

CHARTER COMMISSION

March 5, 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 Tom Arnold

Chairman Dykstra addressed Item 3 on the agenda:

Minutes of meeting held February 26, 2003.

Commissioner Duffy stated on page 39, at the top of the page, Commissioner Cook, you may want to pay attention to this because there's a reference to you when I think it should be Commissioner Shaw. Top of the page, on 39...

Chairman Dykstra interjected Commissioner Cook, okay.

Commissioner Duffy noted "stated did you really?" Well, Cook just responded prior to that, and I think that we're talking about something that Commissioner Shaw had to say.

Deputy Clerk Johnson responded yes, you're right.

Commissioner Duffy moved, with that amendment, to approve the minutes. Commissioner Soucy duly seconded the motion, and it was voted to approve the February 22, 2003 minutes.

Chairman Dykstra addressed item 4 on the agenda:

Notice for reconsideration given by Commissioner Pepino relative to motion to reconsider given by Commissioner Hirschmann regarding a motion that effective January 1, 2006 the Mayor's salary shall be 80 percent of the Governor's salary for the State of New Hampshire, with benefits and no retirement plan; such salary to automatically increase at any time the Governor's salary increases. Unless changed by referendum, the Mayor's salary shall not be set in any other manner than as outlined herein. (Commissioners Hirschmann, Pepino, Wihby, and Dykstra having voted yea. Commissioners Cook, Duffy, Shaw, and Soucy having voted nay to the reconsideration.)

Commissioner Hirschmann moved to reconsider the reconsideration.
Commissioner Pepino duly seconded the motion.

Commissioner Cook stated a point of inquiry. This vote is on whether we want to reconsider?

Deputy Clerk Johnson noted it's to reconsider the reconsideration.

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

Deputy Clerk Johnson stated now there should be a motion to reconsider.

Chairman Dykstra stated the motion is already on the floor then, so it just needs to be discussed.

Commissioner Shaw asked what is the motion?

Deputy Clerk Johnson stated to reconsider the original action.

Chairman Dykstra stated the original action is on the floor.

Deputy Clerk Johnson responded no. The motion to reconsider. You reconsidered the reconsideration. You are on the reconsideration.

Commissioner Hirschmann moved to reconsider. Commissioner Pepino duly seconded the motion.

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

Deputy Clerk Johnson stated the motion on the floor now is that effective January 1, 2006, the Mayor's salary shall be 80 percent of the Governor's salary for the State of New Hampshire, with benefits and no retirement plan; such salary to automatically increase at any time the Governor's salary increases. Unless changed by referendum, the Mayor's salary shall not be set in any other manner than as outlined herein. That motion is on the floor now.

Chairman Dykstra asked do we have to get a second on that?

Deputy Clerk Johnson stated no. It's on the floor.

Commissioner Shaw stated so after we have discussion, if I was to vote yes, that would mean that the Mayor's salary would be 80 percent.

Chairman Dykstra responded that's correct.

Commissioner Shaw stated if I was to vote no, the Mayor's wouldn't be 80 percent, but what would it be.

Chairman Dykstra responded you could make a motion to do something else.

Commissioner Shaw stated but why don't they just make a motion to amend that. I'm just curious.

Commissioner Hirschmann stated we didn't get there yet.

Chairman Dykstra stated we could just clear this out of the way and then make a new motion. That's up to you. This is on the floor. This is the motion on the floor. If there's any discussion, fine. You can vote it up or down. You can amend it, or you can make another motion.

Commissioner Shaw stated it would seem to me, Madame Chairman, if we just plain don't do something, then what we passed is it. I thought we ought to do this reconsideration if somebody had an idea as to what they wanted to do.

Chairman Dykstra responded like I said, that's up to you. There's a motion on the floor. You can either vote it up or down or you can amend it. That's all we can do to it.

Commissioner Hirschmann stated I'd like to amend the motion to allow for local control of the Mayor's salary, and the proposal would be to move on \$72,000.00 for the Mayor's salary and tie it to non-affiliated raises in the future of the City, so that when the non-affiliated employees got raised, the Mayor would get a slight percentage and over the course of a ten-year period, the Mayor's salary wouldn't be disproportionate.

Commissioner Cook duly seconded the motion.

Commissioner Soucy stated just a question of Commissioner Hirschmann with his motion. You said that the increase would be tied to the non-affiliated increase. Therefore, it would be the same percentage negotiated with?

Commissioner Hirschmann responded that's the intention.

Commissioner Shaw asked would the Aldermen have any control over the Mayor's salary?

Commissioner Hirschmann stated during the budget process, the non-affiliated salary is discussed every year, and it's decided whether they can only give a percent, a half a percent, three percent, so it's in the hands of the City fathers.

Chairman Dykstra stated wouldn't the unions have a lot of say in that.

Commissioner Hirschmann responded the unions have nothing to do with it. We're talking about non-affiliateds.

Commissioner Shaw asked would the Mayor have a retirement plan?

Commissioner Hirschmann responded if you make that amendment, he won't have...add that to it.

Commissioner Shaw stated I'm not making any amendments, so I'm just curious.

Commissioner Dykstra stated may I get an effective date of this. It hasn't been mentioned. What is the effective date that you're proposing, Commissioner Hirschmann?

Commissioner Hirschmann responded I honestly didn't include one. The motion on the floor says 2006. If someone would like to change that, that would be all right.

Commissioner Tessier asked did you say \$72,000.00?

Commissioner Hirschmann responded \$72,000.00.

Commissioner Tessier asked how did you come up...why \$72,000.00?

Commissioner Hirschmann responded the current salary is \$68,000.00, and it has been for seven years I believe.

Commissioner Tessier stated I mean...is just \$72,000.00 a percentage.

Commissioner Hirschmann responded I took a calculator out. I forget the formula, but that's what I came up with. \$72,000.00 something.

Commissioner Shaw stated you calculated that he deserves \$72,000.00 now based on \$68,000.00 seven years ago. I need to buy his calculator.

Chairman Dykstra stated how often can this go up. I mean, every time they meet. The non-affiliates get an increase, he'll get an increase.

Commissioner Cook stated it doesn't happen often.

Commissioner Hirschmann stated Carol, can you remember the non-affiliated employees. Have they been getting a percent?

Deputy Clerk Johnson responded the non-affiliated are typically given a similar package to that of what is bargained out with the unions, and it has been basing it around...Alderman Lopez is here, he can correct me...but my recollection was two percent and one percent were the last two that were given.

Commissioner Hirschmann stated those are very conservative raises.

Deputy Clerk Johnson stated they're cost of living increases that are tied into it, basically. These aren't dealing with the steps or anything else.

Commissioner Cook stated I like this proposal just like I liked the other proposals because it creates a mechanism that takes care of the salary. There was nothing magic about 80 percent of the Governor's salary. If we can come up with a mechanism that automatically triggers, and I think this makes some sense. The non-affiliated employees, the Mayor is certainly not in a union. This is what the Board of Mayor and Aldermen decide somebody should get looking at all the facts, yes it probably tracks what unionized people get. There's always a fight about if you give them more money before you complete your union negotiations, then you're union busting, and if you leave them behind, then you're not treating

them well, and they're not in a union, and blah-blah-blah. But this is a mechanism, and it meets those criteria, and I think that's what we were trying to do. There's nothing magic about any formula. The idea is to have some kind of automatic mechanism so that you don't get some impossible political situation for Aldermen to deal with when they know they have to do something, but it's been so long since they did it that it looks like a big raise. That's, I think, the whole point of having some kind of a mechanism, so I think what Commissioner Hirschmann is proposing makes good sense.

Commissioner Duffy stated I agree with respect to having it tied to something that in fact does make the Mayor's salary commensurate with other increases for non-affiliates. However, I do think...in fact, I would like to amend the motion to establish the effective date to make it retroactive to January 1, 2003. The reason, if I may continue, is that after seven years to increase the Mayor's salary by \$4,000.00, I think if you do the calculations, you'll find that's certainly below any kind of increases that have been given out to whether it's affiliated or non-affiliated, so I think that it's appropriate that we make this increase effective the first of this year.

Commissioner Hirschmann asked did you mean 2004?

Commissioner Duffy responded no, I didn't. We're in 2003.

Commissioner Hirschmann stated the transition articles of a Charter won't allow us to go backwards.

Commissioner Duffy stated I don't know about that.

Commissioner Cook stated if I could ask Commissioner Duffy a question. When you say it's effective, you mean the calculation of the salary that will be paid to the Mayor on the effective date of the Charter will be calculated as if the formula started on the first.

Commissioner Duffy responded yes.

Commissioner Cook stated we wouldn't have to pay whoever the Mayor was during 2003 some disproportionate money. You're just talking about when the formula kicks in.

Commissioner Duffy responded exactly. It's a matter of using that as the starting date for the calculations.

Deputy Clerk Johnson stated I know you're speaking about another amendment that isn't on the floor, but we also had looked at the language and submitted you some language based on some of this compensation stuff that you're going to look at after. One of the issues that the Solicitor and I both had looked at was the date of January 1, and we actually were going to suggest to you to use July 1 which is the City's fiscal year. For budgetary purposes, it makes it easier to make sure that the money is there for people to pay, and they know what they're going to pay when. That's entirely up to you, but certainly when somebody's given a mandate to pay something, they should also have the ability to pay it within their budgets, and so our suggestion was to put it either at July 1, 2006, or back it up to 2005 in the event of the January 1, 2006 date. What you do with this is obviously another matter. I just want to note that the fiscal cycle starts July 1.

Chairman Dykstra stated we still do have an amendment on the floor that we are discussing.

Commissioner Shaw interjected we have this amendment, and it didn't get a second.

Commissioner Tessier stated she wished to second Commissioner Duffy's amendment.

Chairman Dykstra stated the thing is is that we do have an amendment on the floor, so I mean he can make that amendment. That's not a problem, but we had discussed this even before about disposing of the...you know, we don't know what's going to happen with this, and then it can be amended.

Commissioner Shaw stated of course the Chair can rule any way it wants. I believe amendments to amendments to amendments to amendments are allowed, but you must get rid of them in the order that they're made. You can't say, "We've got an amendment. We can't discuss his amendment."

Chairman Dykstra responded we're discussing the amendment on the floor.

Commissioner Shaw asked which amendment is that?

Chairman Dykstra responded that's the one he (Commissioner Hirschmann) made.

Commissioner Shaw stated no. We're discussing now his (Commissioner Duffy's) amendment.

Chairman Dykstra stated we didn't actually vote on his amendment.

Commissioner Cook interjected we're discussing it.

Chairman Dykstra responded I have no problem with that, but I'm saying we should deal with his...

Commissioner Shaw interjected no, we can't, because his is in relation to his. First, you make an amendment to his amendment. Whatever he wanted to discuss is now moot because he made it moot.

Commissioner Hirschmann stated can I make a motion to have disposition on his (Commissioner Duffy's) amendment...to get rid of it.

Chairman Dykstra stated we had a ruling on that from the City Solicitor last time, and that's the way we're doing it.

Commissioner Shaw stated 500 amendments are allowed.

Chairman Dykstra stated you can do 500, but it's going to be kind of confusing. We try to make this a little simpler. I think it would be.

Commissioner Shaw stated you can't make it simple.

Chairman Dykstra stated where are we now. Basically still we're discussing the amendment. There was an amendment on the floor. You don't even know if this amendment is going to pass.

Commissioner Duffy stated may I recap as I understand it. There was an amendment made by Commissioner Hirschmann as far as his proposal in terms of the Mayor's salary. I asked for a clarification whether or not he had an effective date tied to that. He said, "No, I do not." So I made an amendment to put into effect an effective date on his amendment, and that's where we are at the present time.

Chairman Dykstra stated the thing is too, we don't even know if his amendment is even going to pass. Then your amendment will be moot in that instance. It would be. If his amendment died, how could it attach to this one?

Commissioner Soucy stated it could apply to the underlying motion.

Chairman Dykstra responded we haven't even done that yet. We're not even discussing that. This is what the Solicitor ruled last time. If you want to be consistent, fine. Last time, when you tried to amend something, the City Solicitor

ruled that we have to dispose of one amendment first. Let's get a ruling, and then we'll do whatever he wants to do. I have no problem.

Commissioner Shaw stated the Chair rules. I don't want his opinion. I want your opinion.

Chairman Dykstra stated well, I would like his opinion as Chair, thank you. Just get his opinion, and then I'll do what I want. Thanks for giving me a little power tonight, Commissioner.

Deputy Solicitor Arnold stated generally speaking, if there is a motion on the floor, amendments are made one at a time and disposed of, so that things stay manageable.

Chairman Dykstra stated that's what I...and I'm getting jumped on. Sorry, I feel I know a little bit, and I think we're going to do it the correct way. I think I've allowed a lot of leniency. A lot of people have made motions and spoken before a second. I think, yes, I've been very lenient, so please, don't tell me I've not allowed people to speak.

Commissioner Shaw interjected he said "generally".

Chairman Dykstra stated we're going to do it this way, okay. We're going to go with the way it should be done. There was a motion, okay, and that motion on the floor...if you want to clarify, if you want to continue to discuss this motion. If it passes, then your amendment is going to be fine. If it doesn't, it doesn't make any sense.

Deputy Clerk Johnson stated he can still amend it.

Chairman Dykstra responded all right, Bob, I'll give you 500 amendments if you want. Right now we are discussing, and you can still discuss, Commissioner, but we are going to take a vote.

Commissioner Shaw stated on the main motion or amendment to the motion. This question of the Mayor's salary came up in 1983, in November. We're having the same discussion tonight that the Aldermen of the City of Manchester had in December, 1983. We're arguing the same question. I'm pretty sure that's almost 20 years now, we've been arguing the same question, okay, and we had this...up till your motion, we had this tabled, and we had four people...one, two, three, four...we have one, two, three, four...I don't know except in 1983, I was in the middle of the same question. I'm in the middle of the same question tonight. It

was my perception that we came here tonight to make a motion to make the Mayor's salary \$68,000.00. That's what I thought we came here to do.

Chairman Dykstra stated you can move on that.

Commissioner Shaw responded no. I'm not going to move on nothing. I presumed that we were going to be \$68,000.00 and just forget the whole issue. Now we're discussing as you have said motions to motions where we have to get the City Solicitor...

Chairman Dykstra stated we'll discuss it, and if it doesn't pass, we'll have room for another motion.

Commissioner Shaw stated hopefully, I'm going to be in the middle here, and I hope that I'm in the middle.

Chairman Dykstra stated this is just going to move along, and hopefully we'll make you a little happier tonight.

Commissioner Shaw responded I'll never be happy.

Chairman Dykstra stated please Bob, be happy...Let Carol clarify, so we all know where we're at.

Deputy Clerk Johnson stated the main motion on the floor was an effective date of January 1, 2006, of 80 percent of the Governor's salary, no retirement plan but with benefits with an increase in there. The amendment is to place it at \$72,000.00 rather than the 80 percent, so one is substituting the other, and to tie it to non-affiliated raises in the future which would substitute the timing of the Governor's salary increases. Other than that, you're making no other changes to the main motion, so the effective date would remain the same, the no benefits and all of that. The amendment is strictly on the salary and how you raise that salary over the course of time.

Chairman Dykstra stated tied to the non-affiliates.

Deputy Clerk Johnson concurred tied to the non-affiliated raises.

Commissioner Hirschmann stated the reason that I was comfortable with this proposal is I left the 2006 alone, so to me, I mean that's pretty conservative, and one percent of \$68,000.00 isn't a lot of money. We start going forward, and we get into a decade worth of one percent raises, that's pretty conservative moving for a salary.

Commissioner Soucy stated I have a question of Alderman Hirschmann. The non-affiliateds presently are part of the salary structure whereby if they work for a number of years, they're eligible for certain steps. Your motion does not include those steps of the non-affiliated. It's only the percentage increase that they would receive if they negotiated a salary. COLA.

Commissioner Hirschmann stated my answer is, the Mayor is not a classified or a non-classified employee. He's an elected official, and it's the compensation of an elected official.

Commissioner Cook stated I think I understand what you're saying. You're only talking about the percentage increase. You're not talking about any other mechanism to raise non-affiliated salaries.

Commissioner Hirschmann responded correct. There's no double raises. There's no merit raises.

Chairman Dykstra called for a roll call vote. Commissioners Cook and Hirschmann voted yea. Commissioners Duffy and Pepino voted nay.

Commissioner Shaw stated I'll wait.

Chairman Dykstra asked what was that?

Commissioner Shaw stated I'm going to wait till I hear the vote, then I'll vote.

Chairman Dykstra stated you have to vote.

Commissioner Shaw stated I can pass. I'll vote at the end.

The roll call vote continued. Commissioner Soucy voted yea. Commissioners Tessier and Wihby voted nay.

Chairman Dykstra stated I will vote at the end. That's my prerogative.

Deputy Clerk Johnson stated so, she's passing.

Commissioner Cook stated we've got an impossible end here.

Chairman Dykstra stated I pass as Chairman to vote last in case there's a tie, and that's the procedure.

Deputy Clerk Johnson stated Commissioner Shaw, do you wish to vote.

Commissioner Shaw stated what is the count right this second.

Deputy Clerk Johnson stated we have three yeas and four nays.

Commissioner Shaw stated four nays, three yeas. So if she votes no...

Commissioner Pepino interjected I'm going to vote last next time.

Chairman Dykstra stated I will be voting last.

Commissioner Shaw stated I'm going to vote no.

Chairman Dykstra stated I think I'm going to support Bob Shaw on that. I'm going to vote no.

The motion failed.

Chairman Dykstra stated right now the amendment is dead.

Deputy Clerk Johnson stated the amendment is dead. The main motion is on the floor, and it's open for amendment.

Commissioner Pepino stated I'm going to move that the salary right now stay at \$68,000.00 a year with no increases and furthermore, I'm also going to discussion only...when the Charter here was revisited here six, seven years ago...

Chairman Dykstra stated I'm going to need a second on it now, but is that including retirement upon completed.

Commissioner Pepino stated it includes nothing.

Chairman Dykstra stated your motion is to just leave it at \$68,000.00 the way it is. We need to clarify here.

Deputy Clerk Johnson stated I understand what he's doing, but I want to make sure he knows what he's doing. You want \$68,000.00, no increases.

Commissioner Pepino responded nothing at all.

Deputy Clerk Johnson stated January 1, you're not changing.

Commissioner Pepino responded no, I'm not even talking about that. I'm not even finished yet.

Deputy Clerk Johnson asked no retirement.

Commissioner Pepino stated no retirement.

Deputy Clerk Johnson asked benefit plan.

Commissioner Pepino stated no benefit plan. No, give him the benefit package.

Commissioner Wihby duly seconded the motion.

Commissioner Pepino stated first of all, I believe six or seven years ago, this never should have been put in the Charter. Now, the Aldermen vote on this every two, three years. I know I used to vote on it myself when I was there, but they never have the will...I was one of them...to vote on this because I would never vote myself a pay increase. So here we come along. We got this in the Charter, and by the way, the reason we're sitting here six years later is because we got a Charter that's a mess, and we're trying to straighten it out. So the \$68,000.00 should stay, not in the Charter. It should be like the Aldermen's \$5,000.00. If you're going to give the Mayor something, what's wrong with giving the Aldermen something? But no, you didn't include the Aldermen. You just included the Mayor, so my move is he gets \$68,000.00 a year. It is not in the Charter, and when it comes time for a raise, let the Aldermen decide.

Commissioner Hirschmann stated point of order. We did put the Aldermen and School members numbers in the draft, \$5,000.00 and \$2,000.00.

Commissioner Pepino stated say that again.

Chairman Dystra stated we did.

Commissioner Hirschmann stated the point of order is in the new 2003 Charter that we're working on, we did put in \$5,000.00 for Aldermen and \$2,000.00 for School members.

Commissioner Pepino stated I know we did that.

Commissioner Hirschmann stated so why wouldn't you have a...

Commissioner Pepino asked is that in the Charter too.

Commissioner Soucy responded yes.

Commissioner Pepino stated it should not be in the Charter because it wasn't in the Charter before.

Commissioner Hirschmann stated make an amendment.

Commissioner Pepino stated let me finish. Then, he can have the floor. Let the Aldermen vote on this. Let the Aldermen vote on their pay. Let the School Board or whatever they want to do vote on their pay. Let them vote on the Mayor's pay. There's no reason for this being in the Charter, and furthermore, I don't know where this came up, tying it to 80 percent. Then it was 70 percent. Now, we'll do this. Now, we'll do that. Number one, if you're going to tie this, we'll get back to your original one which is about 71 ½ percent of the Governor's salary. Where the Governor gets tied into this, I don't know. The Governor doesn't have a million people. I mean, the Mayor doesn't have a million people. The Mayor doesn't have 12,000 employees and all this stuff, so that's what I'm saying. Take it out of the Charter. Leave it out of the Charter. Put it back to \$68,000.00 with benefits, and that's it.

Commissioner Shaw stated I'm ready to speak because the Alderman here doesn't want to put it in the Charter. Then basically the motion that he should be making, and I'm not meaning to correct him as to how he should make a motion, is that no references to wages be put in the Charter and then a second would be made to that, and we would vote on it.

Commissioner Pepino stated I'll second that.

Commissioner Shaw stated I didn't make that motion. I'm saying to you, you discuss that it shouldn't be in the Charter and then you tell us how much it should be in the Charter. You can't have, Madame Chairman, you can't have both points of view, okay.

Chairman Dykstra stated I'm not making that point.

Commissioner Shaw stated we are a Charter Commission deciding what should go in the red book. That's what we decide.

Chairman Dykstra interjected I'm not saying we're going to pass these...

Commissioner Shaw stated my point to you, Madame Chairman, is I don't have any problem with the fact that he doesn't want the Charter Commission weighed

in. I have no problem with that, but the motion really is that all references to wages in the Charter be eliminated.

Commissioner Pepino stated I'll second that. One more thing. We'll put that in the Charter. His language. I'll make that motion. No salaries, wages for elected officials shall be in the Charter. Could I get a second on that?

Commissioner Shaw stated I'm sorry. I disagree with you. I want it in the Charter because I don't want them to get a raise.

Deputy Clerk Johnson stated I think you want to have Leo withdraw his original motion.

Commissioner Pepino withdrew the motion, and Commissioner Wihby withdrew his second.

Deputy Clerk Johnson stated if I'm understanding what Commissioner Pepino wants to do, he wants to have no reference in the Charter, but he wants the salary at \$68,000.00 until the Aldermen make a decision. That's a transitional provision.

Commissioner Shaw interjected I'm not sure you can lower wages for anybody. Normally, you can't do that.

Deputy Clerk Johnson stated can I finish what I'm trying to clarify here.

Commissioner Shaw stated I'm sorry. I apologize.

Deputy Clerk Johnson stated I'm going to lose my train of thought, and that's not going to be good, and I'm not saying whether this motion is a good motion or a bad motion. I'm just trying to get the motion on the floor for you. But his amendment, whether or not it gets a second, would be that the salary in the transitional provision show at \$68,000.00 until otherwise set by the Board of Mayor and Aldermen, that any references be removed from current sections of the Charter so there would be no references to any salaries or compensation in the Charter other than the transitional provisions.

Commissioner Cook asked does this apply to Mayor, School Board, and Aldermen?

Deputy Clerk Johnson stated that's a question for him.

Commissioner Cook asked does this apply to Mayor, School Board, and Aldermen?

Commissioner Pepino responded yes.

Commissioner Cook stated because that was what I heard you say, that you didn't want anything in there about anything, so if that's true and the transitional provision will say that they sit where they are not until they're changed by the Board of Mayor and Aldermen.

Deputy Clerk Johnson stated that would be his motion to amend. He needs a second to that.

Commissioner Duffy duly seconded the motion.

Commissioner Hirschmann stated just to discuss your proposal, Commissioner Pepino, it would be more conservative to have a fixed number in the Charter because a vote of the Board could change the number that you have in your mind. That number could be gone rather quickly. If you're leaving it up to the Aldermen to vote on, that number could change any time, so if you do put a number in the Charter, you're fixing the salary, and you fixed it and tied it to something, there will be no votes taken.

Commissioner Pepino stated what you just heard Bob Shaw say, 20 years ago, they were talking about this, the Aldermen, so for 20 years, they haven't done a thing, so I don't have a problem with the Aldermen changing it. That's their responsibility. If they want to change the Mayor's pay, they want to change their own pay, the School Committee's pay, let them do it. I don't have a problem with that. We've taken away enough authority here from the Aldermen. We've taken everything away from the Aldermen, appointments, everything.

Chairman Dykstra stated okay, let's stick to this.

Commissioner Cook asked if there was a second to the motion.

Commissioner Duffy responded I seconded it.

Chairman Dykstra stated so the motion basically is the \$68,000.00 but no reference to including Board, Mayor and Aldermen, School, whatever.

Deputy Clerk Johnson stated whatever they are getting now, they would continue to receive in the transitional provisions.

Commissioner Hirschmann stated Commissioner Pepino, if you believe in everything you're saying and you're leaving it up to the Board of Aldermen, you're leaving the health insurance packages in there.

Commissioner Pepino stated you're only leaving the health insurance for the Mayor.

Commissioner Hirschmann stated if you're leaving things up to the Aldermen, either you trust them or you don't trust them. Which way is it going to be?

Commissioner Pepino stated I would say we give health insurance to the Mayor. I'd like to see the Aldermen take it away. I know you wouldn't. You wouldn't dare.

Commissioner Hirschmann stated I know what the Commissioner wants to do, but Jeez. You have to go one way or the other. You can't wind down this path.

Commissioner Pepino responded you forget, you know, you've sat on the Board. You've sat on the Board. I've sat on the Board, and you've sat on the Board. You too. There's five of us here sat on the Board, and you know, when it comes to raising salaries and stuff, they just shy away. They back away from it. They don't want to talk about it, but yet in the House, we vote on our pay every year. There's always a bill in there.

Chairman Dykstra stated the benefits are included also. Now, if we have already voted to take away their benefits, by you doing this, is this going to give them back their benefits? Now, that's something I don't think you want to do, do you? Do you? Cause you voted with us.

Commissioner Pepino stated I say every day...I said it five times again this morning. I said it in Concord. I'm going to say it right here. It belongs right here. I will bring in the ideas. We have people that get paid to work with these. So I will bring in the idea. Carol can put the language on. She's asked to do it every day. I bring in ideas. I don't bring in plans. I never did.

Chairman Dykstra stated but the thing is, just to clarify Commissioner Pepino, you had voted before to basically get rid of the benefits for the School Board, but this is going to put them back in again.

Commissioner Shaw asked to move the question, stating I think we're ready to vote.

Commissioner Tessier stated I had a question...I think I'd rather vote at this time. It was a question regarding the benefit package on the health insurance.

Deputy Clerk Johnson stated the motion that was made was to remove all references to any compensation to the Mayor, School Committee, or Aldermen, to remove all references from the Charter of that, place in the transitional provision that the salaries and compensation shall remain as they are now until such time as the Board acts on it. That was the motion that was made. That will include health benefits and retirement benefits where applicable. That's the motion on the floor.

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

Commissioner Wihby moved that the Mayor's salary stay the current rate with benefits.

Commissioner Hirschmann duly seconded the motion.

Chairman Dykstra stated \$68,000.00 with benefits.

Deputy Clerk Johnson stated it does not include the retirement plan. We're not moving the effective date because it stays the same all the way through. Am I correct?

Commissioner Hirschmann stated I think that it really helps the taxpayers that go to vote for a new Charter to see the language, to see the salaries. If you take out the salaries, when they were in the previous Charter, it makes it look like you're hiding something. So if they see that number and it hasn't changed, they're saying, "Well, this is a conservative measure." And we should do it. It locks in the \$5,000.00 for the Aldermen and \$2,000.00 for the School members, and \$68,000.00 for the Mayor.

Commissioner Tessier stated those are separate items, though, the School Board and the Aldermanic, right.

Chairman Dykstra responded they are.

Commissioner Pepino stated for 200 years, it hasn't been in the Charter, only for six, and I haven't heard the people say anything. For 200 years, they haven't said a word. All of a sudden, six years ago, they decided this belonged in here. That's all I'm saying.

Commissioner Cook stated a question for Commissioner Wihby. The present language in the Charter says the salary of the Mayor will not be less than \$68,000.00 and that the Board of Mayor and Aldermen may adjust it. My understanding of your motion is the Mayor and Aldermen can't...not the Mayor, but the Aldermen can't adjust it, and that would be much less flexible than the present system even though they haven't adjusted it. Is that your intent?

Commissioner Wihby responded yes.

Commissioner Shaw stated I think that as his motion makes reference to the salaries, then the citizens will vote on that, and if the citizens wish to give the Mayor a raise, the citizens, they have the right to do that through a Charter amendment. The Aldermen always have the power under State law to make a Charter amendment, to put it on the ballot, that the Mayor's salary be \$69,000.00. Luckily, the citizens will vote against that.

Chairman Dykstra stated that's an excellent point, Bob.

Commissioner Shaw stated so, I agree with you, but I think the argument should end eventually.

Commissioner Tessier asked to have the amendment repeated.

Deputy Clerk Johnson stated the amendment is that the...the main motion on the floor was talking about the Governor's salary. You're now replacing that with the same rate of \$68,000.00 which is what the Mayor receives now, get the benefits, no retirement plan. The January 1, 2006 goes out because that's what he's getting now. It just continues on. There's no changes there, and that's it.

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

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

Commissioner Duffy gave notice of reconsideration.

Chairman Dykstra stated I have to get a ruling on that. How many times can you give a notice? I know if you voted in the affirmative you can. How many times? That's what I have to know.

Deputy Solicitor Arnold stated I think Rule 10 provides one, but this Board of course can do as it wishes.

Chairman Dykstra stated let's get a ruling on this.

Commissioner Shaw stated while he's looking that up, I would like to point out to the Commissioners that at any time, you'd make a motion to, as long as it's substantive, you'd like to make a motion that the Mayor's salary be \$100,000.00. You get a second. We have the discussion, so this reconsideration is a ploy on the part of the Alderman who vote for or against something, to bring it up again. They don't have the ability that you have to bring up anything they wish. That's my only point.

Chairman Dykstra stated under the ruling of the City Solicitor, we have to take that notice of reconsideration.

Commissioner Duffy responded thank you, Madame Chair. Notwithstanding Commissioner Shaw's guidance, I want to have an opportunity for reconsideration.

Chairman Dykstra stated that will have to be at the next meeting, cause it's a notice.

Commissioner Duffy stated yes.

Chairman Dykstra stated okay, that's done with.

Commissioner Cook stated since we're considering things that we thought we had done before...

Chairman Dykstra interjected wait a minute. We still have an agenda here. We have to go by the agenda. Notice of reconsideration.

Commissioner Cook stated all right, fine. I'll hold this.

Chairman Dykstra addressed item 5 on the agenda:

Notice for reconsideration given by Commissioner Shaw regarding a motion that Section 2.02 of the Draft Charter contain the language, "The Board of Aldermen shall be the final judge of the election and qualifications of its members."

(Commissioners Cook, Duffy, Hirschmann, Pepino, Soucy, Wihby, and Dykstra having voted yea. Commissioner Shaw having voted nay.)

Chairman Dykstra stated now is this a reconsideration of a reconsideration or just a reconsideration.

Deputy Clerk Johnson responded this is just a reconsideration.

Commissioner Shaw stated only you could state whether I could do this or not. I'd like to make a statement if I could, and then we'll go on to item x, y, or z, if you don't mind, and if you rule that I...then at some other point.

Chairman Dykstra responded no, so you don't want us to...okay.

Commissioner Shaw stated I just feel that we have divided ourselves into four to four, and the fifth person seems to control the things...it could be Commissioner Wihby. It could be any one of us that could be number five, but we seem, Madame Chairman, to have designed a wheel that just revolves around itself, okay, and very shortly we're going to reconsider some more agenda that we have done, and I'd like to put the...you know. I don't see us going anywhere. I think we're just playing games, and when the whole thing is done, we're going to divide ourselves into four people on one side and four on the other that's going to vote for this Charter. Some are going to vote for it, and some are going to vote against it because they didn't get what they wanted in the Charter, and we're going to boil down to where one of us, one of our nine, is going to be the fifth vote to pass the Charter. I think that's the direction we're headed. We're going in a circle, doing nothing.

Commissioner Hirschmann stated I'd like to speak to that.

Chairman Dykstra responded we're in five. I gave him that personal privilege which was fine. Again, I guess I could do that, but it's the notice for reconsideration on this certain subject right here that we're discussing, that we should be discussing, about the Board of Aldermen being a final judge of the election and qualification of its members. That was your reconsideration. Now, we need to vote on that reconsideration.

Deputy Clerk Johnson stated he needs to move for the reconsideration or someone else if he wants to reconsider. One of the issues he had was clarification of the Board of Aldermen, which I think the Solicitor may have, had some information about.

Commissioner Shaw stated I think I would be wasting the committee's time to make a reconsideration of anything because I think finally when we get to the final thing on this Charter, the vote is going to be four-four, four for it and four against

the Charter because the way I perceive we're headed, and therefore, since the vote will come down to one person's vote on whether the Charter should pass or not, okay, most likely the Charter will not go to the Aldermen to be put on the ballot at all. I think that the direction we're going, the amount of time we're wasting on this particular issue, that unless one of the four on either side changes their mind and votes with the other people to pass the Charter to the citizens, this thing is dead at five o'clock tonight. It's definitely dead at six o'clock tonight. The last time, it was a lucky thing. We had eight votes to one. Now, we're pretty much...we're getting better. Now, we're four to four. Okay, so I'm not going to move to reconsider this since I'm supposed to do it. I see the Charter is dead.

Chairman Dykstra stated well Bob, I'm sorry you feel that way. I think that it's all part of the process, and sure, I mean, it's 5-4, it's 5-4, but we have had a lot of votes here where some of us agreed on, and the votes weren't 5-4. I mean, there were things that we did agree on. The ultimate decision in the end certainly, it's a democracy, and if we get five votes, then it goes on. If not, it doesn't, and we're certainly going to try to work towards that, but I mean, I understand people's frustration at times. You know, there's a certain time frame too, Commissioner, so I mean, we can go over these things like you have, to rethink something, change your mind. Commissioner Duffy did. Other people have. That's the way the process works, so hopefully at the end, we will come up with something that the majority of us like.

Commissioner Shaw responded no. That's not my point, Madame Chairman. My point is what the Mayor said. I think the Mayor correctly identified the thing. He said, "I can live with it." You see. I think that that's really the point. If the Mayor of the City of Manchester is opposed to what we're trying to accomplish, okay, and we have basically in my mind, two Aldermen that we're trying to get rid of who are going to be on the ballot at that time, and if they get 13,000 votes apiece...it might not even be the same 13,000, but part of it will be, then the Charter will fail. I mean we must understand the reality of what we're faced with, okay, and when four of the people here decided that the biggest issue facing us, the biggest issue, was what the Mayor got paid, okay, and that we would never be able to explain to the people of this City why the Mayor's salary should be x, y, or z. We wouldn't be able to explain that, and it was brought to a level that I believe has defeated the Charter. Just the Mayor's salary has defeated the Charter, even though we kept the salary the same, because we made ourselves look ridiculous, and I'm part of that group. I'm part of the group that looks ridiculous.

Chairman Dykstra stated you have a right to speak your mind should I say, but one thing, before I call on you Commissioner Duffy, do you want to withdraw your reconsideration?

Commissioner Shaw responded I already...I said I've lost it.

Chairman Dykstra stated so that's gone. We're going to go on to six, okay, and let's get going. This is on the items flagged.

Commissioner Duffy stated I would support what Commissioner Shaw is saying, and it started quite honestly when the decision made by this Commission was to revert to the 1982 Charter instead of amending the 1996.

Commissioner Shaw interjected well, that was my fault.

Commissioner Duffy stated the fact of the matter from that time forward, we have been, as Commissioner Shaw has rightly pointed out, going in circles. The fact of the matter is that until we can get some resolution to this underlying dispute as to whether we are in fact writing a new Charter, whether we're amending an existing Charter, or whether we are in fact reverting to a former Charter, it's quite obvious that this confusion is going to continue to exist. I agree that we've spent a great deal of time, and we don't have much to show for it.

Chairman Dykstra addressed item 6 on the agenda:

Chairman Dykstra advises that the Commission can now proceed with reviewing any new language submitted by the Clerk, the "Items flagged" listing, or any other business submitted by members.

Deputy Clerk Johnson stated can we start with the draft of what you've already acted on.

Chairman Dykstra stated all right. There's a draft. Do you want to explain that tous? Budget and appropriations, do you have that draft that Carol passed out to us?

Commissioner Cook stated so I don't get to make my motion.

Deputy Clerk Johnson stated this is in six. This is part of it.

Chairman Dykstra stated let's get the information out of the way, so we can go through it.

Commissioner Hirschmann stated I make a motion that we add this to the draft Charter, and we take it up at a later time. We have a draft. Why don't we add this to it, and we'll discuss it another time. We're going to discuss every part of these drafts? We decided last week, we weren't going to do that.

Deputy Clerk Johnson responded no, you didn't.

Commissioner Hirschmann stated you weren't there.

Deputy Clerk Johnson stated the only thing I would point out that these are all items that were acted on, okay. The item A showing on the last page has just been changed by the Commission, so we're deleting that out. Okay? So that's out of it.

Chairman Dykstra stated so cross that off.

Deputy Clerk Johnson stated the next two sections, B and C, the only thing I would ask is whether or not you wish to put an effective date, starting with the ensuing fiscal year or something that tells them when to start. That's all I'm asking, cause there is no effective date for that language given.

Chairman Dykstra asked wouldn't it just continue?

Deputy Clerk Johnson responded no because you removed benefits. My presumption would be that you might want to do it with July 1, 2004.

Commissioner Hirschmann stated I'd like to put this, like I said, with the redraft that's been done. Add it to it, and when we get to it...

Deputy Clerk Johnson interjected you can't add this to it because you've already acted on the other portion, so if I mix it in, it's not the same document.

Chairman Dykstra stated this is contradictory to what we just did, this part here, if we could work on that.

Commissioner Hirschmann stated we voted on it, so it deletes it.

Chairman Dykstra responded that's what she's trying to say right now.

Commissioner Hirschmann responded so there's no action necessary with that.

Chairman Dykstra stated she said it was a time frame.

Deputy Clerk Johnson stated I'm asking if you want an effective date for B and C.

Commissioner Hirschmann stated I say that we do a drafting process, that we go through it, and this isn't the time for the drafting process.

Deputy Clerk Johnson stated if you want to accept this and move it into the draft, that's fine. That's all I'm trying to determine.

Chairman Dykstra stated motion. Is there a second? Why don't I just do it. We're just going to do it. That's all.

Commissioner Cook stated I'd like to make a motion if I could. Since we've been reconsidering things, and I think in light of the discussion between these two guys, I'd like to make a motion that the Commission reverse the actions previously taken and restore the two At Large Aldermen and School Board members and non-partisan form of election.

Commissioner Tessier duly seconded the motion.

Deputy Clerk Johnson asked that the motion be restated.

Commissioner Cook stated restore the two At Large Aldermen and School Board members and non-partisan elections.

Commissioner Hirschmann stated move to the question. Get it over with.

Deputy Clerk Johnson stated it was moved by Cook and seconded by Tessier.

Chairman Dykstra stated to reverse the decision.

Deputy Clerk Johnson stated to go back to non-partisan, two Aldermen At Large and two School Board At Large.

Chairman Dykstra stated could you explain. A no vote would what?

Commissioner Cook responded a no vote would leave it the way it is.

Deputy Clerk Johnson stated a no vote leaves it partisan with 12 Aldermen. Yes vote would put it with 14 Aldermen, two At Large, 14 School Board members, and non-partisan.

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.

Commissioner Hirschmann stated (to Commissioner Shaw) now you can be the blame. All this discussion that you're discussing, you're full of baloney. I hope the people on tv see you too.

Chairman Dykstra stated you just gave us a speech, Commissioner.

Commissioner Hirschmann stated your speech isn't worth water.

Chairman Dykstra stated it was worth nothing.

Commissioner Shaw interjected no, you see, Alderman...

Commissioner Dykstra stated let's continue here. It doesn't make a difference.

Commissioner Hirschmann stated now you're right. Now there is acrimony.

Commissioner Pepino stated I have the floor. Now, according to the rules of the Board that we're working with, with the Alderman's rules of the Board, whether you vote in the affirmative, negative, it makes no difference. Motion for reconsideration.

Chairman Dykstra asked for what?

Deputy Clerk Johnson asked are you moving now? You voted no. You have to give notice.

Commissioner Pepino stated I can vote any way I want according to the rules of the Board.

Deputy Clerk Johnson stated he voted in the negative. He can give notice.

Commissioner Pepino stated that's what I told you. The rules of the Board are no good.

Chairman Dykstra stated well, let me tell you. It's a shame. This is a shame. This is a mockery. We're going to just continue. That's what we're here to do, and whatever happens, happens, okay, for the good of the people. We'll see.

Commissioner Hirschmann stated I'll move on to item six. I want to make a motion.

Chairman Dykstra responded yes, go ahead. Make a motion.

Commissioner Hirschmann stated I don't have it as a flagged item, but I have it on my list, and it's reference to a biennial budget. For the benefit of the taxpayers, I want this language in a motion. I want it to say the Mayor may propose a two-year budget at the start of his term or may opt for a single year budget.

Commissioner Cook stated I thought that's in here already. It's in the existing Charter. I mean, if you want to continue it in...

Commissioner Hirschmann responded but it isn't in that 1983 Charter.

Deputy Clerk Johnson stated so you want to use the same language.

Commissioner Cook stated just before we get a second on that, the present Charter says if the State of New Hampshire statute changes and allows a two-year budget, the City may adopt one. My understanding is, and somebody correct me if I'm wrong, that the State of New Hampshire did do that. It allowed for...it didn't require, but it allowed for a two year municipal budget in the cities, so under the...

Deputy Clerk Johnson interjected but there is a problem.

Commissioner Cook stated I'm just trying to figure out what the right language to get...I have no objection to the concept, getting it into the budget, cause we agreed with that flexibility the last time. I don't disagree with that flexibility now, but the question is what should the language be to fit it with the statute and where we ought to be. That's my only question, because I understand what you're saying, and I don't disagree.

Deputy Clerk Johnson stated he's looking to use the same language, but we can research it for you if you want.

Commissioner Cook responded but the old language said if the State of New Hampshire does it. The State of New Hampshire did it. It doesn't have to say that any more.

Deputy Clerk Johnson asked you're saying they shall do it if it's allowed.

Commissioner Hirschmann responded no, I'm not saying they shall. If I could just read. Biennial budget, and I'm saying it's a benefit for the taxpayers. "The Mayor may propose a two-year budget at start of a term or may opt for a single-year budget. Under either plan, the fiscal year must close June 30 for all reporting and audit management letter annually." In other words, even though you're adopting a two-year budget, you're still going to have a fiscal cycle that ends and you get a report and you know when the chips fell, and the fund balance goes onto the next

budget. It's not to be held onto by departments. "Fund balance at June 30 will go to next fiscal cycle and to reserve account equally" which I believe is the way it works now.

Commissioner Cook stated those are in other sections of the Charter.

Chairman Dykstra stated there was a motion.

Commissioner Cook duly seconded the motion, stating more on the lines of what Commissioner Pepino just said.

Commissioner Pepino stated I asked a question.

Commissioner Cook stated I understand. It was a good question. There are a lot of sections involving budget besides whether it's a one year or two year budget. The present Charter gives that flexibility. The issue and what we've got to be careful about is when you have a two year budget, which you shouldn't have to go through that budget process every year upstairs...everybody would I think be happy, but there've got to be proper mechanisms. There are some mechanisms in the Charter now, and there were some mechanisms in the Charter before for reopening a budget if things change.

Commissioner Hirschmann interjected that was the rest of my language.

Commissioner Cook stated I think we got to be careful, especially when you're doing a two-year budget, you don't know what revenues are going to be, and you don't know what things are going to be 18 months out instead of nine or ten months out, that we have enough stuff in there to deal with reopener in the event of trouble because when you're looking out what the State of New Hampshire might do to your revenues here 18 months or 20 months, we've just got to be careful to include that. I agree with your concept, but I think we have to be sure we leave enough flexibility in there.

Commissioner Hirschmann stated if we could get this into a draft, then we could all look at it. That's what I'm asking, so if you could pass it as a draft form, and we'd work on it.

Deputy Clerk Johnson stated you had more. Did you want that all as part of it too? The opening or do you want to leave it separate?

Commissioner Hirschmann stated let me read you the rest of it, just so you hear what was in the mind of Hirschmann here. "Deficit spending above budget amounts is unlawful at any time. Should an emergency arise, the budget may be

reopened by a vote of two-thirds of the Aldermen in the second year if it is believed that spending cuts alone will not resolve the matter.”

Commissioner Shaw stated why is the Charter Commission deciding now how the budget of the City should be run. I don't understand. I know you've got a lot of verbiage there, and it's also other verbiage here, but wouldn't it be great if we could cut 90 percent of the words in the Charter out and leave, you know, the running of the City to the people that we vested the power in versus, you know, we here. First of all, I'd be totally opposed to the two year budget even if allowed by law. I think that a two year budget is the responsibility of the Aldermen. If they was to do a two year budget, ten year budget I could care less, but I don't think the Charter should tell the Aldermen how to run the City. That's my point, for what it's worth.

Commissioner Hirschmann stated for everyone's benefit, I believe that a two year budget, proposed by a Mayor or a group of Aldermen that's passed, could actually be more stable than a one year plan. It gives the taxpayers a feeling of a two year cycle, and actually in your second year of your budget, you actually budget in your first year what your fund balances are going to be, and you carry that over as cash into your second year, so actually it is a good idea. I'm for it.

Commissioner Soucy stated I just think it's a good idea to give the Aldermen and the Mayor more tools to work with to better manage the finances for the City and avoiding a lot of the planning that goes into...I mean, we spend six months preparing for one year and then are off for two or three months and then start preparations again for another budget cycle, and I just think that we should definitely take a look at a proposed draft of this language. I think it would really be beneficial to all of the City departments as well, so that they're not expending time and resources doing the same thing over and over.

Commissioner Pepino asked is this “may” in the Charter or “shall”?

Deputy Clerk Johnson responded “may”.

Chairman Dykstra stated it gives them the option.

Commissioner Shaw stated I would be concerned. We have a two year cycle for Mayor, and I would be concerned. Already a Mayor comes into office and six months, he has no control over spending. The Governor has the same problem as the Mayor. So, I'm not sure it said it could be a one or a two year thing. Is it possible that a new Mayor comes in and that he's stuck with a budget for not just six more months?

Commissioner Hirschmann stated if I could, I thought of that. That's why I said the Mayor may propose a two year at the start of the term. In other words, in the second year, you're not going to propose a two year budget because you'll encumber a future Mayor.

Commissioner Shaw stated another point. Of course, Aldermen, they've always disagreed with me on this particular issue, but I favor that Aldermen and School Board members should propose a budget to do a task and then it is the purpose...no, not the Aldermen, excuse me, the Mayor and the School Board...they should propose a budget to do a task. The Aldermen should make their recommendation as to how much they can afford, all right. Luckily, in no other business is this true, but in City government, it's absolutely true, okay. Revenues, one, are going to be what they're going to be, and two, you have a number that you bring to the State, and they give you more money called property taxes. But you should know, as an elected official, how much money you want to spend on a task. If then, the elected officials should say no, no more snow plowing, that's it. We're not going to snow plow next year. I have no problem with that, but I have a problem with Aldermen and Charter Commissioner people who think that the City is run by how much money you should have. That means if all of a sudden, somebody left us \$100 million, Aldermen would go running out and spend it. I don't want that. I want them to provide with a government that I can afford, a government that will work. On your motion, you should have not more than 20 words describing what you wish to do without regards as to fund balances, without regards to deficits and this and going to jail. That's separate. That is my piece.

Commissioner Hirschmann stated what I'd like to do is put the language in a draft, and the Commissioner could delete whatever he doesn't like in there.

Chairman Dykstra stated there's a motion. There's a second. We have discussed...

Commissioner Shaw interjected to send it to draft. Sounds innocent.

Commissioner Pepino stated that's what I said before. You bring in the ideas. They'll draft them.

Chairman Dykstra called for a vote, and the motion carried.

Chairman Dykstra stated well see, we do agree some times.

Commissioner Cook stated I have another draft of what we talked about last week on the finance officer that I hope incorporated the comments we had. Before I

pass it out, I want to make it clear. This is not a burning issue with me. What I've tried to put into language, because I've had people say what you want in this thing, I don't much care because I think the finance office, department works reasonably well although I think there's some tweaking that needs to be made. What I tried to take was Mr. Clougherty's testimony and the collective concerns people raised about the fuzzy reporting problem with the department head and different things and put it into one thing. This is not a big deal to me, so if people...not that anybody around here has felt particularly reserved about criticizing...but what I've tried to do is incorporate all the ideas that people were doing. That was the whole purpose of this.

Commissioner Cook distributed a one-page hand-out, with language for sections 6.11 and 6.12, to Commissioners.

Commissioner Pepino stated the problem I have, Brad, that the plans when they were in here, when I asked in plain ordinary layman's language, "Are all the computers in this City talking to you? Do they talk to one another?" and he said no. My problem is, by him saying that, he's not getting all the information he needs. Do you follow me?

Commissioner Cook stated just track through it. It's still "the department head of the Finance Department shall be nominated by the Mayor and confirmed by the Board of Mayor and Aldermen as all other department heads are". That probably isn't necessary except for the confusion about the fact that he is a department head reportable to the Mayor like every other department head. That's the only reason that's there. "Shall serve as department head in the same relationship to the Mayor as other department heads. If requested by the Mayor"...there was concern last week that this thing, because of what it said and it was inappropriate Commissioner Shaw pointed out, this was requiring by Charter that he be the budget officer and usurp some of the Mayor's budgetary authority. That wasn't the intent, but that was certainly the effect of what the draft said last week. I have changed that to, "In addition, if requested by the Mayor, the Finance Department Head shall assist the Mayor." Not he shall assist the Mayor, period. "Provide such financial information to the Board of Mayor and Aldermen as shall be requested of him by the Board or an individual member." That addresses what Commissioner Hirschmann was saying. The finance officer is helpful to the Aldermen because they have questions about finances they should be able to ask. That would be a specific alternative to the non-interference provision. In this particular case, when they want information, they can ask for it. "Shall perform the function of the finance officer of the City." There is a state statute as we have heard setting up a finance officer for the City, and then the rest of the language is the same stuff that was in before. 6.12 split into the internal audit and the independent audit because people pointed out that that might be read to not have

an internal audit. I've tried to get the ideas into here. I'm not wed to any of this language, but I've tried to address all the things that everybody talked about.

Chairman Dykstra asked are you going to be moving on this?

Commissioner Cook responded for discussion, I'd make a motion.

Commissioner Pepino duly seconded the motion.

Commissioner Shaw stated under 6.11, 75 percent of the words in here and probably greater than that are already addressed in the Charter, already addressed. Repeating ourselves only costs paper, okay. It reaffirms what we already affirmed, so I would think that Commissioner Cook should do this—take out all references in this particular 6.01 that are referenced somewhere else in the Charter, okay. Now, he might point to those by reference if he wished, but I mean, “The department head of the finance should be nominated the Mayor and confirmed by”, we've already discussed that so I mean that whole first sentence, where it ends at the period, it's repetitive. “The finance director shall serve as a department”, that's already been referenced. I mean, we didn't say what a department head...and if we did, then that should have already been with reference. And then it goes down, “The finance head shall perform the functions of the finance officer of the City.” That's probably the only line in there that is absolutely necessary, okay. So if he's counting marbles, give him enough buckets to put the different colors in. That's my opinion. “The finance head shall maintain accounting”, well that's common sense, but if you want to put that in there, Brad. You really want to say that he should do x, y, and z, you know, what the heck. Be in there, but any reference that he or the Mayor, since we gave the Mayor power over the Finance Director, then the Mayor says, “I want to know how many people work in the City of Manchester, what they get paid,” he has to do it.

Commissioner Cook stated I do not disagree that we could do it by reference. We could say the head of the Finance Department is a department head as set forth in sections boom, boom, boom of the Charter, but the problem we've heard about, the problem we've heard about and I said at the outset this probably isn't necessary cause it's probably written elsewhere, but it's making it clear. If we wanted to say he is a department head under 1.23 and 2.44, I don't care.

Commissioner Shaw stated I wish to respond to him because I just got accused of killing the whole thing, but you see, the person that killed the new Charter was the last eight people that did this here. They made the Finance Director not accountable to the Mayor. That was a major, major mistake, okay, a mistake that needed to be corrected. And if this Charter fails the people, that's the major thing.

Would you like to have better school budgets and everything? That's going to fail because like the last time, Madame Chairman, we put too many words in here. Too many words, so what it meant over here didn't mean over there, okay. And we're going to have the same Charter back, okay, because we have Finance Directors and we have Assessors and we have City Clerks come before us and tell us how we should do the thing, when common sense says you just don't repeat yourself. You just don't do that, okay. I know what a Finance Director is. I presume that an Alderman knows what a Finance Director is, and I would hope the School Department knows what a Finance Director is, and we don't need 6.11 as written.

Commissioner Pepino stated I believe in the concept of this. That's why I seconded his motion. I'm certainly not sure if all this language is in the other Charter we're working on, and I'm certainly sure when we ask Carol to put this together, she's not going to print all this over and over and over again. She'll take out the parts this represents, so there's no extra language in there.

Commissioner Shaw stated no, she's going to print it as you said, unfortunately.

Commissioner Hirschmann stated Commissier Cook did address the internal auditor, and it does put the language in that he reports to the audit committee, so that does make a positive change to government because right now that is a gray area because it's under the Finance Director, and the Finance Director did ask that something be done. Like you said Brad, I'm not in favor of this, but I'm not against either. I'm willing to let it proceed.

Commissioner Cook stated we can put it on the table. We can do what we did with yours and send it for drafting to see how much better we can make it. As I said, I'm not wedded to it. I'm just trying to get the ideas here that we've talked about.

Commissioner Shaw stated if he would move to send it to the drafting with, you know, duplication if possible to be highlighted so we know we're duplicating ourselves, but there's a point here in 6.12. "The City shall employ an internal auditor." Okay. Where does he work? Who does he work for? He works for the audits committee of the Board of Mayor and Aldermen. So you have set up a committee of the Board of Mayor and Aldermen in the Charter which is pretty...

Commissioner Hirschmann interjected it exists.

Commissioner Shaw responded it exists because the Aldermen wish it to exist. It doesn't exist because of the Charter. Who hires him? You going to let the Aldermen hire him. I wouldn't be in favor of that.

Commissioner Hirschmann stated he is hired. He is working.

Commissioner Shaw stated but he is putting it into granite that you shall have an audit committee who shall do the financial performance which is really ridiculous. It is not the financial performance of anything that we really need. We want to know the performance. Are the streets plowed in a straight line? Okay. Or do they go zigzag? You see, to me that's the audit. A performance audit is not a financial audit.

Commissioner Cook stated if you want to take out financial, I'll strike financial.

Chairman Dykstra stated do you want to send this to a draft?

Commissioner Pepino stated we don't need an auditor in the City.

Commissioner Shaw responded yes, we do.

Chairman Dykstra stated if you want to make a motion to send this to drafting...

Commissioner Cook stated I would be happy to amend my motion to send this language to the drafting committee, considering all the comments that have been made to try and make it better.

Commissioner Soucy duly seconded the motion.

Chairman Dykstra called for a vote on the amendment, and the motion carried.

Deputy Clerk Johnson stated he said drafting committee. I want to know if you have a committee that I don't know about.

Chairman Dykstra stated he will work with you.

Commissioner Pepino stated if this comes back drafted, I'm going to say the same thing I'm going to say now. Like I just told him before...

Chairman Dykstra asked are you opposed to sending it to draft?

Commissioner Pepino responded no, I'm not opposed to it. As I said before, the Finance Department does not get all the information here. That's just part of this. He sat right there and told us.

Chairman Dykstra stated this is going to be drafted. We've already voted on it. If you have any input to give Carol or to Commissioner Cook, you can do that, and we'll come out with some kind of a product.

Chairman Dykstra called for a vote on the motion as amended, and the motion carried.

Commissioner Cook stated it's just to send it.

Chairman Dykstra stated just to send it to drafting. I certainly think I know what I'm doing, but some times, I wonder. Okay, that's done with. Anything else for the good of this Commission?

Commissioner Soucy stated if we're moving on to the list of flagged items, on page two of list of flagged items, item 18 dealt with nominations, primaries and recounts. I wanted to make an amendment to language that exists in the current City Charter, so it's page 169 in our red books. Section 5.24. In the current language, it provides that a candidate may ask for a recount within two days of the election, and my amendment would be towards the bottom where it says that "within two days after the primary or general election results", I would change that to "within two days of the City Clerk's declaration of the primary or general election results".

Chairman Dykstra asked how long does it take to declare it?

Commissioner Soucy responded they're required to declare within 24 hours under our current Charter.

Chairman Dykstra stated so it's like giving an extra day or...

Commissioner Soucy stated it's giving someone an opportunity to see what the official results are from the Clerk prior to making their decision as to whether or not they want a recount.

Commissioner Pepino duly seconded the motion, stating three days, nothing wrong with that. It should have been three days right along.

Chairman Dykstra asked is it something that's legal? Is that in the RSAs or is it something we have to go with by the Secretary of State?

Deputy Solicitor Arnold stated I would have to look at it.

Commissioner Cook stated that would be my question too.

Commissioner Hirschmann stated could we refer that motion to the Solicitor so he can check it out.

Deputy Clerk Johnson stated it says results in it anyways. We're not changing it.

Commissioner Soucy stated I just want that language.

Commissioner Cook stated it's a good idea, but the question is whether this...

Chairman Dykstra stated it does say after the general election results, so the results come from you, from the City Clerk.

Deputy Clerk Johnson stated "in the case of the municipal primary or general election results", those results under law are issued by the City Clerk, that's correct. So her motion really doesn't change anything. It just clarifies to people that it is after the official results are released the next day that that is when that 48 hours kicks in, and it's really saying the same thing. It's not changing anything, and there would be nothing prohibiting that under the law.

Commissioner Soucy stated it makes it clearer.

Chairman Dykstra called for a vote, and the motion carried.

Commissioner Soucy stated I actually had another item. Within that same section, actually moving on in the election section, it's item number 19 on our flagged items. Section 5.29. Political campaign contributions and expenditures. It's on page 171 of the current Charter in our red books. We did part of it, but I wanted to make a motion relative to the definition section, and I actually have a draft of the language that I wanted to change in the existing definition section. I believe as part of drafting, we would strike out the language where it says "commissioner of welfare" in "incumbent official" which is (b) in the definition section. I would move that we replace the definitions for candidate and for expenditure with the language that I distributed and then pick up the remaining definitions that are already in the existing Charter. The language that I took for these amendments came from the State statute, so that these are the same definitions as appear with the Secretary of State. Just to make the language more consistent.

Chairman Dykstra stated so you just leave for Mayor, School Committee. I mean, you're leaving out all of that.

Commissioner Soucy responded the reason I'm doing that, if I may Madame Chair, is that it clarifies that it's all candidates whether it's candidates for Charter Commission such as ourselves. It's any candidate running.

Commissioner Hirschmann stated my question is on the definition of candidate. Someone becomes a candidate when they officially file for office. Under this, does it mean a candidate is someone that's a candidate before they file for office.

Deputy Clerk Johnson stated if they declared earlier than the filing period that they were a candidate at that point and time.

Commissioner Cook stated that portion doesn't change from existing law. The declaration was in existence here, not filed but declared, and the theory was, and I think that's consistent with most statutes, and you know all those arguments you read about in the paper every year, "Did they declare when they came to New Hampshire to run for President or were they just testing the water and all that kind of stuff?" because that is when having to report your expenditures and contributions kicks in. So people can say, "Well, I wasn't a candidate till I filed," and then all that money they raised in January, February, March, April, May, and June didn't count. So that's why it's the declaration.

Commissioner Hirschmann stated I'm okay with that.

Chairman Dykstra stated we couldn't put the Commissioner of Welfare anyways. They're appointed now. I mean, this week. We don't know what's going to happen next week. That brings to mind too. We'll jump into that later.

Commissioner Wihby duly seconded the motion.

Chairman Dykstra called for a vote, and the motion carried.

Commissioner Cook stated just for my recollection, we voted before to take the \$500.00 expenditure thing out, and it's all expenditures, right?

Chairman Dykstra responded that's right. From a dollar up.

Commissioner Soucy stated could I make one further motion. Within that same section where on page 172, it begins with the bold reporting and then consent, registration for political committees, I, J, and then it goes on to K. K was the item that we had voted on and we had said all expenditures would be reported or contributions. Having thought that through, I would like to make a motion that we change that to \$100.00.

Commissioner Hirschmann asked why.

Commissioner Soucy stated when we discussed the motion previously, I believe Alderman Hirschmann's intent was that currently, someone can collect \$499.00 and expend that amount of money four separate times without any reporting to anyone, and I agree very much in principle with the argument that we should do increased public reporting and make candidates accountable for the money that they receive and that they spend. It just seemed to me that someone who spends \$2.49 for a poster board to stand in front of an election shouldn't have to fill out a form saying that. I mean, they can just certify. I just think we need to come up with...I mean, make it \$50.00. I don't care, but I just think we need to come up with a dollar amount so that somebody who's running for one of the ward offices would then have the...

Commissioner Hirschmann stated it more went to open and honest and ethical government than it went to the dollar amount. So what's the problem? Dollar one. If a fellow spends \$2.49, he has to go see Carol Johnson anyway. He has to sign a form anyway, an affidavit, so let's say that you spend \$2.49. Let's get it over with, and let's go on to something else.

Commissioner Cook stated I guess the more you know about law, the worse you are filling out forms, but I got to tell you, if there was only one form, and you didn't have to pick the blue one or the pink one or the yellow one or whatever color they are, you just have one form. As a matter of theory, people won't have to say to whoever is keeping the records—it's usually them—that I spent or collect \$485.00 or \$503.00. They'll just have to fill out the form, and it's going to make...almost every one of us here has run for these offices where you had to fill the thing out, and I got to tell you, it's going to make life easier for candidates, not harder.

Chairman Dykstra stated there was motion. Did she get a second to that motion? There was not a second to that motion, so that motion dies.

Commissioner Soucy stated if I could, just one final item. In that existing section, relative to reporting which is item K on page 173, in number three, the disclosure report and the itemization of expenditures, the fourth line from the bottom, the sentence begins on the sixth line. "The report shall show each expenditure with a full name and address of persons, corporations, committee or whomever was paid." I would like to strike the words "or is to be paid" and maintain "with the specific nature of the amount of each expenditure", and the reason for that is that it seems contrary to me to any other forms and reporting that I've seen. What you're asking people is how much did you take in, how much did you spend. What this asks is how much are you going to be spending in the future, so for example, it's

what have you encumbered. Correct, but it's more than accounting function. It's not how much have you actually paid out, so for example, someone raises \$10,000.00, and they have gone to order their signs and to have telephone calls made on their behalf, and they're paying someone for this service. They have incurred the expense up to whatever amount, but you're asking them to report that they incurred the expense. They can then take the \$10,000.00, not pay those bills until into the future and spend the \$10,000.00 on something else. So you're almost asking for...it's more than accounting function as it's worded now than it is an actual reporting of the events that transpired.

Commissioner Cook stated I think in the real world knowing what I know about political campaigns, nobody takes an IOU in a political campaign because the day after the election, the candidate is gone, the committee is gone, and chance of collecting the bill is gone, so they get cash up front, but the intent of that section was certainly not you've planned out your budget, please report it to us. That's not what it was. The intent was if you have incurred a legally binding obligation to pay somebody and you're only not reporting it on a form because for example you've hired Dick Morris the political consultant but you don't want to be associated with him, even though he's brilliant or something, the intent was you've incurred the obligation. You're legally bound to do it. You've got to report it because you know you're going to have to pay it. You read it the wrong way, and you're going to report everything that you're going to spend and you haven't spent it yet because you don't know. You can't do that. Now, I don't have any objection to taking out the language, but that was the intent of having it there. It was an effort at full disclosure.

Commissioner Hirschmann stated my objection to taking it out is that I could pick up a telephone and call five places in the City and have signs ordered, advertising ordered, people hired. I could do all kinds of things and not pay those invoices for three months, so there would be no report generated. So, I think it's not ethical. I think the ethical intent of the Charter is as you go, you report.

Commissioner Tessier duly seconded the motion.

Chairman Dykstra called for a vote. On a show of hands, the motion failed with Commissioners Soucy and Tessier duly recorded in favor.

Commissioner Duffy stated I would like to have us look at item eight. That's an item that I had reserved at a previous meeting. This is the section that deals with boards and commissions, and we're referring to 3.07, and I'm going to ask Carol for a clarification here, whether that 3.07 refers to the old Charter or the Charter that's currently in effect.

Deputy Clerk Johnson responded it was the old Charter.

Commissioner Duffy stated okay, going to the old Charter, I think that quite honestly...

Deputy Clerk Johnson stated you substituted the new for the old, so it's the new one.

Commissioner Duffy stated that's what I thought we were doing. Now we're going to the current Charter which is 3.11. We've already had a clarification that we're dealing with the current Charter, not the old Charter.

Deputy Clerk Johnson noted it is the old Charter. I'm sorry. I did make a mistake. I do that once in a while, and I apologize. It was the old Charter we were going through. It started with Section 3.07, and that was highlighted as item eight in the old Charter.

Commissioner Soucy stated it's Commissioner Duffy's, and I believe he was looking at 3.11 in the new Charter.

Deputy Clerk Johnson clarified item eight started with 3.07 in the old Charter. I think what he was talking about was allowing for additional duties is my recollection.

Commissioner Shaw stated we added an (f) to that.

Deputy Clerk Johnson affirmed you added (f) to it.

Commissioner Shaw stated we added an (f) to the new Charter; (f) says that they must report back to the Board every January. They must tell the Board their opinions of what's right and wrong.

Chairman Dykstra stated Carol can read the language that we changed it to.

Commissioner Duffy stated I'd like to have the Clerk read the conclusion of it, (f).

Deputy Clerk Johnson stated (f) was "during the first week of January each year, the commissioners of the several departments must submit an annual report of their view on issues facing their respective departments to the Board of Mayor and Aldermen. This report must include any dissenting views and is meant to convey the ideas and suggestions of all of the commissioners." Those are the only duties as of now that have been assigned that have to be done by commissioners, and you

had reserved the right to go back to those sections and to offer additional language, additional duties.

Commissioner Duffy stated I'd like to preface my motion with the fact that I wish to incorporate into the language of the Charter something that recognizes the fact that the airport is unique among the departments of the City to the extent that the growth in the budget has been over the last ten years about fourfold and over the next, if you project it out over the life of a Charter, it could in fact at least double or triple. It's currently at over \$41 million, and if there's anyone that wants to question the numbers, we are fortunate enough to have in the audience one of the deputy directors who happens to have finance responsibilities at the airport, so we can ask him to clarify if anyone wishes to clarify. In light of that significant budget that the airport has, I propose that this section get amended to include that the Airport Authority shall review and approve the annual budget prior to submission to the the Board of Mayor and Aldermen.

Commissioner Shaw seconded the motion for discussion purposes.

Chairman Dykstra stated so that's not making it advisory any more.

Commissioner Shaw stated no, he's talking that they would approve...

Commissioner Pepino interjected they approve the budget.

Commissioner Duffy stated procedurally it goes to the Aldermen as it does today.

Commissioner Shaw stated first it goes from the Airport to the Mayor, bypassing the Airport Commission. You want it to go to the Airport Commission, then the Mayor and then the Aldermen because the Mayor has final say on the budget.

Commissioner Duffy stated if that's the procedure.

Commissioner Shaw stated I seconded it for discussion purpose only. He's not going to like this, but I want to amend his motion, and I've spoken to Commissioner Duffy about this a number of times. Whatever is good for the A, the Airport, is good for the P, the Police Department, the Fire Department. I have absolutely no problem. I think your suggestion is correct, but just because they spend \$40 million doesn't make it any more so. I'm presuming that they can vote on it, but that still the Airport Director submits his own budget if he doesn't get the permission. Is that what you're saying? If the Commission says the Airport should be \$20 million. Do you favor that being the budget of the Airport Authority?

Commissioner Duffy responded I'm not suggesting any numbers at this stage of the game. What I'm suggesting is the Airport Authority needs to have the ability to monitor, oversee, and have some viable responsibility. In light of the fact the Airport is an entity where it is first of all an enterprise entity. Number two, its funding comes from fees and thirdly from either State or federal funds. Also, the Airport is unique to the extent that it also has an intermunicipal agreement with the town of Londonderry. All of these things combined suggest a need for some interaction on the part of the Airport Authority which is over and above being purely advisory.

Commissioner Pepino stated getting back to this boards and commissions, it's very hard...say I was in charge of the Airport. I've got a commission. I've got to satisfy these people. And then after I satisfy these people, I come down and see the Board of Mayor and Aldermen, and I got to satisfy them. So I've got two bosses going in different directions. Now as far as grants and all this stuff, the Water Works gets about the same thing. I don't know what their budget is. We're not asking the Water Works to do that.

Commissioner Duffy interjected excuse me, if I may.

Chairman Dykstra responded no, no, he's got the floor right now.

Commissioner Pepino stated we hire a department head to run a department, not bring in commissioners, and I don't like the commission form of government to tell you the truth because they have two hats, and they can't satisfy the Commission and the Board, and the most important thing is satisfying the Board, not the Commissions.

Commissioner Duffy stated Commissioner Pepino, the fact of the matter is that as I've already suggested, there is a number of funding sources by the Airport. If you look at the Water Works, you won't find that they...they in fact do have the approval. In fact, the Mayor sits ex officio on the Water Commission. The fact of the matter is it isn't a matter of putting in another layer. This is the way it formerly worked and worked very successfully. That's what in fact was...the method that I just described was in effect for years prior to this recent commission. The recent Charter was put into effect in 1996, so the fact of the matter is we've been there, and we've done that. It's not like it's introducing something no more.

Commissioner Shaw stated it goes way back to the very beginning when we took away the powers from the commissions, and the thought was we didn't want a commission form of government, and what we left in there was just the most humorous part. We took away all duties and powers of the commissioners, and then if they don't show up to do nothing, we are allowed to get rid of them. I

think that that is the most humorous part of the new Charter. I go along with the Commissioner here that we went too far the last time, that we should give them some duties back. We offered that the Aldermen should do that.

Commissioner Duffy interjected in 2.04 I believe.

Commissioner Shaw stated and they refused to do it, so having refused to do what we told them they should do is to look at what they're doing and to give back some of the powers, the Airport would be important in your opinion, and Parks might not want the powers back. I don't know, but from what I perceive is that about every Commissioner in the City would like some of their powers back.

Commissioner Cook stated a couple of comments that flesh this out a little bit. The, and I think there were some telling comments here when we talked about this once before, the Aldermen consider in pretty good detail the budget of the Parks Department, the Police Department, all these direct-line departments. They do it because they have some authority over and control over those departments. The fact of the matter is and I think those of you who've served as Aldermen in the relatively recent past because it's the size of these two entities, Water Works doesn't even have a fiscal year budget. They have an annual-year budget. They do what they do under the PUC regulations set forth in State statutes, and they do whatever they do, and the tie-in, just like the Mayor being Chairman of the School Board, the tie-in of having the Mayor so that there is some connection, but when the budget comes from the Water Works to the Aldermanic Board as I understand it...those of you who were Aldermen know...it doesn't come. It's not part of the City budget at all?

Deputy Clerk Johnson stated that's correct.

Commissioner Cook stated so that doesn't even come, and that differentiation, you can read this Charter all day. We didn't put any extra language in about that because it's not in there. The Airport likewise comes with its own source of revenue and its own restrictions on expenditure. You cannot spend. The money comes from FAA fees and from other fees and the volume of what goes on at the Airport. You cannot spend, and Aldermen don't like this but it's federal law, you cannot spend the income of the Airport on anything but the Airport. That's the law. The reason that I think Commissioner Duffy's suggestion is a good one isn't that it's taking something away from the Aldermen that they do. It's because it adds a level of control to a separate enterprise that has its own budget so that somebody who's watching that budget's creation within the parameters of those FAA things. The Aldermen have...you covered it pretty well on the two year budget thing. Half of your time is spent on budgets all the time. Well, if you have to add to that equation this, you do it. Now, people say we have a very talented

Airport Director and staff. I agree with that wholeheartedly, but you might not always, and this adds a level of business control to watch that budget and formulate that budget which without it might not be there at all.

Commissioner Hirschmann stated the Department of Aviation has the director, and you're quite right, it is not like any other department. It has four that I know of deputy directors, and if you add up all of their salaries, you've got a half a million dollars of pay, and that constitutes the management team of the Airport for the Department of Aviation, so you are right. I do agree with you. It is quite a unique department, but it is a department, and it has a director and four that I know of deputy directors that work on that budget and present it to the Aldermen, and the Aldermen sit in there at midnight and vote on the raises for the guys that plow the airfields and all that. The Commission itself, I think the Commission should have some responsibility, but not in financial control. I think that the advisory capacity with some kind of language that former Mayor Shaw presented would be where we should be.

Commissioner Pepino stated the first meeting we had, I asked everybody to lay their cards on the table. Remember that? They said no, wait for the public hearing. We waited. What happened? All your department heads came in and not one said give the commissioners any authority. Leave it the way it is, and of the commissioners, only one came in, and this is what he said, "If you can't give us any more power, get rid of us." So we went and listened. Your department heads all came in, and not one wanted a commission form of government again on account of they have to be accountable to the Aldermen and to be accountable to the department head, the two of them. And they sit there and like one of them told me, he said, "Leo, I don't know what to do sometimes." He said, "I got a contract coming up, and I wait two weeks for them to come in to meet. Then they look at a contract, and they're not concerned about it or something." He says, "They do vote on it" or he says, "I probably won't care for the contract. We've had that before, but I have no say."

Commissioner Shaw stated I have to ask the City Clerk a question. What is it that they do at the end? What is it that they pass, some kind of a resolution. In 1984 budget, the City Airport Authority and the Airport came under the Mayor's review and it came under one resolution for all departments, one resolution. The Mayor in 1984 thought that that was not in the best interests of the Airport. It wasn't something they asked for. It wasn't something the Aldermen told them they should do. The theory was that the Airport was unique. You're right about that. You cannot have Aldermen micromanaging the Airport budget, okay. That's the reason it was separated. It was the Mayor of 1984. You can find in the red book who that was and now to the best of my knowledge, there is a separate resolution for the Airport. Is that still the truth?

Deputy Clerk Johnson responded for all enterprises. Each one has their own.

Commissioner Shaw stated you see, the Aldermen decided along with the Mayor at that time that there wouldn't be just one blanket resolution because when the Airport needs to do a job, it can't be under the restrictions of the Aldermen that everything should go down 10 percent. You know, you can't run an airport, micromanaging, and that was the theory at that time. The fact that they're separate, either that guy back then was bright or the guy was stupid, I'm not sure which today, one or the other.

Commissioner Duffy stated I'd like to again shed a little light on this resolution that people have referred to, taking as an example for the year which is fiscal year 2002. This resolution that went before the Board of Mayor and Aldermen was to approve \$41,938,254.00. This is the amount of detail that was presented to the Board of Mayor and Aldermen for their approval, getting to your point, Commissioner Hirschmann. Salaries and wages \$3,544,782.00, that's it. Line item expenses \$16,378,202.00. Capital outlay \$2,000,000.00. Restrictive funds, employee benefits and insurance \$1,312,770.00. Debt and principal interest \$18,500,000.00. Audit \$52,500.00. Contingency \$150,000.00, totaling up and that was the extent, totaling \$41,938,254.00. That's what was presented to the Aldermen for their approval, and I'm suggesting that that is not doing justice to a budget that has increased fourfold in the last ten years and will be increasing in a similar fashion going forward.

Commissioner Shaw stated if that's all that was presented to the Aldermen, then the Mayor didn't do his job. Clearly in the Charter, the present Charter, and it applies to the Water Works as well though we kind of excluded them just because we do, they are supposed to present a detailed budget to the Mayor. He is the one that decides the form. If he would accept that as gospel, then he is derelict and the Aldermen were doubly derelict in not demanding an item-by-item budget. It has never been the policy from 84 to 87 that the Airport didn't present a budget. It was just that it had a separate resolution. There's a difference there, and if you're correct, sir, then it's the Mayor's fault, and you have already given the power. In the 82 Charter, up till Commissioner Cook got a hold of it, they were required to present a detailed budget passed by the Commissioners. That's his point. He'd like to give back to people.

Commissioner Duffy stated that was the whole point of my statement. It had the review. It had the scrutiny that was done by at that time the Airport Authority so that when it came to the Board of Mayor and Aldermen, they had the confidence that somebody had looked at this thing and in light of the fact that these monies are again not incorporated into taxable dollars, these are just monies people say,

“Well, so what because it isn’t in the tax base, and therefore just go ahead and pass this budget.” It gets a perfunctory attention on the part of the Board of Mayor and Aldermen.

Commissioner Soucy stated I was just going to say that by having the Airport Authority do a more thorough review of the budget, you’re also increasing the public scrutiny because Airport Authority meetings are held in public, are subject to the right to know law. Citizens would have an increased opportunity to at least listen and perhaps participate at the Aldermanic level in the bottom line of this budget.

Chairman Dykstra stated we talked about the equality part. I know, Commissioner Shaw, you did kind of keep them the same, and I can’t understand why we would...even though I can understand what you’re saying why we’d still bring this out. I mean, not one department head came forward as was mentioned here before and said, “Yeah, I think that we should be doing it.” Evidently, they think things are working well. There’s not been one department head.

Commissioner Duffy interjected Madame Chair, it shouldn’t surprise you that department heads weren’t going to come forward and say, “I want somebody else looking over my shoulder.”

Chairman Dykstra responded don’t you think the department heads have the best interest of the department...

Commissioner Duffy stated and the second thing is the comment was made we only had a certain number of commissioners that came forward and said, “Either give us something that we’re responsible for or eliminate it.” And I think that in fact is valid. Either provide some guidance, and I think what Commissioner Shaw introduced in this separate section or additional section to 3.12 is a step in the right direction. I’m saying that there continues to be something very unique about the Airport, and to ignore that is I think foolhardy.

Chairman Dykstra responded we’ve ignored it probably for six years, but I’m just saying I have a problem with it.

Commissioner Shaw stated I believe that Commissioner Duffy has a point, and I think people here might be worried about the fact that only the Commission budget would come forward. I think, you might agree to this, that it should be reviewed and the ayes and nays be noted on the thing so that the Aldermen have the input. I think, Commissioner Soucy says it gives us more input into a subject. There’s nothing wrong with that or get rid of them all. I mean, if you don’t want anything from them, get rid of them.

Chairman Dykstra responded just to comment, the Fire Chief, he came in. Commissioner Varkas was here, he said, "More authority or just get rid of us." But it depends on the department head too. He still said we should keep them advisory. It worked well for the Fire Department. He asked for their input. He gave them things to do. They did things. Like you said before Commissioner, that's the input we got, and that's probably why we voted the way we did.

Commissioner Soucy stated just one item. The Fire Department budget, the Police budget, although there are commissions in place, those budgets are presented in a line item fashion as all of the other departments in the City. What Commissioner Duffy just read to us was a significantly abbreviated document over one of the largest department, the largest department budget in the entire City. I just think by opening up this process through the Airport Authority, you allow for increased public scrutiny, and that is to the benefit of everyone in this community.

Chairman Dykstra stated I still think they should be advisory.

Commissioner Shaw stated the Commissioner would be quite shocked to read the resolution for spending \$250 million. I mean, it's probably got less line items than that. I don't know, but you see that is legal verbiage, okay. It is not meant to convey to anybody more than what is required by either ordinance or law or whatever as to how we can appropriate money. That should not be, you know...somebody gave you that without the background. As said, we have the procedures there. I'm going to vote with Commissioner Duffy.

Chairman Dykstra stated okay, you can vote any way you want. I'm going to ask Carol to address that.

Deputy Clerk Johnson stated the only thing that I would note, and I'm not sure how it's handled between the Airport and the Mayor, but the Mayor does do the form as Commissioner Shaw has stated. In the case of many departments, you are because now you have computers and e-mail and all of those wonderful things, some times you're given something and said submit it within 48 hours, and you're given certain things that you have to change in that budget in order to submit it as a package. I don't know...I'm not familiar...I don't deal with the Airport's budget. I suspect that there is some back-up documentation that the Mayor's office receives in that process. I would not want you to limit the Mayor's ability in the process of what you're doing, so understanding what you're trying to accomplish, I just want to lay that one sort of out there with you. I understand you want the comments from the Airport Authority. I don't disagree or agree one way or the other. It's not my place to take a position. I just want you aware of that piece of it and maybe to that extent, whatever vote you take, you may want to get

input from the current Mayor as to whether there's a different functionality in a change of a verbiage that would accommodate him. That's all.

Commissioner Wihby stated this motion gives powers to the people from Londonderry too that are on the board.

Deputy Clerk Johnson responded the motion as I understand it was that the budget had to be approved by the Airport Authority prior to submission to the Mayor because it doesn't go to the Board of Mayor and Aldermen unless it goes through the Mayor, so you're saying that right now the way it would read is nobody can submit anything to the Mayor without it going through the Airport Authority, unless I took it down wrong.

Commissioner Duffy stated I'm sorry Carol, you last comment was a little confusing. Nobody can submit anything. I don't know what that means.

Deputy Clerk Johnson responded you're saying the Airport Authority must review and approve the annual budget prior to submission.

Commissioner Duffy interjected prior to submission, period.

Deputy Clerk Johnson stated so that would mean that the Airport Director could not submit a budget whatsoever until it went through and was approved by the Airport...

Commissioner Duffy interjected until it had opportunity for review and approval by the Authority, right.

Deputy Clerk Johnson stated it does not clarify the other half that says well he should submit it, and they should submit their own...

Commissioner Cook stated I don't mind...I'm just thinking through the whole budget process. Giving it the light of day, having it considered and to the Londonderry point, Commissioner Wihby, there is an intermunicipal agreement that gives them two votes on it and there is a State statute that allowed that, and it always worked when it wasn't advisory. It still works fine. There's a legal obligation to have it. The concern I have when you have language that says submitted for review and approval as opposed to saying to submit it for review and action, the Airport Director has the authority to submit a budget to the Mayor that gets into the City budget, right now after development. If it has to be submitted to the Airport Authority for review and action, the Airport Authority can say, "We don't approve. We have problems with this. Here are our problems. We're voting no," and the Airport Director says, "Thank you for your comments. I'll

send them along. I'm sending out a budget." I think that might be better than the roadblock that might be put there if it has to be approved, cause you could end up some day with an Airport Authority of people who don't want the Airport to grow because they're against growth in that section of the City and somehow you get a Mayor who appoints people. They vote no because they don't want it to grow, and if they have to approve it before it gets there as opposed to action, you've got a brake sign. So if it said for review and action, review and comment, review and something, I think it might...

Chairman Dykstra interjected the people from Londonderry...

Commissioner Cook stated I'm not worried about the people from Londonderry.

Chairman Dykstra stated the people from Londonderry are part of that Airport Commission.

Commissioner Cook responded but they'll never have a majority.

Commissioner Duffy stated may I respond to that comment, suggestion by Commissioner Cook. The fact is that I would modify my motion to incorporate the language that Commissioner Cook just recommended, to delete approve and use action in lieu of approve, with the understanding that that allows for an opportunity for first of all, for the Airport Director to have to submit to the Airport Authority a budget, which in fact they have an opportunity to comment on before it gets forwarded through the budget process.

Deputy Clerk Johnson noted and such actions or comments should be forwarded to the Board of Mayor and Aldermen.

Commissioner Duffy responded yes.

Chairman Dykstra asked just for instance, if they didn't approve it, it would still go?

Deputy Clerk Johnson responded the Airport Director is allowed to submit whatever he wants.

Commissioner Cook stated the department head can send it down, but they say, "We've looked at it. We don't like it. It's too big. It's too little."

Commissioner Wihby asked if he made an amendment.

Deputy Clerk Johnson responded no, he has not amended that motion as of yet.

Commissioner Shaw stated I make an amendment that the word airport be taken out and department inserted, if they have a commission. I'm sorry. I favor it for all departments, and inserting the word action is great.

Commissioner Duffy stated I think Commissioner Shaw, you need to explain what your amendment is. There is confusion in the process.

Commissioner Shaw responded take out wherever he said "airport" and leave the word "departments".

Deputy Clerk Johnson stated departmental commissions, you're talking about.

Commissioner Cook stated in other words, what Commissioner Shaw is saying this applies to every department that has a commission.

Commissioner Shaw stated Fire Department. Then the Fire Chief will submit his budget for comment and action.

Commissioner Tessier duly seconded the motion.

Commissioner Hirschmann stated former Mayor Shaw already addressed this in one of his previous amendments when he said that he was going to give them a task. Once a year, their opinions, their dissenting opinions or assenting opinions would be heard, so they're already going to hand in a letter from the commission saying that they don't think there's enough money in the budget or they think there's too much money in the budget.

Commissioner Shaw interjected or the director eats donuts at this desk.

Commissioner Hirschmann stated you've already given them a task.

Commissioner Shaw interjected I want to give them more tasks. I'm sorry.

Commissioner Hirschmann stated you want to give them control, it sounds like.

Commissioner Shaw interjected no, his motion has changed...

Chairman Dykstra stated we're not going to debate this. He's got the floor, Commissioner Shaw, he has the floor.

Commissioner Hirschmann stated I'm just saying that if you're going to have advisory commissions with strong department heads and a strong Mayor, all of

these department heads were reviewed by professionals, and their salaries were increased a large percentage.

Commissioner Shaw interjected you voted for it.

Commissioner Hirschmann responded no, I did not sir. No, I did not. I was the only dissenting vote. I'm not having a discussion with you. All these department heads are well paid to manage their departments. Some of them have four deputy directors to help them manage their departments, and the commissions are advisory. If you want to have strong commissions, then go and slash all the department heads pay back 50 percent, and let your commissioners do their work.

Commissioner Pepino stated I've just got two comments. First of all, we all heard the department heads, what they said to us. They said we want to stay the way we are. I just talked to two upstairs while I was getting my fresh cup of coffee. I said, "They're discussing this downstairs." "They are? We made it very clear what we wanted." Now that I got that out of the way, why are we talking about one department, the Airport?

Commissioner Shaw stated we've modified it.

Deputy Clerk Johnson stated they just modified it to all.

Commissioner Pepino stated before I talk, I raise my hand. I'm talking now, okay. They have all kinds of guidelines down there, FAA-approved money. Money can go here. Money can go there. No money can come to Manchester. Isn't that right? No money comes to the City. Everything down there is laid out, and I don't even know Kevin—I know him a little bit, but not that much—everything he does is more or less laid out. Commissioner Hirschmann said he has four administrators down there, so everything is laid out. Now to say we're going to do this for one department and just because we're bringing this in for one department, every commission in the City is going to get it, that's wrong. That is really wrong. You're paying a department head for doing nothing because you don't need this man. All you need is the Commission. Thank you.

Chairman Dykstra stated strong commission, strong mayor form or government. Right now, we're going to take a vote. Why don't you clarify.

Deputy Clerk Johnson stated we have an amendment on the floor to the main motion which was to substitute every department with commissions for airport.

Commissioner Soucy stated a paliamentary inquiry. Could you just repeat the whole motion with the amendment since it seems that...I'm just confused. We've

had some people talking about strong Commissions. My understanding of Commissioner Cook's comments earlier with regard to action was not that it stop anything, but that in fact the department heads submit a budget. This was merely a review.

Deputy Clerk Johnson stated my understanding was Commissioner Duffy did restate his motion, and he modified his motion in that process. Originally it was that the Airport Authority review and act on the annual budget prior to submission to the Board of Mayor and Aldermen. Actually, it will say to the Mayor because it has to go there first.

Chairman Dykstra stated act. What does that mean?

Deputy Clerk Johnson responded take action. You have to take action.

Chairman Dykstra stated so take action could be approve or disapprove.

Deputy Clerk Johnson responded they could, but that does not warrant whether or not the Airport Director...the Airport Director still submits whatever budget he wants to.

Chairman Dykstra stated why bother doing it.

Deputy Clerk Johnson stated I'm not done. Can I finish reading it, cause that's not the whole motion. So the Airport Authority review and take action on the annual budget prior to submission to the Mayor, such action to be reported to the Board of Mayor and Aldermen. The amendment which you're considering is to add every department with commissions. That was the amendment. That is what you're considering.

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.

Deputy Clerk Johnson stated the main motion as amended on the floor is that all departments having boards and commissions that such boards and commissions would review and take action on the annual budget prior to submission to the Mayor, such action to be reported to the Board of Mayor and Aldermen.

Commissioner Pepino stated I can't believe it. Commissioner Lopez was right. They put the City back 20 years tonight.

Commissioner Hirschmann stated 1984, that's where we are, not 2004.

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.

Commissioner Pepino gave notice of reconsideration on the item, stating we'll go through it again next week.

Chairman Dykstra addressed item seven on the agenda:

TABLED ITEM

Motion to have the City budget finished no later than March 31.
(Tabled 2/19/03, noted as not to be removed from table until all members present.)

Commissioner Duffy moved to remove the item from the table. Commissioner Cook duly seconded the motion.

Commissioner Tessier stated I have a question. That motion was made last week? At the last meeting?

Chairman Dykstra stated two weeks ago. We waited for you to come back.

It was voted to remove the item from the table.

Chairman Dykstra stated now a motion would be in order. Any motion would be in order.

Commissioner Shaw asked to do what?

Chairman Dykstra responded to do whatever you'd like to do, Commissioner, or anyone here.

Commissioner Shaw moved that the final approval of the budget be March 31.

Commissioner Tessier duly seconded the motion.

Commissioner Hirschmann stated under the new process you just created, you put another layer in there, so it goes to all the commissions in the City, so now you really need June 30th as your date, and that's my final comment.

Commissioner Pepino stated has anybody asked the Finance Department how this will affect them.

Chairman Dykstra responded we did. We already got the input from them, but I guess it doesn't really...

Commissioner Shaw interjected the answer is no. They don't like it.

Chairman Dykstra stated they don't like it, no.

Commissioner Pepino stated I didn't ask that. I said how will it affect them.

Chairman Dykstra stated certainly it isn't going to help. They won't have enough time to know about the revenues to set the tax rate. Let's just move the vote. Move the question.

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

Commissioner Tessier moved that the budget of the Manchester School Department become effective each year by or on March 31st.

Commissioner Cook asked be effective or be adopted?

Commissioner Tessier stated adopted.

Chairman Dykstra stated so that the school budget should be separate from the City budget.

Commissioner Tessier responded right.

Deputy Clerk Johnson stated as I understand it, it's the same thing as the last motion except it's only for the school district.

Commissioner Duffy duly seconded the motion.

Commissioner Hirschmann stated I think it's detrimental to split a major department from all the rest of the departments because if you're going to take action and you're going to adopt one budget or one part of a budget, and then you're going to take action on the rest of the budget, you're going to ask for trouble. As the budget numbers come together, if you wanted to make cuts or if you wanted to change numbers, once you lock in one...once you adopt one

budget, it's going to be pretty hard to reopen the thing. You're asking for trouble. For the taxpayers of Manchester, you're asking for trouble. Big trouble.

Commissioner Shaw stated at the beginning of the meeting, we had a motion or a talk that we should have a two year budget. Now all of a sudden, to change the date by two months becomes a heart ache. You see, Governor Romney already produced his budget for the State of Massachusetts. Started two days after the election, had 900 items on his budget, reviewed each one of them individually okay, and I agree with Commissioner Tessier.

Commissioner Tessier stated you see, there's no reason why the department heads cannot start working on their budget in October, September, or November. They don't have to wait till January 1st, and they could have their budgets ready earlier. Six months is a waste of time.

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.

Commissioner Hirschmann stated you're right. The 96 Charter is better.

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

Respectfully submitted,

Deputy City Clerk

Approved for Commission: _____
Donna M. Soucy, Secretary