

CHARTER COMMISSION

June 11, 2003

5:00 PM

Chairman Dykstra called the meeting to order.

The Clerk called the roll.

Present: Leona Dykstra, Bob Shaw, Donna Soucy, Brad Cook, Patrick Duffy,
Keith Hirschmann, Leo Pepino, Nancy Tessier, Michael Wihby

Messr: Deputy Solicitor Arnold

Chairman Dykstra addressed item 3 on the agenda:

Discussion and follow up to final report.

Chairman Dykstra stated we probably should best jump right into the important issue. We just received an opinion from our attorney Bernie Waugh on the legality of the Charter. He has some reservations and some concerns in some areas that we certainly have to look at. He's not able to be here today, but we do have our City Solicitor, and I think the best thing to do is to get going on something like that. That's probably the most important part of what we're going to be discussing today. Everybody has a copy. It was just handed out to us just a short while ago. Tom, you could probably address this because we certainly can't.

Deputy Solicitor Arnold stated I received this letter by e-mail. The hard copy so to speak has not been prepared yet by the attorney. I received the e-mail mid-morning this morning. After reviewing it, I spoke to Mr. Waugh who indicated he wanted to speak to me before he put his opinion in final form and mailed a hard letter out so to speak. We discussed a number of issues including the ones set forth on page four and subsequent pages labeled opinion. After our discussion, Mr. Waugh did state he would consider some of the opinions I had expressed and I don't want to say redo but relook at the opinions he expressed in his letter. He told me that he would probably do that tomorrow morning, and hopefully re-e-mail me another letter, a change in what substantive form I don't know tomorrow by noon or early afternoon. I did ask him if he could attend the meeting tonight. He said he was unable to do that. I'm not surprised at the short notice I was able to give him, but if the Commission should decide that they want to meet with him,

I did speak to his administrative assistant, the person keeping his calendar. Ironically this afternoon, Mr. Waugh was not in the office. I actually reached him outside the office, and she informed me that he could meet with the Commission tomorrow night and Monday night. He could not meet Tuesday or Wednesday of next week, but obviously the report is due by Wednesday.

Commissioner Hirschmann stated Monday would be good.

Chairman Dykstra asked what is the date on Monday.

Commissioner Duffy responded the 16th of June.

Deputy Clerk Johnson stated yes, June 16th.

Commissioner Pepino asked does he want us to go up there or will he come down here.

Deputy Solicitor Arnold stated I asked him to come down here.

Chairman Dykstra asked so he wanted to meet at 5 o'clock. Is that good for him?

Deputy Solicitor Arnold responded I asked his administrative assistant for evening hours that he could attend, so that's what she said in response.

Commissioner Tessier asked what were the other dates.

Chairman Dykstra responded just tomorrow, and I can't make it.

Deputy Solicitor Arnold stated tomorrow and Monday.

Commissioner Cook stated question on the need of phone, I just read this like everybody else, and no lawyer wants to second guess another lawyer but where he says he may have insufficient information on some of these subjects, I know on one that struck me about the treasurer, city finance officer function, I believe, I believe, I'm doing this from memory, that there either was a Statute passed specially for Manchester which I think is that special legislation he talks about or some other designation where the finance officer of the City of Manchester assumes the functions and we said in the Charter that the finance officer serves as the treasurer and performs the treasurer's functions in Manchester, so for example, and he gives himself some leeway there by saying if in fact there's something here that fills that out, boom, boom, boom. The thing about the votes on subcommittees for the schools, he said if it's not binding on the School Committee, this wouldn't apply. Well, it's not binding on the School Committee,

so he put in an if, but you know, to the extent that Tom has a chance with any comments from any of us to get more information to him on this stuff, I have a feeling some of these would go away, because some of these seem to me to be, "I don't think this on its face is legal, because I don't have enough information, but if I get more information, it may be legal," but we could sit here all night tonight debating stuff that one conversation between Mr. Arnold and Mr. Waugh could make go away, I think that would limit the agony somewhat.

Commissioner Hirschmann asked could the Solicitor tell us which ones.

Chairman Dykstra stated we're going to go through this.

Commissioner Hirschmann stated he does some but some he hasn't.

Chairman Dykstra stated we're just kind of setting up a tentative date for Monday at 5 o'clock.

Deputy Solicitor Arnold stated I did review it with him.

Chairman Dykstra stated all right, so we're going to go right down this and let Tom address it as we go along.

Commissioner Cook stated just for the record, I don't think I can be here on Monday until about 6:30, but you can go ahead and do it if you want or whatever.

Commissioner Shaw moved to meet Monday at 7 p.m.

Commissioner Duffy duly seconded the motion.

Chairman Dykstra stated I can't make it at 7.

Commissioner Shaw stated I know that, but it's much better if we met at 7.

Chairman Dykstra asked why would it be much better.

Commissioner Shaw stated we've agreed to help everybody out.

Chairman Dykstra stated I can't make it at 7, so you want to run the meeting.

Commissioner Shaw responded not necessarily.

Chairman Dykstra stated we've had every meeting at 5 o'clock.

Commissioner Shaw stated we could do it at 7 o'clock on Sunday then. Everybody could make that.

Commissioner Pepino stated she goes to work at what, eight.

Chairman Dykstra stated it doesn't make any difference. The thing is is that we've always had it at 5 o'clock, and I've accommodated 5 o'clock for this whole session, so I mean 7 o'clock. I don't want to be here after 10 o'clock.

Commissioner Cook stated I just said I can't be here until 6:30.

Chairman Dykstra stated and I can't be here at all at 7.

Commissioner Shaw asked can you be here Monday at all.

Chairman Dykstra responded I can be here Monday but not at 7. I'm not talking about tomorrow. I'm talking about Monday.

Commissioner Hirschmann asked do you feel it would be over by 7.

Chairman Dykstra responded no, but if he wants to start it at 7 on a Monday.

Commissioner Shaw stated first of all, the attorney is coming from out of town. That's number one. We don't know what, you want to meet in the evening.

Commissioner Hirschmann stated don't schedule a meeting that you can't stay.

Deputy Solicitor Arnold stated that's what I proposed to him.

Chairman Dykstra stated then why don't we keep it the way it usually is. Then, I can make it. I don't know. It's his call. He made a motion. If there's a second, there's a second.

Commissioner Duffy stated there was a second to the motion, and I also have a conflict unless it starts in the evening at 7 o'clock or thereabouts.

Commissioner Hirschmann stated I'd suggest another day.

Chairman Dykstra stated it's the only day he can make it.

Commissioner Cook asked Carol, when do we have to have our report filed by.

Deputy Clerk Johnson responded Wednesday.

Commissioner Cook asked next Wednesday at midnight. I mean what time? I'm not being facetious.

Deputy Clerk Johnson stated I guess I would interpret it as midnight, yeah.

Chairman Dykstra stated Monday, even if you wanted to do it like at 6 o'clock.

Commissioner Shaw asked are you going to be in the office at midnight.

Deputy Clerk Johnson responded I wasn't planning to be in the office at midnight. I mean, the office closes at 5.

Commissioner Cook stated I understand. I'm just looking because there are only x number of days between now and that forced day. That's all.

Chairman Dykstra stated I can't start at 7. We'll never be done.

Commissioner Shaw stated 6:30 then.

Chairman Dykstra stated if that's a half hour. Good, I'll amend it to 6.

Commissioner Tessier asked can you stay beyond 7 if the meeting runs after 7 because you said you had to be some place for 7.

Chairman Dykstra responded no, I didn't say I had to be some place. I said I couldn't be here at 7 o'clock. It would be too late for me to be here at 7 o'clock. If you started at 7 o'clock, if it's going to be about probably two, two and a half hours, we're talking till about 9:30 at night probably. That would be a little too late for me.

Commissioner Tessier asked so you're saying you have to leave at 7.

Chairman Dykstra responded no, I don't have to leave at 7. If we started the meeting at 6. I have to be somewhere...I cannot be here at 9. I can be here until 8 o'clock. I figured if we came in at 6, fine. We'd have a couple of hours to do our work. If I come in at 7, I can't stay here till 9 is what I'm saying. We've come in at 5 o'clock, so I don't know. We could talk about that even later. There is a motion, though. What is your motion, Bob? We'll get that done with. I want to hear from the City Solicitor.

Commissioner Shaw responded to meet Monday at 7 o'clock in the p.m.

Chairman Dykstra stated Monday at 7. Do I have a second?

Commissioner Duffy stated I had previously seconded that motion.

A roll call vote was taken. Commissioners Cook, Duffy, Shaw, Soucy, and Tessier voted yea. Commissioners Hirschmann, Pepino, Wihby, and Dykstra voted nay. The motion carried.

Chairman Dykstra stated okay, so the meeting is at 7 o'clock on Monday, the 16th.

Deputy Clerk Johnson stated there are some items that you will be able to deal with this evening I think to some degree.

Chairman Dykstra stated it doesn't make any difference really. Okay, let's get on and listen to what our City Solicitor has to say. I think that's important, more important than the time of the meeting.

Deputy Solicitor Arnold stated again, I don't want to try and predict what Mr. Waugh's subsequent letter is going to say. What I could relate is we spoke about each of the numbered paragraphs in the opinion section of his letter. With respect to paragraph number one and his draft opinion that the Charter couldn't impose binding procedural rules on the Board of Mayor and Aldermen, we had some discussions centering around whether the binding procedural rules are binding on the Board or binding on a committee. He I think fairly stated was reluctant to change that but did agree to look at it, particularly look at the distinction between the Board itself and committees of the Board, but beyond that, I wouldn't care to predict what his final letter will say.

Chairman Dykstra stated okay, so he's going to be looking at section one again and probably coming up with something else or the same, either one. All right, and two under term limits.

Deputy Solicitor Arnold stated we did discuss that. That is an item he agreed to look at. He I think wanted to read the town of Hooksett vs. Baines case again. He and I had some disagreement I guess over the interpretation of that case, and he did say he would look at that. We addressed that item. With respect to paragraph number three, limits on tenure, again we discussed that. I think that although we discussed several points, the main tenor was Mr. Waugh was that there may well be a difference between for instance commissions that are set up by Charter and boards such as the Zoning Board of Adjustment and the Planning Board that are set up by statute and that the result may be different given those two committees. He did agree to look at that, and he may well attempt to separate his opinion or specify how that would apply to boards and commissions set up by the Charter

such as the Airport Commission, the Police Commission, the Fire Commission and boards that are set up by State Statute such as the Planning Board and the Zoning Board of Adjustment.

Commissioner Cook stated the Airport Authority was established by State Statute, I believe.

Commissioner Hirschmann stated just a point of order. This is a draft opinion. He's going to come out with subsequent revised opinion.

Deputy Solicitor Arnold stated this was an e-mail to me that the final letter had not even been drafted, had not been reduced to print I guess is what I should say.

Commissioner Hirschmann asked so this is merely a draft.

Deputy Solicitor Arnold responded it's a draft, but I think it does offer some guidance.

Commissioner Hirschmann stated it's not the final opinion, so we shouldn't...

Commissioner Shaw asked isn't this one here a copy of what the other Charter. I mean, have we made any substantive change to item number two and item number three in the present Charter. The present Charter we're operating on has these things in it.

Deputy Solicitor Arnold stated the present Charter with respect to subcommittees, does not specify the number of members of that committee. It does not specify that the committee has to issue a report or an item has to lay over. There were some substantive changes with respect to committees of the Board of Mayor and Aldermen.

Commission Cook stated I think he's talking about the tenure one. That's right out of the last Charter.

Deputy Solicitor Arnold responded yes.

Commissioner Shaw stated and this now is all of a sudden, it's illegal.

Chairman Dykstra stated the attorney has a different opinion.

Commissioner Cook stated because I was the author of that seven years ago, I kind of like that provision because I don't like holdovers, and we checked it seven years ago because the question came up when it was written. This doesn't mean

that everybody didn't miss it, but we checked it both with counsel we had during the time of the Charter. When we sent it to the Secretary of State who's kind of a guru on appointments and on elections, we flagged it, and it passed muster with the attorney review then. That doesn't mean Mr. Waugh hasn't picked up something that none of them caught, and I'm not saying that it's not possible that he's right, but it passed an awful lot of review the last time.

Commissioner Hirschmann stated *Baines vs. Hooksett* was 2002.

Commissioner Cook stated that's the turnover one. I'm talking about his number three.

Deputy Solicitor Arnold stated as I said, his concern with the tenure position and the Charter on tenure and the Charter on holdovers was probably more centered on boards established and regulated by State Statute such as the Planning Board and Zoning Board of Adjustment and the fact that you could be in a position where if they can't hold over for more than 90 days that the position might become vacant, and his interpretation of the Statute was that the intent was that that not happen, that you not have vacant positions on a Board of Adjustment or Planning Board because they had not been filled.

Chairman Dykstra asked any further questions. We'll just keep moving along here. We can discuss this. Okay, we're now on four.

Deputy Solicitor Arnold stated I did as you may imagine discuss this with Mr. Waugh. I think that he was inclined to stick with his opinion as set forth in this paragraph.

Commissioner Cook stated except his last sentence says "which include these representatives are not binding on the School Committee as a whole". All he has to see is the School Committee rules, and they're not binding. Subcommittee votes are all voted on by the full Committee. They are not, any of them, binding on the School Committee, so all you have to do is tell him he's answered his own question. I mean that's the whole point of that section. I mean if they were binding votes, there would probably be a lot of different opinions on that subject.

Chairman Dykstra stated so he didn't say he was going to look at this. He just said this certainly wasn't legal in his opinion because he's looking at the others but not this.

Deputy Solicitor Arnold stated again, we discussed it. I think I fairly stated what his position was, not that he didn't agree he wouldn't look at the whole letter, but as Attorney Cook points out, he does have important qualifications in this opinion.

He says that or votes taken by the subcommittee which include representatives are not binding on the School Committee. What I'll do is I'll get the School Committee rules and forward them to Mr. Waugh tomorrow morning so that he can have those in his hands.

Deputy Clerk Johnson stated they are not binding.

Chairman Dykstra stated I know they're not, but I didn't care for that.

Commissioner Hirschmann asked with regard to say the joint school buildings committee, there's a lot of actions on those committees that don't go to the full board.

Commissioner Cook responded joint school buildings committee is a statutory committee set forth by State Statute, and that is not one of the committees.

Commissioner Hirschmann asked that's not one of the committees.

Commissioner Cook responded no, not at all.

Commissioner Hirschmann stated I thought it was the building...

Commissioner Cook stated the only two are building and sites which is a School Board committee, not a joint committee, and the curriculum and instruction committee are the only two.

Commissioner Hirschmann stated therefore those report to the full Board.

Commissioner Cook stated only to the full Board and their report is voted on by the full Board.

Deputy Solicitor Arnold stated with respect to paragraph number five, the separation of the treasurer and the fiscal control function, we did discuss that. Brother Cook does make a point regarding the possibility of special legislation. I'll investigate that tomorrow and get those items to Mr. Waugh.

Commissioner Hirschmann stated that was in Kevin Clougherty's testimony. It was 1980 something.

Commissioner Cook stated it was a special law, and the Charter says someplace else I think, I don't know if this one did but the last one did, that the finance officer fills the functions of the treasurer. I mean, it's a different name for it. That's all we're talking about.

Commissioner Shaw stated and was further legal in the current Charter.

Commissioner Cook stated and the Charter before that.

Deputy Solicitor Arnold stated that may well be the result of special legislation, and I will make sure he's aware of that.

Chairman Dykstra asked and number six.

Deputy Solicitor Arnold stated number six, the bonding provisions, and number seven, the financial reporting, we did not discuss at length. I think that he fairly states what the law says, but I didn't see that this Commission would probably have a big problem with inserting a bonding provision or a provision requiring quarterly financial reports, so I didn't view them as a big point of contention.

Commissioner Hirschmann stated with regard to number six, bonding provision, if the City is required to bond its public officials, we should make that a qualification for office that you must be bondable. Listen, someone could be a criminal.

Commissioner Cook asked does the 49-C:23 bonding requirement go to elected officials. I don't think it goes to elected officials.

Commissioner Cook asked does it exclude them.

Deputy Solicitor Arnold stated we presently do that now, but it's done by ordinance. It's done by ordinance now. It's not in the Charter.

Commissioner Cook stated I think that certain officials are required to be bonded by 49-C, and that doesn't include elected officials. It was a good point, and I don't disagree with it.

Commissioner Hirschmann asked so it's not for elected officials.

Chairman Dykstra stated any criminal can run for office, any criminal.

Commissioner Hirschmann stated if that were the case, they should change the qualifications for office to match that. That's all my point.

Commissioner Cook stated or it would be a very expensive bond.

Commissioner Hirschmann stated correct. You could have a felonious type that would win office, and you'd have to post a bond for the guy.

Chairman Dykstra stated we've had people way down the road there, way back that had run and really had a record. It didn't stop them from running, and they got quite a few votes.

Commissioner Hirschmann stated number seven, the financial reporting actually happens from the committee on accounts and revenue administration. They get their quarterly reports from the finance officer who sends them to the full Board because I was the chairman of that committee once.

Deputy Solicitor Arnold stated we've discussed that briefly, but the Statute says that the quarterly financial reports come from the chief administrative officer, and I think as a practical matter that that's probably happened over the course of the years in the ordinary conducting of the business of the Board, you know, that the Board may ask for information, and the Mayor reports back.

Chairman Dykstra asked was it in the last Charter.

Deputy Solicitor Arnold responded I don't believe so.

Chairman Dykstra stated so look at, look at this.

Commissioner Cook stated we could insert it to say something like the Mayor will assure that quarterly reports of the financial system, blah, blah, blah, will be made to the Board of Mayor and Aldermen. It could be done just like it's being done now.

Commissioner Hirschmann stated it is done. It's just not done that way.

Chairman Dykstra asked if we could get the finance office to draft something. Who's the most appropriate person?

Deputy Clerk Johnson stated we'll take care of it.

Chairman Dykstra stated all right, the Clerk's office will draft something to incorporate the financial reporting part in there, just so we have that in there, so evidently it wasn't in the last Charter either. No one caught it.

Commissioner Hirschmann stated it's in the rules of the Board. It's not an ordinance. It's a rule.

Deputy Clerk Johnson stated what he's saying is the Charter has to say that the Mayor is responsible for that, so we'll just do up some language that says that he

assures that it gets done. He can order the finance officer to do it, or he can otherwise provide for it.

Deputy Solicitor Arnold stated what it states is, 49-C:23, VIII, periodic but at least quarterly reporting of the state of the City's finances to the public and the elected body by the chief administrative officer.

Chairman Dykstra asked can't we just put that in our Charter, that same wording or similar.

Deputy Clerk Johnson responded that would be easier to just do that. We can utilize the quarterly reports to do that.

Commissioner Pepino stated we took care of one.

Chairman Dykstra stated you know, that's something we have to have, and that's fine.

Deputy Clerk Johnson asked what have we got there, 49 what.

Deputy Solicitor Arnold responded C-49:23, VIII.

Deputy Clerk Johnson asked do you want us to bring that language back at the next meeting. Six and seven we'll bring the language back.

Chairman Dykstra responded definitely. You can bring that language back so that we have that. Any other discussion on the opinion or anything else.

Chairman Dykstra addressed item 4 on the agenda:

Financial report, if available.

Deputy Clerk Johnson stated the only financial report I have is to inform you that we have about \$6,000.00 of expenditures to submit to the committee from the Clerk's office based on up to tonight's meeting plus the legal expenditures, and I would anticipate at that point, I think there's about \$2,600.00 still left, so there's a little bit of room. We are having Mr. Waugh come down. You're going to have to pay him to be here obviously.

Chairman Dykstra asked have we paid him that money up front.

Deputy Clerk Johnson responded no, we haven't paid him a dime.

Chairman Dykstra asked you do think financially we're right on target.

Deputy Clerk Johnson stated financially you're on target. Our feeling was that after we had all of the final costs, at that point, we'd ask you to call a meeting just to accept it or we'll poll the members.

Chairman Dykstra stated when you get this tomorrow, is it an e-mail or is this going to be actual definite opinion.

Deputy Solicitor Arnold stated I would imagine that he'll send me an e-mail that is a copy of his final letter.

Chairman Dykstra stated you could send that to the whole Commission as soon as you get it.

Commissioner Duffy stated that was my request that we get that for the weekend.

Deputy Clerk Johnson stated as soon as we have it, we'll notify you or get it to you.

Chairman Dykstra stated that's fine. The financial report we don't have right now. Is there any other business to come before the Commission?

Deputy Clerk Johnson stated I do have a question. The Clerk's office received a copy of a majority report, and I'm not sure what anybody wants us to do with that.

Commissioner Cook stated we've got to talk about it.

Chairman Dykstra stated Commissioner Shaw did send a...did everybody get this.

Deputy Clerk Johnson stated my understanding is he got it to everyone.

Commissioner Shaw asked does everybody have mail. I don't know if everybody received it. Everybody get their mail opened? This is the first draft of a thought. It is not meant to be the star of the show or the Shaw Charter. There's no such animal.

Chairman Dykstra stated the thing is we do have changes that are going to come about so it might negate something you have in here, so I mean I don't know if it's something you want to discuss now.

Commissioner Shaw stated the only thing is the second page has an error in it. Do you believe that? The City Clerk informed me that there is no State law that

requires Aldermen to be candidates, so I've got a second one. You don't have to read it tonight.

Commissioner Hirschmann asked why do we need a majority report. The Charter is the majority report itself.

Commissioner Shaw responded we don't. We don't have to. We had majority reports the last time and a minority report. My minority report was in this format.

Chairman Dykstra stated I'd like Carol to basically inform this Commission on basically what comes next. We get the opinion. How is this presented to the Board? Maybe that's something we should know.

Commissioner Cook stated excuse me, Madame Chair, she started to say something about she did some research, and I was wondering what she was going to mention.

Chairman Dykstra stated oh, I didn't hear you. Sorry.

Deputy Clerk Johnson responded two things. The law requires that the Commission file a final report which needs to be in our office as you know next Wednesday. That final report has to contain the Charter revision itself which you're proposing. It has to contain also a summary of explanation. I researched what was submitted the last time just for clarification because there seemed to be some unclearness about that. What was submitted to the Board of Mayor and Aldermen were basically three documents. One was an explanation. It was listed as the final report, and it gave an explanation of the changes. The second item that was there was the actual draft or the revision of the revised Charter that was proposed. The third item contained the minority report signed by Commissioner Shaw at the top. That is what was presented to the Board of Mayor and Aldermen.

Commissioner Cook stated if I understood what you just said, there was no vote to file, and Mr. Shaw's report was filed with the Board of Mayor and Aldermen.

Deputy Clerk Johnson stated it was presented to the Board of Mayor and Aldermen with the other documents. There was no motion to receive and file at the Commission level.

Commissioner Cook stated I wouldn't think we would have done that to him, but you never know.

Chairman Dykstra stated I don't know how it got there because we didn't pass it on to the Board.

Commissioner Cook stated yes, we did.

Deputy Clerk Johnson stated the entire package was submitted, and that's what was submitted at the time. I'm not saying that that's what you have to do. I'm just telling you that's...I mean, there's been some question about what the history is there.

Chairman Dykstra stated it probably just went there. I know at the meeting, we didn't discuss it at all.

Deputy Clerk Johnson stated our office had prepared your final report based on all the actions. We provided a simple summary, and we provided the revised Charter document as the final report, and we submitted that with the understanding that if there were problems with that, a meeting was going to be called. I don't take any ownership on how you proceed with this. I know that there is a minority that was out there up till this point that wanted to file something. The Commission took an action to just file that report when it's received. How we handle that, that's fine, but I would ask that at the next meeting or we get to our final meeting that I get some clarity from this Commission as a whole on what I'm sending and terming the final report. My thought process is that it would be nice if we had the signatures of those supporting that document on the document, and that is also what they did the last time, but their time frame last time was not quite so tight as this one.

Commissioner Cook stated we had to have it signed or somebody told us we had to have it signed because I remember scurrying around and finding everybody's signature.

Chairman Dykstra asked what would that go on. Would that go on the explanation of this?

Deputy Clerk Johnson stated it goes on the final page.

Chairman Dykstra stated on the last page of the Charter, last page, so we would just have the five names signed on that. Is that correct?

Deputy Clerk Johnson responded if there were five in support of it that want to sign it.

Chairman Dykstra stated that's the way it passed.

Deputy Clerk Johnson stated I think you're going to be making changes to it Monday night.

Chairman Dykstra stated the thing is certainly we cannot put together an explanation and changes because we're still waiting for the opinion, so that can't be put together yet because some of the changes we've changed, maybe we can't change. Okay, so we'll have to hold off.

Commissioner Hirschmann stated I wouldn't call it a majority report, but I would say a one page cover letter, maybe two paragraphs as cover letter with your Charter that highlights the major impacts.

Chairman Dykstra stated that's what it is.

Commissioner Cook stated that was already submitted to you, a summary of what the thing does.

Commissioner Hirschmann stated but we didn't approve that as a committee.

Commissioner Cook stated I understand that.

Commissioner Shaw stated this is what you did. This is facts. Her City Charter final report is facts.

Commissioner Hirschmann stated but without the bombastic statements in there that insult people.

Commissioner Wihby stated without reason.

Commissioner Shaw stated well, that's why it's first draft.

Deputy Clerk Johnson stated my thought was is that you're right. That is merely a statement of facts. My intention had been to request that the Chairman make a presentation to the Board of Mayor and Aldermen of the document at its meeting July 15th. It will be stamped as received, but the Board won't be meeting until July 15th, and I had spoken with the Chairman about that.

Commissioner Hirschmann stated I would move for that.

Chairman Dykstra stated so basically the Charter and explanation. Let's see what the changes are.

Deputy Clerk Johnson stated I think that a cover letter or further comments is fine. I did not want to make any comments on behalf of the Commission, so I put together a report that was based on the actions of the Commission as a whole.

Commissioner Shaw stated but the last report by the majority had more than the facts.

Deputy Clerk Johnson stated it had the summary of facts, and it had explanations backing up those, not subjective, just merely explanations.

Commissioner Shaw stated depending on which side of the committee you sat on. The explanations suited the vote of the eight.

Deputy Clerk Johnson stated I can provide a copy of that to all members of this Commission as well.

Chairman Dykstra stated we really can't do anything with the explanation because we don't even know. We can't do it until we find out what Attorney Waugh has to say and then we certainly will have to have the document done over again, the Charter. Get a copy of that one.

Deputy Clerk Johnson stated you're going to want to see it and act on it the night. I would suggest that you also schedule a meeting for Tuesday, and we will hope to make all those changes on Tuesday and bring it to you.

Commissioner Hirschmann asked what is Wednesday's deadline. What is that time line?

Commissioner Cook stated that's when your number of days is up.

Deputy Clerk Johnson stated it has to be submitted to the Clerk's office which closes technically at 5 o'clock.

Chairman Dykstra stated we'll probably kind of know basically even before that meeting what's going to happen because we're going to have that definite final opinion from Bernie Waugh, so we'll know then and there what's going to be happening because we can't change it anyways.

Deputy Clerk Johnson stated I think that in retrospect of a discussion I just had with the Solicitor, in order to get the attorney's opinion at the same time to agree with it, we're probably going to have to do drafting of those language changes while you're meeting, so we will have a computer working in another room and just go back and forth if we need to.

Chairman Dykstra asked you think we could do it before then if we get all that information say tomorrow.

Deputy Clerk Johnson stated you could put somebody together to do work, I guess. There are issues in there that are major issues for this Commission. If you want to go back and work on items one, two, and three through five based on what you have now and what you might like to see for language to be prepared, certainly we can go back and discuss those, but I mean those are major changes in your document.

Chairman Dykstra asked can we ask Attorney Waugh if he mandates yes, you have to make this change, in my opinion it's not legal, can he actually submit or bring forth some language for us. Could he do that so it would move us along quicker instead of fooling around with everything?

Deputy Solicitor Arnold stated I could ask him to do that.

Chairman Dykstra stated that might be easier for us.

Deputy Solicitor Arnold stated I think once we have the letter perhaps I think it's going to pretty much set forth if you want to get an opinion what's going to have to be done, and we could probably draft appropriate language with the approval of the Commission.

Commissioner Cook stated I think your suggestion is an eminently practical suggestion. I'm not sure it fits his role as the reviewer. I think you know he says for example in those last two these two things from 49-C aren't in the Charter. Tom can certainly take that and work with Carol and say, "Here's how you put it in." They can even run it past him first, but I think in terms of absolute purity of the process as it's intended, he's only supposed to review what we do.

Chairman Dykstra stated but it might be helpful to us to just have that information.

Commissioner Cook stated if you play a little ping pong game they get here so he says here's the problem, they draft it. They check it past him, and he says, "Yeah, that would work" then at least we know that, but asking him to draft it when he's been reviewing it mixes your metaphor.

Chairman Dykstra stated I don't know what attorneys do, but that's fine.

Deputy Clerk Johnson stated we'll try to have some kind of working document by then.

Chairman Dykstra stated all right, so is there anything else.

Commissioner Shaw stated could I ask a question. Let's presume that his suggestions aren't accepted.

Chairman Dykstra asked what do you mean, aren't.

Commissioner Shaw responded go to the worst case. He makes a suggestion. We don't accept it. What happens then?

Deputy Clerk Johnson stated you have to find a legal opinion that will go along with your draft.

Chairman Dykstra stated we're not going to run around spending money for a legal opinion we want to hear.

Commissioner Shaw stated so therefore the Charter will just die if we can't get a legal opinion.

Commissioner Cook stated it has to be submitted with a letter that says it's okay.

Deputy Clerk Johnson stated then you submit a final report stating that you don't have a legal opinion.

Commissioner Shaw stated therefore the Charter dies automatically.

Chairman Dykstra stated that is part of the process that we do have to make sure that the attorney agrees with what we've done.

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

Respectfully submitted,

Deputy City Clerk

Approved for Commission: _____

Donna M. Soucy, Secretary