioner Shaw noted that the chairman had no more power than the other two.

Commissioner Cook disagreed noting as it is proposed the chairman sits as the department head. In terms of the appeals board it was true, the chair would sit as the chair of the appeals.

Commissioner Stephen asked if they were going to continue rotating the chair, asking if the mayor would have to appoint every year. Commissioner Cook noted that was past practice and not law.

Chairman Pappas called for a vote on the mayor appointing. There were four in favor and two opposed.

Discussion ensued where it was concurred that they did not have six votes and the current language would stand.

Commissioner Lopez noted the only thing they had there was "The board of assessors shall consist of three full time members and shall continue to act in its current capacity as a board of appeals for abatements unless nine aldermen of the board of aldermen vote to reorganize the assessors office pursuant to section 3.01." Commissioner Lopez noted that they had not addressed anything about the assessors appointed or chair or anything else, asking if they were saying to leave it out. Commissioner Baines stated until they had something to put in there, that had six votes.

Commissioner Cook noted that there was something in there about the mayor appointing all department heads.

Commissioner Shaw commented presume the charter passed for January 1, 1997, and before February the aldermen, nine or the number required, reduced the number of assessors on the first month to one, then he guessed he would choose whether he would be chairman or not because he would be only one. Commissioner Lopez was presuming that the aldermen were not going to make this change.

Commissioner Lopez commented that they were officers just as the city clerk and finance officer. Commissioner Shaw noted that because state law says they are an officer did not mean that they were an officer as Commissioner Lopez was speaking of it. In the law it did not care about that.

Commissioner Lopez disagreed.

Commissioner Stephen noted that in Section 3.01 a) they stated that all departments of the city in existence at the effective date of this charter shall remain as then organized so his concern was addressed with that section, because unless nine aldermen convene and change that and the mayor will be able to come up with a job description, but until that happens nothing changes.

Chairman Pappas stated that was what she thought also. It was in there until the aldermen decide to change it.

Commissioner Cook noted that they did not have enough votes to put in language in this session that the mayor appoints, his reading without that language in here was that the mayor still appoints department heads, the chair is the department head, he did not know that they want to do something by accident, there was another issue they had to deal with - presently the assessors had six year terms - they are in a quasi judicial position as opposed to just an administrative position, they had said in the transition section that everybody fills out their terms and then goes into non-terms, so the three individuals were not what they were talking about, so with them serving as far as judicial did they want to put terms in for them and if so what. His inclination was that the new assessors ought to have six year terms, which would insulate them from hiring and firing.

Commissioner Shaw noted that at the end of six years it would require them to be done; that they had changed from aldermen always wanting the same person to a chief executive that might have a different direction for these positions, giving the mayor the right to appoint every six years the person in there could be done.

Commissioner Lopez asked why in 3.07 they say how the city clerk is appointed by the board of mayor and aldermen as prescribed by law, under finance officer is nominated and appointed by section 3.03 of the charter, but they say nothing about the board of assessors, he could not believe how they were taking officers and saying how they are going to be appointed.

Commissioner Cook stated it should read "The members shall be appointed as set forth in section 3.03, just to clarify." and so moved. Commissioner Lopez seconded the motion.

General discussion ensued regarding whether they would proceed without six votes.

There being no further discussion Chairman Pappas called for a vote. The motion carried. Chairman Pappas advised the language would go in.

Commissioner Cook moved for six year terms for the assessors. Commissioner Baines stated he would second for discussion and asked if they would be staggered terms and how would it work. Commissioner Cook stated they would be staggered with one being appointed every two years, again noting that they were quasi judicial appointments and the term generally insulates such people from the concern that if they make an assessment decision that somebody doesn't like they can rile everybody up about it, get him canned by the mayor, and nine aldermen, and he did not think that was the safest position to have a quasi judicial officer sometimes making decision in. Commissioner Shaw stated he would vote against the motion.

Commissioner Stephen asked in terms of political influence it was going to be incumbent upon one person, a mayor, to make a decision on whether to reappoint this person without any influence from the board of aldermen and he was concerned about that because this may create more influence just to

appease the mayor. Commissioner Cook noted that with the terms the chances of one mayor appointing all three were remote, so there was safety in that; that if the aldermen think an injustice is being done there is a compromise reached, but he thought a six year term was more valuable. Commissioner Cook felt that they needed to keep them somewhat insulated while giving the mayor some power.

Commissioner Stephen asked if he was correct in assuming that if he had more faith in the nine aldermen not making a rash judgment or some type of removal because this person hasn't done a good job, versus a mayor or one person who may not like someone's personality, would he vote for the aldermen to retain that power with the aldermen. His concern was one person deciding because of personality or one issue to get rid of somebody on the board of assessors. Commissioner Cook responded that the reason that they have required confirmation by the board was to insure fairness, and certainly it doesn't allow one person to do it and ten people aren't as likely to get carried away as one. However, he noted there were circumstances eluded to by Mr. Baines in the past, and gave an example of a controversial issue with everyone up in arms and they are trying to get rid of someone, a term would protect that person from being gotten rid of, no term won't, and noted that a judgeship was given a lifetime term and couldn't be rid of over one call, which eventually blows over, and that was why there were terms.

Commissioner Lopez stated that the only thing was making an exception again, they can pick their own chair because of judiciary responsibilities, on the one hand we say they are good guys so we will protect them with terms, and on the other the chairman is not a good guy so we'll let the mayor appoint the chair. Commissioner Lopez noted that they had addressed the assessors in bits and pieces and discussed them at every meeting.

Commissioner Shaw stated that under the current charter they had protected the assessors to the tenth degree -- until they either resign or the mayor can find nine votes to get rid of them they are there. He felt they were well protected. He did not think there should be terms, terms were a death sentence, the mayor making the appointment will decide, and he did not think one person should do that, they should stay there until a time certain - which was nine aldermen didn't want them.

Commissioner Baines did not feel they would be more protected with a six year term, he thought that in six years they would be gone, whereas now there would have to be a definite case to remove them they would have to get nine votes.

Commissioner Cook repeated the motion as being to keep six year terms for the assessors as done presently.

Commissioner Stephen asked about a middle ground suggesting they put in that the assessors had to be removed for cause just like the commissioners.

Commissioner Dolman arrived.

Commissioner Cook provided an example of an assessor who was a good mediocre hard worker whose term was up, the mayor has a chance to appoint somebody else or keep him. With cause, the guy has a job for life because the nine aldermen would have to find a reason for cause, that person can retire.

Commissioner Dolman commented that they had tried to be consistent all the way through this charter and that was why they took the line out, because they had wanted to be consistent with assessors more than any other department in the city, asking why they would want to change now and not be consistent.

Chairman Pappas called for a vote and advised the motion failed.

The Committee briefly discussed when they would have the final vote.

Commissioner Baines commented on the department head issue feeling they had raised a better level of awareness since last night and he thought if Commissioner Stephens could come up with some language, he felt they needed some kind of a system, if they were going to be a government open to the people, that when a department head position opens in the city they should do what he thought was done most everywhere, if not everywhere, first of all they have to be sure there are qualifications, standards for candidates and an opening should be posted, and people should have an

equal opportunity to apply, and it shouldn't be a closed process in any department in the city where a department head leaves and automatically it's filled with a swiftness that will leave everybody in the dust. He gave the school district in bringing forth his conflict, the way they operate any position must be posted, advertised, and people have an opportunity to apply, and people have an opportunity to come in and compete oftentimes with people in the city, at least 50 percent of the time people in the city promotional have an opportunity to go in that position sometimes they don't because they are not that qualified of people, and his feeling was that they would have better government they need to do that.

Commissioner Shaw stated so his point was they should have a code that requires the mayor to review all candidates who are qualified for positions, and then we say that he in his sole discretion shall make the nomination, and that the aldermen shall confirm. Commissioner Shaw stated that it didn't say anywhere that the mayor is required to appoint the best person, because he in his sole judgment can decide who the best person is. So if he can decide, then Commissioner Shaw felt the rest was not needed.

Commissioner Baines disagreed using the school district as an example, under state law the superintendent is the only one who can nominate anyone for any position in the school district, and they can only act upon his nomination, if the board rejects he can keep coming back with the same person but at some point he has to go to another person that's acceptable to the majority of the board, and it would work the same way with the mayor.

Commissioner Cook stated that they had determined that when a department head's job comes open, no job description has to be posted, it just has to be filled. Commissioner Shaw noted that there were ordinances for job descriptions for a number of positions in the city. Commissioner Cook stated for a number of positions but not for all.

Commissioner Cook stated that what they were trying to say was - the personnel department has stuff for all of the classified positions of the city - but they were surprised and wanted to address was the fact that when a department head position becomes open, a job description for it will be published and applicants will be allowed to apply, and they will be reviewed before the mayor makes such an appointment. Commissioner

Cook noted that worldwide searches had resulted with the guy next door getting the job, so there wasn't any guarantees.

Commissioner Stephen stated that this was not a unique thing, it was referred to in 49C which basically says to put it in the charters, they were not putting any code in there, they are asking the board of mayor and aldermen actually to work out an administrative code that has these availability and posting for qualifications and merits.

Commissioner Shaw noted the many people who would not get appointed his way, the state has passed laws that require us to do certain things but don't require it for themselves, before they put it in effect, they should say that doctors, lawyers and Indian chiefs for state of New Hampshire should be hired qualifications only.

Commissioner Dolman questioned what happens if the mayor brings in someone for a department head's position and he does not get the votes, does the person who's in the position now stay in as a holdover.

Commissioner Lopez stated not necessarily, he could appoint a department head temporarily and there is nothing in the charter that says he can't.

Commissioner Dolman noted that this had never been discussed, did the person stay as a holdover, was there a time limit. Commissioner Shaw noted that you had to be fired first before the mayor could make a nomination, there were no vacancies. Commissioner Dolman questioned if the persons term is up before the charter goes into effect, what happens to someone who's term is up now, gets nominated and confirmed, does he fill his term or when the charter goes into effect does his term end.

Commissioner Cook stated he thought the transition section stated that anyone who has a term on the effective date of the charter, which would be July 1 of next year, so if someone gets reappointed and confirmed in March for instance for a six year term, and they got five years and nine months left and then they fall into the permanency or non-permanency as the case may be. Commissioner Baines stated if they looked at the language of 49C they were not putting anything in the charter here that dictates exactly how this thing is going to be accomplished, requires the chief executive officer to develop the qualifications, the procedures for selection and present it to the aldermen for approval, and then it becomes part of the way government operates and they can change that from time to time, they were not straight

jacketing them. Commissioner Stephen stated that consistent with that thought the Board of Mayor and Aldermen may take action to amend the code, accept, reject it, revise it. Commissioner Baines noted that it was just the whole concept of open government.

Dick Samuels addressed the commission noting he worked in the McLane Firm and they represent Manchester Water Works. He had asked to speak because he understood there were some questions as to the power of the charter commission to repeal or supersede state laws that apply specifically to Manchester Water Works special act was the term. Mr. Samuels commented on special acts and general acts noting he did not think they would find a definition there but he did not think it was necessary to get hung up on that, he thought that they could generally agree that general acts applied to everyone in a particular category and special acts apply only to the person named and in this case Manchester Water Works was named. So let's say that the acts of 1871, 1893, 1925, 1935, and 1961 all applies specifically to Manchester Water Works and no other water works or municipal utility. He did not think that this was the end of the inquiry, and he did not think that they were voting to reading RSA 49B9 which says that private special laws continue in force and effect unless specifically repealed by a charter adoption, revision or amendment is where to end. The reason for that, and the reason they had to dig a little deeper is that charter as he understood it is the document that is kind of the constitution of the city and says this is how we are going govern ourselves. The charter is not and cannot be a document the city uses to give itself power. The city has no power accept to the extent that the legislature, which is the superior state legislative body, gives the city. Mr. Samuel continued stating where do you find the power of the city of Manchester to operate, maintain and spend its water works, they find it not in the general laws of New Hampshire, you find it only in these special laws. The power to assess property, board of assessors, is different. Mr. Samuel stated because as with everything else there is room for extremes, there are other municipalities in the state, quite a few, that operate municipal water systems, it is a popular thing for municipalities to do as opposed to gas systems where there are very few. All of those sorts of systems though, other than those that derive from special legislation, and there are other derived from special legislation, have their powers defined, the cities powers defined, in RSA 38. RSA 38 was enacted by the Legislature in 1913. So they have a structure where in 1871,

before there was a general law that helped a lot of municipalities to have municipal utility systems, in 1871 the Legislature gave the power to Manchester in a particular statute, the power is all spelled out in that statute and the point is that it says that the Board of Water Commissioners shall operate and direct the water works, and in 1893 they amended that consistent with the legislation. In 1913 was the general legislation act, 12 years later in 1925 the Legislation amends the Manchester Water Works statutes again, and they did the same thing in 10 years later in 1935 which happened to be the year in which RSA 38 was extensively modified. Then in 1961, years after RSA 38 took what is pretty much its present form.

In response to question, Attorney Samuel stated that there was evidence that the state legislature, where the city derives its powers from, Manchester Water Works got all of its powers and the City of Manchester the power or authority to run the water works in a particular way derived from this special legislation. If this special legislation is considered to be repealed he did not know where that would be derived, so he was not sure how to read 49B9 in the context of the legislative history he had just gone over, moreover, 49B9 says that it has to be specifically repealed in this charter. He did not want to suggest that they make the effort to do that specific repeal.

Commissioner Shaw asked who owned the Manchester Water Works. Atty. Samuel responded the City of Manchester. Commissioner Shaw stated if somebody owns something doesn't somebody have the right to run something. Atty. Samuel responded that cities unlike individuals don't have inalienable rights, and cities in New Hampshire have only the rights granted to it by the Legislature so the answer really is no, only to the extent that the Legislature has given them. Commissioner Shaw stated so we own it but we might not be able to run it because we don't know what the law might say on it. Commissioner Shaw asked who appoints the people that run the water works, and stated the aldermen. Atty. Samuel responded yes. Commissioner Shaw stated so it was possible for the aldermen or if they choose not the aldermen but somebody else do it to appoint people that say the city of Manchester owns the water works and runs the water works, and has to comply with all laws. Atty. Samuel responded that the city of Manchester does run the water works but it works through a board of water commissioners. Commissioner Shaw stated his point was that they were

arguing a point that is in effect now, they have allowed the water commissioners to run it because it's the most efficient and effective system presently that Manchester knows about, but not necessarily world wide. Commissioner Shaw stated that under Section 8.13 this was the current charter, they repealed all of those rules and nobody has stated that this is illegal, its says special acts inconsistent with the provisions of this charter are repealed to the extent of such inconsistencies. So if they put in that the aldermen lost there right to appoint commissioners that water works would have to report to the board that would be repealed. Commissioner Shaw stated his point was that we own the water works, we appoint the commissioners and they just discussing moot points.

Commissioner Lopez stated that the train of thought listening to him, and he was loosing it and would like him to finish his presentation before the commission started asking questions.

Atty. Samuel stated he was about finished he just wanted to touch on the mix of uncertainty commenting that in addition to 49B9, they had 49C34, which said that previous charter provisions relative to the City's water works continue in force except as inconsistent with 49C. Atty. Samuel stated he did not know that there was any inconsistency between any charter provision relative to the water works with 49C, and it seemed to him that the Legislature said in 49C, which the Attorney General's office had taken the proposed draft charter and measured it up against 49C, the law works among a few other named categories of provision stay in effect. Mr. Samuel ended his comments by saying that at the very least, while he understood they could argue his reading as right or wrong, there was a good deal of uncertainty as to whether the charter can repeal and be inconsistent with the special acts which led to the practical question that the commission ought to be answering and that was given that uncertainty, and the degree of uncertainty, why would they go out of their way to fix it when it ain't broke. Mr. Samuel stated that this got outside of the legal realm so he would stop there.

Commissioner Cook stated you don't hear anybody saying in this whole process that the water works isn't well run and that the water works doesn't do well as that the water works ought to be replaced in running the water department. His question was the 1982 charter had provisions about

budgeting, finance, control, administration and they have heard several people say that notwithstanding the fact that the water works is run pretty well, it does not run in accordance with that charter, and the charter was passed with language about repealing existing special acts and the language Attorney Samuels read that charter is inconsistent with the way the water works is being run and there is a 1991 letter from a guy named Samuels to the City of Manchester that he believed was aiming at, we got a right to run the water works as a quasi municipal corporation because there is a bunch of state laws that say we do and that was why we do not have to comply with all these other things. Commissioner Cook stated that one of the things they have never gotten an answer to was how it could be run that way.

Attorney Samuel responded that the best answer was to take off from the Supreme Court case regarding the City of Dover, it was a fact where the city of Dover ran a hospital and the city also incorporated the provisions of the special acts of the Legislature that allowed it to run a hospital into the city charter; that after the constitutional home rule provision went into effect and then the 49B, the authorizing legislation, were in effect as well. Attorney Samuel explained that the city tried to change its terms, such that it was consistent with the special legislation and the citizens complained in the supreme court held that the incorporation of the provisions in the charter does not distinguish, extinguish the legislature's power over municipal corporation called the hospital, by the same token incorporation of the water works provisions, any water works provision in the old charter or in the new charter, doesn't extinguish the legislature's power over the municipal operation of the water works. Attorney Samuel stated that he thought the flip side of that was the incorporation of provisions in a charter that are inconsistent with the legislature's statement of this was how they were going to run this thing, are ineffective. Attorney Samuel stated that the hospital analogy was a good one because they would find nothing in the general laws about municipalities that give cities the power to run a hospital, the power came only from that special legislation.

Commissioner Stephen stated that they had put in the charter department heads can be removed by the mayor, basically without cause, if they feel they want that to apply to the water works as well were there any provisions in those special laws that restrict the mayor's power to get rid of the department head. Attorney Samuel responded yes, with respect to the

department head as opposed to the commissioners, because he thought that the special laws make it clear that the department is run by and under the direction of the water works commissioners and he would say the ability under that was to hire and fire the department head, the manager.

Commissioner Stephen asked about the appointment authority, could they under those laws, give the complete appointment authority over to appoint commissioners. Commissioner Stephen asked if it had to be a Board of Aldermen appointment or could it be a mayor appointment. Attorney Samuel stated that the Board of Mayor and Aldermen were specified in those laws.

Commissioner Cook noted that with others they had put that the mayor nominates and the Board confirms. Attorney Samuels stated that without having the laws in front of him he would say that it would be an appointment by the Board of Mayor and Aldermen.

Commissioner Stephen asked if it said anything about term limits. Attorney Samuels responded yes, they can have six year terms until the die. Commissioner Stephen asked if they could put in the charter that they have term limits, no commissioner from water works can serve more than two six-year terms. Attorney Samuel responded he would think so, he did not think it was inconsistent with anything in special laws.

Attorney Samuel stated he thought the easier way to address this is not to take it apart, but to have a single paragraph that says that to the extent that the special legislation applies to the water works that is the way it is run.

Commissioner Stephen stated the way that they had written the charter, let's assume that they can repeal all of those acts in this charter, and let's assume they had now "a department head shall be the chief administrating officer of the department subject to the supervisory authority of the mayor as to administration, department policies and policy directives of the Board" asking what is the difference between being the department head, the ability to administer the department, versus the commission with regards to the water works. Attorney Samuel responded in two of the acts of the legislature it said specifically that the water works shall be placed under the direction of a board of seven water commissioners, appointed by the city in

September of each year. Attorney Samuel noted that the mayor was an ex-officio commissioner. Attorney Samuel stated that it made it clear that they direct the operation of the water works.

Commissioner Stephen stated aside from legislative intent, was there anything that would explain why they are so afraid to have the department head controlled, and was there a reason for that. Attorney Samuel stated that the department head does control and is in effect the chief executive officer of the water works, the question was to whom the department head answer, and he thought the legislation said it answers to the people who are responsible for the direction of all of the affairs of the water works which was the commissioners, as opposed to the way the charter reads which is the department head answers to the mayor.

Commissioner Shaw commented that special acts usually pass the legislature very easily if they apply to the one person the rest of the legislature doesn't care so therefore the majority will pass almost anything that a city asks for, so the water works can go behind the backs of the aldermen and get these acts passed fairly easily. Commissioner Shaw stated that the water works and the airport were super-bodies well run, well disciplined, attentive to the needs of the city, and that other departments are not quite as good, the only difference between the water works, airport and other departments is that the aldermen interfere in the process, the aldermen don't interfere very often if at all with water works or airport, but they did not know that the water works is the best run in America, they know it is the best run department in Manchester, they don't know if in the year 2010 a different way of what the water works is available to the citizens of Manchester or the airport, which was why they were putting in the power of the aldermen to make these decisions in the future. Commissioner Shaw stated that if they were to exclude airport and water works from this charter then they should exclude Parks, Highway and others that are just as well run as this one.

Commissioner Cook stated if they said in the transition section that nothing in this charter is deemed to repeal any special acts applicable to the water works. Commissioner Cook noted that there is always a legitimate inquiry on whether things should be better run, there were proposals over the years that sell the water works, dumb idea, but there has been proposals to do it;

that there had been proposals to make it a wholly owned subsidiary corporation of the city; that the city could go up to Concord and get the special act changed, it was not impossible to do. Commissioner Cook stated but if they put in the charter nothing herein shall be deemed to repeal any special act applicable to the water works -- would that alleviate a lot of the concern that was going on. Attorney Samuel stated he had preferred a longer sentence, but essentially that was it. Commissioner Cook noted that there was fuzziness to it and they wanted to say the right thing so they did not inadvertently repeal something that they ought to have, or mess up with something that should exist, but every rationale said by Bob Shaw was what they were thinking about as to all departments of the city when they did what they did, including the water works.

Commissioner Dolman commented that they had been going over this for a long time and seemed to be still going over and over it; that there seemed to be some confusion on 49B and where Section 8.13 repeals all special actions or whether it doesn't repeal all special acts. Commissioner Dolman noted it had been sent to the Attorney General and never brought up as a problem, perhaps they should make a decision as to what they want to do and if there is a problem then it could be dealt with as a problem to whatever challenge it is taken to. Commissioner Dolman stated they should do what they feel is right under this situation.

Commissioner Lopez referred to Section 2.04 a) of the charter revision if they went along the line of the board of aldermen being a board of directors of the city, presenting the case of the water works would continue to operate they could give that power to the water works to continue. Attorney Samuel concurred, stating as they had drafted the charter they could do that, and they can decide that indeed they are not going to abolish the water works, but the point was that the state laws that said that the water works shall be directed by a board of water commissions.

Discussion ensued where Commissioner Shaw argued that the special laws were repealed pursuant to Section 8.13 of the current charter adopted in 1982. Atty. Samuel noted that the 1982 charter gave to the water works the power that the special acts gave to them so it was not inconsistent and therefore it was not repealed he thought. Commissioner Lopez stated that he thought that Section 2.04a) gave the power of the board of directors to

run the city, and if they are going to run the city and people such as airport, water works etc. present their case before them and they give the delegation to continue operate how you have been operating by city ordinance they could do that under this charter. Atty. Samuel agreed they could do it, but if the charter was effective, nothing is beyond doubt until the supreme court says whether they are right or wrong. Atty. Samuel noted that they should ask why the internal infrastructure of the water works so good, why are the rates low and the quality of the water high.

Mr. Beaurivage stated in the charter there is a provision in there regarding the water works in extending the authority from past legislation into that 1982 charter, it was there. Commissioner Shaw stated he thought that is what they should be operating under, the charter versus state law, he believed that the water works in the city of Manchester since 1982 had been operating under this charter; that they did not give raises unless the aldermen allow it, their governing body was appointed by the aldermen; and they don't buy or sell land without the permission of the city of Manchester. Atty. Samuel stated that was correct but that they did raise water rates. Commissioner Shaw stated they could set rates, the board had never said to them don't do it. Atty. Samuel stated that the state legislation mandates them essentially to balance the revenues and expenditures. Mr. Beaurivage stated that the concept behind the legislation was because of the fact that the water department in its last 125 years would not operate off the tax base, and the revenues it receives are consistently reinvested in the system, that is why the infrastructure of the entire water department is of such a high quality because of the constant reinvestment back into the system.

Commissioner Shaw stated from 1974 on, after the plant came on line, the manner that the water works has operated in is inconsistent maybe with what water works is doing in America, that doesn't mean that their water is better or worse, but it was not consistent the way water works are run in America, they were still operating on a system that was devised before 1973, it might be perfect but the aldermen should decide that.

Commissioner Cook asked if they recommend this charter becomes law in his opinion there are several things that aren't inconsistent with the special acts - rate setting authority there was nothing in there that said anyone other than the commission - the PUC would control that anyway. It was noted

that the PUC regulated rates outside of the city. Commissioner Cook noted there was nothing in there that allowed the Board of Mayor and Aldermen to set water rates. Atty. Samuel noted that there was something in there that said that the Mayor and Aldermen could say they don't want the water department any more period. Commissioner Cook suggested they look at the scenario that the city recognized the good work of the water commission, and looked at the issues raised by Commissioner Stephen with regard to the other things such as terms for commissioners including airport and water works, and other matters that were not inconsistent but they felt were important, the ultimate question they had to decide was whether they were going to leave it to the good judgment of the city leaders in the future elected by the people to recognize the quality of the water works and keep it going or whether they had to set in concrete someplace that they can't look for better ideas some other place even in a study. Commissioner Cook believed it had been set up in such a way that it did not threaten the airport, and he had a vested interest of some sort in the airport because he was a member of the authority.

Commissioner Shaw stated that he thought they had summed it up in terms of the direction they were wanting to go, and that they did not want to favor any one division over the other and they wanted to have the aldermen run the city in the best manner possible, which could be copied the water works system of running things.

Commissioner Shaw commented that he did not want to favor two departments over the rest of the city, having served as mayor he believed that they have a great number of hard working dedicated people and commissioners and the majority of the time the best interests are for everybody, and he did not want to single them out as perfect.

Commissioner Lopez advised that the August 19 carry over relating to Section 10.02 needed to be removed from the table.

On motion of Commissioner Cook, seconded by Commissioner Stephen, it was voted to remove the carry over of August 19 relating to Section 10.02 off the table.

Commissioner Cook outlined that they had received a communication from Atty. Samuel who had wanted the language added to keep the water works sanctity, and they had a discussion about whether or not it should apply to the airport, at the prior meeting the chair had asked him to draft something that would do that which he had drafted and presented. He was not inclined that they need to adopt it.

Commissioner Cook moved to pass the language for the purpose of getting it off the table and disposed of. Commissioner Dolman seconded the motion.

Discussion ensued where Commissioner Dolman clarified that the aldermen would not be setting the rates, he did not want to that become a political football. Commissioner Dolman noted there were two issues, he did not want to treat any department differently but he did not want the water rates to be set by the mayor and aldermen. Commissioner Shaw felt that was separate from the issue presented. Others were not so sure.

The motion failed unanimously.

Discussion ensued where it was noted that the Board had once asked water not to raise the rates and they didn't; that under the current language the board could delegate its authority or it could not. Commissioner Cook stated not exactly there was nothing inconsistent with the special acts, that if the mayor and aldermen did something they were allowed to do under this charter then the mayor and aldermen could set the rates, which would be inconsistent with the special acts, but until they did that it would stay with the water commission, but there was the potential for that happening, it would be a staged thing which would be done by malice and forethought and not by accident.

Commissioner Cook referred to Article VI relative to budgets and appropriations stating it was what they had before with the Finance Departments comments, and if they went down the first page there were no changes, on the second page the words taken out were line item objects of expenditures, which went to the question of what a line item was, they refer to it as objects of expenditures; that they changed the timing of the budget process to the second Tuesday in June as the adoption date.

Commissioner Cook and the Mayor's date is in March. Commissioner Cook referred to d) noting that the wording referred to was proposed property tax levy the mayor does not propose under our system the Department of Revenue Administration did, he estimates, so the wording was estimated property tax levy. Commissioner Cook referred to number 1, d) (1) now reading proposed goals and objectives, in Section 6.04 budget adoption - they had the one/two hearing question raised last evening - which now said there will be a public hearing on the mayor's budget as submitted, and then if they go to the section of amended before adopted, the suggestion was that if amendments were made to the budget submitted by the mayor the second public hearing shall be held providing public comment on the changes made prior to final adoption of the budget. Commissioner Cook stated if there was a veto, there should be a statement of what you object to and what you would do about it. Commissioner Cook noted it said stating specific reasons for objection and proposed alternative to the item vetoed. Commissioner Cook referred to c) which was a new provision which was from the present charter which said what happened if they did not adopt, which read if the board of mayor and aldermen shall fail to adopt appropriation resolutions (which means the budget) for the ensuing fiscal year as provided herein, no funds shall be deemed to have been appropriated and no expenditures of funds may be paid the ensuing fiscal year except as otherwise required by law.

Discussion ensued relative to past budget practices.

Commissioner Cook then referred to the section relating to supplemental appropriations stating there was a whole in it because to do a supplemental budget they did not have any requirement for any procedures on how to do it, and they added a thing which said after observing the budget procedures set forth in Section 6.04 of the charter, in other words if you want to spend extra money you have to go through a budget process. The letters were renumerated. Commissioner Cook noted that in 6.06 they had deleted - they had confirmed that monies not spent do lapse so the provision was not needed. On school district budget, 6.06 they had added a provision - they had nothing in there that said when the school department had to come up with its budget - so added was the provision that the budget shall be submitted in accordance with the budget schedule established by the mayor

under 6.03 a), in other words everyone had to come in with their budget at the same time. Commissioner Dolman questioned it being section 606. Commissioner Cook noted he was looking at the left hand column.

Commissioner Shaw commented that it read that the school committee shall prepare and submit its budget proposal subject to the approval of the board of mayor and aldermen asking what it meant.

Commissioner Cook noted the bottom line authority. Commissioner Shaw stated it did not mean anything.

Commissioner Cook suggested "The School Committee shall prepare and submit its budget. The budget shall be subject to approval by the Board of Mayor and Aldermen." It was agreed that this was acceptable wording.

Commissioner Cook then reviewed the balance of changes to Article VI, budget hearings were the same as they used to be, overspending of appropriations - referring to Mr. Clougherty's comments on 6.09 - prohibited except that - and he was right and they took out the language in the middle so it says no payment shall be made or obligation incurred against any appropriation except in accordance with appropriations made... Commissioner Cook stated they had restored the language on the finance officer on section 6.11, and deleted the language on the school district shall provide the finance officer in such manner as required any information that may be necessary because he had said it was already there. Commissioner Cook noted that section 6.12 was new, the independent audit language, which was directly out of the state municipal regulations as opposed to statute, which says that audits will be done by an independent auditor selected without a conflict of interest and once a year it will be public.

Commissioner Stephen asked if the language was boxing them in any manner. Commissioner Cook noted that it said that the Finance Officer shall provide for the selection of the auditor. Commissioner Dolman did not agree with that, noting that they had voted that it should be the duty of the Board of Aldermen not the finance officer and he would not go along with that. Commissioner Shaw noted that he (finance officer) was being audited. Commissioner Cook suggested the language that the finance officer shall propose a competitive proposal process for the selection of

independent auditors the final selection of whom shall be by the Board of Mayor and Aldermen. Commissioner Dolman stated it should be the duty of the Board of Mayor and Aldermen to propose a competitive proposal process for the selection of the auditors. Commissioner Cook asked why they did not just say the Board of Mayor and Aldermen shall propose a competitive process. It was noted that it should read the Board of Aldermen. Members concurred with changing the wording in 6.12 from Finance Officer to the Board of Aldermen.

Commissioner Cook noted the comma was removed from the biennial budgeting.

Commissioner Lopez questioned 6.04 c), the language about the continuing resolution. Commissioner Cook advised it was the same language that appeared in the charter now. Commissioner Dolman stated that this language was not great, it put a lot of stress on the board, but as Kevin had said it kept the bond rating because it forced them to do the budget.

Commissioner Lopez moved to accept Article VI with the changes. Commissioner Cook seconded the motion.

Commissioner Dolman noted concern with line vetoes, noting they were saying the mayor had a right to appoint department heads, now he tries to put someone else in the aldermen can reject it and stop them, but the mayor in the budget process can put a line item figure, and then in their salary account eliminate it.

Commissioner cook stated that in terms of power if they did not want him to have that power that was a different question, but this is how it works in the budget process. The mayor retains the same power the mayor has today, he designs the budget process, he comes up with what it is, what format he wants the budget in, the timing he wants it submitted to him, and he comes up with a budget. Assumably, a mayor who is awake, is going to have input into, because by the end of March he has to make a budget proposal to the city with all of these things in it that they have directed him. He has got to explain what he is doing, he has got to have an operating plan, he has to have at least a two year capital budget schedule, all of these things in the format that he has asked for. The mayor submits a budget, it is his budget,

so the aldermen get it, then there's a hearing, the aldermen get the budget - they do something else, assumably if they pass his budget as submitted and he vetoes any line that would be awkward, but he could do it, but presumably that that have changed something, he doesn't like the school budget - he vetoes the school budget - they have a big discussion about it. They change something else, he vetoes it. He has determined what those accounts look like. So if he says 'I want every salary on a separate line' he has every salary on a separate line, if he wants a salary account, he has a salary account, he doesn't like the size of an item he vetoes it. The aldermen then have the chance to look at that veto, he gave them a reason why he did it (e.g. I think there are too many secretaries in there that are filled.) Then they act on his veto, they either overturn the veto or they don't overturn the veto. Commissioner Dolman noted his fear was because they had said numerous times there would be no consolidation within the budget process, his fear was that the mayor may with the Assessors he may only budget part time positions, he could go over the budget and cut money out of it. It was noted that this was in violation of the charter.

Commissioner Stephen commented that as far as the line item veto, he had spoken with the mayor who had asked what have you people done for the taxpayer, he was upset because he said they had done nothing for the taxpayer, and this was a Christmas present.

Commissioner Dolman commented that although he should apologize to the mayoral office, not the man, for his rudeness last evening, he was highly insulted with the mayor's comments the previous evening because he said they had done nothing for the mayor or the taxpayers and he felt they had done a lot.

Commissioner Shaw asked if Commissioner Dolman did not want a line item veto. Commissioner Dolman responded he would go along with a line item veto.

Commissioner Shaw asked about the second Tuesday. Commissioner Cook stated they picked that date because they were told that complied with the probable schedule of the aldermanic meetings and they wanted them to adopt it by the first meeting in June so they would have two weeks before their second meeting to resolve any detail. In response to further comment

Commissioner Cook stated that the second Tuesday was the first meeting. Commissioner Shaw noted that the second Tuesday was sometimes after the first meeting. Commissioner Shaw noted that they had bought statements from people that they can't produce a budget by a date certain, when all mayors from 1982 on, all budgets were prepared without the facts. Commissioner Cook stated that they had unanimously voted to change the budget schedule. Commissioner Dolman noted that the Board only met once in June, but they end up having more meetings.

The motion carried with Commissioner Shaw opposed.

Commissioner Cook referred to the procurement procedures noting that they had been changed by deleting the school portion which said the school department would adopt procedures similar to those that the city procurement and the fact was that the school department observes the procurement code of the city now.

Commissioner Stephen moved to approve Article VII as presented. Commissioner Cook seconded the motion. The motion was adopted with Commissioner Shaw opposed.

Discussion moved to sick leave which had been discussed the previous evening and Commissioner Cook distributed a copy of what they had voted on the previous evening.

Commissioner Lopez referred to the transition part of the charter, the sick leave language, asked about the removal of the word permanent. Commissioner Cook noted that they had spoken with the personnel department today and there was an indication of awkwardness in using the word permanent in the present environment of labor laws, he did not think it would hurt the provision one iota since the only people who have sick leave under the provisions. Commissioner Dolman noted that there were others. Commissioner Cook noted that if they removed the word "permanent" from there he did not think it would change the effect they were attempt to reach. All members agreed that the word permanent should be deleted. Chairman Pappas so advised the word permanent was out of the language.

Commissioner Lopez questioned the issue of if the mayor did not bring a nomination forward for department heads what happened. He wanted to know if the department head leaves suddenly, and he doesn't appoint a department head, what happens. Commissioner Shaw stated it stayed vacant. Commissioner Lopez asked who runs the ship. Commissioner Cook stated that the charter did not address that question, it was an administrative problem. Commissioner Lopez asked if the mayor could put in an acting department head. Commissioner Cook responded sure. Commissioner Lopez asked if he could put in an acting department head for seven years. Commissioner Cook stated that he did not think that he could make someone an acting department head without approval of the aldermen. Other members concurred. Commissioner Lopez did not think they had said that. Commissioner Cook stated that they had not said it that way but they had said that the appointment of a department head had to be. Commissioner Lopez stated that an acting department head was not a department head. Commissioner Shaw stated why, they had all the rights and duties of a department head. Commissioner Lopez asked if they were sure. Various members responded yes. It was noted that they had discussed this issue the previous evening and if he had 15 acting department heads he would not get re-elected the next time.

Commissioner Lopez moved for the unions to present a list prior to the mayor's nomination of qualified candidates to fill labor representation vacancies adding this to Section 3.10 b). Commissioner Stephen seconded the motion. There were four in favor and two against. Commissioner Stephen noted that Commissioner Sullivan was in favor of this addition.

It was noted that the department head positions was to go to drafting at their next meeting. Commissioner Cook advised that it would not be a full administrative code but an outline for a process of job description and posting. General discussion of this issue ensued.

Discussion ensued relative to the mayor "appointing" or "nominating" department heads. It was noted that regardless of the wording, the confirmation of the board of aldermen was required. Commissioner Shaw noted that they were discussing the semantics of a word, but if someone is appointed they are assigned the duties, and if someone is nominated then until they are confirmed they do not perform those responsibilities.

Commissioner Cook stated that if it wasn't effective until it was confirmed it didn't matter.

Commissioner Dolman moved to change the word appoint to nominate. Commissioner Shaw seconded the motion. The motion carried with all in favor of changing the wording throughout as required.

Commissioner Lopez noted that he wanted to add to 3.08 the wording "Upon request of the board of aldermen the commission may assume policy making authority of the board of aldermen in accordance with 2.04 b) which they can delegate." It was noted that this had passed.

Commissioner Lopez referred to 3.04 a) at the end of aldermen it read from boards and commissions in accordance with section 2.04 a), same thing to be consistent. It was noted that this had also been passed the previous evening.

Commissioner Lopez asked if in 5.11 c) had they changed it from three to four registered voters. It was concurred they had.

Commissioner Lopez questioned 5.10 a) mayor should be deleted. Commissioner Cook concurred that it read the Board of Aldermen shall fill the vacancy.

Commissioner Lopez stated in 5.18 they had added in the city of Manchester. It was so concurred.

Commissioner Lopez referred to Section 8.14, asking if there should be any legal costs there. Commissioner Dolman concurred stating if the person that takes the city to court wins does that person get it. Commissioner Shaw stated it was the judge's decision.

Commissioner Cook stated he agreed with Commissioner Shaw but there were two processes that say whether that is true, one is if a judge finds a violation to be outrageous enough or the action by the citizen to be worthy enough they give him legal fees but the shape what the legal fees are going to be. In absence of that the mayor and aldermen have on many

occasions have awarded people legal fees when they brought such action, but he did not think that they would want to make it automatic.

Commissioner Dolman asked what happens now and what happened originally here where in the proposal there should have been a charter review committee, and the mayor chose to ignore it and the city solicitor chose to say he didn't have to enforce the charter. If someone wanted to take and fight that it would have been theirs. Commissioner Dolman noted it gave the citizens a right to challenge the city fathers when they were wrong. Commissioner Cook noted the danger of inviting unnecessary although accurate litigation.

Commissioner Dolman so moved to add the language to compensate the person for legal fees if they bring the city to court and win. Commissioner Lopez seconded the motion to allow the discussion. There were five votes opposed and the motion failed.

Commissioner Lopez asked about enterprise funds and whether they wanted to add anything in the charter about them. Commissioner Cook noted that they had generally discussed it when they discussed water works, and they may not be doing the right thing, but it was hoped that the mayor and aldermen would do the right thing.

Commissioner Lopez noted that they had letters from the state that John would be working on and they would look at those in the final draft.

Commissioner Cook noted that the drafting committee was going to make sure at its meeting Monday that every one of those points were addressed; that he was assured by the finance people that all of the things in those letters were covered by their comments, but they would check them again.

Commissioner Stephen stated that after discussion with Commissioner Baines, he wanted to add the word "direct" before the word "personal" in Section 9.03 a), and in Section 9.03 e) after family has a 'direct'. All members concurred.

Commissioner Stephen noted that in 9.03 e), because school committee members were city officials, they had to add them in as a conflict arising in school committee what procedure they. Commissioner Stephen stated he proposed that further down where it started "if the official does not believe such a conflict exists" - from that point all the way through they were talking about city officials, then they started segregating to the Board of Mayor and Aldermen, so he proposed that it say "the Board of Mayor and Aldermen, or School Committee if the official is a member of the School Board, shall make a determination and if it finds a conflict."

Commissioner Shaw commented a school board member has an opportunity to vote on something about Webster School - maybe they expanded it - and that will benefit that school board member's child, shouldn't that person absent themselves from the vote. Commissioner Stephen responded yes. Commissioner Shaw stated so therefore school board members who have children in the school system probably could not vote on any issue. Commissioner Stephen stated that this would have to be determined by the board that was why they had the procedure.

Commissioner Cook noted that the answer may be yes on the first question although he would dispute it if he was a school board member, but he did not think it could possibly be true on the second one, or everybody with somebody in the school would ultimately have a conflict and we all have a vested interest in having a good school system.

Commissioner Stephen stated that if they added the language or school committee if the official is a member of the school board, shall make a determination, and if it finds a conflict exists the official shall not participate in the matter further or - and he wished to add - "the appropriate board may refer the matter to the conduct board." Commissioner Stephen noted that it may be the school committee that is referring it. Members concurred with adding the language.

Commissioner Stephen stated that another thing was in Section 9.04 it should say that a conduct board is established...issue advisory opinions of the board of mayor and aldermen, "or school committee, if requested to do so by said committee." It was concurred that the language should be adjusted to include the school committee.

Commissioner Stephen referred to Section 5.01 questioning the changes. John Groulx stated that it should read that "The mayor, aldermen, school committee members, commissioner of welfare, moderators and selectmen shall be elected by non-partisan vote." Members concurred.

Commissioner Stephen referred to Section 2.04 a) asking where it stated lawfully delegated, should it be lawfully permissible, referring to the delegation of authority. Discussion ensued where in response to question Commissioner Cook explained that if the document granting the power gives them the power to delegate they can have that power. Commissioner Cook felt the language was clearer if left as written.

Commissioner Stephen raised the point of the Welfare Commissioner as appointment versus elected, noting they had never taken a formal vote on it, after hearing the mayor's testimony and looking at the commission's view of keeping everything alike, he did not see any reason why the commissioner should be voted on. Commissioner Stephen noted that his reasoning was that the welfare commissioner was a department head and in this charter all department heads were non-elected, and wanted it consistent unless there was a good reason not too. Commissioner Dolman commented that if there was a future time where the board of mayor and aldermen wanted to consolidate and have a department of human services it would be difficult to do with an elected position. Commissioner Shaw noted that the elected position gives people the opportunity to determine whether they feel the person is taking care of people the way the voters thing they should be, not just the aldermen which is a tax, the welfare commissioner has a different responsibility. Commissioner Dolman noted he normally did not agree with Mayor Wieczorek, but tended to think with looking at what qualifications does one have versus who is most popular, and hopefully the voters choose the most qualified person. Commissioner Lopez felt if it was changed they would have a hard time passing the charter.

Commissioner Shaw moved to leave welfare an elected position. Commissioner Cook seconded the motion. There were four in favor and two opposed. Chairman Pappas advised the motion passed.

Commissioner Stephen raised the issue of listing the existing departments. It was noted that John Groulx was working on that, asking if they had discussed listing only the charter departments or the ordinance departments. Commissioner Cook stated they had not but the issue was some departments were created by charter at various times, some departments were created by ordinance. They had in fact said in listing the departments and providing for a mechanism for providing altering amending by nine votes they had created a situation that makes it harder to amend the ones created by ordinance, then it would otherwise be, therefore the question arises on whether they wished to have two lists relating to the number of votes required. Commissioner Cook noted that they had given the city government so much more flexibility as to everything that he still thought it showed some rationality and logic to require nine to reorganize anyone. Commissioner Dolman felt it was consistent with treating every department the same. Commissioner Shaw noted the former statement that departments were created by charter, he thought that departments were solidified, the departments were here before the charter ever was. Commissioner Cook noted that at some point they became set in concrete, and they were removing the concrete.

Commissioner Stephen stated that he would like to delete any reference in the charter to departments that are non-chartered created departments and given the board of mayor and aldermen the authority that they have today under the ordinance, or the authority they have to do anything they want with the reorganization of those departments.

Commissioner Stephen stated his motion would be to contain in Section 3.02 a) when they list the departments only charter created departments. Commissioner Cook stated he would second the motion for purposes of argument.

Discussion ensued where Commissioner Cook outlined the difference of charter created departments at present being that they at present could not be changed without a charter amendment, and his concern was how you word something to accomplish what they were setting out to accomplish, he did not think they tried to make it harder for the board of mayor and aldermen, but they had created one system for the whole enterprise. Commissioner Shaw noted that in 1982 all the departments in the charter were listed and it said that the aldermen could make changes. Discussion followed relative to the number of votes required where it was noted that they had placed it at nine votes because they had wanted to be sure that they had thought the process out. Commissioner Stephen stated that when you look at the listing there were departments there that they thought were essential departments, and he still thought they were, except maybe one or two but they are essential departments, and what they had done was taken the essential departments and included non-essential departments in his opinion and put them with the category of having to be reorganized by a vote of nine aldermen; that he agreed with the provision of 3.01 a) but thought it should only be applied to the essential departments.

Chairman Pappas called for a vote. The motion failed.

Commissioner Cook referred to the argument that they have, by making removal of department heads by a vote of nine aldermen, created department heads for life. He agreed with it and moved that they change the nine votes to eight votes. Chairman Pappas thought it was a good motion and looked for a second. Commissioner Dolman stated he would second for discussion. Commissioner Shaw moved the question stating it had been discussed enough. Commissioner Cook stated that they may have made it so hard to confirm the mayor's removal that people instead of having it looked at and checked out, that they created a situation where he doesn't have the power that we thought we were giving him or her, but in fact that the people in essence will be there forever if they can build up a constituency.

Commissioner Shaw noted that if there were a vote of seven to seven the mayor would be able to cast the eighth vote they could not take away his right to vote, the rationale for nine was that it could not be vetoed, and if they could not get nine people to agree that somebody is incompetent, then he isn't incompetent. Chairman Pappas called for a vote. The motion failed.

Commissioner Lopez noted that under 3.10 they had discussion about the board of assessors and they were suppose to have been taken out of that paragraph because they are not a commission. It was concurred that this had been removed and Commissioner Dolman so moved. Commission Cook seconded the motion. The motion carried.

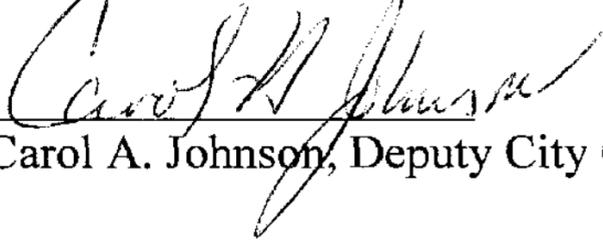
On motion of Chairman Pappas, seconded by Commissioner Dolman, it was voted to adjourn.

Respectfully submitted,



Kathleen N. Sullivan  
Commission Secretary

A True Record. Attest.



Carol A. Johnson, Deputy City Clerk

**CHARTER COMMISSION  
Drafting Committee**

**August 26, 1996**

**4:00 PM**

Commissioner Baines called the meeting to order.

Present: Commissioner Baines, Sullivan, Cook, Lopez, Shaw

Commissioner Cook commented on changes suggested by Commissioner Dolman and commented that Mr. Clougherty had changes for the budget section as well. The committee concurred to go through the entire charter proposal and address each section for technical changes which may be needed. Members concurred that no substantial changes were intended to be made by the drafting committee.

It was concurred that there were no changes to Article I.

Chairman Baines addressed Article II. Discussion ensued regarding changing Section 2.03 Powers and Duties a) to reflect policy making authority for departments. It was concurred to change the wording to read as follows:

- a) The board of aldermen shall act as a policy making and legislative body for the city government.

No changes to Section 2.04.

Section 2.05. Members concurred that the word aldermen should read alderman and the chairman of the board of aldermen should be deleted from this section.

Chairman Baines recognized the clerk who noted that the wording of section 2.06 b) was not consistent with current wording if that was the intent. That eight alderman could not call a meeting unless a vote occurred if her understanding of the wording was correct.

The members concurred that Section 2.06 b) should be changed by removing vote of to read as follows:

b) special meetings of the board of mayor and aldermen may be called by the mayor or eight of the aldermen.

There were no changes to Section 2.07.

Commissioner Sullivan suggested that the italics be removed from Section 2.08. It was so concurred.

Discussion moved to Section 2.09 where it was concurred to remove the word "the" after 2/3 of as it was an extra word. The clerk noted 2/3 would be spelled out.

Section 2.10 members concurred that the last word of b) now reading members should read aldermen for consistency as suggested by Commissioner Dolman. In section c) it was concurred that reference to 3.13 should be 3.11.

In Section 2.11 reference to section 3.15 was changed to 3.13. Additionally, Commissioner Sullivan requested all references to "section" be reflected with a capital "S".

Discussion moved to Article III. In Section 3.01 a) it was concurred that the section should be broken into two sentences with the break to be made after city in the fourth line.

Section 3.01 c) was discussed at some length in terms of the intent and necessity of the statement. It was felt that it should remain but be changed to reflect the intent of allowing aldermen to transfer supportive functions which were different from the core functions of a department addressed in Section 3.01 a). It was concurred to change wording from:

The board of aldermen may transfer functions from one department to another and in the interest of economy or efficiency or in keeping with good business practice may order a reorganization of departmental responsibilities.

to:

c) The board of aldermen may by majority vote transfer support functions from one department to another in the interest of economy or efficiency or in keeping with good business practice.

In Section 3.02 a) Commissioner Sullivan requested the abbreviations be removed. It was noted that this section needed to be presented for a full commission vote. A somewhat lengthy discussion ensued relative to this section and the applicableness of c) to it as appointments of department heads really appeared to belong in nominations. Additionally, it was agreed that the intent was for a procedure to occur where qualified candidates could apply but also for the mayor to be allowed to select whom he desired and if he was not satisfied with candidates should be allowed to start the process again, not forced to choose.

It was concurred to move Section 3.02 c) to Section 3.03 as the second sentence. It was also concurred to replace "procedure for" for "system for use in" and the last sentence to be changed from "The mayor shall have the right to nominate his choice from among such candidates subject to confirmation by the board of aldermen as set for in this charter " to "the mayor may nominate his choice from among such candidates".

Discussion moved to Section 3.04. Commissioner Sullivan requested the colons be replaced with periods. The members then discussed b) Exclusive Personnel Responsibility. Concerns related to the collective bargaining agreements and whether a problem was presented with the way the wording was. Additionally, it did not read well in terms of clarity. Various attempts were made to address the situation. The members concurred to change the wording from:

“b) Exclusive Personnel Responsibility: the department head shall have exclusive authority for hiring, assignment, promotion, and discipline of personnel within the department subject to the requirements of personnel ordinances and the provisions of grievance procedures contained in collective bargaining agreements. All appointments and promotions shall be made solely on the basis of merit and only after appropriate examination or review of the applicant’s relative knowledge, skills, abilities and experience.

to:

b) Exclusive Personnel Responsibility. The department head shall have exclusive personnel authority with the department. All appointments and promotions shall be made solely on the basis of merit and only after appropriate examination or review of the applicant’s relative knowledge, skills, abilities and experience. Hiring, assignment, promotion, and discipline of personnel with the department shall be subject to the requirements of personnel ordinances and the provisions contained in collective bargaining agreements.

There were no changes to Sections 3.05 or 3.06.

Commissioner Baines moved discussion to section 3.07 b) relative to the Board of Assessors. There was a concurrence that there should be one chairman and department head and members grappled with this issue at some length reviewing current charter and applicable statutes. Members discussed whether the department head would appoint the other two assessors.

It was concurred to change the wording from:

b) The Board of Assessors shall consisted of three (3) full time members and shall continue to act in its current capacity as a board of appeals for abatements, unless nine (9) members of the Board of Aldermen vote to reorganize the Assessors office pursuant to section 3.01. The assessors shall be nominated and appointed as provided in section 3.03 of this charter.

to:

The Board of Assessors shall consist of three (3) full time members and shall continue to act in its current capacity as a board of appeals for abatements, unless nine (9) members of the Board of Aldermen vote to reorganize the Assessors office pursuant to section 3.01. The assessors shall be nominated by the Mayor subject to confirmation by eight (8) aldermen. One of the three assessors shall be appointed department head in accordance with Section 3.03. The department head shall chair the Board of Assessors.

Discussion moved to section 3.08 where it was concurred to change the word "may" for "shall" in subsection e).

Discussion then ensued relative to the listing of commissions where it was noted that the commissions listed were not all departmental commissions and therefore all the commission sections did not apply to all of the commissions. The members present concurred that the intent was to list the departmental commissions and allow for the authority of the Board of Mayor and Aldermen to form other commissions as they saw needed, required or helpful for the community. Several languages and formats were discussed on how to address these issues in a clear manner. Commissioners Cook and Sullivan left the room with John Groulx to work out some language.

Chairman Baines called a brief recess of the meeting.

Chairman Baines called the meeting back to order advising that they would deal with the Sections relating to commissions later in the meeting and would move on to other items.

There were no changes noted for Article IV.

Article V Elections. Section 5.06 Nominating Petitions. It was concurred that since they were to have non-partisan elections the words "political party" and "or by each school committee candidate" should be struck from this section.

Section 5.07 Primary System, was discussed where it was noted that Alderman Wihby had mentioned that they had not addressed the at large aldermen and language should be added to reflect four or fewer candidates. Discussion ensued relative to appropriate language where it was concurred to delete the present wording and insert the following:

- a) In the event two candidates or fewer, or in the case of at-large elections four candidates or fewer, file for an elected office, the primary election for said office will be declared unnecessary by the city clerk, who shall then declare the candidates nominated and place them upon the general election ballot.
- b) In each primary election, the two candidates, or four candidates in the case of an at-large election, receiving the highest number of votes shall be selected from those running for said office and shall be placed on the general election ballot.

Section 5.08 Authority. Members concurred that the clerk should prepare a political calendar and it was noted that it was always done now. It was concurred to delete the word "may" prior to prepare a political calendar, and insert the word "shall" in its place.

Section 5.09 City and ward officers in section a) it was concurred to add the words "the two" in front of aldermen-at-large and school committeemen at-large to read as follows:

- a) The mayor, the two aldermen-at-large, the two school committeemen at-large and the commissioner of welfare by the voters of the city; and

Section 5.10 Terms of office and vacancies in section a) it was concurred recent discussions would reflect that the wording "or chairman of the board of aldermen" should be removed and the wording for the second sentence of the section should now be:

Should a vacancy occur in the office of the mayor, the office of commissioner of welfare or alderman, the board of aldermen shall fill such vacancy for the unexpired term.

Discussion moved to Section 5.11 Board of Registrars. It was concurred that the italics should be removed and wording of Section a) should be as follows:

a) Number of members. There shall be a board of registrars consisting of five (5) members. Four (4) members shall be registered voters who shall have been residents of the city for at least five (5) years immediately preceding the date of their appointment. The fifth member shall be the city clerk.

and further that a sentence should be added to Section 5.11 d) as follows:

d) Term of office. Appointments to the board shall continue to be made annually in April, and each member, except the city clerk, shall serve a three (3) year term beginning on the first day of May and continuing until his successor is appointed and qualified. Except for the city clerk, no member shall serve more than two (2) consecutive three (3) year terms.

Section 5.14 members removed the wording "ex-officio members excepted," and added "Except for the city clerk" to the beginning of the paragraph for consistency and clarity purposes.

In Section 5.19 it was noted that the statute requires only one year preceding for residency and so "one" was replaced for "three".

It was noted that Section 5.20 Candidates in item a) there should be a semicolon after the word sought.

Section 5.25 Board of Recount was briefly discussed where it was noted that they would wish to take advantage of expertise such as the city presently as was mentioned to the commission, and that the two major parties should be reflected as there was more than two political parties and may be even more in the future. Members concurred to change the wording section a) to read as follows:

a) Number of members. There shall be a board of recount consisting of three (3) members. One member of the board of aldermen designated by the mayor, one member of the Republican party and one member of the Democratic party nominated by the mayor and confirmed by the board of mayor and aldermen. The Republican and Democrat shall not be members of the board of mayor and aldermen. and Section b) to read as follows:

b) Term of office. The term of office shall be for two (2) years. The provisions of Section 3.11 shall not apply to the Board of Recount.

For clarity, Section 5.28 Declaration of Results section b) the words "to him" were deleted from the end of the sentence. In c) it was noted that the word applicants should read applicant's.

Section 5.29 under definitions section a) it was concurred the word "aldermen" should read "alderman" and that "member of the" prior to school committee should be deleted for consistency and clarity.

The question of whether j) should be deleted or changed was referred to the full commission.

Under i) the word "it's" was changed to "its".

Discussion ensued regarding the ward descriptions where it was noted that there was no close to the various sections and the endings should read "to the point of the beginning". These changes was so noted for change.

Section 6.04 budget adoption it was noted that section 1), 2) and 3) should be b), c), and d).

portion reading "The school budget shall contain funding items for all school personnel, equipment, facilities, maintenance and matters for which the school committee has the responsibility under this charter and other law." was deleted as being no longer applicable with the previous changes made by the commission.

In response to requests from the finance officer regarding consistency with law the following wording was added to Section 6.11 "or by law" in the first sentence after the word charter and "at least quarterly" after financial reports. The section would now read as follows:

The finance officer, in addition to other duties set forth in this charter or by law, shall maintain accounting control over the finances of the city, shall make financial reports at least quarterly, and shall perform such other duties relating to budget management and control as the board of mayor and aldermen by ordinance may require.

Additionally, a new Section 6.14 was added regarding fund depositories.

Section 6.14.

The Board of Mayor and Aldermen shall provide by ordinance for the designation of one (1) or more depositories of city funds, the periodic deposit of funds and the security required for such funds.

Members concurred that the request for change to 6.12 Independent Audit should be referred as an issue to the full commission as it was a substance change.

There were no changes required to Article VII Procurement Procedures.

Section 8.04 Section b) it was noted that it should read \$68,000 and that the word "the" in the last line should read "they".

It was noted that there was suggested language changes to Section 8.06. It was concurred that this was a substance change and should be referred to the full commission as an issue for discussion.

Discussion returned to Article V, commissions. Commissioner Sullivan submitted language changes. It was so concurred to have the changes made to by separating out the departmental commissions, listing only the seven departmental commissions with those sections that applied to departmental commissions and placing the balance applying to all commissions with authority to establish other commissions in one section.

There being no further business to come before the drafting committee, on motion of Commissioner Cook, duly seconded by Commissioner Shaw, it was voted to adjourn at 8:20 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'Kathleen Sullivan', with a long horizontal flourish extending to the right.

Kathleen Sullivan  
Commission Secretary

## CHARTER COMMISSION

**August 28, 1996**

**5:30 P.M.**

Chairman Pappas called the meeting to order.

Commissioner Sullivan called the roll.

Present: Commissioners Baines, Cook, Dolman, Lopez, Pappas,  
Shaw, Stephen and Sullivan.

Absent: Commissioner Dykstra

Commissioner Stephen requested a moment of silent prayer in memory of the late Robert Kirby Jr., a local attorney having deep roots in the city who died earlier that day leaving a wife and three children behind.

Chairman Pappas thanked the drafting committee for their work.

Commissioner Lopez commented that once the final document was done he thought the proper procedure would be to go section by section and vote on it. Commissioner Stephen stated he had no problem going through each section chronologically, and felt they should do so on record now that they had a full document before them. Commissioner Dolman concurred with going through each section, but suggested the sections creating a lot of dialogue could be gone over and returned to later. Commissioner Baines thought they had voted on major issues.

Chairman Pappas addressed Article I.

Commissioner Cook noted that at the drafting committee they had taken the entire charter trying to make it make grammatical and organizational sense, though they had not changed it structurally. Commissioner Cook noted that Clerk Johnson had gotten out a copy and he had found only a few more grammatical changes which he would note as they came to them.

Discussion ensued relatives to letters and other changes members might be aware were necessary. It was concurred to proceed in a chronological process and address these items as they got to the related sections.

Commissioner Shaw stated he was going to abstain from the debate and the voting because he would cast his vote on the document as a whole.

Chairman Pappas returned to Article I.

There were no changes and it was concurred to be okay.

Chairman Pappas moved to Article II.

Commissioner Cook noted there was a comment from the City Solicitor which was addressed by drafting committee he thought by deleting reference to the chairman of the board.

Commissioner Stephen commented that they should go through each section of the Articles. Commissioner Sullivan concurred.

Commissioner Sullivan noted that the title of Article II was Board of Aldermen but the article also contained the mayor's section and should be entitled "The Mayor and Board of Aldermen." It was so agreed.

Chairman Pappas addressed Section 2.01. There were no comments.

Chairman Pappas addressed Section 2.02. There were no comments.

Chairman Pappas addressed Section 2.03.

Commissioner Stephen stated he had no problem with a) through c), but he could not vote for Section 2.03 with regard to d). He thought that all the city officers should be nominated and appointed by the Board of Aldermen, including the Assessors, Finance Officer, and the City Clerk who be statute had to be appointed by the aldermen.

Commissioner Cook noted that they held discussions on Assessors in great detail and felt they had issues to consider; that the city clerk one was covered by state law and was required here, they had three different issues and he did not think this was the section in which to do that. Commissioner Cook stated if they were to change when they got to city officers then he would assume the change would automatically make a change here.

Commissioner Dolman disagreed stating he felt they needed to be consistent in both sections of the charter. Commissioner Dolman stated he agreed with Commissioner Stephen and should be consistent on everything noting they had stated they would treat all departments and commissions the same and the goal should be to treat all officers the same, if they were going to let the Board of Aldermen elect one they should elect them all.

Commissioner Sullivan requested clarification of the motion.

Commissioner Stephen stated section d) would read the Board of Aldermen shall nominate and appoint all city officers as listed in Section 3.07 of the charter.

Chairman Pappas called for a vote there were three in favor, three opposed and Commissioner Shaw abstained. The motion failed. Commissioner Sullivan did not vote, and it was advised that she also had abstained.

Commissioner Lopez commented with regard to Commissioner Shaw not participating in the process. Commissioner Shaw questioned why he should vote for something and then vote differently when he gets to the end.

Commissioner Dolman moved to strike Section 2.03 d) as written.

Commissioner Stephen seconded the motion. Chairman Pappas called for a vote. There were three yeas and three nays. Commissioner Sullivan commented that she had not given a lot of thought to this issue until speaking with Commissioner Lopez yesterday regarding the balances; that if the Board of Aldermen are to be the Board of Directors, boards of directors usually do elect officers in a business setting. Having been away she had missed some of the discussion on this issue, and wished to review the issue later in the evening.

Commissioner Stephen noted that they had voted on department heads being appointed by the mayor; that their charter in many respects was very confusing; they have listed city officers different than city departments. He was under the impression that they had never really put the question to the table of should city officers be elected by the mayor or the aldermen.

Chairman Pappas suggested they leave this issue to later in the meeting.

Commissioner Lopez commented that they had said many times that nothing was set in stone and they could change their minds. Chairman Pappas responded absolutely.

Chairman Pappas addressed Section 2.04. There were no changes.

Chairman Pappas addressed Section 2.05. Commissioner Sullivan noted that a change was required as noted in the letter from Attorney Clark. Commissioner Sullivan noted that the statute requires that the vacancy be filled until the next regular election which had been determined to mean the next election for the office of mayor, and also a change relative to 47:4 for the school committee. Commissioner Dolman noted that 46:4 required a special election for aldermen so that needed to be changed as well. Discussion of wording ensued.

Commissioner Sullivan suggested that the current wording be replaced with subsection a) with respect to a vacancy occurring in the office of aldermen and reference the wording in Attorney Clark's letter; a subsection b) dealing with the office of mayor; and subsection c) dealing with the office of welfare commissioner as worded now and subsection d) regarding the school committee which would probably be better placed in the school committee section, and so moved. Commissioner Dolman seconded the motion. The motion carried.

Commissioner Lopez noted that with regard to Section 2.03 a) they had removed the word "a" and replaced it with "the" board of aldermen and "the policy makers. It was so concurred that the change had been made and missed on the printout.

Section 2.06 there were no changes.

Chairman Pappas addressed Section 2.07. Commissioner Lopez noted that it should read one year rather than three years because of the law. Commissioner Stephen raised the question of whether that should reflect at the time of filing or other identified time. In reviewing the statute it was concurred that it reflected at the time of running so could be either way. Commissioner Baines moved that it read one year at the time of filing, both in this section and apply in Section 5.19. Commissioner Sullivan seconded the motion. The motion carried unanimously.

Chairman Pappas addressed Section 2.08.

Commissioner Dolman moved to insert a new section, suggesting it be c) and the others be moved down, to read "The mayor shall not in the exercise of his powers decrease the policy making power of the aldermen as granted in this charter. Commissioner Lopez seconded the motion. The motion carried with Commissioner Shaw noted as abstaining.

There were no changes to Section 2.09, however Commissioner Stephen questioned if the mayor had a veto power over aldermanic appointments. It was advised that this was correct, it was a state law provision. Commissioner Shaw noted the reason they had reflected eight votes was to prevent a tie situation where the mayor voted and broke a tie, it would require a majority of the aldermen to make the appointment but the mayor reserved his veto power as provided by law.

Section 2.10 b) regarding appointments for department heads and officers was set aside for discussion later in the meeting. Section 2.10 c) was noted to be changed in the last sentence "Sections" to "Section" and remove "and 3.15 of this charter" which no longer applied.

Section 2.11 Removals was agreed to be okay with a change to b) changing "on members of boards, commission and committees" to "for members of boards, commissions, and committees."

Section 3.01 Departments. There were no changes to this section, it was agreed to be okay.

Section 3.02 was addressed by the Chair.

Commissioner Cook noted that in b) it should read "It shall be the duty of the first mayor holding office..." holding office being words to be inserted and the comma removed. Clerk Johnson advised that the names listed in a) of some had been changed to reflect how the departments were presently reference or called.

Commissioner Lopez moved to accept the departments as listed. Commissioner Stephen seconded the motion. The motion carried.

Section 3.03 was referenced and it was noted that the third word in the third line "in" should be struck.

Commissioner Stephen noted that he wished to have this section set aside as it related to appointment of officers.

Section 3.04 Authority. was addressed and it was noted that in section a) it should reflect boards and commissions rather than board and commissions in the last line. It was so concurred.

Commissioner Sullivan noted that the concerns expressed by Attorney Clark she believed had been addressed in changes made.

Commissioner Stephen asked if the mayor could remove city officers like department heads and was it applicable to city officers. Commissioner Dolman did not think so. Commissioner Cook noted the question was, was the city clerk, who was elected by the board of aldermen, also a department head; and if they changed the assessors and one became the department head were they letting the mayor get rid of him as a department head. Commissioner Cook noted and the finance officer is an officer and if they let the aldermen elect them are they going to let the mayor be able to get rid of them subject to confirmation.

Commissioner Stephen commented that he thought the Board of Aldermen should be the ones to remove in this instance, and asked that this section be put aside.

Commissioner Sullivan advised that she was ready to vote on that issue now, apologizing for not being ready earlier.

Commissioner Sullivan stated she was going to vote with Commissioners Stephen, Dolman and Lopez on officers being appointed by the Board of Aldermen. Commissioner Sullivan noted her reasoning being that the board of directors typically elect the officers and they were trying to have the aldermen act as the board of directors. Commissioner Sullivan commented that she also felt Commissioner Dolman had a point relative to having a balance, with the mayor having the authority on department heads and the commissioners and the aldermen having the authority on officers, and the officers work for the city.

Commissioner Stephen commented that when you talk about who is the most representative of the people in this city, to him it was the aldermen, because they were voting in each ward and he felt they had more contact with the people, and he trusted their judgment in a quasi judicial function, officers was a different function than a department head.

Commissioner Cook noted the only reason these people were listed as officers was because the state said they had to be. The city clerk was handled through statute. The assessors were unique because they were not only a quasi judicial function as an appeals board, but they have administrative functions, executive functions, they are a "duck." There was no rationale in the logic they have come up with that would in any way make the finance officer of the city, who was probably the most important person of the team administering the city under the mayor who is the only person under the present system and one of five people under the new system elected by all of the people, and given the authority under this charter to administer it, no rationale to make that finance officer to come from someplace other than the administrative person.

Commissioner Shaw noted that they would have fourteen people making fourteen nominations, and they would need ten votes to confirm any one of them to office because the mayor can veto and he did not think it sounded logical.

Commissioner Sullivan stated there was a rationale, they called the aldermen a board of directors, it was not about the assessors or how she felt they should be appointed it was about the fact that they called the aldermen the board of directors and the board of directors elects officers - their secretary, their treasurer - and under our statute the assessors are considered officers.

Commissioner Baines questioned how they select a department head or a finance officer, stating it was a joke the way it was being done presently, watching Channel 40 and seeing them all bring in nominations and go on for hours and hours. Commissioner Baines stated if they have a vacancy of a position at that level there has to be a process first qualifications agreed upon by the board of directors, a process to apply, there is an interview process and people come forward as the best candidate, not necessarily the one that can go out and get the votes of the aldermen to become those important positions, unless you deal with that also it was difficult to swallow the other part.

Commissioner Stephen stated he agreed, when he had referred to nominations he felt it should apply to both officers and department heads, they could place in wording that the board of mayor and aldermen shall adopt procedures such as what had been said and make it clear.

Commissioner Stephen commented that he had to echo Commissioner Sullivan's statements as well noting that they had not even discussed the board of directors electing officers.

It was concurred that Section 3.05 Tenure of Office should read "Effective upon" rather than "Effective on."

Section 3.07 was set aside.

The entitlement "BOARDS, COMMISSIONS, AUTHORITIES AND COMMITTEES" was concurred to be changed to read "BOARDS, COMMISSIONS, AND AUTHORITIES"

There were no changes to Section 3.08. It was noted by the clerk that changes had been made by drafting committee to separate the departmental boards and existing boards. Some of the boards and commissions of the

city were not tied to a department per say, for example the Historic District Commission. Placing separate sections allowed for the authority of establishment by the Board, if it so desired, of commissions for purposes other than departmental related, outlined what the basis for and authority of the departmental boards and commissions were, and provisions were also made to continue the existing boards with their current make up.

In Section 3.09 a) it was concurred to change the last sentence of the first paragraph to read "The following is a list of departmental boards, commissions, and authorities in the city at the adoption of this charter:" for consistency.

Following brief discussion it was concurred to change the reading of Section 3.11 first paragraph, to read:

"the following provisions shall apply to all commissions, boards and authorities, whether departmental commissions or commissions established by ordinance, and, to extent permitted by law, commissions or boards established or required by statute hereinafter referred to as 'commission'."

In Section 3.11a) (2) the words "boards and" was removed.

Section 3.11 b)(1), the second sentence was changed to read "Each January all commissions shall choose one of its members to chair the commission and one to serve as secretary." following some discussion.

Section 3.11 b)(2) was changed by adding the words "subject to the provisions of 3.11 f).

Section 3.11 e) the words "board or" were removed from the first, second and third lines.

Commissioner Cook commented that there was a mistake in Section 3.11 f) stating that the fourth line of (1) "secured the approval of a new nominee" should be struck and the words "nominated a replacement." In Section 3.11 f) (2) for clarity Commissioner Cook stated the words "in said 90 day period" should be inserted after "In the event the mayor shall fail to submit a nomination."

In Section 3.11 f)(3) the first line the word "term" was replaced with the word "period" to be consistent with the term 90 day period elsewhere.

Chairman Pappas addressed Article IV.

Commissioner Sullivan moved to add a Section 4.04 Vacancies to read: "Should a vacancy occur in the office of school committeeman the board of aldermen shall fill such vacancy." Commissioner Stephen seconded the motion.

Commissioner Dolman noted it should also appear in the aldermanic authority section. Clerk Johnson noted the wording in 5.10 (b) related to this issue. Discussion ensued where it was concurred to reference it in both places.

The motion carried unanimously with Commissioner Shaw abstaining.

Commissioner Baines noted grammatical corrections suggesting changes to Section 4.01. Other members concurred and made other grammatical suggestions. It was concurred by the members that Section 4.01 would now read:

"The city of Manchester shall continue to constitute a single school district, except as otherwise provided in this charter. The board of mayor and aldermen and the school committee shall continue to exercise such power in relation thereto as these respective bodies have under the law in effect at the time of the adoption of this charter.

Commissioner Baines commented with regard to this if they later get into discussion where someone thinks they have diluted any section referring to laws for the board of mayor and aldermen and they have specified clearly in here if in fact they feel that have the laws to reinforce their side of this argument they have referred to it in the charter and not diluted it in any way. He believed the board of aldermen may still think otherwise, but they had not and it could be argued in a court of law some day.

Commissioner Cook commented that Commissioner Shaw had pointed out that no where in the current charter or the revised charter did it say how

many school committee members there were, it was only pointed out in the election section on who gets elected.

Discussion ensued where it was concurred to add wording to the effect "The School Committee shall be comprised of fourteen members, one elected from each ward and two elected at-large by the city" to the beginning of Section 4.02. The clerk was instructed to mirror the wording to that of the section on the aldermen.

Commissioner Baines questioned errors and omissions noting that every time they go through the document they find things and it scared him that they get to a point say next Tuesday that it is final, asking what if there were errors or omissions.

Commissioner Sullivan stated she was not familiar with it but felt they were not giving themselves enough credit, noting they were now going through it.

Commissioner Cook noted there was a doctrine that governed the legislature and statutory passages, that allows correction not for substance but for omissions and obvious grammatical mistakes, but he felt for clarity in the report they should say recognizing that they reserve the right if they find a grammatical mistake or a printing error to correct it as long as it doesn't change the substance of the report.

Commissioner Stephen noted that there was a state statutory construction law that says errors and omissions the legislature does not intend to do something absurd and he thought it also applied to the charter.

Chairman Pappas referenced Article V.

"The words "ward clerks" was added to Section 5.01 as noted by Commissioner Dolman.

Commissioner Dolman noted that he had spoken with the Secretary of State with regard to placing the districts in the charter and that if they did not put them in then the aldermen could change them at will.

Commissioner Cook noted that Commissioner Dykstra had pointed out that the descriptions did not close.

Section 5.07 was changed by adding the words "aldermanic and school committee" to the words at-large elections, now reading at-large aldermanic and school committee elections to both sections a) and b). This change was done at the request of the city clerk because the office sometimes does other special elections which may have at-large candidates, for example the charter commission.

In response to questions from Commissioner Stephen, Commissioner Cook noted that they had section a) relating to the primary saying if four or few run there would be no primary and section b) talked about who survived the primary -- they would take the top four candidates from the primary (or the four or fewer where there was no primary) and place those names on the ballot.

In response to questions from Commissioner Baines, the clerk advised that a write in was not precluded from the general, and would be counted in the primary a person could be in the top four from write in votes in the primary which would place their name on the ballot in the general.

There were no changes to Sections 5.0-8 and 5.09.

Section 5.10 b) it was noted would read the same as section 4.04.

Commissioner Stephen asked if they had addressed Clerk Bernier's concerns relating to the five day period.

Commissioner Sullivan responded that the commission had changed the filing period to ten days, the old filing period being five days, and Alderman Wihby at the public hearing had commented that Leo Bernier had said the election laws were fine the way they were. Commissioner Sullivan felt that it should be a ten day period, noting that with only five days it did favor the

incumbent, however, she felt that ten days was better and more people would have an opportunity to file.

Chairman Pappas moved discussion to Section 5.11, Section 5.12 and Section 5.13.

There were no changes to Section 5.11. Section 5.12 it was noted should read "Any member of the board of registrars, at a place," rather than "as a place."

There were no changes to Section 5.13 or 5.14.

In Section 5.15 it was noted that it should read "business hours of the city clerk's" instead of "business hours or the city clerk's"

Commissioner Cook, noted Section 5.16 should read "To file as a candidate for or to hold." It was so agreed.

Commissioner Stephen commented in Section 5.17 he was not sure it addressed somebody who decided to run for mayor, decides he will buy a house if he wins. It was felt it was covered by being a candidate for.

Commissioner Pappas called a brief recess. Chairman Pappas called the meeting back to order.

Discussion ensued where it was concurred to have the section read "To file as a candidate for or to hold any elective city or ward office, a person must be a registered and qualified voter in the City of Manchester.

A discussion was held relative to Section 5.19 relating to the mayor and welfare commissioner where members wanted the issue of residency clear. It was concurred that this section would be changed to read:

"To file as a candidate for the office of mayor or commissioner of welfare one must be a resident of the city for one year immediately preceding and shall continue to be a resident of the city during his term of office."

Section 5.20 remained the same.

There were no changes to Section 5.21, 5.22, 5.23 or 5.24.

Section 5.25, Board of Recount. Commissioner Cook noted that this had been changed by adding that the provisions of Section 3.11 shall not apply because there were times when people with special expertise were available to and members of the board of recount and they did not want to preclude having them around. Commissioner Sullivan noted that "Republican" and "Democratic" should be capitalized.

Sections 5.26 , 5.27, and 5.28 were not changed.

Commissioner Sullivan noted that with respect to section k) whether social activities should be struck, the discussion in favor was that it could be a major loophole if someone was having a dinner and said the cost of the ticket does approximate the cost of the food so the intent was someone was going to buy with intention of only one person going, on the other side there were dinners or barbecues held by committees which are intended to be just purely social gatherings.

Commissioner Cook asked what would be wrong with reporting who bought a ticket and when.

Commissioner Sullivan moved to strike Section k). Commissioner Cook seconded the motion. The motion carried.

Commissioner Stephen commented that he would like to have a section in reporting that doesn't limit the aldermen to enact consistent ordinances or policies, feeling that the board should be able to address some of the issues and not conflict with what is drafted.

Commissioner Cook felt that they had this authority now.

Commissioner Stephen stated if this was correct they could move on.

Item n) was changed by removing the word "the" in front of the word "nomination."

Commissioner Dolman noted that in speaking with the Secretary of State and City Clerk, it would be easier for counting and possible recounts if they kept the A, B, C order. Commissioner Dolman noted that Keene was the only city that does it differently.

Discussion ensued relative to the fairness of alpha order where it was noted that the charter commission members had run with 108 candidates and the choice made by the voters had been from all sections of the alphabet.

Commissioner Sullivan moved to change Section 5.32 b) to reflect alphabetical order commenting that she could understand the problem in a recount. Commissioner Dolman seconded the motion. The motion passed with one opposing.

Clerk Johnson was requested to make the appropriate language change.

Commissioner Sullivan referred to Attorney Clark's letter with reference to Section 5.30 and the lack of designation as to whom shall make determination on the applicability of state election laws. Clerk Johnson noted that she had spoken with City Clerk Bernier and he had indicated that they presently do it, sometimes in consult with the City Solicitor. Commissioner Cook noted that the City Clerk was in charge of elections under state law.

Commissioner Sullivan moved that they amend section 5.30 adding a sentence that says that the city clerk, in consultation with city solicitor, shall make determinations regarding the applicability of state election laws. Commissioner Dolman seconded the motion. The motion carried with none opposed.

With regard to Section 5.33, Commissioner Dolman reiterated that these districts needed to be in the charter.

Chairman Pappas addressed Article VI.

Commissioner Sullivan noted that she had faxed this section to the Department of Revenue Administration yesterday and she had spoken with

Andrea today, she was cognizant of their deadline and would hopefully get back to them.

Commissioner Cook noted he had received a call from the bond counsel for the city whose comments were the subject of a letter received from Mr. Clougherty indicating that their concern wasn't anything other than the covenants of the city, but had significant concerns - the bond covenants and representations made through the period since the enactment of certain statutes by the state and the present charter on the powers and procedures connected to finance in the city of Manchester, and they still thought there were a couple of things that needed to be addressed, some had been addressed. Commissioner Cook noted that the concerns were in the letter from Kevin and he would go through them.

Commissioner Cook proceeded stating Section 6.05 c) they had a blanket that this provision shall not apply to the school district budget; that what they meant when they put that in was that the school district had authority to shift things among line items within the school district; that the provision as written however has two sections and their suggestion was to say the intra-departmental transfer provision shall not apply to the school district budget. Commissioner Cook noted the way it read the board of mayor and aldermen could not transfer into the schools from another department.

Commissioner Cook stated also in the sentence that starts "the mayor may" he did not think it made sense perhaps they added it for a reason and he missed it but the rationale behind this section before was inter-departmental things get board approval, intra-departmental things the mayor can authorize the department head to do, somehow the word with board approval was back in there.

Commissioner Cook stated that at the top (Section 6.05 b) the second line should read verification by not verification of and same thing on Section 6.05 a) page 27.

Commissioner Cook referred to Section 6.04 d) noting the word adopt in the first line (shall adopt fail) should be deleted.

Commissioner Cook noted in Section 6.04 c) there was no closing after single line item.

Commissioner Cook noted Section 6.05 c) was the intra departmental issue which should read "This provision shall not apply to intra departmental transfers in the school district budget." and the words "with board approval" he thought was a mistake and it should read "The mayor may authorize a department head to transfer part or all of any unencumbered appropriation balances among programs within a department or organizational unit and shall report such transfers to the board in writing prior to its next meeting."

Commissioner Cook commented that in Section 6.12 they had changed the provision that had been submitted previously, the concept was that the board of aldermen should ensure that there is competitive bidding; that the problem was operational not authority and the suggestion that was there was that it shall be the duty of the board of mayor and aldermen to assure that an independent audit...that was the authority function. Commissioner Cook noted that the bond lawyer said it was important to say that there was an operational assurance that it is going to happen, the board of mayor and Aldermen apparently do not have the wear with all to supervise competitive bidding, if they assure the process, no competitive auditor who is picked is going to be under the thumb of the finance officer but somebody has got to be in charge of coming up with the competitive bid process that results in having it and there is apparently a problem if there is not an assignment of authority to implement the process because it was so important to the bond holders. Commissioner Cook noted that what they suggest is that they add at the beginning "It shall be the duty of the board of mayor and aldermen to assure" and they restore down below "that the finance officer shall through the competitive bid process."

Commissioner Dolman stated he was not so sure noting there were other times in the city when they go out to competitive bid with aldermen, he thought they had a finance officer in charge of the independent audit then that person is working for the finance officer, he felt the aldermen should be doing it.

Commissioner Cook disagreed commenting that the way an independent audit works and the guidelines on CPA's providing independent audits, would not any time ever let the independent auditor be under the thumb of the finance officer, they would be breaking their professional rule.

Commissioner Shaw commented that during his term and up until the time he left as mayor they never got reports at all from the finance department for years, and they never really got the audited statement presented to the board, he was the first mayor that brought the auditors in to explain the thing. So under Commissioner Cook's procedure the aldermen could be kept in the dark.

Commissioner Cook moved to change the language in Section 6.12 adding at the beginning "It shall be the duty of the board of mayor and aldermen to assure that.." and to change the language below in the next to last sentence to delete the words "board of aldermen" and insert the "finance officer." Commissioner Sullivan seconded the motion.

Commissioner Baines noted that it did say shall be reported to the board of aldermen.

Commissioner Stephen asked if this meant that the finance officer was just going to select.

Commissioner Cook stated the only change was to assure that there is an operational assignment of responsibility on making sure the selection process goes forward. He stated there is then a procedure that the audit results shall be made public and reported to the board of mayor and aldermen. Commissioner Cook noted that this would address problems that may have been in the past, he did not think there were now.

Commissioner Sullivan suggested that they adopt the proposed amendment, but noted she had glanced at 49:C, although she did not believe it applied sometimes there was language that was helpful, it states that "an annual independent audit shall be conducted by certified public accountants experienced in municipal accounting...copies of the audit shall be made public while the annual report of the city's business...nothing in this paragraph shall prevent the elected body from requiring such other audits as

it deems necessary. She thought that if the aldermen felt there was a problem going on with what was happening with the finance officer there was a possibility of having another audit.

Commissioner Dolman noted that if the mayor was with the finance officer he would veto and they would then need ten aldermanic votes to override.

Commissioner Sullivan asked if an independent auditor process is used, what is the concern that the finance officer overseeing at least the competitive bid process, he is not overseeing the audit that was not his function, it was just providing for the selection of the independent auditor.

Commissioner Shaw stated one of the things was that the aldermen never see the contract, which was the whole thing that had to do with the audit, the time span and everything else. If there was a provision that required the aldermen to approve the contract with the auditor it would address his concerns and others. If the aldermen had the powers and duties of a selectman -- in towns the selectmen choose the auditors. There was nothing wrong with him doing it but he doesn't ask anybody's permission, and doesn't show what he wrote.

Commissioner Cook asked Commissioner Sullivan (who seconded the motion) to add to the language that the terms for competitive bidding and the contract for the audit shall be approved by the board of mayor and aldermen as part of their supervisory authority.

Commissioner Sullivan so concurred.

Commissioner Dolman asked that they delay the vote to allow him to think about it.

Commissioner Cook noted that in the current legislation there was specific information relating to setting the bond limit that currently exists. Bond counsel said they wanted specific reference to it so they can point out what it is. Commissioner Cook had asked bond counsel if they could reference it in the transition section and they had said it would fine. Commissioner Cook noted that there other comment about Chapter 551 of the Laws of 1971 dealing with the duties of the finance officer, it was a piece of special

legislation that this charter was not inconsistent with and in his opinion they had dealt with it; that this was the one that created the finance officer by combining treasurer with something else and they wanted to make sure they were not doing something that made the finance officer illegal, and they were not and he did not think they needed to reference 551.

Commissioner Cook moved that they put in the transition section a new section a provision that says "On the effective date of this charter the debt limit of the city is as set forth in Chapter 209.7 of the Laws of 1959." Commissioner Sullivan seconded the motion. The motion carried.

Commissioner Lopez noted he wanted to get a copy of Chapter 209.7.

The clerk advised that they had added Section 6.14 because the law required it.

Commissioner Stephen referred to Section 6.04 b) noting comments made by Alderman Wihby regarding the addition revenues that were found. Commissioner Stephen stated he was not asking to move the dates but he talked about the amendment process and it said "If amendments are made tot he budget submitted by the mayor, a second public hearing shall be held" Alderman Wihby's opinion would be changing it to "may be held" and leaving that issue up to the board of mayor and aldermen because of the notice requirements, and there may be minor amendments made and then you need another public hearing, and there are some major issues and the board of mayor and aldermen could make the decision as to whether or not there needs to be another public hearing, and simply putting the word may would leave it as reflecting they thought it a very important point.

Commissioner Dolman agreed and liked the second hearing but the board had to adopt the budget twice, it had to sit on the table, but there needed to be a hearing between the time the mayor presents the budget and the aldermen make changes to it.

Commissioner Baines seconded the motion.

Commissioner Cook stated they should keep in the option to have a second hearing, but felt that Aldermen Wihby had a good point.

Commissioner Lopez noted that they have a public hearing, come back and add \$100,000 to it, and now eight aldermen say they want a public hearing for whatever reason, you need seven days, and if they are close to adoption of the budget and they only have three days, how could they do that.

Chairman Pappas noted they couldn't which was why they were saying may.

Chairman Pappas called for a vote. The motion carried with none in opposition.

Commissioner Baines referred to Section 6.04 d) stating he read somewhere that if the board of aldermen failed to adopt the budget by the deadline the budget for the city becomes the budget presented by the chief executive officer.

Commissioner Cook noted that it was in 49:C and the second letter from the department of revenue had that wording as well.

Commissioner Cook commented that d) was from the current charter, and the interpretation had been that if you don't move away from your current charter you don't have to follow 49:C, if you do then you have to follow 49:C.

Commissioner Lopez noted that they had some discussion on d) before where they had felt it forced them to have an approved budget.

Commissioner Stephen questioned Section 6.04 c) noting the point that had been raised by Aldermen Wihby, the power of the mayor to veto acts of the board shall apply to the entire budget or any line item, the question raised which Commission Stephen felt was clear but Alderman Wihby did not, was if the mayor exercised his line item veto, does the entire budget pass but the line item. Members responded affirmatively.

Commissioner Cook felt there was enough line item budgets in other communities to set the precedence but noted they clearly did not say it and they could.

On motion of Commissioner Cook, seconded by Commissioner Baines it was voted to insert the wording "In the event of the exercise of a line item veto all portions of the budget not so vetoed shall be passed." before the parenthetic in section c).

Chairman Pappas moved to Article VII. Procurement Procedures. There were no changes.

Chairman Pappas addressed Article VIII. General Provisions.

Commissioner Sullivan stated there seemed to be a belief on the part of Commissioner Shaw because they had Section 8.03 they had taken away from the city the ability to amend the charter pursuant to the amendment procedures of state statute and she felt on the record they should make it clear that the adopt of Section 8.03 does not take away the ability of the city of Manchester either by the process of the aldermen or the process by petition of the voters to have a charter amendment question placed on the ballot, and she would be putting that in the final report.

Commissioner Cook suggested they add wording at the end of this section sating "Nothing in this provision shall limit the availability of the Charter amendment process provided by law." Commissioner Sullivan so moved to add this wording. Commissioner Cook seconded the motion. The motion carried.

Commissioner Stephen commented that under 49:B, it said the mayor and aldermen shall cause the city to elect a charter commission, asking if this process was consistent with 49:B where every ten years, was it mandating them to go out to the voters and have a charter commission, whereas they had to pass 51 percent of the voters a provision to establish a charter commission.

Clerk Johnson noted there were provisions of state law on how a charter could be amended, which was how this commission was formed, and there was a provision under the old charter which they could also do and they did not follow that, and so someone stepped in an said okay we'll follow the provisions allowed for under state law.

Commissioner Cook noted when they came up with this provision he thought what they were saying was they should have charter revision every ten years and the state law could change, and what they were trying to say was it wasn't optional, every ten years there ought to be charter revision.

Commissioner Baines stated it was not up to the electorate. Commissioners Stephen stated they should look at that provision.

Commissioner Stephen moved that they put the question of charter revision to be considered by the voters under the provision of state law. Commissioner Cook seconded the motion. The motion carried.

Commissioner Shaw returned to the meeting and was advised of the change in the first sentence of Section 8.03 which now read:

“Not less than once every ten (10) years the board of mayor and aldermen shall cause the question of Charter Revision to be considered by the voters under the provision of state law.”

Commissioner Dolman raised the issue of the commission be elected by the voters. Members concurred that this was why the referenced “under the provision of state law.” It was understood that at least every ten years the voters would decide whether they wanted charter revision and if it passed they would then elect a charter commission under the provision of state law.

Commissioner Dolman asked if they had taken out the other line. Commissioner Cook responded no.

The clerk advised Section 8.03 would read:

“Not less than once every ten (10) years the board of mayor and aldermen shall cause the question of Charter Revision to be considered by the voters under the provision of state law. Nothing in this provision shall limit the availability of the charter amendment process provided by law.”

Commissioner Shaw stated so they then would have to elect a commission to change the charter. Commissioner Sullivan responded no commenting that Chapter 49:B provides for a couple of different ways of changing a

charter, one is the commission revision process which was what they were doing, there was also a process for charter amendment which was a process to permit changes to specific provisions within a charter. Commissioner Sullivan stated 49:B-5 which permits the municipal officers, which by definition is the board of mayor and aldermen, to determine that amendments to the municipal charter are necessary and by order provide for notice and hearing on those changes in the same manner as provided in the statute - that is public notice, public hearing - within seven days after the hearing the municipal officers may order the proposed amendments to be placed on a ballot at the next regular municipal election or in the case of a municipality biennial elections at the next regular state biennial election. Commissioner Sullivan stated so one provision was that the board of mayor and aldermen, upon notice and hearing, may order questions to be placed on the ballot before the voters. Commissioner Sullivan stated that the second method provided by the statute for amendment not revision, was on the written petition of a number of voters equal to at least 20 percent of the numbers of votes cast in a municipality at the last regular municipal election, but in no case less than ten voters, the municipal officers shall by order provide that proposed amendments to the charter shall be placed on a ballot.

Within discussion it was noted that both methods had been done. Commissioner Sullivan noted that there were two provisions in state statute to amend the charter which they were saying this charter was not changing and are permitted by law for the charter amendment process.

There were no changes to Sections 8.04 or 8.05.

With regard to Section 8.06 Commissioner Sullivan noted they had received a communication requesting a change to this section with regard to the Library, and in reading the second sentence of section 8.06 she did not think it made sense. Commissioner Sullivan stated that she thought the point they were trying to make was that to the extent permissible by contract and by state law the provisions regarding commissions shall apply to the library. She did not have a problem with that.

Commissioner Lopez moved to strike the last sentence of Section 8.06 and replace it with "The provisions of this charter referring to commissions and

department heads shall apply to the library as may be consistent with the contract and state law. Commissioner Cook seconded the motion. The motion carried, with Commissioner Sullivan abstaining from the vote.

Commissioner Dolman commented on the retirement system item c) noting the supreme court hadn't answered the case that was coming up.

Commissioner Cook advised that they had issued their opinion and had "duffed" that one saying it wasn't necessary to their decision so they did not answer the question of how it gets amended. If they ultimately answer the question of how it gets amended saying this can't be done, it can't be done, but right now the whole world is focusing on how you can amend things. Commissioner Dolman feared upsetting the retired workers, noting it was effecting two people.

Commissioner Cook stated that it was not c) that addressed that question, it was b) and the pension act repeal that was the change that addresses how it gets amended. Commissioner Cook stated that they had limited it to technical amendments to make sure that it stays in compliance with state and federal pension law, because they had not given them the power to change benefits one iota. They had not given anyone the power to amend benefits. What they were saying was sometimes because either state law or federal law changes they need to get it back into compliance for technical reasons, that was all they had given them the power to do.

There were no changes to Sections 8.07 through 8.14.

Commissioner Stephen asked if Section 8.12 dealt with the problem they had with Water Works. Commissioner Cook stated the answer was he hadn't the foggiest, but his understanding was that there were a lot of things in the special acts that are not inconsistent with what they had done, and they were not trying to accidentally repeal them; that the things that are inconsistent with them they were trying to allow the charter commission to implement what they want to implement. Commissioner Cook stated a real concern he had was whether Section 8.12 was consistent with what they did in the transition section, he had not researched the special acts repeal.

Commissioner Dolman referred to Section 8.15 stating he had a concern, he remembered in the old charter they wanted to set a committee and when the aldermen tried to set that committee the mayor would not recognize it and the city solicitor supported the mayor, so now if they were saying here that there is a problem with the charter enforcement and they were letting the city solicitor decide and he would not decide against himself.

Commissioner Dolman stated he thought he was wrong in that the charter said they had to set the thing up, and he was glad they had fixed that in their revision.

Commissioner Baines noted it would be the same thing at the state level if the Attorney General's office rules on something until that is challenged that is the rule, so you would have to go to court. Commissioner Baines stated that they could not take that authority away from the chief lawyer for the city.

Commissioner Cook suggested Section 8.15, items c) and d) be changed by replacing the word city solicitor with the chief legal officer of the city to be consistent with other sections of the charter.

Chairman Pappas moved to Article IX. Standards of Conduct.

Commissioner Baines commented that the Board of Mayor and Aldermen have the authority to set the salary, and he realized it was another term they were talking about, but it could effect that alderman sitting and having just been elected, asking if the code of conduct would preclude the alderman from voting on their salaries.

Commissioner Sullivan responded she would say except for the next board of aldermen is a new board and she thought the board would have the ability to vote on this so long as it is for the next board.

Commissioner Stephen stated by statute those provisions apply.

Commissioner Baines stated so the record will show that it was not the commission's intent to preclude them from voting. Commissioner Cook concurred as did others. Commissioner Sullivan stated that their intent was

that the board of aldermen has the right and authority to vote on a pay increase for the next board.

Commissioner Baines stated just like somebody could make a complaint advocating for putting up stop signs or detours in a ward, could the alderman vote on that, it was a legitimate question to him because that is what the aldermen do, they advocate for their wards, asking how that would be dealt with under this provision.

Commissioner Sullivan stated it was something that would have to be done on a case by case basis. For example, if the alderman's street is - I want a stop sign on my street - it's very likely that someone can say alderman you shouldn't vote on that, and that was up to the board to make that determination. On the other hand if it was something in the alderman's ward that was something a little more extenuating, and like many things it would be on a case by case basis.

Commissioner Stephen concurred that it would be taken on a case by case basis, but added it was not different than what it was right now, because under the current conflict of interest provision they could bring it up now at any point.

Discussion ensued relative to Sections 9.03 and 9.04. In Section 9.03 it was concurred that a comma should be placed after the words "school committee" in the last sentence to now read "If the official does not believe such a conflict exists, the board of mayor and alderman, or school committee, if the official is a member of the school committee,..."

In Section 9.04 grammatical corrections were made to the first paragraph which would not read as follows:

"A conduct board is established and shall consist of five (5) members and two (2) alternates to: issue advisory opinions to the board of mayor and aldermen or school committee, if requested to do so by said board or committee, concerning this code and the actions of city officials; interpret this code; investigate violations of this code if requested to do so by city officials, written and attested complaints by citizens of the city or those doing business with the city, if it finds basis for such complaints, and issue reports after such investigations

to the board of mayor and aldermen which may take action after such reports if it deems action necessary, and recommend ordinances to carry out the purposes of this code.

In response to question raised by Commissioner Baines, relative to Section 9.03 b) it was concluded that there was a definition for immediate family member but not for family member and the intent was immediate family member. The wording was changed from "family member" to "immediate family member" in both notations of this section.

Discussion ensued relative to the meaning of immediate family -- spouse, children. In terms of an employee living with someone it would fall under personal interest and he didn't think there would be a problem.

Chairman Baines asked if the board of mayor and aldermen could strengthen this code if they desired. Commissioners Cook and Stephen responded yes.

Chairman Pappas moved to Article X, Transition Provisions. The clerk noted that they had added a section relative to the bond limit.

Commissioner Cook noted grammatical changes to be made as follows:

Section 10.03 a) second line, "transferee" should read "transferred";  
Section 10.03 a) (2) should state "All powers" not "All power"; and  
Section 10.06 a), last sentence should read "...department head's existing term,"

and they were so noted.

Discussion returned to Sections 2.03, 3.03 and 3.07 requested by Commissioner Stephen.

Commissioner Stephen noted he had gone through the sections relating to his concern and had suggested language. Section 2.03 d) he thought could be worded "The board of aldermen shall nominate and appoint all city officers listed in section 3.07 of this charter." So it would be clear in his opinion that even though they refer to an assessor for example as a department head, and the city officer is a department head, here they were

being very specific making sure the board of aldermen in their powers would nominate and appoint the officers of the city. Commissioner Stephen noted they could vote on that if they wanted.

Commissioner Cook noted that they should talk about the whole concept. Commissioner Baines suggested that if they were going to be doing that they would have to reference other sections like 3.03. Commissioner Stephen stated he could go through all of the changes he was suggesting if they wished.

Commissioner Shaw stated he wanted to take back his vote on this issue rather than abstaining.

Discussion ensued where Commissioner Cook noted inconsistency with 3.03. Commissioner Baines responded no, his comments were directed in that the qualifications should be there, not up to the mayor, to make it palatable, he would want the language there.

Commissioner Stephen stated so Section 3.03 would read "all city officers listed in section 3.07 of this charter."

Commissioner Stephen noted in 2.10 b) it would read "The mayor shall appoint, based upon merit and due consideration of qualifications, all department heads except city officers listed in Section 3.07 of this charter."

Commissioner Cook asked if that made all three assessors department heads. Members responded no, they would have to take that as a separate issue.

Section 3.03 Commissioner Stephen noted would read "Department heads shall be nominated by the mayor, and city officers shall be nominated by the board of aldermen as listed in section 3.07, based upon merit..."

Discussion followed relative to whether officers should be in the department head section or elsewhere. Commissioner Stephen noted that in Section 3.02 the Clerks office and Assessors office were listed as departments and that was the confusion. Commissioner Cook noted that the City Clerk was a department head and one of the assessors was a department head, and the

finance officer was a department head, so if they tried to exempt them from the department head nomination process he thought they want to say either, except for the head of the assessing department, the city clerk and the finance officer, department heads shall be nominated by the board of mayor and aldermen, because they had already said in the other provision that somebody else has the power to appoint those people -- rather than comma it up, someplace they also had to say that the posting qualifications blah blah shall also apply to those people.

Discussion followed where Commissioner Shaw suggested changing the title to department heads and officers and then specifying what it was they meant.

Commissioner Pappas requested the clerk's comments. Clerk Johnson suggested that they had a separate section for officers and a separate section for department heads; that she thought if they said except for city officers, department heads - would be okay because they had defined officers, and under city officers they could add a nomination section, etc. Clerk Johnson noted that if one were a city officer they would look at city officer and nominations there to see what applied - they could repeat the same verbiage but put it for officers.

Commissioner Baines noted that he thought there was a consensus of agreement around that issue, but asked if they could talk about the appointment of the assessors and its department head to get a sense of where they were going with that issue before voting on the other.

Discussion ensued where options for assessor chairmanship/department head were noted -- appointed by the mayor, appointed by the board, or elected among the three assessors. Chairman Pappas noted they currently appointed their own.

Chairman Stephen stated he had strong feelings about those officers being nominated and appointed by the aldermen, the next issue he looked at the section that says the commissioners shall appoint their chairman, and he thought it important for the assessors, if the board of mayor and aldermen appoint one person, his feeling would be that it rotate like it is pretty much

now so that one person doesn't always assume the control, because they had to work together and have a consensus and build consensus.

Chairman Baines asked if it rotates. Assessor Porter stated it was not an automatic thing, it has to be based on experience - they had a unique situation come up in the last couple of years when the charter required three assessors yet they ran with two for two years, and they had two new assessors appointed on the same date. He thought they had to use a little bit of judgment as to the experience stating that the assessor who was chairman does not exert any more influence over the members of the board than any of the other three members. Chairman Baines asked if he got paid more. Assessor Porter responded yes.

Commissioner Cook noted that they had not been focusing on the issue of exerting influence.

Assessor Porter stated it was not an automatic rotation, Bill, Paul and he had rotated it every two years as a matter of their own tradition.

Commissioner Cook noted they were concerned about who became the department head and how. Members concurred. Commissioner Sullivan noted that instead of using the commissions as an analogy, she looked at it as a semi-judicial body, in which case the appointing body would appoint the head, like the governor and council, chief justice of the supreme court, etc.; that if they were giving the aldermen the authority to appoint the officers she thought they should be given the authority to appoint the chair/department head as well.

Commissioner Dolman reiterated comments of Mr. Porter relating to the experience factor of rotation of the chairmanship.

Commissioner Cook stated that if the commission wants the aldermen to elect the three, he thought they would be instituting chaos and thought it was a mistake and would not vote for it, he did not think there was anything incongruous about that and taking the three and having the mayor designate which one of the three will serve as the department head because it was a very different function. Commissioner Cook noted that they could have

three excellent assessors, not all of whom were equal on their administrative abilities or interest.

Commissioner Cook commented that with regard to the finance officer, he thought it made no sense for one of fourteen people to have a shot at coming up with the best finance officer for the city, they were much more likely to get a better finance officer based on experience, expertise, and shooting with a rifle in letting the mayor appoint that person than if its a group vote - it made no sense to him. The assessors were a separate question with some merit but the finance officer there was no merit.

Commissioner Cook stated that on a consensus basis he could go along with the mayor getting to appoint the chair and therefore department head on the board of assessors - he could then vote for this under extreme reservations but no way would he vote for the finance officer being appointed by the board of aldermen it was too important a position, too critical to the city, and you had too much experience in the city in the old days with a finance officer who was a buddy, as opposed to one who was a professional, and that's a very dangerous situation. Commissioner Cook noted that he had spoken with Commissioner Dykstra who had forwarded comments on how she felt the chairman should be decided by the members, etc.

Commissioner Lopez stated he disagreed with Commissioner Cook. He stated they should keep it consistent in that people being appointed as city officers such as the finance officer, there were going to be applications and so forth submitted, and the board of mayor and aldermen would be looking at those; that the board of aldermen were the board of directors and would be willing to pick the best individual other than just a next door neighbor.

Commissioner Baines stated he was willing to compromise on this issue for a number of reasons, first he agreed with Commissioner Cook on this issue, in dealing with a process as complex as this we have to come out of it being able to defend some of the checks and balances that they put forth, and the reality was the aldermen may look at it as an attempt to balance things in terms of the process and their involvement and that may be a good thing that they were doing. Commissioner Baines stated when they have the opportunity, which was another discussion, of how they were going to present this to them, they have to be aware that they are trying to strike a balance between the office of mayor and coming up with a stronger mayor

form of government and also reserving their integrity to make decisions as a board of directors and it could be put forth that way. He was willing to support it with a proviso that the board of mayor and aldermen appoint the department head and so moved to make changes to reflect the officers as discussed. Commissioner Sullivan seconded the motion. The motion carried with Commissioners Cook and Shaw opposed.

The clerk was requested to make the changes to the language throughout the sections as required to meet their intent. Clerk Johnson asked with regard to the language for Assessors, it presently reflected confirmation of eight aldermanic votes asking if that was what they still wanted. Chairman Pappas advised they did, and the members agreed. Clerk Johnson noted she would add a nomination section.

Commissioner Stephen noted that they still needed to discuss removal of officers like that in department heads. Discussion ensued where Commissioner Baines suggested they could say the board of aldermen may remove an officer by giving the officer written notice of and basis of such action, the removal shall not be effective until its been confirmed, or voted on by a vote of nine aldermen. Commissioner Cook questioned how it would come before them, noting in the department head section it says the mayor can can them but the board has to confirm; that the question is can the mayor as well as aldermen bring the question before somebody. Commissioner Baines stated he would look at section 3.06 and say the board of aldermen, there has to be a motion to consider removal of an officer, and that vote, if they say its nine the judgment is made before a hearing. Commissioner Cook responded no, the question was who could bring it in. Commissioner Dolman stated any alderman can bring it before the board under new business or communications. Chairman Pappas stated but the mayor could not fire them. Clerk Johnson stated if they took the wording and put in officers at any meeting of the board any alderman or the mayor could bring before the board the question.

Commissioner Baines commented okay I move to remove the city clerk -- he wanted to make sure of the process. Clerk Johnson noted it would not become effective until he was heard and the vote taken if they used that wording. Commissioner Baines stated okay, that wording had to be there, if he were the alderman and made the motion, and twelve aldermen vote and it

passed and the person doesn't have the opportunity to be heard. Commissioner Dolman noted that the wording would call for the opportunity to be heard prior to the vote. Commissioner Baines stated then it was addressed. Clerk Johnson noted they would give notice and then at the next meeting he would have the opportunity to be heard. Commissioner Baines stated they had to put in that section.

Commissioner Baines moved that they add the wording for removal of officers consistent with section 3.06, the understanding being Clerk Johnson would work on the wording and present it to them. Commissioner Dolman seconded the motion. The motion carried with Commissioners Cook and Shaw opposed.

Chairman Pappas moved discussion to Section 6.12.

Commissioner Cook moved that the wording in 6.12 be changed consistent with the letter received so that it reads in the beginning, it shall be the duty of the board of mayor and aldermen to assure that (insert balance of current language) and in the next to last sentence the words "the board of aldermen shall" be removed and replace it with "the finance officer shall" and in the last sentence it be changed to read as in the letter that says the results of such an audit shall be made public and reported to the board of mayor and aldermen. The clerk noted the reading in the letter. Commissioner Baines seconded the motion. The motion carried with Commissioners Dolman and Shaw opposed.

Commissioner Lopez felt they should consider a recommendation to the board of mayor and aldermen. Commissioner Baines noted that the commission existed for 60 days after they give the final report. He thought that would be a valid thing to do, and he felt it was important that they meet during that time for that purpose. Commissioner Dolman noted they should meet to strategize how they will get the information out to the public. Other members agreed this to be important.

Commissioner Cook noted that he felt it was important for example to communicate to them that while they gave the aldermen the authority to reorganize it it was not the recommendation to reorganize it. More important was that they needed a report with the document to be presented.

Commissioner Sullivan stated that she had a final report prepared, based on this evening's conversation it will need some changes, and she would forward it to them over the next couple of days and they could call with any proposed changes.

Commissioner Baines felt it was important to get out to the board of mayor and aldermen a message urging them not to take any positions regarding the charter, out of respect to the hours they had put into it, and aside from union leader reports regarding egos which he did not feel anyone had come into the process with, it had to be put forward that they wanted the opportunity to sit down with them. Commissioner Baines noted that it was important to bring the message that they needed an opportunity to sit down with them face to face with these people to go through the rationale of why they came to the conclusion, recognizing as politicians that they all are, that it was a series of compromises they felt would move the city in the right direction, it was not a finished product it should be a working document and they still retain the authority to put on the ballot changes that they feel would benefit the city. Commissioner Baines stated for example they may find after four years that this concept is not successful and may decide to put it on the ballot. Commissioner Baines stated he thought they needed a strong letter from the commission urging them not to get entrenched into a position until they offer them the opportunity to sit down and discuss it with them.

Commissioner Dolman stated that most aldermen had already taken a stand and it would have to be given to them before Tuesday, but hopefully they would take it, reserve comment, and they could ask them to do it in their letter. Commissioner Dolman stated he did not want to sit down this Tuesday and talk to them about it because they haven't had a chance to look at it.

Discussion ensued as to how to present it. Clerk Johnson noted that there was a letter placed on the agenda already from the city clerk, a copy had been provided to the commission members; that they were operating under the presumption that it was going to be coming in, that if the charter is presented to the aldermen that the charter commission be requested to draw up a summary and that the board order the question to the ballot. Clerk Johnson noted that on the ballot there had to be a summary of substantial changes or whatever form of government has been changed on the ballot

itself, and that the city clerk is requesting that the commission prepare that because it was the commission. Commissioner Baines commented he had not seen anything on a summary noting he had read the law today. Clerk Johnson stated that the law called for the question on the ballot and in addition a summary was required on the ballot.

Commissioner Lopez stated that it was the question that goes before the voters. Clerk Johnson noted that if they read the last sentence of the letter it states what the city clerk was asking the board to do.

Commissioner Sullivan read from the RSA 49:B-6 the method of voting at municipal elections when a question relating to a charter revision...in the case of the charter revision the question to be submitted to the voters shall include a summary which explains both the current form of government utilized by the municipality as well as the changes in that form of government which will occur in the charter revision if adopted by the voters. The question to be submitted to the voters shall be in substance as follows: "Shall the municipality approve the charter revision recommended by the charter commission?" in the case of an amendment the actual amendment is summarized below. Commissioner Sullivan noted that voter information states that in the case of the charter revision the municipal officers two weeks prior shall cause a final report to be printed and make copies available and post the report. Commissioner Sullivan stated that it appeared that the intent of the statute was that there be a question placed on the ballot, and it does talk about a summary explaining the current form of government as well as changing the form of government, but keep in mind that they are not changing the form of government they are continuing to have a board of mayor and aldermen, her suggestion would be that it may behoove them however that, they think about whether they should put on the ballot a question that includes non-partisan elections, two at large aldermen, two at large school committeemen, because those not changes in form at least gives the voter an idea of the major changes.

Commissioner Sullivan stated that they should discuss that at the next meeting.

Commissioner Baines asked how they would present it to the Board.

Discussion ensued where Commissioner Sullivan read from the statute relative to the final report and what needed to be submitted to the Board of Mayor and Aldermen, along with the requirements of minority reports. Since Chairman Pappas was not available, members requested Commissioner Baines to make a brief presentation to the Board of Mayor and Aldermen and present the report, asking them to reserve comment until meeting with the commission to discuss the revision. It was agreed to meet prior to the Board meeting to review the final document. Commissioner Cook moved to meet on Tuesday at 4:30 PM to review Atty. Alfano's certification, and review and approve the final report.

Discussion ensued relative to approving the revised charter with all changes made this evening. Commissioner Cook so moved to approve the document as revised to date. Commissioner Sullivan seconded the motion. The motion carried with Commissioner Shaw opposed.

Commissioner Baines requested a letter be sent to the Board of Mayor and Aldermen requesting a presentation of the report and charter revision at their meeting next week. Clerk Johnson advised she would take care of a letter for the commission.

Members agreed to meet at 4:00 PM on Tuesday. Commissioner Cook requested that whatever was available as of tomorrow be sent overnight mail to Commissioner Dykstra. On motion of Commissioner Cook, seconded by Commissioner Lopez, it was voted to adjourn.

Respectfully submitted,



Kathleen N. Sullivan  
Secretary for the Commission

A True Record. Attest.

  
Carol A. Johnson, Deputy City Clerk

## CHARTER COMMISSION

**SEPTEMBER 3, 1996**

**4:30 PM**

Chairman Pappas called the meeting to order.

Present: Commissioners Pappas, Baines, Cook, Dykstra, Lopez, and Stephen.

Commissioners Sullivan and Dolman arrived late.

Absent was Commissioner Shaw.

Chairman Pappas advised they had several items of business to deal with and asked if they wished to first discuss the letter from Kevin Clougherty.

Commissioner Cook noted he had attempted in the last two weeks to communicate the concerns of the finance officer who was here noting they had two pieces of special legislation that they were suppose to include in the transition section and when they were discussing it the other night they only got to one of them on the bond limit, they had not put in Chapter 551 of the laws of 1971 which is the statute that created the finance officer position. Commissioner Cook commented that he had thought that they had done it correctly because it was not specifically repealed, but bond counsel had wanted specific reference so they could point to it.

Commissioners Sullivan and Dolman arrived.

Commissioner Cook suggested to include a reference to the fact that Chapter 551 of the laws of 1971 was not repealed by this charter.

Discussion ensued relative to where to place the item. It was concurred that it should be added as a new section under the transition section, the last section of the revised charter.

Mr. Clougherty noted that there were two references to the debt limit, in Article VI and Article X. Members concurred that it was not inconsistent for them place it in both places, where Commissioner Sullivan noted that one reflects when the charter is effective the debt limit would be and the other reflects that there may be changes to the statute from time to time.

Commissioner Sullivan moved that a new Section 10.12 be added stating something to the effect that the provisions of Chapter 551 of the laws of 1971 are not repealed by anything in this charter. Commissioner Cook duly seconded the motion. The motion carried.

Commissioner Cook commented that they had re-wrote the section on the independent auditor and came up with language on the spot which they inadvertently added language that was inconsistent with the procurement code. Commissioner Cook noted as he understood, the finance people did not mind having the contract approved by the Board of Mayor and Aldermen, which he thought was the point, but they had said having a separate approval of the terms of the competitive bidding over and above would junk up the works of the procurement code.

Mr. Clougherty stated they envisioned the way it would work, and the way it works now, is that they are required, they had taken a lot of effort to put in the language the standards for the comptroller general, and that is specific standards everybody has to follow, and to say that those types of things would be there but what happens then it says the terms of the competitive bidding which means it would be something outside the procurement code and whenever you see something special or different in that regard causes a concern or raises a flag with the credit markets because they thin you are going to do something above and beyond. Mr. Clougherty stated they would see that if they want to have special requirements that it should be in the procurement ordinances and that is where it should be. For example, he noted that they require now that you can't hire the same auditor twice in a row. Those types of things would be in there. Mr. Clougherty stated they could strike the words "terms of competitive bidding and" and say that it was the duty of the board that the audit would be done, and would be done in accordance with these regulations, it will be bid according to the procurement code, and then the contract would be subject to the approval of

the board of aldermen. They did not want to give the implication that there is going to be something outside the procurement code done that is special.

Commissioner Sullivan stated the term that this might be disturbing to the credit markets, we don't have city contracts for a lot of our employees which she understood was also disturbing to the credit markets which she thought might be more disturbing. When it came to the city audit there had been some concerns raised that perhaps the aldermen should have something perhaps in addition to the procurement code in terms of what the terms of the city contract are. Commissioner Sullivan asked if this was such a concern that it was going to rock the foundations of our credit rating.

Mr. Clougherty responded he first wished to thank the commission for letting them come and voice their concerns, they were trying to make it something that they could support that is not going to cause problems later on. If the board of aldermen want special conditions, then that should be in the ordinance of the procurement code, what they don't want is a procurement code that lays out a number of issues and then having after the fact have special terms be put on outside of that ordinance because that is when you start to see people favor different companies or things like that. That is what the credit market looks at when it reads that type of language that they are trying to stay away from.

Commissioner Sullivan questioned if they worded it to be prior to the bid process, and then noted that the current wording reflected that it was prior to the process starting.

Mr. Clougherty noted that it was not so much in terms of timing but in terms of the procedure. If they want special terms and conditions, it should be in the procurement code. They should not be changed at the whim of a particular board because that from the standpoint of people looking from the outside want to see some consistency and adherence to standards.

Commissioner Sullivan noted the standards would be inherent anyway.

Mr. Clougherty stated they would override them with something special here is the way they read it.

Commissioner Sullivan disagreed feeling they still had to comply with the procurement code reading verbiage from that entry and commenting that they could add something in addition to the procurement code but could not act contrary to the procurement code.

Mr. Clougherty stated that they wanted that to be clear, they had no problem with the board saying .

Commissioner Sullivan asked if he had problems with additional terms for competitive bidding.

Mr. Clougherty requested an example, noting that they did not want to see them go out and follow the procurement code, go through the competitive bidding process, bring it to the board and say they want to put on a special condition before they approve the contract.

Commissioner Sullivan noted the current wording would require that it be done prior to the competitive bidding, and the contract shall be subject to the approval of the board of mayor and aldermen.

Commissioner Cook suggested they solve it by either taking out the wording as suggested by Mr. Clougherty, or they could say additional terms for competitive bidding in addition to the procurement code shall be as set forth in an ordinance which seemed to be a lot of extra verbiage they did not need.

Commissioner Cook noted that he saw the ambiguity, and felt they could solve it in either of those two ways without changing the meaning.

Commissioner Lopez stated that if it is in the procurement code and the board of mayor and aldermen wanted to add something to the bidding process was he saying that would not be allowed if it were not in the procurement code.

Mr. Clougherty stated that when you lay out your procurement code it should be very specific in terms of what you want in there and the steps that are going to be followed for special services, and if that procurement code is followed, then it becomes an approval process. In drawing up the

procurement code if there are special concerns the board would have about the selection of auditors or underwriters or anything like that they should put it in the procurement code so everybody, the auditors bidding on the job, anybody else, know what the rules are so they don't go out and bid and then later on they say they can put in special conditions and change it after the fact. That was the whole reason that they had a procurement code so they don't have special exceptions so you lay those things out in the process and then you follow this procedure. Now, if there were things that the board wants that is where those things should be, in the procurement code, not in something after the fact. That doesn't mean that the board doesn't have the opportunity to effect the procurement code because under what the commission was proposing they were going to adopt it and amend it, but that was done in a procedure done out by ordinance and protects all the people involved in that or that would want to become involved in that and it protects the city in terms of a reasonable disclosure, and after having gone through that process having the board approve it is fine, that was okay.

Commissioner Dolman felt they could solve the problem by going back to the way it was originally worded quoting verbiage as previously written.

Mr. Clougherty stated he would not have a problem with that language as long as it was set out in a separate section, originally it was under the finance officer and it was inconsistent, it should be a separate section specifically laid out. He noted that the language read by Commissioner Dolman he believed was out of the state statute and they would have no problem with that.

Chairman Dykstra asked if the original wording from before was the same as now or what was the difference. Mr. Clougherty responded before there were more specific guidelines laid out in the charter, and the board then adopted a procurement ordinance and they had some flexibility in that regard but not as much as they were proposing.

Chairman Dykstra commented that the competitive bidding was important to her, asking if there was anything that was going to make it more stringent. Mr. Clougherty noted that this falls under professional services and requests for proposals more than competitive bidding.

Commissioner Lopez moved that the words "terms for competitive bidding and" be stricken from section 6.12. Commissioner Cook duly seconded the motion.

Commissioner Dolman stated he wished to have it amended so that the board had the right to look at the RFP before it goes out to bid.

Mr. Clougherty stated they had the right already, and they should put it in the procurement code when they adopt it, that was where that language should be if they feel that is necessary.

Commissioner Pappas noted there was no second to the motion to amend by Commissioner Dolman.

Chairman Pappas called for a vote on the motion made by Commissioner Lopez. The motion carried with Commissioners Dolman and Sullivan recorded in opposition, a 6-2 vote noted by the Chair.

Commissioner Sullivan noted she had received a telephone call from Andrea Reed of the Department of Revenue Administration, (DRA), who indicated she had reviewed the materials forwarded. Commissioner Sullivan noted she had expressed her appreciation for Ms. Reed responding in such a timely manner. Commissioner Sullivan advised that Ms. Reed wanted included in the budget section some language from RSA 49C in Article VI, Section 6.04, subsection d) which currently stated if the board failed to adopt appropriation resolutions for the ensuing fiscal year no funds shall deemed to have been appropriated, the insertion from language 49C:23 which states that a date certain by which the budget shall be adopted failing final adoption the budget as originally submitted by the chief administrative officer shall become the budget.

Commissioner Sullivan noted that whether agree or disagree in order to be able to submit this thing and get it on the ballot without controversy she did not see the harm in adding it. Commissioner Sullivan commented that in her opinion they did not have to go along with 49C at all but she has not argued because she felt they should do it and get it on the ballot.

Commissioner Sullivan moved to amend Section 6.04 d) to provide that if the Board of Mayor and Aldermen fail to adopt the budget by the second Tuesday in June of the fiscal year currently ending, the budget as originally submitted by the mayor shall become the budget. Commissioner Dolman seconded the motion for discussion.

Commissioner Lopez stated they had picked out this specific thing and say they have to put it in and the commission had determined what they had felt applied and the attorney general had said they complied.

Commissioner Sullivan noted that the DRA had sent two detailed letters with items they believed needed to be fixed in the charter pursuant to statute, it had been the commission's sense that unless they were changing something from what they currently had, that they would let it stand even if it did not comply with 49C, given that they had sent the detailed letter she had sent the most recent draft of the budget sections because she had wanted to make sure that they had done what DRA had wanted them to do because under the statute Ms. Reed had done what they were suppose to do, she reviewed it and pointed out some problems that they saw, and she had wanted to make sure that they had corrected the problems identified. Ms. Reed had called and said there was one thing they had not done, they should put this in here, she also said that they had an elected welfare commissioner and you are not suppose to do that. Ms. Sullivan had responded that the state attorney general's office did not call that one out, and that was not in Ms. Reed's letter to begin with and so she was not worried about that one, but this was identified by the DRA.

Commissioner cook noted that they had an opinion from the commission's lawyer, from the attorney general's office, an interpretation of the statute saying that if they don't go farther away from the 49C than they are at the present time, they could do it, and including this change would be inconsistent with the commission's interpretation and the attorney general's interpretation and Attorney Alfano's interpretation.

Commissioner Stephen asked what funds would have to be by law be appropriated under the current language. Commissioner Cook stated he did not know all of them. Commissioner Stephen stated for example, fire and police for example would have to be funded. Commissioner Cook

concluded that there were certain emergency services and he understood that, but he did not know the answer as to what was otherwise required by law, the provision included in the charter was exactly as provided for in the charter the way it worked now. Currently they could not make any expenditures except as required by law which he did not know what was required, and under 49C language if they don't have the adoption of the budget by whatever date the mayor's budget is adopted. The substantive difference between giving a board of directors the right to adopt a budget and allowing a few people to filibuster something so it does not get passed by a certain date so another budget gets rammed down people's throats is a very different process, and if Ms. Reed was right about it having to be in there then everything in 49C has to be in there which he thought was an interpretation they had not got from anybody and he was not going to vote for it.

Commissioner Sullivan noted that under RSA 49B:5-(a) there was a statement that if the secretary of state, attorney general, commissioner of department of revenue administration do not approve the proposed charter the charter amendment question shall not be placed on the municipal ballot. This was something that was called by the DRA, and whether or not they agree with the DRA with regard to 49C, she was very concerned about whether they run the risk of handing someone on a silver platter the excuse to keep this off the ballot which she did not want to do. Secondly, when they spoke with Attorney Alfano one of the things they said to him was that the state agencies were basically taking this position that unless you were changing away from 49C that they would be happy and basically they were doing what the state agencies had asked them to do, and that was not the situation here and Alfano doesn't know about this, it is a different situation from where they were this morning. The third thing was personally she did not think they had to comply with 49C, she thought they only had to follow 49B, but she did not want to argue in court about that and she did not see in this particular provision that it could be considered somewhat dangerous because the mayor's budget now becomes the budget if the aldermen can't come up with an otherwise agreed up budget, but that's tuff Ms. Reed said they had to do it. Commissioner Sullivan noted that she did not want to see the thing messed up given the hour, and did not want to take the risk.

Commissioner Dolman stated that while he did not like it as one who had sat on the board he could see the dangers of it, it was dangerous to the city if that became political, but he did not want to see all the hard work done go down the tubes by giving someone a reason not to place it on the ballot and this was his fear.

Commissioner Stephen commented that they had the wording except as otherwise required by law, and did that not meet that need.

Commissioner Sullivan stated she had not discussed that with Ms. Reed, all Ms. Reed had said was that the charter should be changed to include this language.

Commissioner Dykstra commented what if they let it go through without the wording and it went to the city solicitor and he said it was okay then it was fine and if he said it was not they could add it in at the last second.

Commissioner Pappas advised that this was the last second, and that the document does not get presented to the solicitor.

Commissioner Sullivan noted that the solicitor had reviewed the document and ended his comments stating that he still thought they had to comply with all of the provisions of 49C.

Commissioner Baines suggested they think it through, commenting that the wording did not scare him as much as it scared others because he thought the political process itself would force that not to happen. The reality was that it would not happen he thought what would happen as happens now, the budget generally comes down to getting the support at the end of the board time because they had to reach compromises that was how the political process works. The strength of the argument of the chief executive was to preclude putting a city into chaos, that basically was the reason he thought she was saying that was that was not a sound management practice to put a city into chaos because you effect all aspects of the government including the school system and all the other types of functions of government therefore it was in there to preclude that from happening, but the fact that it was there would force the board of aldermen to reach the necessary

compromises to keep the city functioning. This was his position and he supported it for that reason.

Commissioner Cook commented that Commissioner Baines had convinced him and noted that they had provided in the charter provisions for amendments to the budget so allowed for something going forward while the aldermen get their act together and will have the effect he thought that Commissioner Baines referred to.

Commissioner Stephen suggested that 49C be cited so people did not think the commission put it in their on their own.

Commissioner Baines commented that when it was explained it could be commented upon in the dialogue as to the rationale surrounding it that it was sound, it was good business practice to function that way, and in fact it was advised to them in the process they looked at the approval process and followed all of the guidelines and were told that they could not get approval from an agency they were required to get approval from to put it on the ballot.

Commissioner Sullivan noted she did not want to put in something that could be read to say that they should have complied with 49C on everything in the charter, and the legislative interpretation may be that if they say pursuant to RSA 49C.

Commissioner Lopez requested confirmation that they had only included the wording referenced in 49C1. Commissioner Sullivan responded affirmatively.

Commissioner Sullivan reiterated that her motion was to strike the current verbiage in subsection d) and replace it with the wording from 49C, as follows "if the board of mayor and aldermen shall fail to adopt appropriation resolutions for the ensuing fiscal year as provided herein, the budget as originally submitted by the mayor shall become the budget."

Commissioner Dykstra noted that this would stop government from closing down and she understood why DRA would want it.

Commissioner Sullivan noted that they should probably add the date. It was noted that the language included "as provided herein" and provided herein referred to the balance of the section referencing budget adoption dates and requirements.

Chairman Pappas requested the clerk repeat the verbiage

The new verbiage was read as follows:

"If the board of mayor and aldermen shall fail to adopt appropriation resolutions for the ensuing fiscal year as provided herein, the budget as originally submitted by the mayor shall become the budget."

Chairman Pappas called for a vote. The motion carried with all members present voting in the affirmative.

Commissioner Dykstra noted that Artemis Paris telephoned her regarding Section 8.01, establishment of rules, she felt there was a conflict with existing RSA's because where it says the board of mayor and aldermen may establish rules, procedures, ... in RSA 675:2 it has methods of enactment and mentions the local legislative body shall determine the manner established for zoning ordinances, whatever, and where they say matters the board has jurisdiction over which includes zoning ordinances.

Commissioner Dykstra noted that she was looking at the "may" and the "shall". Commissioner Dykstra noted that she had responded to Ms. Paris that the statute would supersede the charter.

Commissioner Sullivan commented that she did not have the statute with her but was familiar with it and she thought it not inconsistent with this because it talks about matters over which the board has jurisdiction and it is clear that the planning board has jurisdiction over its own rules or procedures so when it comes to site plan regulations, it was clear the planning board had the authority or jurisdiction to do that.

Clerk Johnson noted she had a discussion with Ms. Paris as well with regard to a zoning amendment that they were going to pull this evening and send to another public hearing, and noted that she had noted today to Ms. Paris that there are rules of the board of mayor and aldermen which she had been

unaware of, and what she was saying was that there was a state statute that says the board of mayor and aldermen has to adopt procedures, which the board has and has had which is included in the rules, one of which Clerk Johnson had referenced but noting that there was more than one rule pertaining to ordinances, but the zoning ordinance had to do with only one rule and she had not wanted to confuse her. What Ms. Paris referenced was that the state law says that the board has to adopt procedures in that instance, but the charter provision Clerk Johnson thought was referring to a much wider perspective.

Commissioner Cook stated that article 8, section 8.01 of the present charter is exactly what they had put in the new charter, it had worked before, it works now, and the collective interpretation and that things required by state statute have to be done, this is a permissive thing giving them the authority to do it and can be explained to her.

Commissioner Sullivan commented on the assistance of clerk Johnson and noted that one of the things they had changed was where it was referred to city officers, they clarified in certain sections they were appointed officers as opposed to elected officers and it had been done by she and Ms. Johnson and she had wanted to call that to their attention because it was different from what had been voted upon.

Commissioner Sullivan noted that language had been passed out relating to a request of Attorney Alfano which was the only change needed to be done for him to be able to certify the charter as complying with state law.

Commissioner Sullivan moved to delete the current verbiage in section 6.04 Budget Adoption , subsection a) with language as follows:

- a) Notice and hearing. The board of mayor and aldermen shall publish a copy of the proposed budget, a notice stating the times and place where copies of the message and budget are available for inspection by the public, and the time and place for a public hearing on the mayor's budget as submitted, at least one week in advance of the public hearing.

this language having been read by the clerk. Commissioner Cook duly seconded the motion. The motion carried with none recorded in opposition.

Commissioner Baines suggested that they have a motion to approve the charter as revised.

Commissioner Lopez noted that there had been a change previously made to section 2.03 the word "a" policy should read "the" policy. Members concurred that this change should have occurred.

On motion of Commissioner Lopez, duly seconded by Commissioner Dolman, it was voted to reaffirm the intent and change the language as noted.

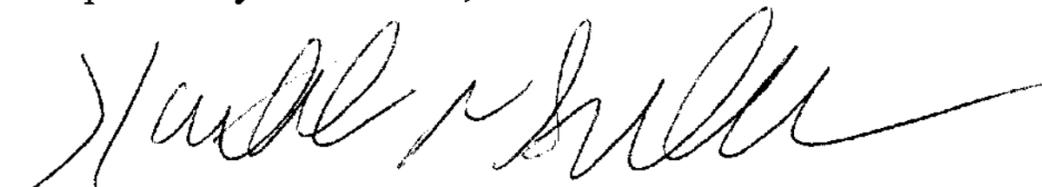
In response to questions raised by Commissioner Lopez, clerk Johnson advised that the additional materials provided reflected corrections to formatting problems appearing in the last version of the document which had reflected the wrong subsection numbers (1), (2), and (3) had appeared as (2), (3), (4) in some areas for example and she had passed out copies of the corrected format.

On motion of Commissioner Dolman, duly seconded by Commissioner Sullivan, it was voted to approve the charter with all revisions. There were none recorded in opposition.

Commissioner Sullivan then reviewed the final report with the members present noting changes made since their last copy received. On motion of Commissioner Baines, duly seconded by Commissioner Dolman, it was voted to approve the final report for submission to the Board of Mayor and Aldermen.

There being no further business, on motion of Commissioner Sullivan, duly seconded by Commissioner Dolman, it was voted to adjourn at 5:32 PM.

Respectfully submitted,



Kathleen Sullivan  
Commission Secretary

## CHARTER REVIEW COMMISSION

**September 26, 1996**

**5:30 PM**

Comms. Pappas, Baines, Cook,  
Dolman, Dykstra, Lopez,  
Shaw, Stephen, Sullivan

NYNEX Building, 900 Elm Street  
Merrimack Room, 5th Floor

Chairman Pappas called the meeting to order.

Commissioner Sullivan called the roll. There were seven commissioners present, with Commissioner Cook arriving late.

Present: Commissioners Pappas, Baines, Cook, Dolman, Dykstra,  
Lopez, Stephen, Sullivan.

Absent: Commissioner Shaw.

Chairman Pappas advised a motion was in order to accept the minutes of meetings held on June 11, July 9, July 15, August 26 and September 3, May 15, May 22, May 28, June 4, June 5, June 12, June 18, June 26, July 2, July 18, and August 6, 1996. On motion of Commissioner Dykstra, seconded by Commissioner Dolman, it was unanimously voted to accept the minutes as presented.

Chairman Pappas addressed the second item of business:

Discussion of summary wording for ballot.

Chairman Pappas advised that because the State needed the wording for the ballot by the next morning, the Clerk's office had prepared a summary utilizing in part an article written by John Toole of the Union Leader.

Clerk Johnson advised that the summary was prepared as a basis for them to review, the wording could be changed in any manner they wished. Members agreed to go through the document one item at a time.

Commissioner Lopez questioned the wording of the question, noting it stated new charter and should say revised charter. Discussion ensued where Commissioners Sullivan and Dolman concurred. The clerk advised the wording for the question had been presented to the Board, with copies provided to the commission prior, and that she would bring the concern to the attention of the City Clerk to determine if the wording could be changed on the question at this time.

On motion of Commissioner Dolman, duly seconded by Commissioner Cook, it was voted to request the wording be changed consistent with RSA 49-B:6 to read charter revision.

The summary section of the handout was then discussed.

In the first entry it was concurred to change the wording to reflect revisions rather than changes, now to read:

“Following formal review, the Charter commission is recommending revisions to the current charter. Key revisions recommended are:”

Members discussed the wording:

“Switching from partisan to non-partisan elections for mayor, aldermen, welfare commissioner, and ward election officials.”

They concurred that the word switching was not good, and wanted the summary to be as brief as possible. Within discussion it was noted that the offices should be listed because some people would think of state representatives, etc. as elected officials.

Members concurred to change the wording to read as follows:

“Establishing non-partisan elections for mayor, aldermen, welfare commissioner, and ward election officials.”

Discussion moved to the next line:

“Expanding the aldermanic and school boards from 12 to 14 seats each, adding two representatives chosen at large.”

Discussion centered on whether it was necessary to state going from 12 to 14 seats. It was concurred it was not. Following brief discussion regarding wording, on motion of Commissioner Baines, seconded by Commissioner Sullivan, it was voted to change this line to read:

“Adding two at-large members to the Aldermanic and School Boards.”

Discussion moved to the next line:

“Strengthening the mayor to act as a chief executive directing day to day affairs of the city with power to nominate all department heads subject to confirmation by the Board, and giving the mayor power to fire department heads subject to confirmation by nine votes of the aldermen.”

This line was discussed at length where the checks and balances that had been placed in the charter were reflected upon. Members agreed that the statement as written showed some subjectiveness and the word “fire” was not one they wished to use. Following several suggested wordings, on motion of Commissioner Sullivan, seconded by Commissioner Baines, it was voted to have this line read as follows:

“Giving the mayor the authority to direct the day to day affairs of the city, to nominate all department heads subject to confirmation by the aldermen, and the authority to remove department heads subject to approval by nine votes of the aldermen.”

Discussion moved to the next line:

“Placing authority with the Board of Aldermen to act as a board of directors in overseeing the actions of the mayor and city departments, establishing policies and appointing the officers of the city.

Commissioner Baines noted he liked the wording relating to acting as a board of directors but did not like placing. Discussion ensued on suggested changes. On motion of Commissioner Baines, seconded by Commissioner Sullivan, it was voted to change this line to read as follows:

“Granting authority to the Board of Aldermen to act as the City’s board of directors in overseeing the actions of the mayor and city departments, establishing policies and appointing the officers of the city.”

Discussion moved to the next line:

“Making city commissions advisory rather than managerial, allowing for citizen participation and advisory assistance to the mayor, aldermen and departments; and instituting term limits. Placing administrative authority and authority over personnel decisions with the department heads.”

Members discussed this item at length. They did not like the wording feeling it was too lengthy and the opening was not a good one. Suggestions were made to separate it to different bullets. After much discussion, on motion of Commissioner Cook, duly seconded by Commissioner Lopez, it was voted that this line should read as follows:

“Establishing advisory commissions. Setting term limits for City commissioners. Granting administrative and personnel authority to department heads.”

Discussion moved to the next line:

“Reforming the budget process, giving a line-item veto to the mayor and letting aldermen reopen the budget anytime during the year.”

Members questioned whether this was necessary to mention in the summary, whether it was in fact a “key change”. It was concurred that it should stay with some rewrite because they had not really reformed the budget process but merely changed a couple of dates and placed the line item veto authority.

On motion of Commissioner Cook, seconded by Commissioner Sullivan it was voted that this line would read as follows:

“Giving a line-item veto to the mayor and allowing aldermen to reopen the budget during the fiscal year.”

Discussion moved to the next line:

“Opening the government more to citizens, permitting them to apply for commission vacancies and requiring city boards to hold regular monthly forums for them.”

Members discussed this line at some length. The charter revision was referred to for determination of whether it applied to the Planning and Zoning Boards for example, boards established by other law rather than city commissions and committees. Discussion also was held on whether it was a key revision. It was felt to be one that many voters had wanted and therefore key in some eyes and should be included. On motion of Commissioner Sullivan, seconded by Commissioner Lopez, it was voted to break this line into two bullets to read as follows:

“Providing an opportunity for citizens to apply for commission vacancies.”

“Providing for a period of public comment before all boards, commissions, authorities and committees.”

Discussion moved to the next line:

“Granting aldermen the authority to restructure city government through creating, reorganizing or combining city departments on a vote on nine aldermen.”

Some discussion ensued with suggested changes. On motion of Commissioner Cook, seconded by Commissioner Baines, it was voted to change the line to read as follows:

“Granting aldermen the authority to restructure city government by creating, reorganizing or combining city departments on a vote of nine aldermen.”

Discussion moved to the next line:

“Initiation of Standards of Conduct section providing for additional financial disclosure and reporting requirements and establishment of a conduct board.”

Commissioner Stephen commented that he did not like the wording and felt it an important issue. He noted in speaking with people there were four top subjects in the revision they were interested in, this being one, and provided suggested language. It was concurred that they would address the order of the items in the summary after determining the wording of each line. After some discussion about the wording of this subject item, on motion of Commissioner Baines, seconded by Commissioner Dykstra, it was voted that this section would read as follows:

“Establishing an ethics code for elected officials, including financial disclosure, reporting requirements and creating an advisory conduct board.

Discussion moved to the next line:

“Miscellaneous changes to provide transitional measures, address removal of sick leave for employees within the charter, allow for amendments to retirement system to meet federal law, and other provisions needed for clarity and consistency within city government.”

A discussion ensued about the need for any of these items, as none were felt to be “key revisions.” Following this discussion it was concurred that none were “key” and therefore should be stricken from the summary. On motion of Commissioner Dolman, seconded by Commissioner Sullivan, it was voted to strike this line from the summary.

The clerk then reviewed all of the changes and discussion moved to the order in which the commission wished to have the items appear. Following some discussion it was concurred that the summary would read in the following order as follows:

Following formal review, the Charter Commission is recommending revisions to the current charter. Key revisions recommended are:

- Establishing non-partisan elections for mayor, aldermen, welfare commissioner, and ward election officials.
- Adding two at-large members to the Aldermanic and School Boards.

- Establishing an ethics code for elected officials, including financial disclosure, reporting requirements and creating an advisory conduct board.
- Giving the mayor the authority to direct the day to day affairs of the city, to nominate all department heads subject to confirmation by the aldermen, and the authority to remove department heads subject to approval by nine votes of the aldermen.
- Granting authority to the Board of Aldermen to act as the City's board of directors in overseeing the actions of the mayor and city departments, establishing policies and appointing the officers to the city.
- Giving a line-item veto to the mayor and allowing aldermen to reopen the budget during the fiscal year.
- Establishing advisory commissions. Setting term limits for City commissioners. Granting administrative and personnel authority to department heads.
- Providing an opportunity for citizens to apply for commission vacancies.
- Providing for a period of public comment before all boards, commissions, authorities and committees.
- Granting aldermen the authority to restructure city government by creating, reorganizing or combining city departments on a vote of nine aldermen.

On motion of Commissioner Lopez, seconded by Commissioner Baines, it was voted to accept and approve the summary as read.

Chairman Pappas noted that a memo was distributed relative to the balance available.

Chairman Pappas moved discussion to the next item of business:

Discussion of presentation and disbursing of information to public.

It was noted that members were invited to attend an historic tour on Monday evening being done by the 150th Birthday Committee, with members reporting back to the clerk.

Commissioner Lopez stated that Linda Garrish from TV 40 wanted to do three shows on the charter and that Commissioners Baines and Sullivan would go on Monday afternoon. Commissioner Lopez noted that Ms. Garrish also wanted to do a show with Commissioner Shaw for his minority opinion to keep things fair. Commissioner Lopez was asked to coordinate having members go to the other two dates and to ask Ms. Garrish if Commissioner Cook could appear with Commissioner Shaw on whatever date she assigned.

Commissioner Sullivan noted that the commissioners had not had the opportunity to dialogue with Commissioner Shaw after his minority report.

Commissioner Cook noted that they should prepare something that describes to the citizenry what it was they did, that was understandable in a question and answer kind of format. Commissioner Cook stated that the Union Leader said if they got them something they would consider distributing it to the Manchester households that get the paper.

Commissioner Dykstra noted they could do an insert.

Commissioner Lopez felt the summary report should be considered to be mailed out to the 7,000 people that had voted on the charter commission establishment. It was noted that a review of the checklist would have to be done with volunteers addressing the mailers. Discussion of bulk rates ensued where it was noted the commission was not a non-profit. The clerk advised that mailings were done first class and there was no bulk mailing done by the city to her knowledge. Commissioner Baines noted the school district had one. Commissioner Lopez noted it was illegal to use someone else's.

Commissioner Sullivan questioned the cost of copying the report and mailing it. Commissioner Cook noted he was not sure the report was the most user friendly item to send out. Commissioner Sullivan explained the process of having the checklists copied. In response to questions, the clerk advised that the clerk's office sells labels of all registered voters, they did not have a breakout of labels for people who had voted in a prior election.

Commissioner Sullivan suggested that although time consuming they get a checklist of registered voters and spend a Saturday or Sunday and address letters to people who they knew.

Commissioner Cook commented that he and Chairman Pappas had met that noontime with a group of people that had some money to spend and wanted to hire a public relations person between now and the election as friends of the charter to coordinate. Commissioner Cook stated he thought there was a difference in the roles of being commissioners who came up with the thing and explaining the things that they did, and being agreeable to appear on Channel 40 or at the Rotary, and someone being the real proponents of getting the thing passed. Commissioner Cook stated that this group was willing to do it if they could use their money to come up with what the commission feels is a piece they feel comfortable with that is user friendly, explains what they did, what were the high points and how it was done. Commissioner Cook noted they had Pat McGee from Porter McGee available to advise on the preparation and formation of a piece so that when people see it they'll get the high points and understand what it was and get a positive feeling toward it. Commissioner Cook stated that if the commission was able to spend the money to produce the piece, this group had about \$10,000 to invest in getting it distributed and going. Commissioner Cook stated that he spoke with Joe McQuaid indicated they would consider putting in the paper and distributing it. Commissioner Cook stated that they should do everything they could, he thought perhaps Shop & Save would put it in their bags too, because it was not electioneering like voting for a candidate. Commissioner Cook thought the group was willing to hire someone to coordinate the marketing. Commissioner Cook stated he would suggest spending whatever it takes to prepare a classy, objective, piece and work with this group for distribution with all the ideas that people could come up with to publicize this thing.

Commissioner Cook noted the importance of the education of what was in their, noting in his discussion with Joe they were of the understanding that they had removed all of the things that they had objected to, but they did not have a full understanding of what was in it. Commissioner Cook noted the importance of having the Union Leader's support giving the federal election and the number of people going to the polls for the federal offices needing to come in remembering a positive impression on it.

In response to question, Commissioner Cook noted that it was the Chamber of Commerce and other people who wanted to market the document. Commissioner Cook noted that they did not want to tie it to the Chamber because that may be a positive or a negative impact on different voters.

General discussion followed relative to the cost and number of households for mailings.

With regards to speaking engagements, Commissioner Cook noted that most of the service clubs were booked with speakers through December and that they would be attempting to get five minutes of time to say "we think this is good because of boom, boom, boom, read this thing and please consider it and I will be around to answer any questions afterwards."

Other media forms were discussed with Commissioner Cook commenting that they were included in the list.

Chairman Pappas and Commissioner Cook noted they would coordinate with the group.

Commissioner Cook left the meeting for another engagement.

Discussion moved to having a comparison piece. It was noted that there was none completed. Commissioner Baines felt that needed to get done.

Commissioner Stephen noted that he had intended to do a phone bank himself and he thought if everyone looked at who helped them in their own race and did something on their own in conjunction with what they were going to do together he thought it would help, all the small things would help.

Commissioner Dykstra commented that there was a lot of negative out there including the taxpayers group who would take out adds against it, and commented on how she had defended the revisions made as a good document being better than what we have.

Commissioner Lopez noted that there would be lawn signs telling people to vote no by Water Works and others. They would need lawn signs. Commissioner Dolman noted they would need volunteers at the polls to hold signs saying vote yes.

Commissioner Lopez still felt there should be something sent to the voters on the charter commission. Commissioner Dykstra noted that some of those voters would not support it, as in the case of people belonging to the taxpayer group. Commissioner Sullivan noted that they were people who were likely to vote and she thought they would get the majority of them.

Commissioner Lopez noted the idea of Shop and Save bags was a good one. Commissioner Dolman noted the small corner stores could help as well. Commissioner Stephen noted that churches would distribute them as well.

Chairman Pappas went through the listing from the citizens for a better charter newsletters in corporations, bulletin boards, church bulletins, pappy pizza signs, phone bank, stand at the polls, all of the media outlets, and try to get school kids involved helping to go door to door with the flyers possibly.

Commissioner Stephen liked the idea of a mailing to all registered voters and suggested a cover letter enclosing the summary be sent with all the commissioners signing it.

Discussion moved to the number of households and purchasing the lists from other sources having labels of just the registered voter households of about 22,000.

Commissioner Sullivan noted the cover letter had to be circumspect. Advertising in the Union Leader in terms of providing a report to the public was considered something else they could do within their budget. Commissioner Sullivan stated she would do a letter. Commissioner Lopez was to coordinate the mailing. The clerk was asked to check on companies who will do the mailing if given the piece, through contract. It was noted that they would have to get prices to meet code.

Commissioner Sullivan moved that they draw up an educational letter with a summary of the proposed revisions to be mailed to all households in the City of Manchester having registered voters. Commissioner Dykstra seconded the motion. Commissioner Sullivan amended her motion to include if necessary the mailing will be limited to the available budget. Commissioner Dykstra seconded the amended motion.

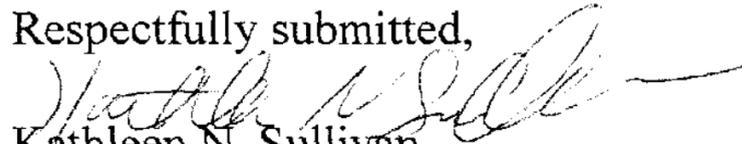
Commissioner Sullivan stated she would draft the letter and would like a subcommittee of Commissioners Stephen and Lopez to review the letter, with all members getting a copy. Commissioner Sullivan stated then she thought that Commissioner Lopez could work with the clerk's office to figure out the best way to carry out the mailing.

Chairman Pappas called for a vote. The motion carried.

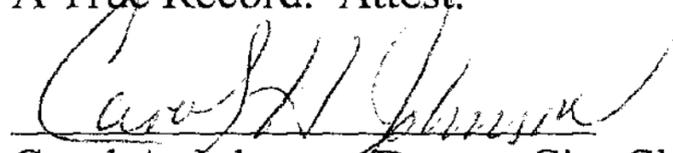
Commissioner Sullivan moved that the Commission officially commend John Toole for the exemplary job he did in covering the commission process. Commissioner Stephen seconded the motion with the amendment that Channel 40 also be commended. Commissioner Dolman seconded the amendment. Chairman Pappas called for a vote to have letters sent. The motion carried. Commissioner Sullivan requested a copy be sent to Mr. McQuaid as well.

It was concurred to hold a follow up meeting on October 8th at 5:30 P.M. There being no further business to come before the commission, on motion of Commissioner Sullivan, seconded by Commissioner Lopez, it was voted to adjourn.

Respectfully submitted,

  
Kathleen N. Sullivan  
Commission Secretary

A True Record. Attest.

  
Carol A. Johnson, Deputy City Clerk

## CHARTER REVIEW COMMISSION

OCTOBER 8, 1996

5:30 P.M.

Chairman Pappas called the meeting to order.

The Clerk called the roll.

Present: Commissioners Pappas, Baines, Cook, Dolman, Dykstra,  
Lopez, and Sullivan

Chairman Pappas advised that James Gray and Pat McGee from the Chamber of Commerce would be addressing the Commission regarding planning for disseminating of information regarding the Charter.

Mr. McGee stated he was concerned about the future of the City and wished to congratulate the Commission on the fine work they have done to bring forth an excellent set of recommendations to improve the Charter. What I saw and what others have seen is in addition to the work the Commission has done, it will probably require help from the community to create awareness to achieve success on November 5. What we have done is formed a group with working title of Citizens for Charter Reform, that will include as wide a representation as can be developed. The Chamber of Commerce has already gone on record as supporting the proposed charter revision. What is planned for the next thirty days is essentially an education awareness campaign to help people understand what is in the Charter. Some components of that were to include doing a literature brochure that takes the information available and puts it into a format that is easier to access. It does not have all the points in the Charter, just as the summary does not have all the points in the Charter, however we do point out that additional summaries are available at the City Clerk's office. We are also developing a series of speaking engagements throughout the community, approaching the service clubs, PTO organizations, anywhere that we can find a group. We plan to have a phone bank to begin calling people who have been identified as having voted in the Charter Commission election, asking for their support and endorsement of the Charter. We will ask the

Union Leader and the radio and television stations to support the effort. We will also be looking for other endorsements from organizations within the community, if we can sit and talk with them about what the Charter means for the future of the City, union, Citizens for a Better Manchester, and wherever we can find a group that would have us or members of the Commission speak to them. We hope to have enough money to do a couple of paid advertisements, these would be urging people to vote yes on Charter reform and probably listing all those who have come out publicly to support and endorse it. We felt that the Commission alone would not be able to educate the community. When we look at what we need to make this successful, if we had a willingness on the part of the Commissioners to coordinate with James and other people that are supplying some of the organizational structure this to go out on speaking engagements, if there are any groups that the Commissioners feel we ought to go talk to or try to get their endorsement, please let me or James know. If any Commissioners know anyone who would like to be on the Committee of Citizens for Charter Reform, please let us know. We would also ask you to consider contacting your base of support that you have developed to ask them to vote yes, and any other resources that you have, mailing lists, we can get a voter registration list but in actuality we would not be able to cover all that between now and the election. James will be spending some time in the next week and we anticipate hiring someone on a part time basis who will concentrate his or her efforts on the grass roots organization part of this to make sure that volunteers who have great ideas and a lot of good intentions follow through on the details. We have a meeting tomorrow morning which you are welcome to attend.

Chairman Pappas stated the Commission appreciates the help and support.

Commissioner Dolman asked will we be able to have people at the wards with a vote yes on the charter sign?

Mr. McGee stated we have a group that is trying to recruit people for the phone bank and for the get out the vote effort. We are planning to have signs printed and placed throughout the community.

Commissioner Dykstra stated the signs are a good idea because the Concerned Taxpayers of Manchester are against the Charter reform, particularly the non-partisan, they will have signs made to be displayed at every ward telling people to oppose it, and will probably list their reasons for opposing it. So it would be a good idea to have signs at the wards for voting yes.

Commissioner Lopez stated I think it is great that the Chamber is offering help. I think we need to go forward and not worry about people that are going to oppose it.

Mr. McGee stated from an education and awareness building point of view, we have to get this down to a simple as the points that people are opposed to. Our position is the work that you Commissioners have done makes City government more responsive to the people and accountable to the people. We will be basing our efforts on those two points. Unfortunately we do not have the time to engage in a rather detailed discussion of all the benefits and good points in the Charter so we are trying to come up with some way to position it as a positive for the City, that it is moving us ahead.

Commissioner Lopez asked do you have prominent people who are going to endorse the Charter?

Mr. McGee answered yes.

Commissioner Sullivan stated I have been very interested to find out that a lot of people do not realize that this is being voted on November 5. That is something that we have to tell people.

Commissioner Lopez suggested they not leave out the Veteran's organizations throughout the City.

Commissioner Cook stated this morning I met with the Mayor and his assistant to talk about the charter, and they had a lot of good how does it work questions. I think they came away from the meeting with a better understanding and were reasonably enthusiastic about it.

Commissioner Sullivan asked where do we stand on media endorsements? Have we heard anything from the Union Leader.

Chairman Pappas answered I dropped the Charter off for Joe McQuaid and Richard Lessner to read, and I called yesterday to see if we could meet with them. They did agree to put the brochure in the Leader a day or two before the election. It would hit 22,000 households.

Commissioner Sullivan asked who is approaching WGIR, WZID, etc.?

Mr. McGee answered James has been contacting them, and although they hesitate to endorse, they agree to let us use their venues to educate.

Commissioner Dolman stated channel 8 has a lot of talk shows.

Commissioner Lopez suggested getting members of the Citizens for Charter Reform on channel 40 right before the election.

Mr. McGee stated any chance we have a forum at this time we should take advantage of it.

Commissioner Cook stated the two key things that we need to make sure of are that people have read the Union Leader that says "you should vote for this" and if the Mayor would say he would support it, that would be helpful.

Mr. McGee stated if people are uninformed they will vote no.

Chairman Pappas stated we need to think carefully about the Union Leader meeting.

Commissioner Dolman stated I think it is important to tell people that the new Charter may not be perfect but it is better than what we have.

Commissioner Dykstra suggested contacting Governor Merrill concerning his views on the proposed charter seeing as he is a resident of Manchester.

Commissioner Cook stated the Governor has always been reluctant to take positions on City issues even though he is a resident. Certainly asking him would not hurt.

Commissioner Lopez stated we could copy something that Dick Swett did for his campaign, to have everyone supporting the issue sign a large placard and hold a press conference with the placard visible so others could see who is supporting the Charter.

Chairman Pappas asked what about State Reps?

Mr. Gray stated that is an untapped resource at this point.

Mr. McGee stated the Aldermen still opposed to the Charter can probably be worked with, and the Commission should sit with them on a one to one basis to address their concerns.

Commissioner Cook stated we have three weeks, we have to stress the most important points, to get the information out, and neutralize any negative reactions.

Commissioner Dolman asked about mailings.

Mr. McGee stated we are looking to create a list to mail to.

Commissioner Cook asked about funds and whether or not the Charter Commission would be able to use its funds to solicit yes votes.

Mr. McGee answered that the Chamber would use funds it had allocated to do a mailing soliciting a yes vote, and the Commission would use its funds to do a mailing for information only.

Commissioner Sullivan stated I feel that we should not as a commission, send out a mailing for a yes vote.

Commissioners agreed.

Commissioner Sullivan stated then whatever we print up we should mail as an informational piece.

Chairman Pappas advised the commission that they should discuss the piece that Commissioner Sullivan was composing for the mailing.

Commissioner Sullivan advised that she had cut down her article by removing the narrative from the final report, and changed it to bullet form to shorten it up and make it one double sided page.

Commissioner Baines asked are these the same bullets we put on the ballot?

Commissioner Sullivan answered no.

Commissioner Baines stated people will not read this.

Commissioner Sullivan stated the ballot does not include everything. My goal was to give people the opportunity to see the changes. I have taken out anything that could be editorializing, and added something that Commissioner Stephen suggested about the Mayor selecting department heads.

Commissioner Cook suggested saying "eight of the nine commissioners voted for this charter as an improvement over the present system."

Commissioner Lopez stated Commissioner Baines said something that might be advisable. The ballot document is very important, I wonder if we should send out sample ballots, so when people go to the polls, they are not trying to absorb what is written on the ballot, because they will have already seen it.

Commissioner Baines stated in order for people to read something it must be very concise, and I think that would fit the bill.

Commissioner Cook stated let's turn it over to Pat McGee and his people and let them design it.

On motion of Commissioner Lopez, duly seconded by Commissioner Dykstra, it was voted to approve the document to mail to voters along with inclusion of a sample ballot.

Commissioners discussed prices for mailing.

Chairman Pappas advised that she has used Mailways and recommends them highly.

Commissioners agreed to do a mailing to the households in Manchester.

Commissioners discussed the possibility of mailing postcards with a quick explanation of the charter with a vote yes message.

Commissioner Sullivan advised that she would compose something and bring it to the others for approval.

On motion of Commissioner Sullivan, duly seconded by Commissioner Baines, it was voted to adjourn.

Respectfully submitted,



Kathleen N. Sullivan

A True Record. Attest.



Carol A. Johnson, Deputy City Clerk

## CHARTER REVIEW COMMISSION

**OCTOBER 22, 1996**

**5:30 P.M.**

Chairman Pappas called the meeting to order.

The Clerk called the roll.

**Present:** Commissioner Pappas, Baines, Dykstra, Lopez and Stephen

Chairman Pappas advised that after research among various printers and mailing houses, she had discovered that the Union Leader has offered the best deal both financially and coverage wise. What they had agreed to do is to run a full page ad in the paper with the information that the Commission put together plus a sample ballot. Then they will mail the same information in the form of a flyer to all the non-subscribers to the Union Leader. The Union Leader advised that the ad should run on November 1, and the mailing would go out on October 31.

On motion of Commissioner Lopez, duly seconded by Commissioner Baines, it was voted to approve the payment of \$6,903.51 to the Union Leader for advertising purposes.

All Commissioners were in favor of running the ad in the Union Leader informing voters of the proposed charter reform.

Commissioners who were not present had been polled via telephone and were in agreement.

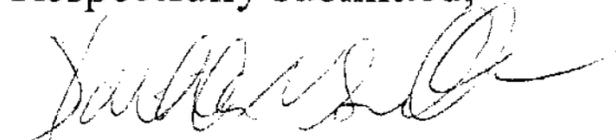
10/22/96 Charter Commission

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Chairman Pappas advised that the Chamber of Commerce had provided flyers for the Commission members to distribute.

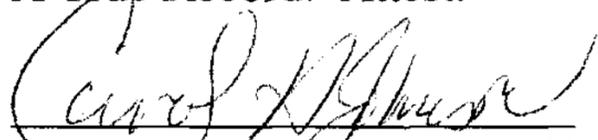
On motion of Commissioner Stephen, duly seconded by Commissioner Lopez, it was voted to adjourn.

Respectfully submitted,



Kathleen N. Sullivan

A True Record. Attest.



Carol A. Johnson, Deputy City Clerk

## CHARTER REVIEW COMMISSION

**October 29, 1996**

**7:30 PM**

Chairman Pappas called the meeting to order.

Commissioner Sullivan called the roll.

**PRESENT:** Commissioners Pappas, Baines, Cook, Dykstra, Shaw,  
Shaw, Sullivan  
Commissioners Dolman and Stephen arrived late.

Chairman Pappas stated the purpose of tonight's meeting was to answer any questions that you may have concerning our revised Charter which will be on ballot on November 5th and I'm glad to see that you all have a copy of our pamphlets and a copy of our Charter. There are several Commissioners here who will be willing to answer your questions and which one of you would like to begin and please state your name and your address for our records.

Roland Remillard, Ward 11, stated: I was wondering, the Charter as it is now we have to vote either yes or no and how long before this thing will be revised or can be revised or can any revisions be made before the total package is revised.

Commissioner Cook replied the Charter, if it is passed, goes into effect in its entirety. It calls for a revision in ten years or at least a look see in ten years. There are provisions in the State law and in the present Charter and the new Charter for amendments to the Charter on specific items. So, if there were amendments that needed to be placed, and if the Aldermen approved those amendments and if they went to the voters and the voters approved them it could be amended periodically, however, the entire revision process wouldn't come up again for ten years.

Mr. Remillard asked what would it take to bring an amendment up for, let's say does it take so many people to sign a petition or something like that.

Commissioner Cook replied there's a separate provision for petitioned amendments in addition to Aldermanic(ly) submitted, I don't remember what the percentage is.

Commissioner Dykstra interjected I think 15 percent or six percent of every ward or something like that, does that sound right.

Commissioner Sullivan stated I've got the statutes here. The municipal officers which would be the Board of Aldermen may determine that amendments to the Charter are necessary and by order place the proposed amendment to be on the ballot at the next regular Municipal Election or at the next regular State Election or if they wanted to they could actually order a special election to be held. So, that is if the Aldermen themselves decide that an amendment should be placed before the voters, the Aldermen can do it themselves. In addition to that there is a provision for it to be done by petition of the voters.

Commissioner Dykstra stated it's on the written petition of a number of voters equal to at least 15 percent of the registered voters of the City including at least six percent of the registered voters of each ward, the Board of Mayor and Aldermen shall order a non-binding informational question to be placed on the ballot at any general election whether federal, state or municipal except a primary held within the municipality in accordance with the procedures set forth below. So the people can do it just like they did it with the recycling thing, remember, they all went out there in competition, so you can do it or the Aldermen could do it.

Commissioner Sullivan stated there's also a provision in RSA 49-B which provides that on the written petition of a number of voters equal to at least 20 percent of the number of votes cast at the last Gubernatorial election the municipal officers may place the proposed amendments to the Charter on the ballot. So, it's another way of doing it.

Commissioner Shaw stated his question had to do with the next time that an amendment could come up which is next November, if the Aldermen so wish it.

Commissioner Sullivan asked are there any particular areas of City government that interest you specifically that you'd like us to talk about.

Mr. Remillard replied, I don't know, I haven't read the whole package but one thing that concerns me is having people serve in City government who also serve in the School Department, for instance, a principal of a school being an Alderman or all kinds of things like that, that would be a conflict of interest.

Commissioner Sullivan stated we changed that, you cannot do that under this Charter. Under this revised Charter you can't, under the current Charter that can happen. I should say, Commissioner Baines could run for Alderman, but if he was elected, he'd have to step down as Principal.

Mr. Remillard stated one thing I didn't go for was the two additional Aldermen and two additional School Board representatives. They say it's going to give a better representation, but I personally feel that if I'm from Ward 11 and I already have a representative in Ward 11, I'm going to push for Ward 11 if I'm elected. It just gives two wards more power than the others.

Commissioner Sullivan stated in response to that if that was to happen, if an At-large Alderman was doing that so openly that it was obvious he or she was acting as just another Alderman for say Ward 2 or Ward 5 or my Ward 8, then I think it's up to the voters then have the option at the next election to get the person out for not doing the job they're supposed to be doing because I agree with you that the purpose of the At-large Alderman is not to be another Alderman for their ward, the purpose is to serve the City at-large which I think the Aldermen now try to do that, they try to serve the City at-large, but as we all know they're very busy with a lot of constituent phone calls and requests from people in their wards and I will point out that with our election of these commissioners there was a real variety from around the City of people who were elected to this Commission, so I think it will work out pretty well.

Commissioner Dykstra stated as I mentioned before it's something that I didn't think we needed either, but there's so much good in this Charter and that's what you all have to look at. If there's just a few things you probably don't think is the greatest, but you like the majority of it and you feel it's better than the other Charter then you support it and that's my feeling, just to let you know that I had a concern with that, but I didn't feel it was a big enough concern to do away with everything because there's an awful lot of good in here. More power to the Mayor and more citizen involvement with commissions and basically through the Code of Ethics we have which I think you all should be excited about. It's really going to bring better government to the City.

Rene LeBlanc, Ward 7, stated: I'm concerned about you're going to have two more Aldermen, two more School Board members. Upon it's inception, how much more is it going to cost the taxpayers because these people are going to take advantage of those "perks" like the premiums on health insurance and other things that come up with it - salaries and everything else. How much more, you figure it out.

Commissioner Sullivan stated maybe Leo can tell us better what the salary and the insurance costs are for the Aldermen and the School Board members.

City Clerk Bernier replied the Aldermen \$5,000 - \$4,000 as a salary with \$1,000 for expenses, so times two that would be \$10,000. For the School Board they receive \$2,500, so that would be \$15,000. The health plan would depend upon which plans they would take either Blue Choice or Matthew Thornton, dental plan, etc.

Commissioner Sullivan stated I've talked to some people about that issue about the cost to the City and I'm a taxpayer too. I think that the reason I'm for that despite that cost to the City is that short-term it cost the City more money at a time when we're having to give paper to the schools from businesses because the schools don't have enough paper. But, if you take a look at the whole thing overall from a long-range perspective, if those two at-large Aldermen have the time as at-large Aldermen to focus on questions of economic development, to look at things from a different perspective

perhaps and we're able to do some things with economic development and some long-range planning that perhaps the Aldermen don't have time to do now, so that we can increase the tax base in the long run, I think there's a potential to save the city money. I can't promise it's going to happen, but that's one of the reasons I'm for it despite the fact, yes, there's going to be a cost to the City, but I think there's a benefit, a potential benefit that will outweigh that cost and I think the cost is small in comparison to our total budget and that the possible benefits are very good for the City and that's why I'm for it.

Chairman Pappas stated, Alderman Wihby, did you wish to ask any question of the Charter Commissioners this evening, or are you just here as an observer. I know that you had some questions about the financial and the budget portion.

Alderman Wihby stated as you know I spoke to the Commission numerous times as far as what I thought was the bad points in the budget process as far as moving the date up closer and I thought maybe the Commission had listened and when they came up with the 2nd Tuesday in June which would have been sometime June 13th, whatever, the latest day there was a couple of weeks difference and probably wouldn't make a difference. Since then, and I understand with the letter that I got from Brad that's maybe no part of this Commission, but through the State Department of Revenue or wherever it was, the Department of Revenue Administration that what I thought was the process that on the 2nd Tuesday of June we would have a budget or the same thing would happen as normal, we'd close down City government which forced the Aldermen at the last moments to negotiate, compromise, discuss, put their minds together and come up with a budget. I see that reading this and I've asked the City Solicitor to review it and the Aldermen are having a meeting on Thursday night at six to answer some questions and I've asked him to review the Charter and what he thought was some of the things that was in it and some of the questions that I posed. But, a couple of the main considerations that I have is if you move that date back to the Mayor's proposal of April 1st, you've done exactly what I said you shouldn't do and that is giving us the time and the stuff that happens, giving us the time that we need to put the numbers together. If the Board of Mayor and Aldermen and just use this year for an example, what happened. The Mayor presented his budget, the Aldermen took it, Mayor forgot a few

items in it, changed along the way. We didn't want the Bag & Tag so we restructured that, we took out \$4 million, we redid it, put in some extra revenues, we changed some of the monies around from different departments and we did all that before the July 1st deadline. But, a couple of days, I don't know when we signed the budget, but a couple of days before the July deadline the Mayor was still vetoing what we wanted to do and it wasn't because of the numbers, it wasn't because of the money, it was because he wanted to fill the City Coordinator position. And so, he kept vetoing it because of that. Now, if that same scenario happened now and he was hung up on getting a City Coordinator, he could keep vetoing the number that we were coming up with, it takes a super majority, so we wouldn't have had that, we wouldn't have had ten, we just barely had the number that we needed and that was at the last moment. He would keep vetoing it and figuring well, that doesn't work I'm gonna get my number. It goes back to the March 31st number that he presented us and all that \$4 million, all those things that happened in between, all those additional money that he had forgotten to put in the budget process and somebody came to him and said you forgot to give me this and forgot to give me that, the extra \$2 million in School funding that we came up with, all of that stuff would have been lost and you can't...I said that at a meeting I got a letter back from Brad who says that we can take amendments anytime we want, but that's not what I read in this. I read that you take the Mayor's budget that he sent to us and you use that budget. If we're going to take changes along the way, then we've accepted his budget, we voted. So, my understanding of this is either we vote for a budget or we use the Mayor's original budget that he sent to us before April 1st. I'd like to throw that out because and show me where it says that we don't use the Mayor's budget before April 1st because it is my understanding is is that you would because if we took any of his numbers after that we would be accepting a budget, we'd be accepting numbers from him and accepting a budget which we don't want because we've done our own work, that was one of my concerns.

Chairman Pappas stated that's a good concern, but I think his budget can be changed.

Commissioner Sullivan stated I wasn't going to address to that part of it, but I guess, Alderman Wihby, your concern seems to be that under the current budget there is a deadline before which something will happen, so you're

forced as the Board of Aldermen and the Mayor to agree on something because there's no more spending, close like Newt Gingrich and Washington.

Alderman Wihby stated we haven't had to do that yet, but that's a...

Commissioner Sullivan stated but isn't that...you have the same thing, type of thing that can happen here, not that we'll close down government, but that if you don't come to an agreement, if you don't come through negotiations to a budget you can all agree upon, the Mayor...then something that you think is not good will happen, only it's not closing City government, it's that the Mayor's budget becomes the budget. So, isn't that the same type of incentive for you all to sit down and do your negotiating and get a good budget passed by consensus of the Board of Mayor and Aldermen.

Alderman Wihby replied, I don't think it is because the Aldermen are working, at that point by themselves, they don't want to listen to the Mayor's number anymore, they don't want Bag & Tag, they don't want to do those things, so they're not working with his numbers anymore, they're working with their own numbers, they're happy with their own numbers, but the Mayor's not because he just wants a City Coordinator in this case.

Commissioner Sullivan stated but then the Mayor uses his line item veto.

Alderman Wihby stated we didn't put that in, how can he line item veto it. He wants a City Coordinator, we didn't put it in, so he vetoes it, that's what happened during this whole budget process and we scrambled for two, three, four weeks, how don't know how many meetings, ten meetings, to try to get a consensus so that we can come up with the eights votes or seven votes whatever was necessary for the budget. He can't veto it because there's nothing there, he wants something there and it goes back to his March 31st budget and the Aldermen throw up their hands and say, well, Mayor, if you want to be like that then it's your budget, Mayor and you're going to live with your numbers and we all know that we can't live with those numbers. The next things that happens and maybe we can answer this before I go further is, I guess there's two ways of reading this. If you have

additional revenues, I can open the budget, true. I find additional revenues...

Commissioner Sullivan interjected it's not as easy as just your finding additional revenues. What the process is, is that if the Finance Officer certifies that there are additional revenues then as, I think is good government the Aldermen can decide what, if anything they're going to do with those additional revenues.

Alderman Wihby stated, okay, so my question is then is and show me in here where it says we can't do it, if I decide that I want to spend an extra \$200,000, show me in here where I can't add \$200,000 in registration fees and say, now I want to spend \$200,000 more because I have \$200,000 more in fees that I'm going to sock it to the taxpayer.

Commissioner Dykstra stated once you open the budget other than lowering the taxes basically adding to it.

Alderman Wihby stated I want to open the budget up and I want to put in \$200,000 of registration fees, I'm going to charge everybody an extra buck and I want to spend it, tell me where I can't do it.

Commissioner Sullivan stated because it says that it's only after the Mayor certifies after consultation with and verification by the Finance Officer that there are available revenues in excess of those estimates in the budget then you may make supplemental appropriations for the year up to the amount of such excess after observing the budget procedures and I see Commissioner Cook has his hand up.

Commissioner Cook stated a couple of points because everybody hasn't seen the letter that I sent you and I also sent to Alderman Cashin having watched you on an extraordinarily interesting Saturday night on Channel 40. The first thing that I think is a problem in your analysis, Dave, and I accept it, you've done tremendous public service in terms of the budget for the City, you've made the system work that we have presently and I think everybody recognizes that fact, but I think you're making a fundamental philosophical error in trying to graft present practice unto a new system and if you take any one point of the new system and graft it onto the present,

both personalities and system and say taking one thing from the new system and grafting it over to the old system, I have a problem with it, it won't work or it causes a problem. This is a new system and the new system is designed with the pluses and minuses of that design to allow the Aldermen, as the Board of Directors to continuously change, adjust and act on the budget. If you presume that any former Board of Aldermen and Mayor will act as the present Board of Aldermen and Mayor act, then I think some of these problems exist and I think that's a legitimate concern to analyze. But, what we have said is the Mayor proposes a budget, now I find it ironic that the Mayor may say, I'm not sure I want to be stuck with the budget I propose, I find it also ironic that the Aldermen say we don't want to have the power to adjust, open, spend and analyze because what we've tried to say on an on-going basis is the Aldermen have the power as the Board of Directors of this major corporation to spend money or not as the case may be. If we have a majority of the Board of Aldermen who say we're not spending another dime because we're going to save money for the City and we're going to keep the tax rate low, they certainly can do that. There is nothing in this Charter that says we have to do anything, but they are given the tools on a continuing basis to adjust, manage and exercise power. Now, is that dangerous. I don't know if it's dangerous or not. But, you said on Channel 40, I don't want to have the power to open the budget for fear we might spend extra money and that'll change the tax rate. Well, there may be things that you need to spend and the majority of you may say, we don't want to spend because we want to save the money, but you at least have the power to make that decision and that was the judgment we made on amendment of the Charter. You're not required to spend any money, you can't spend money you don't have, but you don't have to spend it. Now, if you don't want the power to act as a Board of Director's when we have given the Mayor a line item budget a veto when we have given you the power to open and spend, when we have given people the power to adjust, and we have given the people power to transfer items among themselves to really manage a City then I gotta tell you, I think it's kind of myopic, but maybe you know more about the personalities of the people that we elect as Aldermen. We hope to have designed a system that allows better government. If we can't stand better government in Manchester, then I just wasted a year of my life.

Alderman Wihby asked can I respond to that.

Chairman Pappas replied, yes, you can, Alderman Wihby.

Alderman Wihby stated I've served under, as a Republican with a Democratic Mayor, I've served as a Republican with a Republican Mayor, I've served a Republican majority and a Democratic majority and over those ten years the philosophy, overall on the Board was, I think, it was always confrontational no matter what it was, even if they had a majority like there is this year. The Aldermen are...we've gone through a recession, we've kept our bond rating with this current Charter, we haven't changed it, we've kept it, we're in the top five percent of the country with our bond rating, you look at Nashua, you look at Concord and their bond rating has dropped. Ours has stayed consistent working with this Charter. So, I don't think that there is a lot of bologna with this Charter, I think it works. But, if you give the opportunity to the Aldermen to open the budget any time they want and I read that I can add taxes, add a fee and take the fee and say, okay, Kevin Clougherty, okay, I'm going to add \$200,000 in fees and I want to spend \$200,000 that open the budget or in the first case if the Mayor's...goes back to the Mayor's number and we know we made legitimate mistakes, but the Mayor kept vetoing it and the Aldermen said Mayor it's your budget which happens every time there's a vote and you go back ten years and there's two Aldermen sitting here and there's always somebody saying Mayor do you think it works, I'm with you and it's always somebody else in the other party or whatever, they always say that. But, if he's made legitimate mistakes and we take the other philosophy that I've heard from you people saying that we can't open it unless there's additional revenues and I can't increase fees, then I can't even take care of that problem anymore because even if I know he made a legitimate mistake, we've adopted his budget from March 31st, we can't open it again because we don't have additional revenues.

Commissioner Cook interjected, you can transfer.

Alderman Wihby asked transfer from what. If that happened this year, the School Department would have been devastated by \$300,000 if you hadn't given them more money.

Commissioner Shaw stated actually he's discussing two different sections in this particular Charter here. The one that should be of major concern is the first one that he spoke of.. There was a desire on the Charter Commission to deny the Mayor the right to vote on the final budget; that a vote of six to six happened once where the Mayor voted and made it seven, it's not tolerable and in doing that we tried to counter the State law which says any time there's a tie the Mayor gets to vote and the Mayor also has a veto. So, we put in a number called eight, it takes eight Aldermen to pass a budget, that's Alderman Wihby's point. The problem is that with eight Aldermen there is the right of the Mayor...cannot be taken away to veto that budget, to revert back to the March 31st budget proposal, whatever he said, that's the budget. If he's willing to live with it, they can't overcome it without nine votes and you have to think that he might have five or six in his pocket.

Commissioner Cook interjected it was 10 votes after the 14 come on board.

Commissioner Shaw stated he has a certain number and, Brad, I don't care that if you write a new document that you think you can change the mind set of the people who are elected, they also have a constituency, they also have their ideas how this government will work and this is a major defect in the proposal that nobody should want the Mayor to be allowed to have his budget. There are so many errors in the budget that is proposed, so many things that are left out. The Mayor is mean to schools and the Aldermen think that schools should be taken care of in order to make a better community, it doesn't matter, the Mayor will win the argument unless 10 Aldermen, which they couldn't even get eight to pass the budget, you understand and now they need 10 to override his veto and now you're not talking diplomacy or negotiations, are you.

Alderman Wihby stated my only concern with this is only that...I'm on the record from the very beginning as far as the dates and pushing the dates further, closer to the thing and I think that's what we've done with this. We not only just eliminated the time that the Aldermen even have to work on it anymore. We've eliminated that altogether that step or the possibility of eliminating that and going back to the Mayor's number now which was back from March 31st which is even more dangerous than bringing the date up for the Aldermen to work. I assumed that it was June 15th, everything was going to stay the same. We moved it up a couple of weeks, we made

some people happy and on June 15th was D-Day, we compromised, we worked it out, we closed down the City government or we came up with a vote and that's always been the process, it's always worked, we never had a problem, we've always taken care of it. The bond rating's gone up. You know, I was the one who put in the ordinance for the "rainy day" fund. The "rainy day" fund has \$3 million in it right now and if you're going to take additional funding, additional revenue, half of that money goes to the "rainy day" fund. The reason why I think we kept our bond rating is because we saw that we needed a "rainy day" fund and we put it in. Well, they're going to take the additional revenue and they're going to say let's spend \$100,000 on new books because we had an uproar - the public's paying for paper - that's not right, it doesn't look good, we have an additional funding of \$100,000 that we can find in the budget, let's take that \$100,000, buy new paper with it and the Aldermen are going to go - we're not raising taxes by that because we have additional funding more than we anticipated, so we're not going to raise any taxes. There's nothing wrong with the philosophy except you are raising taxes because the following year that \$100,000 would end up in the fund balance which would help me finance the following year. Now, it's not there any more, now you've taken it away from the "rainy day" fund, we're going to deplete the "rainy day" fund and we're going to lose our bond rating. My concern is that it goes back to the Mayor's budget, that's my concern, that the Aldermen can't work it out.

Chairman Pappas stated I can tell you about County government. We do it the same way that it's being done in this new Charter and it works every time. The Commissioners budget has never ever, ever, gone into effect because the incentive is for the delegation to pass their own budget and they are scared to death of the Commissioners budget passing.

Alderman Wihby asked can the Commissioner veto your work.

Chairman Pappas replied, no.

Alderman Wihby stated, well, that's the difference. You need 10 votes now.

Chairman Pappas stated oh yes, a majority would have a vote.

Commissioner Sullivan stated, Alderman Wihby, I understand your concern about the City's bond rating and I think you should know that as part of this process we worked with Kevin Clougherty and Kevin Clougherty had bond counsel make sure that nothing in this Charter would hurt the bond rating. Kevin had concerns, bond counsel had concerns. We took those concerns into account and met with Kevin Clougherty and took care of those so that we would not hurt the bond rating and that is something that we were very careful of, Kevin Clougherty reviewed this so that would not be a problem.

Alderman Wihby stated, I think if you ask Kevin Clougherty that depleting the additional revenues, if you had additional revenues, by depleting that and not putting it in the "rainy day" fund, if that would hurt our bond rating, his answer would be "yes".

Commissioner Sullivan interjected, Alderman Wihby, let me say this though, let me say this. Why, what is so awful about giving the Aldermen the ability, if there are additional revenues and we don't have school books in the City or we don't have a need being met in the City to give the Aldermen, if they think, as the Board of Directors of this City that perhaps some of that money should be used for a specific purpose; that is the Aldermen's job, that's your job and if you feel you shouldn't do it, then you don't do it, that's your decision as the Board of Aldermen. You're the Board of Directors and we're giving you that opportunity to make a decision and for you to say that we don't want the ability or the authority to do that, I just find mindboggling.

Alderman Wihby asked you're going to use it on paper, are you going to use it for band uniforms, are you going to use it for a parade Downtown for Christmas.

Commissioner Sullivan stated, no I'm not going to use it, Alderman Wihby, the Aldermen are the ones that make the decision.

Alderman Wihby stated the Aldermen will, in fact, use that extra revenue and say they're not increasing taxes by using it and then they are truly raising taxes the following year because they're depleting the "rainy day" fund, depleting the fund balance and they're using the revenues and I think that they're going to use it crazily and just the idea of you saying what's

wrong with it they're going to open the budget. Right now, you don't know how many times a year we would have opened the budget if we could have, but after the 60 days or 90 days whatever it is, we know we can't open it anymore. So, we know...when we had a problem and we sent a directive to the departments saying we wanted \$2 million cut from them and there was an outwar in this City because we were devastating the City. We didn't devastate the City, everybody worked out fine and we were able to keep the tax rate down; that instance would have increased taxes. But, we weren't able to do it, so we ended up keeping it the way it was.

Commissioner Baines stated I guess we're trying to save the Aldermen from themselves; that's what I'm starting to hear is that we did not have responsible officials that will take an analytical look at the needs of the City and make judgments based upon the needs of the City, that's what I seem to be hearing and that concerns me. The other thing, if I understand this correctly, into a situation, if you look at 6.05 Amendments after adoption. you have to go through the whole budget process again. You have to have public hearings, you have to go through a long, drawn out and highly political process to do something like that. It's not going to happen willy, nilly and I think that's the case here. You're portraying, Alderman Wihby, at least the way I'm hearing you and correct me if I'm wrong...let's reopen the budget, we open the budget, okay, let's raise a fee, let's raise a tax, all in favor, aay, it's gone, it goes through. You have to go through a process of reopening this budget and I don't see that happening and the other thing that distresses me to hear is that if there are legitimate needs in the City without even talking about the needs that we have right now. If the City is not capable to respond to them, we do not have a City that deserves the confidence of the public. If the streets and I give this analogy all the time, if we had such a severe winter that closed down these cities or if this flood had caused the Merrimack River to flow down Elm Street, this City should have the mechanism to reopen a budget, to deal with that emergency and deal with it in a responsible manner to move this City forward and that kind of rhetoric that we're hearing tonight, again reminds me of a City that is given up on itself. This document provides a well-meaning, well-documented, well-supported mechanism to deal with the needs of the City as determined and, in fact, that statement in there came from the Department of Revenue Administration, they're looking at the long-term health of the cities and this City. So, I think this argument is a specious argument, at best and it needs

to be rejected and spoken against very clearly by the people who served on this Commission.

Commissioner Cook stated one additional point. The ordinance that you talk about, I'm not going to try to outdo that one, although I agree with every word that Commissioner Baines said. But, first of all, if this Charter passes you won't have Aldermen and Mayors of different parties, but there is nothing in this Charter that is inconsistent with or would repeal your ordinance about where surpluses go because there is nothing inconsistent about it. So, your ordinance will remain an ordinance of the City, only inconsistent ordinances don't remain. So, that ordinance ain't going to get repealed unless somebody repeals that ordinance, first of all. So, that's a phony argument. But, I gotta tell you what Bob said is right, that Bob not this Bob. We have given the tools to an Aldermanic Board, not yet elected, to manage the City along with the Mayor, not yet elected and if we and it's absolutely natural for the people in office to analyze according to their procedures and their traditions and their practices. But, we have written a Charter for the next ten minutes and we have written a Charter for the next ten years and we haven't written a Charter for these 12 Aldermen. We have written a Charter for the City of Manchester, to hopefully be able to do what we all want it to be able to do and become what we want it to become and if I were a sitting Alderman, I would be concerned about what happens to my power. I'd be concerned about what happens to my procedures and I'd be concerned about what the Aldermen sitting there and there and there that I've had to deal with would do with it and that's perfectly natural and I don't criticize you for that. But, what we were charged by the people to do and what three of the four living former Mayors of Manchester who said should be done and what eight of the nine commissioners that were elected to look at this have said should be done is to look forward at how a better Manchester could work and when you look at it through your eyes as a sitting Alderman who has had to fight and I give you credit, Dave, you've had your finger in the dike many times against disaster. But, I don't think that's the view that's got to prevail because that's why you have a separate Charter Commission from a Board of Aldermen in looking at government and deciding on how it should work and I think, in all fairness, don't try to find all the things wrong with this Charter that you can find that may not work when it's suppose to give tools to a new ordinance to make us able to manage ourselves better, to be a better City, that's what we tried to do and if

I don't get to Central High School in the next 10 minutes I'm going to be dead and that's not going to be very attractive.

Commissioner Baines asked can I ask Alderman Wihby a question. How would you deal with a situation that I describe. Let's say this flood had come down Elm Street and devastated the City, seriously, and this is a very serious question, how would you deal with this if under the other Charter that 90 days had passed.

Alderman Wihby replied we probably would have...I think there's a provision in there that would address that, but I think what would end up happening is that we could probably direct departments not to spend money in other areas and then use some of that money for other departments as far as, as long as we're not going over the budget amount.

Commissioner Baines stated, but if it was catastrophic, we'd have a major problem.

Commissioner Dykstra stated the federal government would get or the State, that's not a local issue.

Alderman Wihby stated my concern with this is Brad said we're there not to pick and choose. I'm not here saying I don't want 14 Alderman or non-partisan elections or some of the little things that are on there and it's not that I agree or disagree with some of the stuff that's in here, I don't agree with everything. But, I see two major concerns. One that I've talked to you about from the very beginning is pushing that time frame up and you've done that worse than what I thought you could do and the other one is allowing us...

Chairman Pappas stated it's just two weeks, David.

Alderman Wihby stated going back to the Mayor's number, if we don't have a budget. It could be April 1st.

Commissioner Shaw stated when you decided that it is wrong for the Mayor to vote in the budget, you had stated that eight Aldermen were necessary to pass a budget so that at any time more than half had to vote for the budget,

that was your intent. Everybody forgot about the veto power which allows the Mayor with eight Aldermen voting for it to veto the budget, when he doesn't have ten votes he can veto and when he can veto you put in a provision which sounded right, it sounded right to say that the budget he presented is the budget that is to be accepted. I don't think the Federal government, the State government, County government, anybody uses that philosophy; that it goes back to the original and that becomes law.

Commissioner Baines interjected that is required, Mayor Shaw, and I wish you'd call the Department of Revenue Administration and talk to them, that is a required part, that statement...if the Board of Mayor and Aldermen shall fail to adopt appropriation resolutions for the ensuing fiscal year as provided here in the budget as originally submitted by the Mayor shall become the budget.

Commissioner Shaw stated right there when you thought that was necessary because...

Commissioner Baines interjected, it wasn't thought, we were told it was necessary.

Commissioner Shaw continued by stating you shouldn't have passed the whole thing again. You cannot pass something that is wrong just because somebody tells you to do it wrong.

Commissioner Baines stated that's not why we did it Mayor Shaw, in due respect.

Commissioner Shaw stated, Commissioner Baines, it's important to realize that going back to the Mayor's original budget, the original, not the one they've worked on and up to a certain point where they've made major modifications to things (i.e., School funding, bonded debt, money that should be in the health care fund), things that might have been mistakenly left out or not correct at the time it was presented because you had wanted time to make these adjustments. When you go back to March 31st, you've made a key mistake. Now, there is an Alderman on this Board and there are others, but there's one on this Board that believes so strongly that nothing

should be spent, then all you need is two or three more like him to produce the Mayor's budget and to say that's it, am I wrong about that.

Commissioner Lopez stated I just want to say the same thing as Commissioner Baines and it's 49-C 23 and it was a letter than came down from the State after we went through the procedures and it does become the Chief Executive's budget, but, I think what's all been said is that this is a new system to work by and once the Aldermen know the complete procedures, not the old procedures, the complete new procedures. They are the elected officials that should have the authority and responsibility and if we're electing people that are not capable...

Commissioner Shaw interjected that's not true.

Commissioner Lopez continued by stating that's what you're indicating.

Commissioner Shaw stated I'm indicating they have strong views, Commissioner.

Commissioner Lopez stated then it's up to the leadership to take those tent Aldermen and pass that budget and not give it back to the Mayor and that was the reason that the...

Chairman Pappas stated we have several hands, let's all just talk separately.

Commissioner Sullivan stated I'm going to come back to something, as I said I don't understand. Under the current Charter if the Aldermen and the Mayor don't get a budget passed, we close down government. We close down, no more spending. To me, it is worse to say we're going to close down government, what close down the schools, close down the Planning Department, close down the Building Department...sewage treatment...bring everything to a screeching halt as opposed to under this system which is we go back to the Mayor's budget. Now, just let me finish, Mayor Shaw. In my opinion, I would prefer this system that we don't close down government. Now, if the Mayor's budget, in the view of the Aldermen and we're talking about the Aldermen as a Board needs to be changed. There needs to be changes made. The Aldermen, as a Board, you can do that. It's up to the Aldermen as a Board of Directors to...hey, we had nine people on

this Charter Commission. We all came from different positions, we came from different parts of this City, we came from different political parties. I'm not even sure everybody even liked each other before we got on this Board, we didn't even know each other and somehow this group of nine people with one exception, eight of us came up with something that we could all agree upon and even Mayor Shaw, there were things in this Charter that Mayor Shaw agrees with. So, I have faith that the Aldermen in this City, Alderman Wihby especially and I appreciate what you've done with the budget from year-to-year. You have a lot of power and persuasion on that Board, you're known as the person who takes care of the budget every year, no question. And, I think that the Board of Aldermen, sitting as a Board with consensus and working together with the Mayor, I have faith that you all will be able to do the right thing and come up with a good budget. My preference though is not that if you don't rather than having the City close down is that we at least come back to another budget. But, I have faith that it's not going to happen as you said, it's never happened, we've never had to close City government down because you're always able to come up with something by consensus.

Commissioner Dolman stated, Dave, I've been there with you at January 2nd voting on a budget so the City won't close down, I understand where you're coming from and I had the same concern, but this is a new system, I think the same thing as what Commissioner Sullivan just said is going to work the same way because hopefully rational minds are going to come together. Even though we disagreed many times, we all came to a compromise. I think the same system could work with us coming to a compromise as is right. This also gives you the power if the Mayor's budget does go into effect to open the budget and fix it at a different time. Even then the Mayor is a person and he is going to see that there are things in there that are wrong, that there were figures that were wrong, that he didn't have the updated figures himself and he knows that that budget hopefully, we're not talking about the present Mayor, we're talking about a future Mayor. But, Dave, the other thing I'm talking about is if I remember correctly in the last Charter change, it passed and then right after that Charter passed they made an amendment that former Mayor Shaw forgets about that gave the power to the commissions rather than department heads and that was a separate amendment right after the 1980, 1983 Charter passed. So, this system doesn't work. Maybe you're right, if the system

doesn't work, let's try it once, if it doesn't work you have the power, right away, as it was done with Commissioners to make an amendment to change the system back so it fits into the system you think will work and that's what I think. You've got to give it a chance, but if it doesn't work you have that power with amendments and it's been done before.

Commissioner Dykstra stated, David, did you realize that it goes through the whole process again if the budget's open, you can't just have...you go through the hearings and everything else, so you're still going to be accountable to the people and wouldn't you just think that the Aldermen would want to lower taxes rather than doing something like that because they have to answer...you're going to be the Mayor some day...look at the power we're giving you. It's just that it's going to happen, it's going to go through the whole process again and you're going to be accountable to the people and they're going to be heard. How could you have a big public hearing and then go against them and then actually get reelected.

Alderman Wihby asked can I just have one question answered. If I want to open the budget, can I say that I want to raise a new fee, I want to start charging a new head tax for a million dollars so I can spend a million dollars, can I do that or not.

Commissioner Dykstra replied, I believe you can, it's a supplement budget.

Commissioner Sullivan stated it would be that only...the process is that the Mayor has to get verification from the Finance Officer who has to certify that there are available for appropriation revenues in excess of those estimated in the budget. Only then, after the budget process can the Board of Mayor and Aldermen make supplement appropriations for the year up to the amount of that excess, after following the budget process.

Chairman Pappas stated I think Alderman Wihby is asking can you raise revenue.

Alderman Wihby stated I go to Kevin Clougherty and I say, I have a plan. I want to get a \$20.00 head tax on every citizens in Manchester, it's going to produce a million dollars, that's my plan, you can verify it yes that's what it

would reduce. Okay, now I want to spend it. Can I spend a million dollars more, can I open the budget at that point and spend a million dollars more.

Commissioner Baines replied the way I read that, absolutely not.

Alderman Wihby stated is it yes or no, I'm hearing different answers here, but if it's no, let's say it's no. I can't unless it's additional revenues, it's something that's there and it's additional revenue. I read it either way, but let's say...

Commissioner Sullivan interjected it says revenues in excess of those estimated on the budget.

Alderman Wihby stated well, then I'd say yes.

Commissioner Baines stated there are available, not will be available if you pass another tax or fee, it says "are available".

Alderman Wihby stated I already checked with the City Solicitor and he thinks I can open it any time. But, I think the intention was not to open it every time. So, let's assume that I can open it, okay. Unless, I have additional revenues inside. I go back to the April 1st, Mayor's budget, okay, because we can't come up to anything. I go back to his budget because he's vetoed everything, he's playing hardball, he wants something, we don't want to give it, we go back to his budget. I can't then open the budget and put two million dollars in even though we know his number was wrong. I can't open it up, I don't have additional revenues. So, I can't go back in and take care of School at two million dollars or fund the health insurance or whatever he forgot because he forgot it, I can't put that in, I can't open it back up again. So, now what are we going to do. I can't open it up unless someone says we have additional revenues and, therefore, you can spend it. So, I'll tell you, if it ever ends up that we go back to the Mayor's budget, I'll tell you, I don't know how we're going to survive in this City because we can't open it up unless there's additional revenues unless the City Solicitor tells us, well, it means something different but even yourselves don't know what it means and if it says we can't do it and we can't come up with a new revenue to take care of it, we're stuck.

Commissioner Sullivan stated, Alderman Wihby, I come back to the same thing I said earlier and that is under our current structure you close down the City government, it's not going to happen. I gladly rely upon the fact that you've got Aldermen and a Mayor who are working for the best interests of the City of Manchester and reasonable people using the tools we've given them are going to move the City forward. Change is hard. I appreciate the fact that the Aldermen who are opposed to this Charter have been operating under an existing Charter for a long time. It's something that you've worked with, you're comfortable with and change is hard, but, you've got to look at the whole package on the budget, you've got to look at the tools we've given you and look at it as something to take advantage of, something that you can use for your benefit.

Alderman Wihby interjected you can definitely take advantage of it, that's for sure.

Commissioner Sullivan stated well, Alderman, I have a lot more faith in, and hopefully, not misplaced in the Aldermen that they're going to do the right thing for the City of Manchester and that during the budget process you will work together and come up with, as you have done in the past, with a budget for the City that in your opinion works, that's the job of the Mayor and Aldermen. All we can do is give you the tools. It's up to the Board of Mayor and Aldermen to use them, that's all we can do is give you the tools.

Alderman Wihby stated you see, Kathy, we're not talking just Aldermen at that point. We threw the Mayor in. If it was up to the twelve Aldermen or fourteen Aldermen, they sit down, they negotiate, they talk, they come up with something and now you have the Mayor still saying no and it's going to cause ten of you to override me.

Commissioner Sullivan if the difference is that now, the Mayor has to sit down and also talk to you, what's wrong with that having the Mayor being part of the process to negotiate and talk.

Commissioner Baines stated well, that's what's bothering me. I think we have a hard time getting beyond the present circumstance and what I hear is this phenomenon that the Mayor presents a budget which he or she knows is unrealistic, is never going to pass and they're positioning themselves

politically and I think that's what has to stop, that the Mayor will have to understand that the budget that is submitted could end up being the budget and perhaps would have a more reasonable and responsible budget presented to the citizens of this community and we will get rid of some of the circus-like atmospheres that has resulted in the frenzy that the Mayor's budget put the public in, knowing full-well that this is an unrealistic budget and the Aldermen are going to change it around, that's what happens. This is the political folly that's going on and we need to get beyond it, not think of right now, but think of what could be.

Alderman Wihby stated I'm not saying he's playing the games, he put a budget together that he really thought was workable, he didn't know that there was things missing out of it at the time or that we could gain things out of it or that there were changes to be done or something wasn't coming in, he didn't know that at the time, so it's not like he was playing a game when he gave it to us. He gave us one that he thought could work.

Commissioner Baines stated I'd rather not talk about this budget or this Mayor, whatever. I'm just saying that that is a typical political posturing that I have observed, not only over the past "X" number of years, but it's been part of the history of government in the City. There's a posturing with the budget. You have to admit to that.

Alderman Wihby stated when the Mayor does his budget, I don't know would you say there's a posturing, I think he puts the budget together as well as he can at the time with the numbers that he has.

Commissioner Dykstra stated I can't see where they can create fees, is that what you're saying that they might be able to initiate some kind of a fee or something.

Alderman Wihby stated I'm saying there are two approaches to reading that. I read that, that I could increase, I could come up with a new fee and use it. That's how I read it, that's how the City Solicitor reads it, but you guys are saying it's something different.

Commissioner Dykstra stated it says "revenues in excess of those estimated in the budget, the Board of Mayor and Aldermen may make a supplemental

appropriation for the year up to the amount of such excess.” What this says is that they can use the money that’s left over, the extra money they find, they can use it, it doesn’t say you can initiate new fees or taxes. If you’re going to initiate fees and taxes that’s going to generate more money, it doesn’t mean you’re using the money you already have. This says if there’s extra money you can spend it. It doesn’t say you can make more money by initiating fees.

Commissioner Sullivan stated we haven’t had the opportunity to talk to Tom. I understand as you said earlier that you’re going to have a meeting with the City Solicitor Thursday. I guess I find it a little odd that that’s at the last minute Thursday night before the election. You’re having a meeting of the Board of Aldermen with respect to the Charter meeting with the City Solicitor. I would have hoped that you would have done something...now, you’ve had this final report for...how long has it been submitted, four week, five weeks.

Chairman Pappas replied four weeks, September 19th, I think.

Commissioner Baines stated we had asked for a meeting with the Board of Mayor and Aldermen with the full Commission to have this kind of dialogue and we asked you that over a month ago.

Commissioner Sullivan stated and now to hear...which is the last possible moment that the Aldermen could have a meeting on this, the last business night before, other than Monday, before the election, I find that interesting, Alderman Wihby, that you’re doing that at the last possible minute.

Alderman Wihby stated at the last meeting the Mayor was told we wanted to sit down with the City Solicitor, he didn’t call the meeting, when I called up the City Clerk’s Office today there was no meeting called, so we called one. We couldn’t do it for today or tomorrow, we did it for Thursday.

Commissioner Baines stated when I presented the report to the Board of Mayor and Aldermen, I specifically asked out of respect to the work that we had put into this document that you give us an opportunity to come with the full Commission to sit down with the full Board of Mayor and Aldermen to

answer all of these questions and we've been waiting now, how many weeks ago did we do that.

Alderman Wihby stated I think there was some concern why, the document was already done, you didn't talk to the Aldermen before you did it and presented it, so why talk to us afterwards just to try to explain the situation.

Commissioner Baines stated we didn't talk to the Aldermen before.

Alderman Wihby stated well, a discussion should have taken place after you came up with your final document asking for a meeting then.

Commissioner Baines stated we invited you people to so many meetings.

Alderman Wihby stated, I was invited, I'm here.

Chairman Pappas interjected to set everyone straight, the Charter was presented on September 3rd to the Mayor and the Board of Aldermen. The City Solicitor is here, could we ask. If we brought you into the discussion maybe we could solve this issue that we're discussing, is that possible, would you like to join us. Alderman Wihby could you ask the question again.

Alderman Wihby stated my concern, Tom, is under 6.05 (a) if we wanted to open the budget and I went to the...and the Mayor...and we all worked together and we went to Clougherty and said, look we want to have a poll tax, a head tax and we want to increase a million dollars in fees and we want to then turn around and use it, I don't see there where it stops me from doing it, it is additional money that's coming in, additional revenue and I guess what I'm hearing from the Charter is they're telling me, no I can't open it in that case, but I don't see where it says I can't open it and use it.

Solicitor Clark replied, my reading of it, the plain language here says that if there is available for appropriation additional revenues, it doesn't say that those revenues have to be ones that were already estimated in the budget, it just says if there are additional revenues. Regardless of how they are raised.

Commissioner Baines stated excess of those estimated in the budget.

Solicitor Clark stated when you pass your budget process, you estimate your revenues. A budget passes, you start going along. During the year you set a new fee, that's an additional revenue and it's in excess of those estimated in the budget and this says you can reappropriate it.

Commissioner Sullivan stated wouldn't the process have to be, assuming that's correct and this is the first time...

Solicitor Clark interjected once those monies are collected, they're additional revenues and you can reappropriate them.

Commissioner Sullivan stated, Tom, let me just finish, okay. This is the first time we've had an opportunity to talk with you about that particular provision. First of all, putting aside the somewhat inflammatory nature of the raising one million dollars in additional revenues through a head tax, Alderman Wihby, putting aside what I think is...

Alderman Wihby stated there used to be one before, a half-a-million.

Commissioner Sullivan stated and have it reported that something's going to happen to send the tax rate through the roof.

Alderman Wihby stated it's also politics to try to say that we're not going to open the budget and spend it and that everybody's going to be trustful and let's trust everybody and let's just go ahead and pass the budget because the Charter Commission says it's good for them. I'm here for one reason, I wasn't here to get abused by eight members of this Charter Commission, I'm here because I felt strong enough over these two issues that you're going to enable the citizens of Manchester to have their taxes raised and if you're a taxpayer and a spender, that's fine, but if you're a conservative and you don't think that it has to be raised every single time you want to open the budget because there's means to finding money inside the budget, then that's my philosophy. If your philosophy is let's just open it and spend it because we need it and never mind the "rainy day" fund, never mind the carryover and never mind what the tax rate's going to be, that's fine. My approach to this is I'm very uncomfortable with this, I took the time to check with the City Solicitor, I agree that it could be opened anytime, I

don't think that was the intention of this Charter. I think the intention was that if there was additional revenues, if we were doing better than we anticipated I think is what you wanted to say, then we could use that money, so that would at least enable me not to open it up every day, but if I want to open it up every day according to the City Solicitor, I can and that's my concern.

Commissioner Sullivan stated I'd be very surprised if that's what the City Solicitor said. If you look at the provision about supplemental appropriations, first of all, using the example that you've used. First of all, the Board of Aldermen would have to enact and as I said assuming that we're in agreement with...assuming that what Tom Clark is saying is correct and I'm not going to argue with Tom about that at this point, but let's just assume that what he's saying is correct. I believe that the Aldermen have to take some action to have that revenue raising instrument passed and they would have to go through whatever that process is to get that done. After that, then the Finance Officer would have to certify that there are additional revenues. Then after that certification, then there would have to be the budget process to go through. You would have to go through the budget process. Again, as Commissioner Baines said it's not something you can do willy, nilly, it's not something you can do every day and I think to say that, to say it's something that you can do everyday, to say that it's something that could be done like it, it's just not correct, Alderman, and as I said earlier you've done an admirable job with the budget, I don't think it's politics for the Charter Commission, a bi-partisan Charter Commission representing four Democrats, four Republicans, and Bob Shaw has worked hard to come up with a Charter that we're presenting to the voters and the voters hopefully will make their minds up - yes or no - on the merits of the entire document. I'd like to see it presented to the voters as an entire document and not engage in these types of statements about being a taxpayer spender and raising a million bucks and doing this every day of the week because that's not the case.

Alderman Wihby stated you made the comment that it was political on my part, you're the one that started it, Kathy.

Commissioner Baines stated I would rather not get into a fight about this, we can express strong views on this, but in that scenario also, Alderman, the

Mayor could veto and it would take ten votes to get something like that. So, it's just like saying the sky is going to fall, but it's not going fall. You can't do it willy, nilly, the safeguards are there, no one's going to raise a million dollars under any kind of a political climate if you have to go through this entire budget process and the Mayor can veto it and you have to get ten votes to override it, so I think the safeguards are there to protect it, but the second part of it is if that's a loophole, you close it, close it like Alderman Dolman said. If we have to protect the Aldermen from themselves then there's a process to revise it and that should be utilized, but it would be a sad case to me if we are saying and that's what I seem to be hearing tonight. We have to save the Aldermen and the Mayor from themselves. What is wrong with a community working together in the spirit of compromise, in the spirit of what is good for this community and moving it forward. Why isn't that the discussion we're focusing on and I'll repeat it again because I think it's worth hearing again, at least for myself. We're trying to save the Aldermen and the Mayor from themselves, that is sad. I don't think it's necessary and I think it's the wrong argument over the wrong issue.

Commissioner Shaw stated first meeting with the Aldermen in general to go over the Charter after it passed was an exercise in futility because the Charter was passed from us to the Aldermen to send it to vote, so the only reason to meet with the Aldermen was to convince all twelve of them that they should support the new version. Now, in any democracy you don't have to have all twelve, all nine support anything. There can be views that are different than the majority that can be just as correct, not political and thought out.

Commissioner Baines interjected, but that wasn't the reason.

Commissioner Shaw stated you also said why didn't you meet with them.

Commissioner Baines stated I need to respond to that because we met as a Commission prior to...Commissioner Pappas could not be...please listen to this, Commissioner, please. I would like you to listen to it this time, though.

Commissioner Shaw interjected, I haven't yielded to him, yet, and I don't want to hear it a third time.

Commissioner Baines stated I don't want to explain it to you a third time, we had a meeting prior to us going to the Board of Mayor and Aldermen and at that meeting, Commissioner Pappas asked me to go in on her behalf and ask the Aldermen if we could sit down and go through the Charter section by section to explain the rationale behind all the changes, that was the reason we were having the meeting period.

Commissioner Shaw stated they could just as easily find the information they needed to make judgments on the Charter through the GIR editorials, The Union Leader's support of it or Tom Clark, if that's the method that they wished to get the information to make their judgment on it, so it's not wrong of them is my point.

Chairman Pappas stated let's not argue why we invited the Aldermen to a meeting, we're getting silly now.

Alderman Wihby stated just to address Bob. Saving the Aldermen from themselves and the Mayor sounds like a good speech and I'm an Alderman, okay, well it sounds like we're saving you from yourself. So, I want to put my taxpayer hat on and as a taxpayer, I don't think the taxpayers are happy with what's happening with their taxes and what's happening out there and they're the ones that I feel I've protected in this, so make fun of the Aldermen and the Mayor and make fun of their laughing and not working together or whatever, that's fine. The bottom line is that this could lead to additional spending for the taxpayer.

Commissioner Dolman stated I can understand you because I sat here and I do understand what you're saying, but my question to you is and the whole thing is that it has to go through the whole budget process over again. Would Aldermen want to sit there and have to go before the public saying they're going to raise their taxes, okay. I don't think so. I don't think they're going to want to go back to a budget process, Dave, and tell the people in Manchester they're going to raise their taxes.

Alderman Wihby stated we're not raising taxes, we've made it a fee, so now that it's a fee we're not raising the taxes.

Commissioner Dolman stated I think it's come out that a fee and a tax both come from the same place, a person's pocketbook, a wallet. So, the people understand that, I hope they understand that. I think you'd have to go back before the public during the process and say we are going to take money out of your wallet, somehow, some way. I'm not sure they're going to go into that and you're going to get a lot of static as you're getting now from that increased fee on motor vehicles, okay, that you can't do anything about because you passed it as part of the budget process. So, I'm not sure and again like I said earlier today, if it doesn't work you have the power to change it.

Commissioner Dykstra stated you can take that money and you would, you're a conservative. Wouldn't you take that money, David, and just lower the taxes for the people.

Alderman Wihby replied my concern is the abuse that could happen.

Commissioner Lopez stated it sounded like an impasse to a lot of things that I don't think we're going to solve, so let the people decide. It's their vote.

Commissioner Dolman stated not to say that Tom's right or wrong. We're getting the City Solicitor's opinion, that is not again a legal decision, it's a legal opinion and in cases the City Solicitor has been wrong and maybe it will have to be tested to find out whether his opinion is correct or incorrect.

A gentleman in the audience stated Alderman Wihby is a conservative and he's concerned about the addition of fees. If there should be any abuse under the present Charter like he says that somebody would present a fee and raise another million and say we have another million, let's spend it, if there is an abuse or there appears to be even a slight chance, why can't we come back or the Aldermen come back and present a proposal next November with an amendment to prevent any loophole. We'd have to live with it for a year and then next November Alderman Wihby could present something and I agree with him that people with a whim can't say well, we're going to do this and raise another million and spend it someplace else. After the budget is passed there should be no more fees established to start raising extra money until the next budget.

Alderman Cashin stated I don't know what transpired, I was in a Personnel meeting. But, it's obvious there's a question of disagreement between this panel and the City Solicitor's Office, I think there is, that's what I'm hearing and it's too bad that we got to this late date. I don't understand why this wasn't probably talked about prior to this time. But, the one thing that bothered me is the addition of two Aldermen at-large. The whole country is talking about less government and the City of Manchester we're going to expand it. Now, conceivably three Aldermen could be elected from one ward. Now what happens. There's a perfect example of what I'm talking about. As it is right now and I've got to speak just coming from the west side. As it is right now, we come to the Board of Aldermen, there's three of us and there's nine of them. There's only a few that have served on the Board. Steve's been there, the Mayor's been there, they know how difficult it is and Leona's been there. Now what we're doing is compacting that problem, nobody on the west side should vote for this, honestly. I firmly believe that because it's wrong. If you people invited me here when you first and I told you and I remember saying, I don't believe that the Charter's broken, be very careful don't try to fix something that's not broken and I discussed the Aldermen at-large, I didn't think it was a good idea and I would hope that you would reconsider that. So, it didn't happen. So, I think I have a right to be here tonight telling you it's a mistake and that's why I can't support it and everybody says you don't want to make this political, well, I'm not putting up the signs all over town that say "Support the Charter". I'm thinking seriously about putting up signs that say "Don't Support It". I didn't make it political, Dave Wihby didn't make it political. Somebody did and that's the only reason I'm here and I don't mean to take up a lot of your time, but I think it's legit, I said it when I first met you and I'm saying it again, I don't think it's fair to the west side, certainly and I don't think it's fair to the City as a whole because you could end up with three Aldermen from one ward and that's wrong.

Commissioner Baines stated having been a resident of Ward 9 and I fight quite a bit for the west side, Alderman. I think the issues that we're trying to get forward here are, in fact, that we're looking at a situation where people might bring a City-wide perspective and I think that's the angle we're coming from on this issue and I disagree with you that...there's obviously a chance that you could get three Aldermen from one ward, but I just don't believe that's likely to happen and I think there's an opportunity

perhaps for the west side, maybe to get some more representatives. So, I don't think necessarily that's the case. But, let's say this at-large situation doesn't work. Again, there's a mechanism to get rid of it. If, in fact, after a period of time because you know this at-large is intriguing to a lot of people. A lot of communities have moved to at-large representatives. I think if a lot of us had an idea of creating a Charter we would have had more at-large representatives and fewer ward Aldermen to bring a better City-wide perspective. But, politically we just didn't think that could happen. So, it was a well-thought out activity, there was a lot of debate upon it and we thought that this was an opportunity for the City to sort of try, experiment if you will with the at-large concept to see if it would do what a lot of people think it would do for the community. So, that's the rationale for it and I wished you hadn't opposed it just on that basis alone because I think Manchester needs some tinkering. Manchester's government, I think a lot of people are sensing it's not working the way it needs to and this is what we tried to do, to help it work better.

Commissioner Shaw stated Alderman Cashin served a couple of years on the Board and one of the thoughts, people who proposed the at-large is the fact that because of your ward duties, because of your concern only for Ward 10 and that the other eleven are concerned only for their number on the thing that you don't think City-wide and I dispute that because I remember a conversation with you where you said to me that sometimes you had to support something because you represented your people, but at the same time you kind of hope that the other eleven were doing their job, way back at the very beginning of our relationship. Do you think that you are so parochial that you don't care at all for the City.

Alderman Cashin stated that's a loaded question, I don't mind answering it. I don't think I would have survived here for 28 years if I was that parochial to be honest with you and I wouldn't deserve to stay here. I have voted on many occasions when it wasn't in my politically best interest and I think the record will show that. I don't need an Alderman at-large to direct me on how to vote and if that's what you people think is going to happen here, you're going to defeat the purpose.

Commissioner Sullivan stated I'm going to respond to two things. One is, Alderman Cashin, if you want to put up sign that say "Vote No" that's fine, that's the process.

Alderman Cashin interjected I thought we agreed we weren't going to make it political.

Commissioner Sullivan stated no, I'm saying people can consider it and think about it and there would be people for it and against it. Having said that, in response to Commissioner Shaw, I think that, again, to say that we're saying that the Aldermen are parochial and I had this discussion today, those are your words; that's not the words of this Commission. What this Commission has said is that the Aldermen, under the circumstances considering they have all of their ward concerns, you have constituents calling you all the time about ward concerns and that takes up a lot of your time; that there's no question the Aldermen work hard and one of the things we probably should have done as I said to a couple of Aldermen today is you probably should have raised the Aldermen's salary because you guys do work hard and there's a lot going on in the City. The purpose of the at-large Aldermen is not because we think the ward Aldermen are parochial, it's not because they're going to tell anybody what to do. The purpose of the at-large Aldermen is to bring first a couple more people into the mix, some people who hopefully will be looking at some things other than the ward concerns and, of course, they're going to be getting calls from constituents, as well. But, hopefully, they'll have some time to look at some other things, for example, economic development or perhaps some other things. They're not there to tell the Aldermen what to do, they're not there because we think anyone's parochial and to say that is just not correct.

Commissioner Shaw stated I didn't say that, and I only repeat your thoughts with one additional word. Commissioner Sullivan stated, Commissioner Shaw, that's not the case, that's not the case. Chairman Pappas stated let's not have a running commentary and called upon Mr. Tremblay.

Mr. Tremblay stated this document here, in my estimation was voted on by the people. The people of the City of Manchester elected eight people to revise what I have in my hand and our society for the past 13 years has changed. If anybody here in this City will tell me that we have not changed,

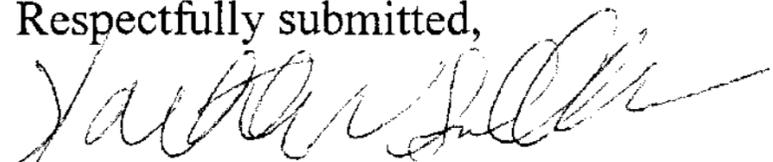
our City, everything has not changed, he's not reading the paper, he's not living with us and as far as anybody not knowing what is in this document, I have been reading in the paper many times that you people were meeting, that anybody there was welcome and we're not talking nobody was not invited. If I'm an elected official, I would have made it my point to attend one of your meetings and express my concern about what I saw in the paper. Alright, you people worked for a year on this and you have my complete support on this and if it doesn't work, you people have devised a method that the citizens of the City of Manchester can come back and change it. So, what is wrong with trying to work with it, nobody likes changes, but you people from all walks of life have come up with this document, let's try it out and if it's no good, we're going to change it, the taxpayers will change it.

Commissioner Dolman stated, first of all, I would hope that we would allow that opinion that Aldermen are parochial, that would never happen. I'm not entirely in favor of the Aldermen at-large, I argued this many times, in fact, I voted against it, as a compromise.

Alderman Cashin asked if so many people were against it, how come it passed. Commissioner Sullivan replied because the majority were in favor of it.

There being no further business to come before the Commission, on motion of Commissioner Sullivan, duly seconded by Commissioner Baines, it was voted to adjourn.

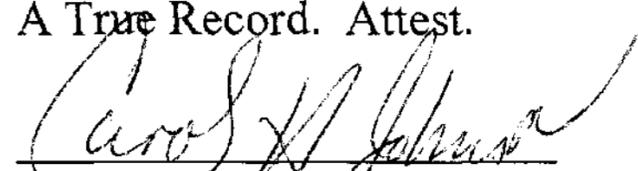
Respectfully submitted,



Kathleen N. Sullivan

Secretary

A True Record. Attest.



Carol A. Johnson, Deputy City Clerk

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Second Deputy Clerk

- MEMORANDUM -

TO: CHARTER COMMISSION MEMBERS

FROM: C. JOHNSON  
DEPUTY CITY CLERK

DATE: DECEMBER 6, 1996

RE: CHARTER MINUTES

Enclosed are minutes of meetings held by the Charter Commission being submitted for your review. Since the Commission will no longer be meeting, I will attest the minutes as a true record. Should you have any problems with what has been presented, please notify me within the next seven days.

Season's Greetings to one and all, it was a pleasure working with you.

Enclosures

**CELEBRATING MANCHESTER'S "SESQUICENTENNIAL" 1996**

# **END OF ROLL**

1

Roll Number

**Department:** Office of the City Clerk

**Record Title:** 1996 Charter Review Commission

**Ending Document:** Meeting Minutes

**Document Date:** October 29, 1996

**Camera Operator:** Sally Fellows

**Filming Date:** October 2, 2006