

**SPECIAL MEETING
CHARTER COMMISSION HEARING**

January 29, 2003

5:00 PM

In the absence of Chairman Dykstra, Vice-Chairman Shaw called the meeting to order.

Vice-Chairman Shaw called for the Pledge of Allegiance, this function being led by Commissioner Cook.

A moment of silent prayer was observed.

The Clerk called the roll. There were eight Commissioners present.

Present: Commissioners Shaw, Soucy, Cook, Duffy, Hirschmann, Pepino, Tessier, Wihby

Absent: Commissioner Leona Dykstra

Vice-Chairman Shaw advised that the purpose of the meeting is to receive comments School Committee Members, School District Administrators, School District Employees, and School Union Representatives regarding proposed changes to the City Charter; that anyone wishing to speak come forward to the nearest microphone, clearly state their name when recognized, and give their comments.

Mayor Robert Baines, stated:

It's an honor for be to be here this evening before all of you and the first thing I would like to do is commend all of you for taking on this awesome and very important responsibility. I just mentioned to Mayor Shaw that the experience that I had with this in 1996 was perhaps one of the most gratifying experiences that I've had in public service especially the great friendships that occurred as a result of our efforts, we worked very hard, we had a lot of fun and I thought we did some very good work. Having said that there are several issues that I want to address this evening and then as others I will make myself available for any questions or comments that you might have. The first comment that I would like to make that I don't think we should be looking at 1983, I think we should be looking to the future. We need to create a government that's reflective of the changing needs of the future and I think the first thing that I want to talk to you about is the issue of

partisan elections. I distributed to you and will make available to the press and others who are interested why non-partisan elections. This was an issue that we grappled with extensively on our Charter Commission...Manchester has a long history of having non-partisan elections and then going back to partisan elections. So, I believe up until 1959 and I think we changed the election in 1961, we moved back to partisan elections...Manchester has a history of non-partisan elections for good reason. There isn't another community in the State of New Hampshire that has partisan elections, none. The trend across the country, all the major cities across America, almost all of them...non-partisan elections. I'll give you an example...I'm very active in the U. S. Conference of Mayors, I'm on the Leadership Group for the U. S. Conference of Mayors...I do not know which ones are Republicans and which ones are Democrats. I was at the White House on Friday with President Bush addressing the Mayors and one of the things he said very clearly...when you're a mayor it doesn't matter if you're a Republican or a Democrat. In fact, he went out of his way to praise Mayor Daley, the Democratic Mayor of Chicago because issues that faces mayors are not partisan. There's not a Republican or a Democrat pothole that I have seen. There's isn't a Republican or Democrat issue that relates to picking up your garbage, plowing your streets, keeping your parks and playgrounds in proper condition, maintaining your schools, supporting education...I can't think of anything that you do as mayor that reflects on a political party. What non-partisanship does and I think you need to talk about partisan politics versus non-partisan elections...there are two things. There are always going to be partisan politics, I'm a Democrat, I'm very proud to be a Democrat and I do partisan things...at the national level and at the state level. At the local levels it's all about good government and access to elections. The statistics are startling. If you look at the chart that I just distributed to you...in 1995 the last partisan election in the City of Manchester 6,628 people went to the polls. One of the things that all of us try to do in public service is encourage people to vote. The number one obstacle that you put in front of people today, especially, in a state where Independents or undeclared as they would say is the largest group in the State of New Hampshire. Also, in Manchester, 26% of our voters are Independents. It's growing, it's grown from 19% before partisan elections to 26%. I've been told that approximately 50% of the new registrations recently have been Independents. What partisan elections do is tell this group of people in many ways there's an obstacle to you voting. The statistics...the last non-partisan election in the City of Manchester...16,245 people went to the polls. That is almost a 150% increase in the number of people voting in the City of Manchester. Most people who go to the polls do not care if people are Republicans, Democrats or Independents, they vote for the person and where that person stands on the issues because in cities, as I made very clear, there aren't partisan issues, there truly are not. If you want to encourage people to vote you're going to reconsider your decision. Secondly, you may do some good work on this Charter Commission and I hope you do. You're going to cause the defeat of your

Charter because what you're doing is shutting out the people of the City of Manchester and on this basis alone I would lead an effort to defeat the Charter and I will bring together a coalition to defeat this Charter if you do not keep non-partisan elections and I think the voters will turn out too because what you're doing is disenfranchising people who do not need any obstacles in going to the poll, they shouldn't have to walk in and say are you are Republican or a Democrat, who cares. They want to vote and they want to vote for the very best candidates. The City of Nashua...their most recent election...highly contested election...non-partisan by the way, the second largest City in the State...two Republicans, two well-respected Republicans and that's fine and that could happen in every single ward in the City, give it a chance...time will take care of any of the concerns that are out there. The political parties have a very important role and they will continue to support candidates and that's a good thing. But, what we're talking about is allowing people to go to the polls without having to declare a political party; that is irrelevant in 2003 and you need to reconsider that because my prediction is right or wrong and that may not bother you that I will lead a crusade to defeat this Charter...that would be a shame because you have an opportunity to do some good things, but don't disenfranchise the voters of the City of Manchester, partisan elections do that. Secondly, what you're telling all of the...maybe we have thousands of federal employees here in the City of Manchester covered by the HATCH Act, the HATCH Act prohibits federal employees from serving their communities if there are partisan elections...that means they can't run for ward clerk, they can't run for selectman, they can't serve the communities at a time where we cannot find people to serve in those capacities. What is this nonsense about partisan elections because that is truly what it is. Do we want to have 6,000 people vote again, a very small percentage of people participating in selecting the very best people to lead this City, I don't believe so. For the sake of a political party. I think not and that was a wrong decision. If you look at the statistics how can you deny that, how can you possibly deny over 10,000 additional people going to the polls participating in elections because they don't want to have to declare their political party. How are you going to deny 26% of the citizens of Manchester and a growing number that are Independents. Why should Real Pinard have to declare a political party to have a chance at being an Alderman, what does it matter? When you call an alderman because your street light is not working or you have concerns about snow plowing or education in the City, do you think the average person in this City cares if you're Republican or Democrat and there have been great shifts in the party through the years...same people who vote, sometimes they vote for Republicans, sometimes they vote for Democrats, sometimes they vote for Independents. That vote, I believe, only serves a very small group of people with the political parties that have their own agendas and that includes my party. They can support candidates, participate to elect candidates, but we should not go back to partisan elections. Enough said about that. Commissions – that system works. I heard a

comment by Alderman Wihby the other night that the Police Commission...he had heard and I'm sure he did, I'm not sure where he heard it, but the Police Commission was opposed for filing the Deputy Chief's position. I have checked with the Police Commission...that is not true. They fully supported filling those positions. The Commissioners who have problems within the departments do make their voices known and do call this office. When Pat Duffy served as Chairman of the Airport Commission he would often call me and talk to me about issues pertaining to the commissions. Department heads should be allowed to run their departments without a group in between them and the Mayor and the Board of Mayor and Aldermen. Governments today are trying to be structured like businesses. You have a CEO who's the mayor, you have a Board of Directors that are the aldermen. The Board of Directors who set policy and I think Mayor Wiczorek spoke most eloquently about his concerns about that issue as well. If everyone understands their roles that the Board of Mayor and Aldermen are policy makers as the Board of School Committee is the things will work just fine, but the executives within their organization should be allowed to run their organizations, make promotions as they see fit, make the day-to-day decisions about how to run their departments with great efficiency and great effectiveness without commissions in between. They have a very valuable role, however, as advisors to the department heads and any department head who does not draw upon that expertise, I believe is missing a great opportunity. Tax Cap – I think all the mayors have talked about that, that's not a prudent thing to do and I think Kevin Clougherty will talk about some of the financial ramifications of that. The economy has its ups and downs and the economy right now is in horrible shape across the country. It's been described most recently as the worse situation statewide since the Great Depression and at least since World War II, over 43 states are in deficits right now because of the national economy. Property tax rates have increased across the nation at rates that haven't been seen in many years. Why this past year...at a 20% increase in their property taxes. Manchester is about 7.7% which is probably about the state average. Without raising the revenues that we needed to raise in these very difficult challenging times we would have been laying off police officers, firefighters, health department workers, the first responders since September 11th. Would we even think of doing that with our national military? When people call 911 today, they don't call Washington, they don't call the State House, they call their local government. So, occasionally governments have to do more than they would like to do in terms of taxes, in difficult times...we are all in difficult times across the nation, not just Manchester and we're probably more moderate in terms of the increase that occurred in this City than in many communities across this great country right now because we made a decision to maintain vital services in our community. That's the job of the Board of Mayor and Aldermen, in my opinion. The other issues that I believe that this Commission needs to look at is the financial structure of City government. Next week Mr. Clougherty will be talking to you and I haven't seen

the details of his proposal while creating a Department of Administration with a Chief Financial Officer of the City. And, I want to quote from a paragraph in a report that was issued by a committee that I put together to discuss City finances that was made up of former Mayor Sylvio Dupuis, Dick Charpentier, Chuck Hungler, John Miles, Georgie Thomas the former State Treasurer, Steve Camann who used to own the Dunkin Donuts franchises, Allison Pitman-Giles who was originally on the committee, John Madden and Maurice Pratt a former CFO of Catholic Medical Center, and I quote this one paragraph for the record:

“It must be made clear and agreed upon that the Finance Officer reports to the Mayor who is the Chief Executive Officer of the City. This fact is addressed in the City Charter and City ordinances clearly supported by the opinion of this City Solicitor which has been documented in correspondence to the Mayor. The Committee recognizes that the Finance Officer also is reporting responsibility to the Board of Mayor and Aldermen, but this in no way overshadows or minimizes the Finance Officer’s responsibility to the Mayor. Currently, the Finance Officer believes he is responsible to the Board of Mayor and Aldermen only and not to the Mayor. If the opinion of the City Solicitor needs to be reinforced by amendment to the City Charter or additional City ordinances this should be pursued. It must be clearly understood that the Finance Officer is the Chief Financial Officer of the City, reports to the Mayor and is responsible and accountable for the overall financial functions of the City including budgeting, finance reporting and long-range financial planning.”

Mayor Baines continued by stating that issue is obviously not clear in the Charter to all and needs to be addressed. This has nothing to do with the personal relationship or respect that I have for Mr. Clougherty. I have the highest respect for him and I would say we have an exemplary working relationship, but there is an issue with this that needs to be clarified. We do not need officers of the Board. We need a structure that clearly delineates that all of these people that function as officers are department heads appointed by the Mayor, confirmed by the Aldermen and they report to the Mayor. Then finally, the two other issues that I would like to...several, but I’ll go through them very clearly...I think the at-large position should remain and I think that’s another thing that if it gets on the ballot it’s going to cause the defeat of the Charter. The people have spoken on that issue, was brought forward to the voters a second time after the Charter was passed and the voters overwhelmingly supported as an independent question having at-large representatives. What is wrong with having more representation at the City level. That is where I disagree with one of the things that Mayor Wiczorek talked about and we talked about it on the previous Commission...having a smaller Board of Mayor and Aldermen. Manchester has a long history of having 14 Aldermen and 14 School Committee Members. It wasn’t until redistricting that we went from 14

to 12. What is wrong with allowing all the people of the City of Manchester to make a choice on who sits on the Board of Mayor and Aldermen or the School Committee, isn't that better representation of the people. Doesn't that give us City-wide perspective to issues...that aldermen do not have to get bogged down with these issues of constituent services, their important function. But, what is wrong with more representation. We have a State with over 400 members of the House of Representatives and we celebrate it, but we can't celebrate having 14 members representing all the people...two of them from each ward representing all of the people...you should reconsider that. Another issue that you have debated and I've heard debated for some time is the issue of the Mayor's budget. That's required under RSA 49-C:23 and I quote and you can't change it:

“Failing final adoption by the established date, the budget as originally submitted by the Chief Administrative Officer shall become the budget.”

Mayor Baines continued by stating when we sent our Charter to the State for review we did not include that provision, it came back to us and said it cannot go on the ballot without that provision, that's a State law. Non-interference – is also a State law...all we did was duplicate the State law and I won't read it to you, but it's RSA 49-C:19...the issue of bonding came up about voting for bonding. It's a State law:

“Borrowing for a term exceeding one year shall be authorized by the elected body only after a duly advertised public hearing.”

Mayor Baines stated what we did with that Charter and that's why you shouldn't be going back to 1983...it's like going “Back to the Future”, I guess. These are issues that are well documented, well debated and we put that Charter in compliance with State law which your Charter must also be. I will close by saying this to you. There are some things you can do, but we passed what I believe is a Charter, it's working, it's not broken...should it be fine tuned as I said initially, absolutely it should be fine tuned. But, you shouldn't be going back to a Charter that was out-of-sync with State law. Thank you very much for listening to me and I'd be happy to respond to any questions or comments that you might have, Mr. Chairman.

Vice-Chairman Shaw stated you've stated you would fight the new Charter if it has non-partisan elections. So, my only question to you is this. If we gave you non-partisan elections but also gave you the right to be Chief of the finances of the City of Manchester which was proposed back in 1996 which one would cause you...in other words, you only had two choices...you have that which is most important...the control of the finances or non-partisan.

Mayor Baines replied again that would not be a choice...I'm used to you asking me questions like this reminds me of many years ago. The most important responsibility that is in the Office of the Mayor and a big weakness in our government is the financial structure of the City; that is the responsibility of the Mayor just about everywhere in the USA. The fact that you have and this was a mistake on our Charter, the way we structured the Finance Office...the Mayor should have absolute control of the finances of the City with the checks and balances that are there through auditing, having a Chief Financial Officer that works directly for the Mayor...can you imagine in an over \$200 million business when the Chief Financial Officer does not believe he reports to the Chief Executive; that is why all of these business people and government people including Georgie Thomas said this is ridiculous, so to answer your question, if I had the choice of the two it would certainly be the finance thing would be very important to any mayor, not just this Mayor. And, that's another thing, you need to think beyond mayors and we did that with the other Charter.

Commissioner Tessier stated back to the budget...one of the major problems as you remember in the School District is the delay in the budget coming back to the School District and the handicap it gave to all of us in hiring, buying materials, opening schools without proper equipment and books...how would you rectify that problem so that the School District received their money at a better time.

Mayor Baines replied that's a tough issue and we did grapple with that issue with the last Charter.

Commissioner Tessier stated back a few years ago, I believe you were very verbal when you were at West High School about that same issue and not being able to hire quality people because we lost them to other districts.

Mayor Baines stated first of all you're absolutely correct in your assumptions and we grappled with this in the last Charter Commission and that's why we made some of the adjustments that we made in the timeline even though they didn't coincide because we were told very clearly that because of how the data comes in in terms of revenues especially, tax base issues, etc. that it was impossible to advance the date to a much earlier date. I think we had recommended around May 1st that the final budget be adopted. Having been here for a while what I see is a very prolonged and protracted budget process...well beyond the time that is necessary. The decisions that we usually make at the last minute could easily, I believe, be made at least a month or more before and I think the Charter Commission should look very strongly at that. Mayor Wieczorek was correct, however, prior to his last budget that he had to submit he did not have to worry about his budget being adopted as a fall back budget because it wasn't required. But, once you go through a Charter revision you have to put it in sync with law

and, therefore, he was able to come in with budgets that perhaps I think even he knew were not ultimately going to be realistic because all of the financial information was in. There's a tremendous responsibility now on the mayor to present a budget that hopefully all of the departments could live with if, in fact, you couldn't get a consensus, enough necessary votes to pass the budget. So, to answer your question, I think very easily that they could be adjusted in advance to deal with most of the issues with the School District.

Commissioner Tessier asked could you see the possibility of having the School District's budget solidified before you had other departments solidified to help this situation out?

Mayor Baines replied I think you could solidify them all much earlier, I think we spend too much time on the budget process. We spend about seven months of every year on it, think about it. You talk about wasted...not wasted time, but the time you have to devote to it, the date should be advanced and I think you should look very strongly at that.

Commissioner Cook stated the question I've asked all the mayors and former mayors is in relation to the interesting dual position that you have as Chairman of the Board of Aldermen and Chairman of the School Board...you're mandated by State law to be Chairman of the Aldermanic Board, but you're not mandated by State law to be Chairman of the School Board...do you favor continuing the mayor as the Chairman of the School Board or changing that?

Mayor Baines replied I recommend continuing it, it's a very unique relationship. I'm finding there are more mayors that have that responsibility than I thought through my involvement with the U.S. Mayors...a lot of mayors are trying to exert more control of the schools...there's a movement across the country to get away from elected school boards, which I don't support to give mayors more control over the schools because it has such an impact on your budgets. So, I recommend continuing the relationship...we were cleaning out our cellar the other day and I threw away...I didn't throw it away actually...there were some references when I was on the School Board of chastising the mayor at the time for not coming to Chair the School Board meetings and if you recall Mayor Shaw, I think, was the first Mayor in a long time to become an active Chair of the School Board and that tradition has pretty much continued, I think, since Mayor Shaw and I think it's a very important link, it's a good combination because you have a Vice-Chair that does just by virtue of that responsibility take on a lot of the things that perhaps if you could be more active, if you didn't have the demands of being the CEO of the City, I think it's a good balance but it keeps the mayor whomever that person might be in touch with School District issues, it has such a tremendous impact on

your budget and also the overall well-being of the City, the mayor should be engaged.

Commissioner Pepino stated looking at your chart here...partisan and non-partisan elections, if you go back to 1995 and then you go to 1997...in between that part there isn't that about the time that our former President signed "Motor Voter" and isn't that about the time where people could go to the wards and register on election day?

Mayor Baines replied it might be around the same time.

Commissioner Pepino asked would you say Motor Voter had something to do with this?

Mayor Baines replied it might have something to do with it, but I don't think a very significant part of it. When you go from 6,000 to 16,000 that's more than Motor Voter. You have to think about what's happening with the Independent voters across this nation, they want to be able to participate and this is shutting them out of participating.

Commissioner Pepino in reference to the numbers that come in to register for the primary and the general it started about that time where we get hundreds coming in...are you reflecting this in your scale here.

Mayor Baines replied these are from the City Clerk's Office, these are just pure numbers that this is what's happened.

Commissioner Duffy stated you raised the issue about boards and commissions and certainly there are rules under the new Charter, the Charter that's in existence. There has been testimony before the Charter Commission in terms of whether or not there is a role for the members of the boards and commissions and specifically Section 2.04 which is the part that delegates authority was raised and the question has been asked about whether or not there's been any instances where this, in fact, has occurred. Are you aware of any instances?

Mayor Baines replied there have been no instances which has occurred, it is available to the aldermen as you know by the Charter and the reason we put that in there is because there was thought that aldermen may say we want the commission to have this responsibility so that is always an open question, so I think the authority is where it should be with the board of directors of the corporation and in this case the City and the Chief Executive and the fact that they had some responsibilities that they wanted to assign to a commission they could, but if they don't want to that should be the purview of the board of directors.

Commissioner Duffy stated as a follow up to that we had comments to the effect that without something meaningful for these volunteers that spend a significant amount of time in their roles as members of the boards and commissions is there any need to have them at all?

Mayor Baines replied I think they have a very vital role. It sort of would be...I would put on my school hat for now; that in schools many of us work with parent's groups that have advisory roles in working with the principals. I would have been foolish as a principal not to have a group that would advise me on issues with the school. Yet, obviously, I realized that the decision to carry out certain suggestions ended up being mine as the principal. I think it's the same thing in business. If you have an opportunity to draw upon the views and opinions of citizens on issues whether it be at the Airport, the Police or Fire Departments, wherever it might be, I think you're foolish not to take advantage of that. So, I think they have a very vital role to have citizens of our City to be around the table advising a department head on issues using them as a sounding board, using them as advocates for different issues. Again, different departments have them function in different ways and that's probably something that we need to work on strengthening to ensure they have vital roles, but I think it can be something that works under the present structure.

Commissioner Duffy stated I would concur, however, there seems to be missed opportunities in terms of taking advantage of that.

Mayor Baines interjected I agree.

Commissioner Duffy stated going to my second question and relative to the number of departments and as someone that has been in the corporate world there is continuous reference being made about the importance of having a structure with the CEO and reporting department heads...I'm not aware of any viable corporate entity that would have this number of departments reporting to the mayor or to the CEO, if you will, so notwithstanding the efforts to suggest that we have a corporate model I would be the first to challenge whether or not that fact is the case because there is a number of these entities that, quite honestly, question whether or not anyone in this position of mayor as the CEO in fact to justice to some of these, so could you just give us your opinions. I know this has been a topic of discussion lately with the Board of Aldermen.

Mayor Baines stated basically when I got involved with a lot of issues related to educational forums in my other world a major report came out on changing education, the way we deliver education and trying to do a better job...there was a button that they passed out to all of the principals across the nation and it had

TTWADI...That's The Way We've Always Done It...with a big slash mark through it to get rid of that notion that because we've always done it a certain way we should keep doing it and no disrespect intended that is the way I feel about this notion of 1983...That's The Way We've Always Done It...think of any successful business that didn't change as times went on. You're probably going to be talking about businesses that are no longer here. But, in government, we just continue plodding along. I think Mayor Wieczorek and I actually called and left a voice message on his phone, I usually don't try to bother him at home and I said, Mayor, I wanted to tell you I thought your testimony before this Commission was exemplary. He talked about that the cost of government. The cost of government is about politics, you can't make any changes and you try do some things that just make sense about streamlining the reporting function that Commissioner Duffy's talking about, we can't do it. Why can't we do it? Well, because this one knows this one and this one knows this one and this one knows this one...you get on the phone and you lobby all the different aldermen to keep the status quo, the status quo remains the status quo. So, it is not a corporate model and it breaks down on this notion that we have to have all these different department heads but because everybody needs a job and everybody needs a higher paying job. A successful business wouldn't function that way and then try to change it in difficult economic times. Well, that doesn't seem to matter at all. We're presenting savings ultimately that could approach \$500,000 that would be half the cost of opening the new fire station and we can't get, I believe, any credible consideration of it. Even when you have proposals that come from the department's themselves like the one I presented the other night. It came from the three department heads said I didn't put any restrictions on dollars and cents, give me a plan that will allow your departments to function more efficiently/effectively and they came in earnestly supporting it. Guess what happened to it, not much. So, the answer to your question, I think that's something you should spend some time, you'd spend more valuable time talking about that than partisan elections. Talk about creating a structure of government that is going to be efficient and effective. Just go down the street to Nashua where they have streamlined their reporting procedures to the mayor. About a half a dozen people report to the mayor as division directors, that's the corporate model. Try to do that in Manchester, well, to answer your question spend some time doing that. To examine effect structures of business and apply it to government and you'll come up with something much different than you have right now.

Commissioner Duffy stated I appreciate your candor on that. I just want to have on the record that we appreciate the Mayor's candor on this issue.

Commissioner Hirschmann stated, Mayor, welcome. My main concern probably with your testimony does reflect the budget and my previous terms as Alderman, I would like to see in the future Charter that the Aldermen work more in concert

with the Mayor to deliver the budget, so that if it was a fallback budget it would be a budget of the Mayor and Aldermen. We're supposed to be acting as a "body", so I would want to see that happen. I am going to investigate further the fallback budget and whether it has to be the mayor's budget. Quite frankly, what I'd like to see if the Board of Mayor and Aldermen can't come to an agreement after that many months that the fallback budget is the previous year's budget; that is how conservative I am and that would really set my gears amesh. But, in 1996 when I was an Alderman and on that certain day when the budget wasn't adopted everyone worked very hard for the taxpayers because they knew there wasn't a fallback budget and I think that we actually worked in concert better. So, I am really going to investigate that aspect of our working committee. The relationship of the City Finance Officer, in my opinion, I always felt it beneficial that he was an officer of the corporation and reported to the body the Board of Mayor and Aldermen and I would also like to see the Solicitor's Office report back to the body of the Board of Mayor and Aldermen. I think, like you said the board are the policy makers and the mayor is the CEO carrying out the policy, but I do think that those officers need to report to the entire body, not to be encumbered by one individual and again that's my opinion. I think as a working model that it worked well that way in the past and I'm not saying I want to go back to the past for everything, but in the past some things did make sense and that was one example. As far as partisan elections, the community probably could be divided on this. I'd hate to see you fighting to defeat the Charter while I'm fighting to defeat you, so.

Mayor Baines interjected I welcome that challenge. Could I respond to that. I didn't realize we were in a political forum here tonight, I think one of the things that we did as a Commission we wouldn't engage in conversations like that, I don't think it's appropriate for the Commission, but I would like to respond to the comments; that's unfortunate because this should not be about this, this should be about good government going forward no matter who is serving as Mayor of the City. Those comments don't belong here. Let's talk about the fallback budget. There's a reason for the fallback budget and that's the financial integrity of the City and it's ability to raise taxes. If you had your wish and you fell back to last year's budget you'd be closing fire stations, you'd be closing schools and you'd be doing a lot of other things, that is not responsible and that is why they put that responsibility in the hands of a chief executive and not a political body which is a board of directors. There are specific reasons for that, but I welcome your research. Secondly, you might want to find a corporate model, find one and bring it to this Commission of a corporate model that doesn't have a Chief Financial Officer reporting to the Chief Executive Officer, it doesn't exist and this needs to be an efficient/effective government, you don't have it when your Chief Financial Officer's not reporting. Of course, they all report to the Board of Mayor and Aldermen. This seat right here is where they sit and talk to any department head who reports directly to the Mayor that they don't report to the Board of Mayor and

Aldermen as well. Of course they do. It's not about that, it's about good government, effective government and that's what my testimony has addressed this evening.

Vice-Chairman Shaw stated thank you very much, Mayor, for coming before us. I think I'm not going to ask you a question but I am going to make a comment. I agree with you 100% that Mayor Wieczorek's testimony was excellent. I wish I had done what you had done and called him and said that. I did publicly say it here but...and your testimony has been wonderful from my perspective and we didn't have this...I don't know if the Commissioner's know this, we did not have this rapport going back and forth among the former executives of this City talking to us and telling us what was right, so I appreciate it greatly you're coming out here tonight.

Mayor Baines stated I do enjoy being in your company and I do want to make one thing before I forget it...the issue of 4-year terms, I think you should look at that. But, I think you should look at it out where it doesn't impact anybody. We need to move to 4-year terms. The cost of running for Mayor of the City you're going to get a situation pretty soon, you're only going to have wealthy people. I wish I were in a situation where I could agree to serve and say I shouldn't take my money, I don't have to take my money. I have to work every single day and I think there's something good about that, something special about it. The fact that I have to come to work because I know I have to earn money and I don't think we ever want to get to a point where only wealthy people can serve. Running for Mayor and I think Mayor Shaw would appreciate this one...when he was running for Mayor I don't know the most he ever spent, but running for Mayor of the City of Manchester is probably costing close to \$125,000, \$150,000, \$200,000 and you have to do it every two years; that's wrong. It's wrong at the State level where you're raising millions of dollars. We don't want that to happen. Nashua's had 4-year terms, I don't know about the stage of your life you're in but four years go by pretty fast and two years go by pretty fast and I think you should look very, very closely at that issue. And, finally, the salary of the Mayor. I think Mayor Shaw and the last Commission we missed the boat. He had a great idea. I think you were talking some percentage of the governor's salary. I have never been driven by money. I ran for this job knowing I was going to take a hit on my long-term pension and ultimately I would be making a lot less money. Eventually, I think I'd be making about \$20,000 a year more right now if I'd stayed in my other position. So, it's not about me and it's about money. But, if you're going to continue to track high caliber people for the Office of Mayor it shouldn't be somebody that has another job or another business that is independently wealthy, but you should be fair in your compensation and the compensation is not fair. I am not personally complaining because I don't want for anything, we drive second hand cars, we live in a 5-room ranch, we're paying for our kids education, we

don't have a lot of bills, we live frugally, but it's just not fair. So, I think you need to take a good look at that and I think you should look at the suggestion that Mayor Shaw had, I wish we had done it the last time, I think the voters recognize they want their Mayor compensated properly and I really appreciate the opportunity to appear before you this evening and I again want to thank you for your service to the City. Thank you very much.

Ms. Leslee Stewart, Vice-Chair of the Board of School Committee, Ward 1, stated:

As Vice-Chair of the Board of School Committee and now a member serving in my eighth year on the School Board I'm certainly pleased to have the opportunity to address you this evening regarding issues surrounding the School District. I have three areas which I would like to speak to: At-large School Committee Members, non-partisan ballot system for School Committee Members and adding voting members from sending districts to our Curriculum and Instruction and Buildings and Sites Committees. I've served as a member of the School Committee under both the 12-person Board system and also the 14-person At-large system and I must admit that during the former Charter Commission hearings I was one member who felt there was little value in having an At-large system. However, now having the benefit of having served with these additional members I must testify otherwise for the following reasons. The School Committee benefits from At-large positions because they represent the entire School District. The individuals who have served in that capacity provide a board perspective ensuring the needs of all students and taxpayers. They work hand-in-hand with the ward representatives adding substantial manpower to our ranks. This is increasingly necessary as the work has increased tremendously in the past few years. Some of the reasons this is necessary are due to the following: our expanding student enrollments, greater legislative regulations such as "No Child Left Behind" and special education laws, an influx in our students in our English as a Second Language and a growing number of important district initiatives. Some of them are decreasing our dropout rate by providing alternative school programs, our tuition agreements with sending districts, our school facilities improvement and design program, hiring a new senior administrative team and emerging our School District into a technology plan plus a number of other important initiatives that we've been looking at. Most School Committee Members and Mr. Cook you're committee members will attest to this attend at least two School Board meetings on a weekly basis, have several hours of reading and research to do each week not to mention phone calls, school visits and special meetings and committee assignments. We are fortunate now to have the work spread over 14 rather than 12 and we found that to be a benefit. Furthermore, as the Mayor had stated we found that the larger committee makes for better government. Just take a look at our State Legislature...we have found that deliberation and discussion of matters are enriched rather than unnecessarily

extended by our expanded Board. Greater representation has served our State well, it also serves our community well on the School Board and I urge you to recommend that the At-large positions of the School Committee be retained. Our State laws also require that every town hold non-partisan elections. The statutes appear to extend to all school districts and Manchester has a long history of non-partisan elections dating back nearly 30 years now to 1977. The non-partisan nature of our Board has served our schools and our students well. Each member comes to the table with an open mind, engages in lively discussion based on their personal beliefs as well as constituent input and all with the single-minded purpose of improving education in our community. The education of our children is not partisan and this should not be changed. Finally, our Board has just completed with the help of Mr. Cook 18 months of negotiations with our sending districts to formulate a 20-year tuition agreement. This work was challenging yet it was very collaborative and we feel that we now have a document that will serve our City and our students well. One provision of this document calls for an amendment to both City Charter and the Rules of the Board of School Committee. The provision paragraph VII of our Tuition Agreement allows for member representative of sending districts to have voting rights on the Curriculum and Instruction Committee as well as the Building and Sites Committee. When the committee acts and...listen to this...only when they act on programs for high schools each sending district would be entitled to one-half of one vote only when the committee acts on matters of policies and programs affecting high schools. During the negotiation process my colleague Mr. Donovan and I who served as the negotiating team from our Board as well as others who participated in the program of studies discussions found that School Committee Members from the sending district added and enriched our discussions. The input from these individuals was not only instructive but also congenial in all aspects. The notion of a greater Manchester educational district is a model that we applaud and support. We highly endorse the addition of these member representatives to our committees. This amendment will not take power away from our Board, but rather it will add a valuable point of view that will enhance our children educational process. I'd certainly like to thank the members of this Commission for their hard work and dedication to the process. I know how many hours you put in because we on our Board put in the same type of hours and I know it's tough, but we applaud you doing that. Please know that the members of our Board are available to assist you in this process and important work for the future of our community and I welcome any questions. Thank you.

Commissioner Tessier stated back to the budget. You didn't mention the budget and the time factors involved in it. You're comfortable with the way it's set?

School Committee Member Stewart replied actually it wasn't an issue I looked at, Ms. Tessier, but I'd be happy to address that if you'd like me to now.

Commissioner Tessier replied I'd like you're input on it, please.

School Committee Member Stewart stated there are a couple of reasons that we find the current budget timing a bit difficult. The first is, as you know, the principals and teachers contracts call for, I believe, an April 15th deadline if we are forced to enact layoffs. Clearly, that comes at a time before the budget has been put to bet and that's kind of putting us in a chicken or the egg situation as you're aware, that's the first problem. The second is that the ordering of supplies or the hiring of new faculty members to replace retired teachers and principals is delayed because we need to know the budget number before we can do that. Clearly, if we could move the adoption of the School District budget back in the year meaning earlier sometime in April it would be a benefit to the students of our community as well as the District in terms of ensuring that we have a nice, smooth process.

School Committee Member Chris Herbert, Ward 4, stated:

I'll be brief. There are two areas that I'd like to address. One is on the budgeting side...anything in the City Charter that would increase the delineation of the School District as a School District as a department I would welcome. In terms of a practical matter on the budgeting, the time taken for budgeting. I believe, in fact I've brought it up at some School Committee meetings that even though we are a separate district by RSA and we do have certain distinctions between the departments I think sometimes the budgeting process before the Aldermen should be as though the School District were a department, so that we would come in earlier and the Aldermen would see the evolution of our budget more thoroughly. Right now, the way it works and maybe it's because we might not be separate, I don't feel that way, but I think as a process if we came in earlier and talked to the Aldermen as our budget evolved the Aldermen would have a much more thorough understanding of how we get to our final number that we recommend to them and I think that would be a positive thing and I don't think that would impinge at all upon the District's separateness, but I'm not sure that's a Charter issue. The other thing is the 4-year term. I agree with the Mayor. The fact of the matter is and I'll give you a specific example...I serve on the Building and Sites Committee and I Chair it, I've Chaired it for four years and also the Committee on Joint School Buildings I've Chaired for four years. We've been involved in a process that's taken five years to finally get to its final stages and that's the Design/Build Process...the total renovations of our schools...there were many, many things that occurred five years ago and four years ago that resulted in and the proposals were coming forward to you. If for some reason I didn't run a second time there would be somebody else there, there would be a lack of continuity and I think planning will be greatly enhanced if both Aldermen and School Committee Members had 4-year terms and the Mayor as well and you could stagger the terms of the Board of Mayor and Aldermen so you'd have fresh blood coming in and everything. I

know a lot of you have experience specifically in this area and I know that it takes a couple of terms for somebody to really become effective and understand exactly how the system works and exactly how their ideas could be implemented. So, I am in favor of extending the terms and even though I don't spend any money running for office I can certainly under the Mayor's concern because \$150,000 is a lot of money to raise every two years for a local job and that's it.

Tom Donovan, Board of School Committee Member, Ward 3, stated:
Thank you for giving me the opportunity to speak before you tonight. I have two matters to discuss with you tonight...one very briefly and one at little more length. The first deals with non-partisan elections. I also support it very highly specifically at the School Board level, but even more generally I think it allows people who might only run for office once and only at the local level to participate in government and to run for office. People who would do that would tend not to be active in either party and would just want to make a difference at a local level. I can tell you that if we had partisan elections at the School Board level, I for one who is not particularly partisan, I would not have had the courage to run because I'm not particularly well-connected with either party although I am a Democrat, so I think for people who are Independent and people who are not wired into the existing party structure having non-partisan elections has the effect of creating a larger pool of candidates to run for office, so I hope you keep it. My other point which I'd like to spend a little more time on deals with having seats on subcommittees of the School Board for the sending towns. You heard our Vice-Chairman Leslee Stewart talk about that. This isn't the forum to debate about the merits of the new Joint Maintenance Agreement that we've negotiated with the sending towns. I served along with Leslee Stewart on the Negotiating Committee for that...I should mention I also serve as Chairman of the Finance Committee of the School Board. But, the Commissioners can assume that the overwhelming School Board vote is an indication that we believe that the agreement is in the best interests of the Manchester School District. Given that, we know that the agreement will require the sending towns to pay for all of the additions to the high schools and for 25% of the renovations. The negotiations which led to that agreement and our negotiator was Mr. Cook your Commissioner as you know who served gratis on behalf of the School District in that important role. There was considerable discussion about the importance to the towns of having a voice on high school matters. For them, their long-term commitment to pay tuition and to pay capital costs for the buildings is a serious investment in the Manchester School District. The towns wanted to protect that investment, if you will, and they believe that having a voice on the Curriculum and Instruction and on the Building and Sites Committees is the best method to accomplish that. Although it is inaccurate some wags in the towns feel that the absence of membership on those subcommittees would amount to taxation without representation. I don't believe it but that is what they sometimes say. We on the Negotiating Committee believe

that adding town representatives to those two subcommittees of the Board does not run afoul of the City Charter as it is currently written because those subcommittees do not have the authority to bind the School District. Only the School Board can accomplish that and the Joint Maintenance Agreement does not provide for the adding of additional School Committee Members. Our legal counsel gave us the Negotiating Committee an opinion which supported that view, however, it's the City Solicitor and not our legal counsel who traditionally makes the call on Charter interpretation and the City Solicitor said you can't do it the way the Charter is currently written. So, here we are seeking a change in the City Charter to clarify that representatives from sending town school boards can sit as members of those two subcommittees. I think the question that you Commissioners have to ask is whether such a change is in the interest of Manchester as opposed to the interest of the towns. That answer as to Manchester is a resounding yes for three reasons: one, because the overall Joint Maintenance Agreement is in the interest of the Manchester School District, this component of it as well. I could wax eloquent for hours on why the overall agreement makes financial sense to the School District, why it makes economic sense to Manchester as a regional center and why it makes educational sense for Manchester students to attend schools with students from a variety of backgrounds and experiences. Those reasons have been expressed extensively in public meetings and in the media and they went into the decision-making process that the School Board made to sign onto this Joint Maintenance Agreement. I'm not going to repeat those issues here. Second, the two subcommittees under discussion deal with a wide range of high school issues. I assure you that the five Manchester members on each Committee can use additional input on topics such as dropout prevention programs, advanced placement courses, curriculum reform, test result improvement, building maintenance, classroom capacity and construction oversight. Believe me, the mere fact of residence in Manchester does not bestow upon us all of the wisdom needed to deal with those important issues. The town School Committee Members are genuinely interested in these topics and we should welcome their offer to participate as subcommittee members. Normally, it is difficult to get people to volunteer to serve on a committee. Here we have willing volunteers and we should grab this offer as fast as we can before they change their minds. Three, as you know the towns are obligated under the Joint Maintenance Agreement to pay for capital costs only for the first ten years of the contract and can withdraw their students with notice at five-year intervals. Some in Manchester believe that this is less than desirable for Manchester because it could saddle the City with capital costs for the second ten years. Perhaps the best way to keep that town revenue in Manchester for the second ten years is to make the towns feel like they are actually part of the high schools. Membership on those two subcommittees could give the relationship a greater sense of ownership in the high school issues and a commitment to solve problems together into the future. Saying no to subcommittee membership makes this agreement seem more like a cold business

transaction which will not create the loyalty that we say we want from the towns now and after ten years. To summarize, this proposal brings more money, more brainpower, and more loyalty to Manchester. The proposed Charter Amendment to permit the town representation on the subcommittees is a common sense modest change arising out of our joint maintenance agreement. While as proposed it would have very limited application to the particular facts of the School District, you might consider whether the City would be wise to include a slightly broader Amendment to anticipate situations in which the City is performing a regional function and where towns are being asked to pay for substantial capital improvements. I'll just let you consider that. Thank you very much for your time and patience on this issue.

Vice-Chairman Shaw stated I have a question for you. I had thought in the current Charter that we instituted that we had taken away from the Aldermen the ability to kind of micromanage the departments in the City. My experience as a former Chairman of the School Board was this, that I had 12, 13 superintendents. I had the one we elected to be superintendent and then I had the School Board with superintendents of schools. And I wonder...we didn't put anything into this Charter that restricted your ability to kind of micromanage the School Department, and I know the Secretary of Education in the State of New Hampshire on her departure from office mentioned that the problem with schools was that they didn't know what they were supposed to do—School Boards—they didn't know what they were supposed to do. Do you find that by having now we have 14 School Committee Members and you want to add a half one apiece, put an extra burden on the Superintendents. Do you think that we'll have 15, 16 superintendents?

School Committee Member Donovan stated I hope not. I agree with you that the danger of School Boards, like the danger of Aldermen, is an attempt to manage executive functions. We do get drummed into us that School Committee Members are policy makers. We're not administrators. If you want to get a job working for the School District, you can apply. It is certainly...it is a challenge. My observation and what I have heard is that our School Board currently does a better job at understanding its limits, but it certainly always is a challenge.

Lorraine Lamontagne, former School Committee Member, stated:
Good evening.

Vice-Chairman Shaw asked do you miss it.

Ms. Lamontagne responded no. It's too much of a mess. I'm Lorraine Lamontagne. I live at 215 Holt Avenue in Manchester. I am a former School Committee Member. I came here today because I had a few things I thought you

might like to hear. I served on the School Board for a number of years, and the majority of my term of the School Board were without the At Large School Committee Members. However, on my last term, the At Large School Committee Members were present. They were very nice people, very capable, and they wanted to serve the School District and the community. However, I really say that they should go. I don't think they add much of anything to the School Board or as a matter of fact the Board of Mayor and Aldermen. I don't think larger means better, cause I look at the State House of Representatives with this 400 plus members. They can't ever get anything done, so I don't think that having more School Committee Members helps out anything. I also disagree with making the School District a City Department. First, we'd have to go to the State and amend the RSA that makes us, the School District a District and not a City Department, and I think that would be a large waste of time. Now, with the present time with the School budget when it's submitted to the School District by the Board of Mayor and Aldermen, and we bicker back and forth about it, and we adopt it, the School Board, along with the Superintendent, are the ones who are administering the budget, and they have the control over the line items. I believe if the Board of Mayor and Aldermen, if we became, the School District became a City Department, then the Board of Mayor and Aldermen would no longer just give the School District the bottom line budget, but they would want to manipulate the line items in the budget itself, and that would be very cumbersome. It would just add a time consuming. It would be very inefficient. It would add another layer of bureaucracy to govern the School District, and already the School District is dealing a myriad of regulations, both State and Federal, and with the No Child Left Behind Act, it's going to be even more regulations, so I think the School District should remain a School District and not a Department of the City. Also, there's the issue of chargebacks from various departments in the City. They charge the School District. While I was on the School Board, we finally get the chargebacks, but no documentation, just a bottom line saying this is what we did and x amount of hours, but no documentation of anything so that we could really substantiate their claim for how much we owed them, and some times it was really high. So I think that they, the departments who do work for the School District should be required to itemize a bill when they submitted the chargebacks to the School District. They should say where the work was done, who did it, how much time it did, and what was the cost of the materials, and then submit a bill. And then this way here, the School District and the Finance Committee of the School District would know where the money is going, and what the different departments in the City are spending it for. And that's about all I had to say tonight. The other thing I heard...I would like to differ with Mr. Donovan. I do not agree with having any out-of-town School Committee Members be on the Curriculum or Building and Sites Committee or any other Committees of the Cities. If they want to come here to school, they want to pay tuition, fine, but I don't want...they don't vote here, and at any time, you know, they want to get rid

of...they want to get their own high school, especially Bedford, I'd love it. So, anyway, I don't think they belong on any of our committees, and I don't think the Charter should be changed to accommodate that.

Stephen Donohue, Hillside Middle School Principal and President of the Association for Manchester Principals, stated:

I thank this group for the opportunity to speak to you. I'm here tonight not only as Principal of Middle School in Manchester, but as the Principal Association President. On behalf of our group, we of course would ask that and trust that you come up with a governing device for our schools. We know by the time your work gets finished, we'll have close to 18,000 students in our schools, and in order to govern them and provide the government for them, we need to have physical responsibilities and be able to provide for the needs of our students, and that's a challenge that we all have in the City, and we trust you'll do well with that. The particular issue that I really am here to speak about on behalf of our membership and really on behalf of the students that we serve is as the group of principals and assistant principals who deal really with the personnel needs of the buildings, the teaching needs of the buildings, the educational assistant needs of the buildings and feel that we have a good handle on those needs. We are hampered and have been hampered over the past years in regard to the budget decision. Budget decisions as you are aware are made really firmly by the second week in June. The process now has it that the School Board has to react to whatever the Board of Aldermen decide and consequently, it is July usually before decisions can be made in terms of spending and in particular in terms of personnel. The dangers that that leads us to and the situations that are real is number one, because of that, the District is tempted from time to time to RIF or reduce in force the number of teachers they have, not knowing where that budget will go two months later. By contract and if you think of it seriously, we have hard working professionals. They need to know by the middle of April that they might possibly, they are indeed out of a job. We can't wait till June to do them, not only by contract, but I think we have a responsibility to hard working people to be honest with them in terms of that. So we have the April 15th date to make any of those decisions, and when we have made them in the past, we have lost good people in the City of Manchester because they are younger or because they are lower in seniority, and they are the first to go, and as a result of that, not knowing whether they'll have a job come June or July or August and in some cases September, they do go elsewhere. They have families. They have obligations they need to meet. So, the June date is really bad in terms of rifing people we shouldn't be rifing. The other way of looking that, as we need to look for people, and studies have shown that 40 to 50 percent of our present teaching force will retire in the next ten years, obviously very possibly within the range of any Charter changes that this group proposes and would become reality. As that happens, and as we go about in July looking for teachers, most if not all other districts in the State have made their

budget decision by annual meetings in March. Consequently, we in Manchester do not have the same opportunity to go to candidates. Candidates, good candidates have been taking jobs in other districts in March and in April. Most districts will in fact...some of the districts will in February post and advertise for positions that anticipation of getting approval for those positions in March, so that by the middle of March, they are hiring people. We in Manchester have in the past four years been hiring those people we need to hire in July. We're if you want one of the last districts in the State to do that and in the area to do that. That is...the pool of candidates is not as good because of that. So my request in behalf of our association, in behalf of our members, not just to make our own lives easier—yes, it would, and it would make our own lives better because we could get potentially get and keep better teachers—would...but also to provide better educators for our students, and most importantly for that reason, we are requesting that you set February 15th as the deadline for the budget for the School District. Understanding that if the Aldermen were to pass a budget on that date, it would give the School Committee Members up to about a month to make decisions, and we would be in line and competitive with the other districts in the State and in the region to look for new members and we would be, if we needed to, to look in line in terms of reduction in force of personnel and give them due notice and not have to do that unnecessarily and not have to lose good teachers in particular as a result of this. I personally believe...I may be wrong about this, but I personally believe this a change that really has no impact on the amount of money. Yes, we of the association believe we should adequately budget for the needs of the School District, but this particular item I believe really has no impact on the cost for the citizens of Manchester, the taxpayers of Manchester. I think it is a win-win situation for everyone and strongly urge a much earlier date, like February 15th.

Vice-Chairman Shaw stated let me ask you a question. Have you ever known...this is information for me. Have you every known the School Department to receive less money from the Aldermen than they got the year before?

Principal Donohue stated probably not in my memory, not less money.

Vice-Chairman Shaw stated not in my memory either. So why would the School Department have to RIF people if it had a budget that was at least equal, and I think that some Commissioners are talking about a fallback budget that is last year's level. Hooksett, other towns have that.

Principal Donohue stated part of the reason is...I'll give you the example if there are multi-year contracts, we know the teachers could have next year to keep the same teaching force, the same numbers of teachers, you may indeed have more expenses to do that because they have step raises. They have raises that are

involved in the contracts, not only teachers but every, all the bargaining unit members, and presently even larger than that is the cost of health care. And those...a stable budget won't take care of those.

Vice-Chairman Shaw stated if you taught in a town, though, and it went before the citizens who are the governing body of a town, and if they voted down the school budget, there is a fallback provision. It's last year's budget. It might be able to be increased for certain things, but it's last year's budget. How is it that the City of Manchester always giving more money to the schools, always giving more money could not live on the amount given to them and therefore not impact the teachers at all? Or slightly?

Principal Donohue stated I think it has to do with the amount of...the size of the City and the long...when I say the long-term contract, contracts that involve several years of raises and things like that. I have worked in a district where the teachers' union for instance had one-year contracts, and the one-year contract was related to what the voters and citizens said every year, so I'm not saying that all, but some times they're able to do it because of their smaller size, but also because of the fact their that teacher contracts, major contracts are tied to one year or the length of the budget.

Commissioner Tessier stated just to support what Mr. Donohue is saying, the budget of the School Board has increased yearly for many reasons. One is we have many federal mandates that have been dumped on the schools that we're not getting money enough to support, so it falls back on our shoulders. Our ESOL population, we have no handle on those numbers every year. That has increased our budget. So there are many reasons, beyond the health care. It's service to children has become more costly.

Principal Donohue stated and if I'm not out of order to add that the new federal law which is No Child Left Behind does put burdens in particular in hiring highly qualified teachers, and that puts a greater burden on us to really go out and get highly qualified in terms of degrees and in terms of background and experience.

Commissioner Duffy stated Mr. Chairman, my comments are directed to the Chair and perhaps to the staff. For those of us that aren't as familiar with some of the data on the School District as some other members here and in light of your questioning, I think it would be helpful if we had some statistics on the enrollment in the schools over the last five plus years. It would be helpful I think in terms of our deliberations.

Vice-Chairman Shaw stated we could ask that from the school department, to provide that.

Commissioner Duffy stated I'm asking the Chair if the Chair hopefully will act on that in terms of getting that.

Vice-Chairman Shaw asked you'd like to get more information about enrollments. That was your point, more information to come before us? That's not a problem. We can ask somehow...take a vote on it.

Deputy Clerk Johnson stated that the Clerk has got a note of it.

Ellen Healy, Manchester Education Association President, stated:
Good evening, and how are you tonight? I'll be uncharacteristically brief. I want to echo my colleagues' sentiments about the deadline for the budget. One problem that we will have in the next five years, and I do say five years because if you're familiar, the State of New Hampshire has a supplemental health care bill that will end June 30th, 2008. My guess, my best guesstimate is that we will probably lose 300-400 teachers between June 30 of 2003 and June 30 of the year 2008, and I don't mind saying that I will be one of them. It would be most helpful if you were to change the date of passing the School District budget solely because many colleges today are now doing their hiring. They're bringing districts on board for job fairs first semester. We have had many student interns at Central High School...I've had several myself, and these kinds are actually going out and applying for jobs and being interviewed during their semester break. It is critical that this budget be passed with enough time to insure that the District itself is able to hire the highly qualified staff it needs to better meet the needs of the community and the needs of the students that we all serve. Now with the elementary and secondary education act and the new guidelines that have recently been passed, you will be forced to hire highly certified people, and you can't afford to continue to wait until July first to interview and hire these people. You need to do it sooner, and basically that's just about all I have to say. I really think it's important. It's important to the members of the community, and it's important to the children that we service.

Commissioner Tessier stated I have a question. Actually, it's not about the budget. My question has to do, because you are President of the Manchester Education Association and also a high school teacher, it has to do with the out-of-district students coming into Manchester. I'm curious to know how much input the teachers or the union had in the decision making of, any of the decision making and in particular the committee changes to C. and I. and Building and Sites. Was there any questions asked of the School Board...from the Committee to the Union?

Ms. Healy responded no.

Vice-Chairman Shaw asked do you have an opinion on...could I ask you a question? Do you have an opinion that should Manchester have these contracts with the...?

Ms. Healy responded yes, I am supportive of signing the tuition agreements, I am.

Vice-Chairman Shaw stated you are. Thank you.

Ms. Healy stated I've had many students from outlying districts, and you know, I just...

Vice-Chairman Shaw stated you like them.

Ms. Healy responded yeah, I do. Who wouldn't? They're good kids.

Jim Paul, Highland-Goff's Falls School Principal, stated:

Good evening, thank you very much. My name is Jim Paul. I'm Principal of Highland-Goff's Falls School. My home address is 45 Hemlock Shore Drive in Atkinson, New Hampshire. Four years ago when I was hired here in Manchester, the idea of a City Charter was foreign to me, and I've learned over the four years that I don't know a whole lot about the City of Manchester, but I have learned. A couple of things that were question if I may just point out...one school, as far as enrollment numbers go...when I came aboard in 1999, it was the year that the sixth graders moved to the middle school, so that's my only point of reference. We went 580 students to today 608 students. We have averaged a two percent gain in enrollment at Highland-Goff's Fall School in my four years there, just so you have that information. I believe that the Charter should look at the other school districts' time lines within the state. In my district and according to Senate Bill 2, we vote in March. The taxpayers in March vote on the bottom line of the budget and warrant articles. Manchester should look at the adoption of a School District budget by April 1st. I know I heard Steve talk about February 15th, and I'm going to allude to why I say April 1st. It's awful tough as I noticed and have observed the City government and the Board of School Committee, they have a lot of things on their plate, and I wouldn't want to push it to February 15th because it would be in line then on April 1st with other school districts around the State, so we would be competitive because most public hearings in the State of New Hampshire by RSA have got to occur for school districts by February 15th. One of the things that was discussed earlier, the rifting policy by April 15th. That's statewide. It's a RSA. They have to be notified by April 15th if they're not going to continue to work in the district. I think that the April 1st date would minimize the April 15th notice to teachers who will not receive a contract. In other words, it's going to minimize, if you know the amount of money that's been put aside and

then factor in as somebody alluded to earlier, I believe Chairman Shaw, we could have the same number of teachers this year. You give us the same amount of money, but because of the contract, we could end up losing on April 15th anywhere, 40 to a hundred teachers with the same money without a percentage increase in the budget. If a budget was adopted, we could begin the interviewing process as Mr. Donohue alluded to earlier. In the district I came from for six and a half years as an assistant principal, we would start interviewing right after April 15th for new staff. We never ever did an interview beyond the last day of school, hardly ever, and at Highland, the three out of four new hires we had at Highland-Goffs Falls were hired the last week in August before school started, and one of the teachers after the school had started, school year had started. The impact is on kids. I'm wearing a pin today about Kids First. I would like to see that the budget time line be addressed because it really is affecting kids. When you don't have a teacher and you have the classroom space, and you do have the materials, and you don't have someone to teach, and you know you're going to get them, but you haven't been able to hire yet, it really poses a problem. Thank you for this opportunity to speak, and I will answer any questions.

Dean Eggert, Attorney for the School District, stated:

Good evening. I certainly believe that the person that should wait for the citizens to speak is definitely the attorney so Mr. Chair, members of the Commission, I appreciate the privilege to speak to you in my capacity as counsel to the District, and I advise the Board on some of the issues, and I appreciate the fact that the Commission is taking hard study at the question of the relationship between the City and the School District, and I trust it'll be a profitable exercise for all. All of you, I think, have in front of you the 1996 City Charter, and my role tonight is going to be very quickly to briefly remind you that there have been things that have occurred since 1996. Much like if we take any other manuscript, at some point, someone's going to interpret it, and there are two milestones with regard to interpretation of this Charter that I would draw to the attention of the Charter Commission. The first one we euphemistically call declaratory judgement number one, and that involved the question of what does the 1996 Charter mean, and what does it look like. And I brought tonight copies of that decision, and I know that our Aldermen here tonight and our School Committee Members have all read that decision, but for those of you on the Commission who've not yet had an opportunity perhaps to read that decision, I think it might be very helpful for the Commission members to have an opportunity to read that. The second decision that I do bring to your attention is the decision by Judge Mangones that in all candor is still pending in the Superior Court, and that was his recent decision that the last effort to amend the Charter, to suggest that the School District would be a Department of the City violated the provisions of State Law with regard to how you'll go about a Charter Amendment. Whether or not you agree with Judge Mangones's decision or not, I would respectfully suggest that as this Commission

performs its task, one of your tasks will be to retain your independent counsel to review your suggested amendments and to give you an advisory opinion as to whether or not they'll be consistent with the law. And I would respectfully suggest that as you tread into the area of the relationship between the District and the City that that might be something that you do sooner than later because this is an area that is fraught with a lot of pre-existing law. I'd also like to suggest to this Commission that we often refer to the principal of home rule, but if look at the legislative acts, actually for City Charter Amendment, it's referred to as limited option City Charter. And the word limited is put there by the Legislature for a reason. They wanted to define the scope of a City Charter Amendment, and we just saw in that case of Hooksett vs. Mr. Sidney Baines that once again the Supreme Court was very clear that 49-B and 49-C are going to set the rules of the game for how the Commission will engage in its Amendments. And in that respect, there is this provision that I would respectfully suggest that you run by your independent counsel which is 49-C:34 that raises the question of whether or not a Commission under the limited option for a City Charter Amendment can even propose an amendment that drastically changes the relationship between a City and School District. The last points that I think I'd like to make are philosophical legal points that go to the really the underpinning of the law, and these are things that are often missed. There's been a lot written out there about City Charters, and I'd encourage this Commission to get a hold of that material, and I have some resources that I will send, perhaps by mail to the Commission for your consideration. There's a gentleman by the name of Newton Adams who wrote about the relationship between cities and schools at length. And I just want to remind the Commission that cities are municipalities. Schools are districts, and that districts are performing a State function. You are performing a municipal function in the City. The time is late. I'm not going to say much more about that, but I would finally suggest to you that as you look at the possible Charter Amendments, there's the opportunity, and I know the School Board wants you to think outside of the box, you currently have a model that holds the Aldermen responsible for appropriation but not for expenditure. The departmental model would ultimately probably hold the Aldermen politically responsible, not just for appropriation but for expenditure. And may I respectfully suggest to you that while that might be an intriguing step towards municipal hari-kari if I were an Aldermen to go that direction, there are other models to look at as well, which would be for example the City of Concord model, and there are models throughout the nation with regard to City Charter and district relationships that I would encourage you to explore. The hour is late. I thank you for your indulgence. I have no further comments, but I do have copies of both of those decisions for any Commission members that would like a copy.

Commissioner Hirschmann stated Mr. Eggert, you perform a service to the District of Schools. Now, do you believe that because the School District is separate that

they don't necessarily follow the rules of the Charter. I mean, take for instance, procurement code. If this body acts on a procurement clause, do you feel the District has the responsibility to follow the procurement Charter?

Mr. Eggert stated with regard to the procurement code, Attorney Barbara Loman was asked to look at that almost 15 years ago, and I believe she wrote an opinion for the district that probably under State Law, the procurement code didn't extend to the District. I would say as a matter of practice, probably the District has elected to use the procurement code because it creates unity. If you really got down to the question of how much can a Charter regulate a district, it's a very difficult issue, but to answer your question directly, I believe that a Charter, as long as it's consistent with State Law, can affect a district. It definitely can. There's no doubt about it, and the other thing is the Legislature can and nobody's hiding this card, that the Legislature can intervene and can say to a City by special act that this will be if you desire your relationship, but I just want to note that as you perform the Charter function, that some of those things you may desire to do as a Commission would require that special legislative act because the authority under the Statute you're operating under is entitled "limited option City Charter".

Commissioner Hirschmann stated it's my understanding that a bill has been put before the current Legislature that is seated now, and the terminology is to have a Department constitute...the District constitute a Department again in this City. I don't think that...you're discussing amendments, but that would not be amendment because we're actually rewriting a Charter, so I mean if that Legislature enacts that piece of legislation, we have the right to put that into our Charter and call you a Department.

Mr. Eggert stated I think to the extent you're asking a question in that regard, if the legislation is properly written, if it's passed by the Legislature, passed by the citizens, theoretically that should work. The only...the only caution point is there are two ways to change a City Charter. One is by Legislative act followed by referendum. The other is simply by local referendum, and all I'm saying is the local referendum option under 49-B and C is limited in scope, compared to having the legislative act and then having the referendum. That's all.

Commissioner Hirschmann stated I agree.

Vice-Chairman Shaw stated my question to you then is this. Under Section 4.01 which was passed recently, amended the Charter, it says, maybe you could...it says that when this all done that the School District would be noted also as a City Department, but it also says at the bottom of that particular Section 4.01 that nothing changed. In other words, all the powers that existed before the Charter Amendment took place was to continue. Doesn't that mean that nothing changed?

Mr. Eggert stated that's what we, I think, successfully argued to Judge Mangones, that a rose by any other name is still a rose, and so we can call this a department in the City of Manchester, but it still has all the State authority of a district. The difficulty is the City Solicitor's office has taken the position that actually you merged two corporations, that you took the corporation known as the City of Manchester School District Inc. and you merged it with the City of Manchester Inc. So you took a municipality performing a local Constitutional function and merged it with a State Corporation performing a State Constitutional function, and that's an interesting act, and the question is simply, Judge Mangones felt that didn't work.

Vice-Chairman Shaw asked would the Legislature be able to change, in other words, what is in this Charter. If the Legislature so wished, could it change all the wording in State Law to make this be, that it will be a Department?

Mr. Eggert responded it's possible, if they have the political will to do it, to suggest that in Manchester, they will delegate their State Constitutional authority if you will to the City as opposed to the District and then regulate the City as opposed to a District, then it's conceptually possible. The only problem is that the Court is going to look at that act, that special act, and then it's going to look at the State Statutes, and it's going to ask the question are they consistent, and the answer may be not a successful answer. It may not.

Vice-Chairman Shaw stated thank you very much. There's no other questions, appreciate you taking the time. You have some material for us. Thank you very much. The clerk will pass that out.

Commissioner Pepino stated the meeting tonight was very good, very informational, but one thing tonight I did not appreciate was being threatened with a campaign against the Charter we write if it's not to one person's liking. Thank you.

Commissioner Hirschmann stated I wanted to just have a closing comment. My closing comment just while the School people are before us, I don't, I don't know that the agreement that you're all referring to and working on at this point would actually be in the upcoming Charter as we write it. One thing I can tell you, I did serve as a volunteer football coach, and I appreciated the time with all of the students, and you know, mentoring and fostering teamwork and showing compassion and empathy for kids in the School District, and I never ever wanted to know or desire to know if someone was from Manchester, Deerfield, Hooksett, Goffstown, it just didn't matter. We all were of one school, and we all had school spirit, and it worked, and I would hate to see someone from an outer town get onto

a committee just to get a point of view other than the elected body. I think that the elected officials of the School Committee are elected by the taxpayers and the voters to run the School District or Department or whatever you want to call it for our kids' benefit, and I would hope that that would continue. The Manchester School of Technology has been for years a cooperative building full of kids from Goffstown and all places, and it hasn't...that school is very successful, and Mr. Rist ran it, and I know he got promoted out of there, but I don't think that an outside voice is really needed in Manchester. I think that we're doing a good job. That's it. Thank you.

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

Respectfully submitted,

Deputy City Clerk

Approved for Commission: _____
Donna M. Soucy, Secretary