

CHARTER COMMISSION

April 2, 2003

5:00 PM

Chairman Dykstra called the meeting to order.

The Clerk called the roll.

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

Messr: Deputy Solicitor Arnold

Chairman Dykstra stated before we get into the tabled items, Carol did want to address us. We had requested a financial report, so it's just going to take 30 seconds, you said, maybe a minute or so, so we'll let her do that before we get started.

Deputy Clerk Johnson stated we've distributed a financial report which basically with an attached breakdown of expenses to be approved by the Commission.

On motion of Commissioner Duffy, duly seconded by Commissioner Tessier, it was voted to approve the financial report as presented.

Chairman Dykstra stated less than 30 seconds. Before we get into the tabling items, a couple of Commissioners had asked me to have a little bit of discussion on what has been happening in the media, and we did have some kind of a...well, we got something from Bob Shaw, Commissioner Shaw regarding the Charter Committee. I guess people have been testifying. I mean, I was looking at *The Union Leader*, and you know, we can all jump in. I know a few people wanted to address it, just for clarification purposes. You know, hearing about this power grab by the Charter Commission, I mean, I didn't even know a thing about it, okay. I didn't ask. It says that we asked a Republican Alderman to draft this legislation, Senator Gatsas where he's even withdrawing part of his amendment I believe to have a special election. You know, I mean if you have in August, September, whatever, I don't want to cause the taxpayers any more money, but the main thing, whether you support it or you don't isn't really what this all about. It's the fact that in the paper, it's always addressing the Commission, the Commission, the Commission. Even a Representative there asked the Commissioner, "Why is the Commission trying to change the rules when the

voters knew how the process would run?” You know, and it just makes it seem that, and even the Mayor has come and said that he’s appalled that some of the Commissioners are considering scheduling a vote in the summer when voter turnout is bound to be low. I mean, whether that’s factual or not or whether, it’s just the fact that I don’t know how you feel, but I don’t like the fact that it’s being called the Commissioners doing this. I just want people to know that I didn’t do it. I knew that we were going to have legislation in. I didn’t ask to have it put in, but I do agree with the fallback position of putting something like that in, but I didn’t request it, and I just, you know a few people did want to address it. I’m really kind of disgusted about the whole thing and hope it never happened and hope we can clarify that tonight, and if anybody wants to address any of it, Commissioner Pepino, Commissioner Shaw.

Commissioner Pepino stated at the present time, being a State Representative and reading this and having the power grab by this Commission which has never taken a vote on a date. We’ve never talked about a date, and when the Mayor says as far he was concerned, the way the Charter Commission was acting, it should adjourn and go home. It’s a circus. It’s an embarrassment. We need the money for other services. When I read this, when this first piece came out Sunday or Monday, I called Concord to find out what was going on. They explained to me what they had up there, asked me my position on it. I said, “Well, I’ll get back to you.” So this morning, I had called Carol to see if she heard anything about it. She had heard that they took out the special election.

Deputy Clerk Johnson stated they discussed removing special election from that amendment today. I don’t know where it ended.

Commissioner Pepino stated so the minute I hung up the phone with you, I called up there, and that’s true. They execed and took out that part so far, special election. They’re not sure what they’re going to do with the other parts of it. Now, they asked me my feelings, and you know how we get along up there, a bunch of us, we all work together. I said, “Listen, you heard the testimony. I didn’t. You do whatever you want to do with this. If you pass it, I’ll vote for it.” I said, “If you kill it, I’ll vote to kill it.” But I didn’t hear the testimony, on what I read in the paper, I didn’t like it. That’s all she said to me. So far, they’ve taken out that, but I’m just sick and tired of this Charter Commission with a power grab to try to do something because we have done nothing. We have not talked about setting a date. We have not talked about setting a special election. In fact, Commissioner Cook is always making mention of well, very few people voted for this. Well, we tried to stop that when I put that bill in last year. Remember? The last day of the session, we tried to get the Charter Commission votes in line with the primary and the general of last year. I got the leadership to take it. They took the bill over, the amendment. We put it on the floor. It failed, and then we got it

back again for a vote, and I hate to mention this, 125 of the opposite party got up and left. So, the Speaker counted heads. We had 201. We conducted our business, and we passed that amendment again for the Charter Commission, but when it got over to the Senate, the Senate killed it. As far as I knew, that's the only thing that I was involved in in this, that we trying to save the City from two elections, but it didn't pass. I don't want to hear any more in the paper about it.

Chairman Dykstra stated well, don't look at me. I'm not writing the newspaper.

Commissioner Pepino stated I'm not looking at you. I'm looking right over there. They said we're responsible for this, cause I called *The Leader* today and told them it was poor reporting.

Commissioner Shaw stated I hope you'll read the second page, the number three before you decide a lot of things.

Chairman Dykstra interjected oh no, we didn't make a decision.

Commissioner Shaw stated I want to speak to this.

Chairman Dykstra stated go ahead, certainly. Go ahead.

Commissioner Shaw stated I want to speak to a lot more, so sit back and relax. First of all, you should have been upset as I was that the Mayor should get on TV when he wasn't even allowed to give the speech that he gave because it was a unanimous consent thing, and he spoke to the issue before, and then he called us I think pretty much a bunch of clowns.

Chairman Dykstra stated I agree.

Commissioner Shaw stated he says and people believe what they are told by the Mayor, he said that less than one percent of the people...well, Commissioner, Mr. Chairman, whichever, you got 20 percent of the vote, and you were on a ballot with 75 names on it. There are 45,000 people that can vote in the city of Manchester in an election of which you got 8000 votes. Now when I was a child, that comes fairly close to 20 percent for you on a ballot that had 75 names on it. So, you weren't selected by a minority. Your name was so far down on the ballot itself as to all the national offices, everything was on there, and then by chance, your name came up, okay. What I did after the Mayor spoke and I went to that committee meeting up in Concord. I said that I didn't come from you people. You know that.

Chairman Dykstra stated you did.

Commissioner Shaw stated but before I went there, I thought it would be interesting to go to the library where the Mayor gave them \$30,000 more next year in a \$1.2 million budget, to look up two words. Thank God, they still have dictionaries over there because under this guy, this particular Mayor, dictionaries will be thrown out, okay. So I looked up two words. "Tyrant, person in a position of control who expresses improper authority in an arbitrary or oppressive manner". Now, he appeared before us, and I wish to apologize to Commissioner Pepino and Commissioner Hirschmann because I was chair of that meeting, and when he spoke up that he was going to defeat this Charter, and I told them that he really didn't mean what he said. I said, "He was just talking." You know, the only thing on the prior Charter that he wishes that he hadn't been against was his raise, okay. "I'm the one." He said it at the meeting. At least Shaw, I had one good idea, so I spent all those months, I had one good idea, but then what good is a word tyrant because it might not describe this gentleman, okay. So, I looked up dictator, and in the Webster's Dictionary. "One enjoying complete autocratic control or leadership." All right, he has absolutely no right to appear on that public television of ours and pick on people that were elected by the citizens of Manchester to do a job which he doesn't approve of. That's his right as a citizen, but he went up to Concord, and he said, "What right does Alderman Gatsas have to put in a bill?" Well, is this a whole new thing of government that citizens in a City are not allowed to put in anything on any bill that they wish that they can have done? Is it just one person that decides that we are totally wrong in what we are doing? Madame Chairman, I'm telling you, I was upset. Nobody called me from the committee and asked me to go to Concord.

Chairman Dykstra interjected no, that's fine.

Commissioner Shaw stated nobody from the government here said we should go up and defend any position regarding to us at all, you know. We did have another representative beside myself who attended the meeting up there, and it's true. Gatsas has pulled back one part of it, and Alderman Pepino is slightly wrong in the fact that we have been discussing dates. We inquired of the City Clerk many times, "When can we put this on the ballot?" Okay, well one citizen, it doesn't take a committee to do this. One citizen can ask a question and get a law changed in Concord. That's the way it works. That's called democracy.

Chairman Dykstra stated Commissioner Shaw, there's no problem in somebody putting legislation. I think the problem that some of us have or I do and maybe Commissioner Pepino that they're basically saying that it's the Commission.

Commissioner Shaw asked who is saying that.

Chairman Dykstra responded well, it's in the paper. How many times? It's been in the paper. I let it go once. I let it go twice.

Commissioner Shaw stated well, I haven't finished my time yet. Now, I'll yield to you for a moment, but surely...

Chairman Dykstra stated no, it's just that part of it.

Commissioner Shaw stated the meeting yesterday was two and a half hours long at this committee up there. They started at 2:30, ended at 5:00, all right. I'll defy, I'll take any one of you, any moment in time and read that article that appeared in today's paper, and if you can't finish that article in three minutes, you have to wonder what the heck did they do up there for the rest of their time. You see, the paper doesn't cover all the thing. The paper covers an aspect that they think is important. I wanted to go last night to the Board of Aldermen for my two minutes. I heard that I could get three if the Mayor had given me another minute, but I got my two minutes, but what was interesting is that what I really wanted to say is the only way I can control the growth of my property taxes in the City of Manchester is to give up *The Union Leader* at my home. I am able to lower my taxes by four percent just by giving up *The Union Leader* because since 1983, I have stated year after year after year that the citizens of Manchester are paying ten percent more for government than they need to pay just because of *The Union Leader*. Now, that's a ridiculous thought, isn't it? Ten percent. Now, I'm lucky enough. I can save four percent of my tax increases just by giving up the paper. This paper put the Mayor's address for the budget on page two or three, and on the front page some people that were 40 years old. What the heck. I mean, this is an important issue, the taxes that people have to pay and the budget. In addition, using still my time, I apologize to Commissioner Duffy. No, I apologize to him because he said before the committee that all that was ever presented to the Aldermen was a page in regard to the Airport funding. I said, "I've been there. He's wrong." I've been there. I produced ten pages for the Airport. Well, this Mayor produced a single page for the total City budget, and then he goes to the Airport, and he produces another page for the Airport, and there are no figures on it. Then, he produces a page for the schools. You know, how can I hope that my taxes will go down? You know and that the Taxpayers' Association and other people are appealing to the Legislature. Not only did the Mayor say that he was opposed to a fallback budget which was last year which every town in New Hampshire has but maybe not cities, but he's opposed to that too. Kill that too. This man is so sure of himself, so sure that he knows more than the other 14 what to spend that he can produce a one-page budget here. So I want to show you tonight that I'm just as mad as he was last Thursday, okay, and I can't get my time in the paper to express myself. I have to do what the Mayor did. This is pretty neat. All I have to do is appear on public television for two weeks. I can pick on the Charter Commission

for two weeks, and you know what, I think that tonight, I picked on the Mayor for two weeks, so I will now give up my time.

Commissioner Duffy stated Madame Chair, with all due respect, I'm not sure exactly what Commissioner Shaw had in mind. He brought to our attention item three on the second page of the handout, and I read from that particular...to do this well, you have to ignore the newspapers. He handed that out, and then he went to this tirade if you will and grandstanding on these issues. I thought we were here to address matters before this Commission relative to a Charter. Can we proceed with that? Madame Chair, can we proceed with that? In all due respect.

Chairman Dykstra responded we certainly can proceed, but I felt it was important because it does affect the Commissioner, and I think it had to be addressed, and I have no problem with that.

Commissioner Cook stated I think it's important that we not use this Commission to take political shots at people either on the Commission or elsewhere, and I was at the hearing yesterday. I have heard what the Mayor said about the percentage of voters, and he didn't say anything about the percentage of voters who voted in the election for candidates. He talked about the percentage of voters who voted to have a Charter Commission which was approximately one percent of the voters. That was the one percent. That's still the one percent, and it has nothing to do with the votes we had. At the hearing yesterday, just to assuage your concern, and I was concerned when I read the paper this morning and before also that this Commission was being...the impression was being given that somehow this Commission had taken action to ask for the power to have elections or to have elections on a particular time. In writing yesterday and testimony by several of the witnesses at that hearing, they were told that this Commission had never either a) had the issue before us on asking for us to have the power to set the elections or considered the matter or voted on the matter. I was disappointed that the article in the paper today said that the Commission wanted that power, cause I don't think that was an accurate representation of the testimony yesterday or an accurate representation of the facts. I told the committee straight out yesterday this matter had never been before the Commission. We had never asked for it. This was not a request from the Commission, so to the extent that that got homogenized or misinterpreted by the paper, it was the paper, and I was there for two and a half hours as Commissioner Shaw says that's how long the hearing took. I didn't hear anybody, well I heard people on the committee say, "Why does the Commission want such and such?" because I think they misunderstood some stuff, but no one represented that this Commission had taken any action. Senator Gatsas was not there. There were other people there who talked about what happened in the Senate when there was a floor amendment added to a non-germane bill. The poor proponents of the bill that was really in question kind of got short shrift because

they wanted to change a couple of things in a couple of towns, and all of a sudden, they were subsumed in a Manchester issue, but to the extent that the paper said that the Commission asked for that and it suggested that this Commission had talked about it or taken any action on it, the minutes will show we've never talked about it, and we've never acted on it.

Chairman Dykstra stated I can understand that, but I think people take a lot in what the Mayor says, and when the Mayor says he's appalled at some members of the Commission, he's basically saying that there are some members of the Commission...so you talk about a forum, we're going to end this and get going, but you know, some times, the Mayor does use the format or the forum of the Aldermanic chambers to express his feeling outside of what's being discussed at that meeting, so I felt it was important for me as a Charter Commissioner to let people know because I know in this media, people will be watching. Nothing is going to be cut out that I did not know anything about. Maybe that will just clear the air, and we can go on from there. Commissioner Pepino, one last comment. We're going to get right into work.

Commissioner Pepino stated we're working right now, defending this Commission.

Commissioner Hirschmann asked why is there a last comment. We're not allowed to talk.

Chairman Dykstra stated oh, do you want to talk. You didn't raise your hand.

Commissioner Pepino stated the only time we talked about putting this on the ballot, and just ask Carol, was at the beginning. We were told it would be on the ballot in November which I had no problem with, September, November, October, I had no problem with that. That's the only time we talked about that. We never talked about what we wanted to put on the ballot. We just asked a question. When will it go there?

Chairman Dykstra stated we didn't ask anybody.

Commissioner Pepino stated that's where it was, and as far as people saying this is like a circus here, well, I've been in politics a long time. Politics is all about debating things. You go to different meetings, and someone will say, "All in favor? Aye, aye, aye, aye. All in favor? Aye, aye, aye, aye. All in favor? Aye, aye, aye, no, no, no." The minute the no starts, that's when a debate comes forward. If everybody says aye all the time, it's the old saying you know, do nothing and be nothing, you will be nothing if you go along with everything, but the minute you say no, the debate starts. On this committee, there's not one issue

goes by there isn't a few nos, and you have to debate those nos. We may look stupid to the people. We're doing the government's business, and you don't hear these kind of debates on the floor of the Aldermen. I haven't heard them for 20 years, where 10, 15 Aldermen or 20 whatever they want over there are getting into issues. That's the only point I got to say, cause I'm getting a lot of heat on this because I'm a State Representative sitting here. What were you doing? Were you part of it?

Chairman Dykstra stated I'm sure this will clarify it.

Commissioner Hirschmann stated I just wanted to tell everyone that regardless of what happens outside this room that we're the fiduciaries of the structure of government and the crafting of the next Charter, and hopefully the good work that we've done to this point...I mean we've worked on budget dates to help school people. We've worked on budget dates and budget ideas to help the City incorporation as a whole. We've worked on the structure and the size of government. You know, to say that it's a circus in here that is very insulting, but someone that's not getting their way, that isn't on this Commission is probably not able to communicate his feelings, but this committee is going to be the one that decides whether we have a new Charter or not. If we move something forward, I respect both points of view, pro and con of all the issues that we've worked on. Do you always agree with me? Do I always agree with you? No, but I do not like the fact that someone is saying that we're a circus. I respect the work that's gone on so far, and hopefully we'll have a new Charter.

Chairman Dykstra stated Commissioner Shaw, I hope this is the last quick comment please. Thank you because we want to get going here.

Commissioner Shaw stated this is going to be short. I think we're down to the end, and I looked at the people on this committee, and I saw two people that can make it go forward. All of us want to, but there are two that have in their hands the ability to make this Charter go forward, whichever form it's in. The first is yourself, Madame Chairman. You surely don't want to serve on a group of nine people, and at the end have to go before the people and admit that we've failed.

Commissioner Dykstra responded if I have to, I will.

Commissioner Shaw stated I know that, but you might have to change your position on a particular issue.

Chairman Dykstra stated oh, I do. What do I have to change it on, Commissioner? I don't understand your train of thought. Don't beat around the bush.

Commissioner Shaw stated well, it has to do with...right now, we're divided four to four.

Chairman Dykstra stated all right. We're not going to get into that.

Commissioner Shaw stated no, I know that because it becomes important...

Chairman Dykstra asked what am I going to change my mind on. Why don't you change your mind?

Commissioner Shaw stated now we come to Commissioner Tessier, you see, who has an opportunity here to change her mind and go to the side that wants 12.

Chairman Dykstra stated me and Commissioner Tessier, how powerful we are. Did you know that?

Commissioner Shaw stated Madame Chairman, I look at it as we're going nowhere here unless one person changes their mind.

Chairman Dykstra stated you know, I disagree. You know, you're contradicting yourself. You're telling everybody outside...well, I'm proud of this whole committee. We don't have to get along that great. We don't have to agree on everything, but I really commend everybody for being here, doing their job. Whether we agree or not agree, I think we've got a good group here. We've done a lot, and hopefully we can compromise at the end, and that's all I can say. Now, we're going to move forward, and no more of this, please.

Chairman Dykstra addressed item 3 on the agenda:

Minutes of meeting held March 19, 2003.

On motion of Commissioner Tessier, duly seconded by Commissioner Soucy, it was voted to remove the item from the table.

On motion of Commissioner Duffy, duly seconded by Commissioner Soucy, it was voted to accept the March 19, 2003, minutes.

Chairman Dykstra addressed item 4 on the agenda:

Language regarding Section 6.13 Biennial budgeting.
(Commissioner Hirschmann's request – tabled pending further drafting.)

Deputy Clerk Johnson stated we do have language for item four if you want to take it off the table.

On motion of Commissioner Hirschmann, duly seconded by Commissioner Wihby, it was voted to remove the item from the table.

Chairman Dykstra stated okay, now we will actually get some information. Carol has done some drafting on this issue. We're passing that out.

Deputy Clerk Johnson stated before you is some language. We had been asked to draft some language that talked about two distinct fiscal years which is part of what the State legislation states and carryover funds not being retained by departments, but being able to be utilized for a fund balance or under budget reconsideration. We've taken what is in there basically and combined some of the language together, and I think it now meets what Commissioner Hirschmann was asking for and if not, I guess I would ask that he meet personally with the Solicitor or with the Finance Officer to draft up the language beyond this, cause I guess I'm not understanding if this doesn't do it.

Commissioner Hirschmann stated it does. There's a lot of words there, but it does it.

Commissioner Shaw asked how does it compare with what's in the working document.

Deputy Clerk Johnson stated it's not allowing carryover funds to be retained by the departments which under the State law presently and what's in the Charter at present, they could do that and apply it to their next fiscal cycle, but if they don't spend it, it still goes into the surplus ultimately, but that's one of the incentives for them not to expend the funds in the first year as I understand it from the Finance Department. The rest of it is basically...the fiscal year does have to be done under State statute, so that is just consistent with the statute. You're just putting the language in there. We did add, and I think it's still in there now, I'd have to go back and look at our document, but I believe adopting it in the even numbered years is part of the original request because you did not want to have an incoming Mayor stuck for two years with a budget. That was part of what Commissioner Hirschmann had been concerned about in the first place. I think that's already in there, but I'm not sure.

Commissioner Shaw asked does it take away any reopening clauses that's in the working document.

Deputy Clerk Johnson responded no.

Chairman Dykstra stated it's in a different section.

Commissioner Hirschmann stated I have a question for the Clerk. When it talks about even numbered year, is that construed as the actual year or the physical budget? You know how the budget is always the next year.

Deputy Clerk Johnson responded it's the adopted. It can't be adopted in other than an even numbered year.

Commissioner Hirschmann asked nobody can change that.

Deputy Clerk Johnson responded right. Except by referendum, you wouldn't be able to change it.

Commissioner Hirschmann stated the Mayor this week is proposing the budget for 2005. Is that correct?

Deputy Clerk Johnson stated it's being adopted in 2004 or 2003 is being adopted...in 2003...

Commissioner Hirschmann stated we're in an even-numbered...

Deputy Clerk Johnson responded no, we're in an odd-numbered year.

Commissioner Hirschmann stated but he's working on the 2004 budget.

Deputy Clerk Johnson stated so he couldn't put in a two-year budget this year.

Commissioner Hirschmann stated but the way that's worded, even numbered years, it's not for the...it should be like...

Deputy Clerk Johnson stated a biennial budget may only be adopted in an even numbered year. If you remember, a person is elected in an odd numbered year. The first budget that they have comes up in that even numbered year. That's the budget we're talking about. That's when it's adopted.

Commissioner Soucy asked what if we added the word calendar year.

Commissioner Hirschmann stated I just want something that specifies.

Deputy Clerk Johnson stated even numbered calendar year. That takes care of it.

Commissioner Hirschmann stated I'll second her amendment.

Deputy Clerk Johnson stated there's no motion for the whole thing. So do you want to move the whole language?

Commissioner Hirschmann so moved. Commissioner Soucy duly seconded the motion.

Chairman Dykstra called for a vote. The motion carried with Commissioner Shaw duly recorded as abstained.

Commissioner Shaw stated I don't understand it.

Chairman Dykstra stated well, that's the way to do it. When in doubt, vote no or abstain, I agree.

Commissioner Shaw stated I'm not going to vote no because I don't understand it.

Chairman Dykstra addressed item 5 on the agenda:

Continued discussion and actions regarding the 2003 proposed Charter.
(Note: Reports and updates from Clerk will be distributed, if available.)

Chairman Dykstra asked isn't there something you had for Brad or something. Brad, did you work on something with her or is that already in here?

Deputy Clerk Johnson stated Brad's is vacancies. We can do that next. Another handout.

Commissioner Hirschmann asked how many different handouts do you have.

Deputy Clerk Johnson stated it's language that the people requested at the last meeting.

Commissioner Hirschmann stated I know, but how many different ones do you have.

Deputy Clerk Johnson responded this is...finished Charter, vacancy language, biennial budget, you've already done that.

Chairman Dykstra stated Brad, have you looked at this. We're just all looking at it for the first time, huh? Just go over it with us and the differences.

Deputy Clerk Johnson stated at the last meeting, the Commission had asked us to go back and redraft the vacancy language as it applied to the Aldermen and the Board of School Committee. What we were requested as I understood it, and I had to review the minutes a couple times to make sure was that you basically were looking for that 90 day window. You wanted some language to insure that they did not follow the historical pattern and something that would obviously be consistent with State statute as well. So what we have drafted, and I did sit with the Solicitor today and we did go through some of this as well, "Should a vacancy occur in the office of Alderman or School Committee member, the Board of Mayor and Aldermen shall fill the vacancy in a manner consistent herewith." Now, that is conforming with 49-C. It says you got to fill it, and you got to fill it by State or municipal election, but you have to fill it in the interim under 49-C. So we put, "Should the vacancy occur within 90 days of the start of the term or within 90 days of the third Tuesday in November of an even numbered year, the Board of Mayor and Aldermen shall order a special election at the earliest opportunity to fill the vacancy until the next regular State or regular municipal election. To the extent practicable, the process for filing period and other election procedures shall be consistent with the provisions of this Charter." What that section basically does is it covers the period from the end of July through mid-February in that latter part of the first year of the term into the second year. It also covers the first 90 days that they're in office which goes out to the mid-February. It mandates that they hold a special election at that time. It also allows the Board of Mayor and Aldermen at that point if for instance if you had the vacancy in August and they called it right away, you would not meet the primary election for the State election in that year because you have to have the ballots available 30 days in advance. You could, however, put a shorter filing period of say five days and then allow it to be held toward the mid to the end of September perhaps and still catch on to the November cycle or at least join in the November cycle and then do something right afterwards. So it allows the Board of Mayor and Aldermen a little bit of flexibility there with that which is consistent with what they do at the State. The State will sometimes pass something that allows the Secretary of State to do something shorter because of the Court's decisions on redistricting or something like that.

Commissioner Cook stated question, Madame Chairman, just for clarification, did I understand you to say that 49-C said we had to have a special election or we just had to have a provision.

Deputy Clerk Johnson responded 49-C says you have to have a provision to fill the vacancy until the next regular State or regular municipal election whichever comes first. So you have to fill it until the election and then after the election, it's filled again for the unexpired term.

Commissioner Cook stated and that, cause I've got it in front of me, you're right. That's what it says, cause I misunderstood what you said. Maybe you don't know the answer to this question, but what does the State statute say, cause this talks about Mayor, Aldermen, and Councilors. This doesn't talk about School Board members.

Deputy Clerk Johnson responded the statute for the School Board doesn't state the same exact provisions, but we were being consistent. We did cover that at another meeting.

Commissioner Cook stated I just wanted to make sure that the statute for School Board allows us to do it that way.

Deputy Clerk Johnson stated oh yes, it does.

Commissioner Cook stated I like what's written here, and I like the procedure that we've come up with. That's not my question.

Deputy Clerk Johnson stated the statute for schools says that the Charter will provide one way, and if doesn't, then the School Board, the School District can then choose a member or something like that, unless it's provided by the Charter. So the Charter is going to take precedence over that.

Commissioner Duffy stated just as a point of clarification as we're discussing this, I'm searching for a definition here. You used the term regular election. I see in the Charter exists the definition for municipal election.

Deputy Clerk Johnson responded regular municipal and regular State is identified under State statute as the general election. What we're clarifying here is that it would be consistent with the statute which says regular State and regular municipal which under State statute and under appeals to the Court have been interpreted for Manchester as being the November election.

Commissioner Duffy asked would it be helpful to have that reference in here, to State statute.

Deputy Clerk Johnson responded I think we had handed out all of the statutes at the last meeting.

Commissioner Cook stated he means in the language.

Commissioner Duffy stated yes, in the language itself. Just tuck it in, only because again it will avoid perhaps this kind of a concern in the future as to what it is that we're referencing. It's a small point.

Deputy Clerk Johnson stated I thought that was the purpose we wrote regular in there instead of just saying the next State or municipal, we put next regular State, regular municipal because that's a clear definition of November under statute.

Commissioner Duffy stated as long as you're satisfied that it's clear, that's all I know.

Deputy Clerk Johnson stated there's three different definitions for election under the statutes, and in all three instances, if we verbiage it this way, November would be the interpretation, and that would also be consistent with the annotations that are shown in State law as well.

Commissioner Shaw stated I'm wondering what is so sacred about 90 days, only in the thought that that's around February, the middle of February.

Deputy Clerk Johnson interjected right, that you're deciding that the election.

Commissioner Shaw stated so if you count off from March forward, that's eight and a half months before an elected official would serve the office.

Deputy Clerk Johnson stated not necessarily because when we get to the next section, you're giving them an option to do either/or, but in this event, what we were just saying at the last meeting was that you need to put a cutoff that's probably going to be consistent with when the filing period starts, and if you pick mid-February which is where you come out here generally speaking, by the time you have the order of the election, you have a filing period. You have to have your ballots available 30 days in advance. You have a primary and a general to go through both under your law. You would end up in the month of June which is the filing period if you went any further out.

Commissioner Shaw asked if the vacancy came on March 1st.

Deputy Clerk Johnson stated the Board could still order a special election.

Commissioner Shaw asked they could.

Deputy Clerk Johnson stated if we get to two, that's what it says. We didn't get that far here yet.

Commissioner Shaw stated they're not required to.

Deputy Clerk Johnson stated so in section two, why don't we go through that.

Commissioner Cook stated having lived through the process yesterday when people were talking about what general and regular and special and you name it elections mean and having gone through the process at the beginning of this when we asked the City Solicitor what it meant and the Secretary of State what it meant and everybody else what it meant, I'm of the opinion that Commissioner Duffy's suggestion, if we mean the November general election, we say the November general election and not the regular election, cause we know it's in there, and we know what it means, and we can have it in our legislative history, but somebody reading it three years from now, if we mean it, let's say it.

Deputy Clerk Johnson stated okay, so we'll put November for regular.

Chairman Dykstra asked until the November election.

Deputy Clerk Johnson responded November State or November municipal. You have to keep the State and municipal.

Commissioner Cook stated to fill the vacancy until the next November State or November municipal general election.

Commissioner Shaw stated that doesn't address the fact we're not filling the vacancy in November. We're filling the vacancy starting in September or whenever the State primary...

Deputy Clerk Johnson responded no, that's candidates. The primary is candidates, and it's not election of officers. There's a difference.

Commissioner Shaw stated I know, but are you sure these people understand that you've got to have a primary to get on the November ballot.

Deputy Clerk Johnson responded yes.

Commissioner Shaw stated all right, as long as you're saying that.

Chairman Dykstra stated I think everybody would know that in a partisan.

Commissioner Hirschmann asked the worst case scenario, if someone passed away or quit, what's the worst scenario of a vacancy, the longest duration.

Deputy Clerk Johnson stated can we go to section two and just walk through it first.

Commissioner Hirschmann stated I just read that. I was trying to figure out is it 90 days the worst scenario that someone wouldn't have their member.

Chairman Dykstra asked there would be no Alderman for 90 days, is that what you're saying.

Deputy Clerk Johnson responded oh no, you can't do that under the law, so let's go to section two. Then, maybe that will clarify it.

Chairman Dykstra stated let her do this, and we'll come right back. No?

Commissioner Pepino stated all right. I was just going to follow up what he was saying.

Chairman Dykstra stated she wants to get to this, so it might clarify something. Then, we'll discuss the whole thing.

Deputy Clerk Johnson stated section two says, "Should the vacancy occur at any other time than specified above, the Board of Mayor and Aldermen may, by a vote of eight Aldermen elected, fill the vacancy by appointment until the next regular" and that'll change to November "state or November municipal election, whichever is sooner. The Board of Mayor and Aldermen shall adopt procedures by ordinance to assure that reasonable notice of any such vacancy be given to allow an opportunity for application by registered voters of the ward interested in filling the vacancy." So what you're saying in two is that they may do it by appointment, but you are not saying that they have to do it by appointment. You're saying you can do it that way or you could order a special election because you're not prohibiting a special election. You're saying you may appoint if you want.

Commissioner Hirschmann stated okay, now can you get to the point I was bringing up.

Deputy Clerk Johnson stated now the worst scenario is that in terms of not having any representation, according to this, at any point in time that you have a vacancy, either they're going to get filled by appointment or they're going to get filled by election, so if you ordered a special election, you're looking at a 45 day period, let's say because by the time you get the ballots done and everything and a filing period and all of that. It's generally in the vicinity of 45 to 60 days. So that's special election. The same thing I think would occur is my guess if you had a vacancy occur let's say in July or August of the year that you were holding a

regular municipal election, you already had that ongoing. It is unlikely that the Board would appoint somebody. However, they could, but in order to avoid any political advantages I guess to some degree or to have any underhandedness of sorts, we inserted the vote of eight Aldermen because we felt that it would take eight Aldermen to fill that at that point. So, if you're a month away from the election, you're not likely to get eight Aldermen to say, "Yeah, we should fill it." You know because I think *The Union Leader* or somebody would get on them for it.

Chairman Dykstra asked can I just clarify one thing. So we're really not mandating that they become elected, like in the last Charter, it was mandated. It was mandated basically that the Aldermen are elected and the School Committee people are appointed. Right now, what we're doing here is we are actually not mandating it, but we're saying that you have to elect them if it's within the 90 days. After that, you can appoint if you want. That could be political, cause someone could say, "Okay John, why don't you wait till 91 days, and then I'll appoint you."

Commissioner Shaw interjected and then die.

Chairman Dykstra stated no one has got to die, Bob, but I'm just saying that could happen.

Commissioner Shaw stated well, you should give notice.

Commissioner Cook stated he's derailing my train of thought once again. Carol, the question I have, and I don't want to beat this to death, I think a majority is better than eight, number one, because if you have 12 Aldermen, and seven vote to elect somebody, that's a majority. They can fill the spot. Having a super majority to fill a spot seems to me to be somewhat draconian, but that's not really my issue. My issue is when you have in number two, and what I think I just heard you say was should a vacancy occur, the Aldermen may means that they also may have a special election, but it also may mean that they don't fill it, so it doesn't say...

Deputy Clerk Johnson stated no, that's not true because in the first sentence it says the Board of Mayor and Aldermen shall fill such vacancy in a manner consistent, so they have to fill it.

Commissioner Cook asked in the first sentence of what.

Deputy Clerk Johnson responded c). It says they shall fill the vacancy.

Commissioner Cook stated okay, I see that, but when I took math in high school, it you had one positive and one negative, it still came out as a negative. You've got shall do something here and then you have a may down here. If you mean that they may appoint or they may have a special election but they'll have one or the other, you should say it because right now, it's leaving something out there hanging.

Chairman Dykstra stated I like shall. I want to mandate it.

Commissioner Duffy stated you already have the or. It's either fill the vacancy by appointment or...

Commissioner Shaw interjected I think we could solve the problem easily if we looked at the election differently. If a vacancy should occur 90 days before the election, before 90 days before the election, they must call a special election. 90 days.

Chairman Dykstra asked 90 days after, you mean.

Deputy Clerk Johnson stated within 90, and you've got 180 day span in here. There's two.

Commissioner Shaw stated no, the idea is that if something happens 90 days before an election, it gives you your 45 days. Then, the Aldermen must order. So on the 100th day, something happens, the Aldermen must order a special election before an election. 100 days before the election, there is a vacancy, they must order a special election. That could be no more than the next regular election. If it's 200 days before...

Deputy Clerk Johnson stated so you want to have a filing period for a special election after your filing period for your regular election.

Commissioner Shaw stated no, I want to have the Aldermen order a special election which could be for an Aldermen who is no longer capable of his task. They could say that it will be the primary in September, and 90 might be you know, and the regular election in November. That would be their special election. That was the reverse of what you're saying that something must happen in the first 90 days of the term. I'm saying anything happens in their term except the last 90 days, you call a special election. It's just the reverse of where you're going.

Deputy Clerk Johnson stated the Commission can do whatever it wants to do. If you give me instructions, I will write it whatever way you'd like.

Chairman Dykstra asked you don't want the appointment part. You want it mandated that there is an election one way or another?

Commissioner Shaw stated no, they still would have the appointment part for those 90 days. They can still appoint somebody. I'm just saying that the whole thing is driven by the election itself. If a vacancy occurs on February 28th, they must call a special election. They must. If the vacancy happens on whatever 90 days is before September because I think it should be a primary process, so whatever happens 90 days before then, the Aldermen will call a special election which would be the September primary and the regular election, and they would still fill the vacancy until somebody has been elected. In other words, they'd always have to call a special election.

Deputy Clerk Johnson stated so you're saying appoint someone and run the special election at the same time.

Commissioner Shaw responded yes. They do both. They should do both. They should fill the vacancy. That should be their right to fill the vacancy which gives somebody a step up, but I just think that February 23rd is where they have options. I don't like the February 23rd as options. I don't think you should have to die time specific.

Chairman Dykstra stated Bob, some people just resign for other purposes other than dying, thank you.

Commissioner Shaw asked really.

Chairman Dykstra responded really. They might just get fed up and leave. Any other discussion on this?

Commissioner Cook stated I'm almost ready to make a motion. Take the language that's here, and in c1), take out the words regular in the third from the last line where they appear twice and put November in each place, and after the word municipal, put general.

Chairman Dykstra asked November municipal or general or what are you saying.

Commissioner Cook responded no. Regular State or November municipal general election. Those are general elections in November. Then in two, in the second line, strike may and put in shall. If it's going to be seven, I don't think you need to name seven, cause they can do things by majority vote.

Deputy Clerk Johnson interjected that would include the Mayor. You've been saying by a majority of the Aldermen elected or by a majority of the Board.

Commissioner Cook stated all right. Then say by a majority of the Aldermen elected. Say by a majority of the Aldermen elected, that's fine. Either, as Commissioner Duffy said, fill the vacancy by appointment or order a special election to fill such vacancy and then leave the rest of the language as it exists. That's a motion.

Commissioner Pepino duly seconded the motion.

Commissioner Shaw stated I only ask of Mr. Cook who makes the nomination to fill the vacancy.

Chairman Dykstra stated it's the Board.

Commissioner Hirschmann stated members of the Board.

Commissioner Cook stated if the Board can do it, any member of the Board can.

Deputy Clerk Johnson stated any member of the Board.

Chairman Dykstra stated it's not going to be this if you live in Ward 3, you have to bring it in. Any member.

Commissioner Shaw stated you'd need six votes plus the Mayor.

Commissioner Cook responded no. We said by seven.

Chairman Dykstra asked should we put that in there, any member of the Board.

Deputy Clerk Johnson stated let me point out the second part of that because I don't think anybody is looking at the last sentence there. It says, "The Board of Mayor and Aldermen shall adopt procedures by ordinance to assure reasonable notice," etc. etc. See, what you're doing is you're saying to the Board of Mayor and Aldermen, "You need to go and adopt an ordinance basically that says or adopt procedures that say how you're going to fill these vacancies." It could be that they're going to use their Human Resources Committee to make nominations. It could be anything, but the Board will decide on its own how it's going to establish those procedures, and it's saying that it has to adopt them by ordinance.

Chairman Dykstra asked why do we have to do that. Do we have to do that?

Deputy Clerk Johnson stated the Commission requested us to give you language that gave the public the opportunity to run for those offices if there's a vacancy.

Commissioner Cook stated we're trying to get away from the...

Commissioner Soucy interjected the Aldermen picking the School Board member.

Commissioner Cook stated it's only a one vote appointment.

Chairman Dykstra stated but there are no procedures in law that affect that.

Deputy Clerk Johnson responded that's why you're saying they're going to adopt the procedures, but they have to meet this criteria in that process, and in your transition provision, you would give them so many days to do that.

Chairman Dykstra asked is there any way we can put in there to clarify it that the Aldermen would nominate. I mean, cause the way they've got it now, it's like a policy. If you come from that ward, you nominate. Is there any way we can clarify in here so that doesn't happen, so any Alderman can basically bring forth a nomination.

Deputy Clerk Johnson stated the Solicitor is advising that absence the verbiage that says that the Mayor will nominate, that it would be anybody on the Board, so it could be the Mayor or it could be the Aldermen. It can be any way the Board determines to do it.

Chairman Dykstra stated whoever gets the most votes.

Deputy Clerk Johnson stated so it could be an election by the Aldermen, but perhaps the Board of Mayor and Aldermen will establish a procedure and say the Mayor is going to come in with it or our Human Resources Committee is going to. It's up to the Board how they're going to do that. Now if you want to specify that it will be elected by the Board of Aldermen or by the Mayor or whatever.

Chairman Dykstra stated appointed, you mean, the nomination. I'd like it to be in there that it would be the Board of...could we just, would it be the Board of Mayor and Aldermen would make the nomination. Who wants the Human Resources Department to come in?

Deputy Clerk Johnson stated I think you need some place to put applications, the people that are interested.

Chairman Dykstra asked what happens at other special elections.

Deputy Clerk Johnson responded there's a filing period. This is in the case of an appointment.

Commissioner Cook stated let's ask a question. Did the final sentence mean to imply...the final sentence is identical to language we have in the present Charter for appointed positions in the City, not for elected positions. I don't think we want to establish by ordinance, because I think it's probably unconstitutional, an ordinance on how people can be selected to run for office in an election. I think that's coo-coo. The only thing you're allowed to have is a residency requirement for some offices. I think what we're saying here in the last sentence is if you add the words at the end of that sentence for filling the vacancy by appointment, we're not going to start passing ordinances on who can run for office. Those already exist.

Chairman Dykstra stated I have no problem with that. I just like to clarify that it's the Board of Aldermen that do the nominations.

Commissioner Shaw stated it seems to me that you'd have for elected office other than the Mayor, people who are in the wards that are running for Alderman, so who should nominate that person. You have people that are running at large in the City. Who should nominate that position?

Deputy Clerk Johnson stated I think there's some confusion here. First of all, we're talking about the appointment. We're not talking about the election because I'm hearing undertones about election. You're filling a vacancy by appointment, and if you're filling the vacancy by appointment, you need a procedure for people to be able to say, "Here's my resume. I want you to consider me." Cause that's what this Commission asked us to do. That is all that last sentence is trying to do is deal with how somebody says to the Board, "I want that position."

Commissioner Shaw stated they have to be nominated.

Commission Cook stated but we just put provisions in paragraph two that talked about an optional election, so when you have a sentence that's not specific, all I said at the end was put the words by appointment because then it makes that sentence for the application process apply only for the appointment process and not for the election process.

Commissioner Soucy stated my recollection of our discussion was that our concern was one Alderman because of some policy that had been established was making that nomination to only bring one name forward, and I thought our

consensus was we wanted everybody to have the same opportunity to at least present themselves to the Aldermen. I think this does accomplish that.

Chairman Dykstra asked so you don't think they can set up an ordinance and say that the Alderman from that ward will make the appointment.

Commissioner Cook stated well they could, but if they did it, they'd be kind of...

Chairman Dykstra stated okay, if the majority of this board has no problem with it, I'll go with it.

Commissioner Hirschmann stated let's go further with it. All right, say you have a pool of people that have responded. There's ten letters on the table. Let's go further. Then what happens? Who's going to decide

Commissioner Cook stated they pass an ordinance, that's what happens. This says they will adopt procedures on what happens. As the Clerk said, I'm not sure I like this, but just play it out, maybe the Human Resources Committee of the Board comes forward and says, "Here are three people we find qualified."

Chairman Dykstra asked what's the qualification. As you said, it's just residency. Do you think some Aldermen that were elected actually were qualified. It's who gets the most votes.

Commissioner Cook responded they got elected. That's a different issue.

Deputy Solicitor Arnold stated I think what this provision does in practical application is it merely sets up a procedure for citizens to express interest. If ten people express interest, the appointment is still up to the Board, and ten Aldermen make ten nominations and then there's a vote, like there always has been in the past.

Chairman Dykstra asked so you don't see a problem with it.

Deputy Solicitor Arnold responded with this no because it's only setting up a procedure for people to express their interest. It's not setting up an ordinance or procedure for providing for the appointment. The appointment is done by the election of the Board.

Commissioner Duffy moved the question, stating we've had this up for discussion for some time.

Chairman Dykstra called for a vote. The motion carried with Commissioner Hirschmann duly recorded in opposition, Commissioner Shaw duly recorded as abstained, and Commissioner Pepino absent.

Chairman Dykstra stated you're abstaining again.

Commissioner Shaw stated I don't understand it.

Commissioner Hirschmann stated I'll just vote no. I'm not comfortable with it. It's not going to break the world or anything.

Chairman Dykstra stated one abstention, one opposed. Okay, you missed the vote but it passed. You wouldn't have made a difference.

Commissioner Pepino asked what did you call me back in here for then.

Chairman Dykstra stated we're going to have other things we're going to vote on. Are we going to be here or there?

Deputy Clerk Johnson stated there was a handout that we gave you, 2003 Proposed Charter. There was a handout that you just got tonight.

Chairman Dykstra stated we did that so far. She has put together what we've done so far, correct.

Deputy Clerk Johnson stated this is the proposed Charter as you have voted on it to date with the exception of one section and that is Commissions. So if we go right to that. It's in Article III.

Commissioner Duffy stated how about 3.03 on page five.

Deputy Clerk Johnson stated what we did or what I did I should say, I will take blame for anything in here I guess. I tried to take all the actions of what has transpired to date with Commissions and then sort of put it in some semblance of order because we had had the Airport, and we had Water and then you decided to go back and you wanted stuff for Health. You wanted to maintain advisory commissions, but then of course, you've got Planning Board and ZBA that have special functions under statute, those kinds of things. There also were sections that you hadn't addressed such as filling a vacancy or you had said you wanted three year terms, but there hadn't been any language in there before, those sorts of things. So what I did is the first section is consistent basically with what we had before. It talks about boards and commissions of departments, and the first sentence in there remains the same. "There shall not be any board or commission

for any department of the City unless required by State or federal law except those outlined herein” which are basically going to be the two that we’ve discussed earlier. Then, what we did is we listed out for membership, appointment, and limitations unless it is prescribed by federal or state law or inter-municipal agreement or contract, which could be the library in our instance. Membership, appointment, and limitations are all listed there for departmental commissions as items one through seven. We’re stating, and you had not come out and said this, but it’s consistent with what was there before that you wanted commissioners shall be residents of the City and that they are nominated by the Mayor and confirmed by a majority of the Aldermen elected. You wanted staggered terms. There was discussion about that. We’ve inserted that.

Commissioner Cook asked residents of the City is where.

Deputy Clerk Johnson responded number one.

Commissioner Cook stated except we know that we have a requirement on the Airport Authority...

Commissioner Duffy stated she premised that by the general section.

Deputy Clerk Johnson stated item a)...read a) because you’re in 1a). Unless otherwise prescribed. So one says they’ll be residents of the City, nominated by the Mayor and confirmed by a majority of the Aldermen elected. Two, members of commissions shall serve for staggered three year terms. You said you wanted three year terms. You said you wanted them staggered. Third deals with the organized labor. Specifically we were asked to add some language. We put the Mayor shall choose such representatives for nomination through a list, and we had to put something, so we put, of not less than five names to be provided by organized labor because we figured the Mayor should have a choice, that he shouldn’t be given one name and forced to use it. In the event less than five names are submitted, the Mayor may choose a nominee that holds a valid union membership.

Commissioner Pepino stated that’s all right. Nothing wrong with that.

Deputy Clerk Johnson stated number four each January, all commissions shall choose one of their members to chair the commission and one to serve as secretary. We put that in because it is consistent with what has been in the Charters prior. Should a vacancy occur, the vacancy shall be filled for the unexpired term in a manner consistent with provisions herein. The mayor shall establish procedures to give reasonable notice of vacancies before they are filled

and provide an opportunity for application by citizens of the City. That's 96 language basically.

Commissioner Pepino stated it says here shall provide an opportunity for application by citizens of the City. Who do they apply to?

Deputy Clerk Johnson responded the Mayor. The Mayor sets that up. He does now.

Commissioner Pepino stated all right.

Deputy Clerk Johnson stated the Board of Mayor and Aldermen may remove a member of the commission by finding cause and upon a vote of eight of the Aldermen elected. It said nine in the last one. We dropped it down. Commissions shall continue to consult, advise, and make policy recommendations to the department heads and Board of Mayor and Aldermen on matters appropriate to the department. Upon request of the Board of Mayor and Aldermen or the department head, the commission may advise the board or department head on specific matters referred to the commission.

Chairman Dykstra asked was that in there before.

Deputy Clerk Johnson responded this is all the 1996 language. The commission shall have no authority over personnel decisions or administration of the department unless otherwise required by State statute or this Charter. If specifically requested to do so by the Mayor, the commission may serve as a nominating committee to recommend a candidate or candidates to the Mayor for department head. Upon request of the Board of Mayor and Aldermen, the commission shall assume the policy-making authority of the Board of Mayor and Aldermen in accordance with the provisions of this Charter. The Board of Mayor and Aldermen shall retain the right to rescind such action. That's also consistent with current language.

Chairman Dykstra stated okay, one thing I wanted to ask. If the Mayor, I think it was the last one, I kind of like it...if the Mayor doesn't bring forth a nomination, it had to do with holdovers...

Deputy Clerk Johnson stated we did not address holdovers.

Chairman Dykstra stated that the Aldermen could bring...that's very important. I liked that because, you know, they keep someone there forever and ever. This way, if the Mayor doesn't do it in a certain amount of time, the Aldermen...is that the way it works?

Deputy Clerk Johnson responded yes.

Commissioner Cook stated the way the last Charter said is when a term was up and it hadn't been filled, it expired, so the office was empty as opposed to these holdovers as you said. The Mayor had I think it was 90 days, it might have been 45 days, some period of time to make a nomination. You could nominate the same person. You could nominate the person before their term was up if the person qualified for another term. If he didn't, then the Aldermen could make the nomination. If the Mayor made the nomination, but the Aldermen didn't ratify that or didn't confirm the nomination, the Mayor could make another nomination as long as he was in the time, but it was aimed at eliminating these holdovers that went forever.

Chairman Dykstra stated exactly.

Deputy Clerk Johnson stated it's the language in Section 3.14 g) 1), 2), and 3) in the new Charter. Do you want to insert that?

Chairman Dykstra stated I'd like to make a motion to insert that into this.

Commissioner Cook duly seconded the motion.

Chairman Dykstra called for a vote. The motion carried with Commissioner Shaw duly recorded in opposition.

Commissioner Duffy stated I would ask the Clerk for a point of clarification. At the bottom of the page is the word authority which is to lead into the next eight through 12. Should you renumber those? You see how that played out.

Deputy Clerk Johnson stated you're on the next page. We're on page six. Oh, authority goes with item eight.

Commissioner Duffy stated I know, but does it make sense to continue the numbering if it's a new...

Deputy Clerk Johnson responded it's still part of a), yes. These are all, one through 12 is part of a). 3.03.

Commissioner Duffy stated I realize that. I'm just wondering about the regrouping.

Deputy Clerk Johnson stated it's part of a), so it's one through 12.

Commissioner Hirschmann stated it doesn't look right, is what he's saying.

Deputy Clerk Johnson responded that's because it's broken out on two pages.

Chairman Dykstra stated we'll write it on the top for now.

Commissioner Duffy stated the other question I have is on item two. It talks about the three year terms, but it doesn't say anything about how many consecutive terms.

Deputy Clerk Johnson stated consecutive terms...we did not address consecutive terms in here either.

Chairman Dykstra asked what did we have before, two three-year.

Commissioner Cook stated we had two three-year, and then you had to have at least a year before being appointed again.

Chairman Dykstra stated for another two three-year.

Deputy Clerk Johnson stated, "Memberships of commissions shall serve for three-year terms and shall be limited to two consecutive full terms on the same commission. A full term shall be considered a term of two years or more. No member shall take office for a term having served two consecutive terms unless two years shall have elapsed since such member completed the second consecutive term." That was the prior language if you want to reinsert it.

Chairman Dykstra stated okay, I remember that now.

Commissioner Shaw asked have the courts ruled on this, that it's not legal or they haven't.

Commissioner Pepino stated no, it's appointed.

Commissioner Cook stated the court decision in the Hooksett case was limited to, cause I've checked with people that were involved in the case, that was a very specific no authority for term limits on that office in that place. That doesn't mean somebody challenging another one wouldn't be successful or would, but it's a very limited application. It didn't stand for the proposition that no term limits any place ever.

Commissioner Shaw stated so you could do what you wanted.

Chairman Dykstra stated the Solicitor wanted to address that.

Deputy Solicitor Arnold stated no.

Commissioner Pepino stated he was just listening.

Deputy Clerk Johnson asked do you agree.

Deputy Solicitor Arnold responded yes.

Chairman Dykstra stated he doesn't want to, okay.

Commissioner Pepino stated at the Board meeting last night, didn't the Mayor replace two people, and he said they had their two or three-year terms in a row, and they had to be replaced. One was Jack Brady.

Deputy Clerk Johnson responded yes. Right, Jack Brady and Cal Cramer.

Commissioner Pepino stated according to what was in the old Charter.

Deputy Clerk Johnson interjected well, the current Charter. The 1996 Charter provides for that.

Commissioner Duffy stated those are not departmental.

Chairman Dykstra asked does anybody want to do anything with the three year terms. Is there any language you want to add to that? So that might be helpful to know how many terms they could run. This way, they could keep running.

Deputy Clerk Johnson stated if you want to put limitations, do you want to take a motion to add that in.

Commissioner Cook stated I'd make a motion to put the language of the 1996 Charter as to term limits and subsequent appointment package.

Commissioner Pepino duly seconded the motion.

Chairman Dykstra stated the only difference is the staggered. We didn't have that.

Deputy Clerk Johnson stated yeah, there is staggered in this. We can add it in here.

Chairman Dykstra called for a vote. The motion carried with Commissioners Shaw, Soucy, and Duffy duly recorded in opposition.

Commissioner Hirschmann asked so you don't want to have terms.

Commissioner Soucy responded I don't want to have those limitations of terms put on boards and commissions, limiting judiciary boards like the Zoning Board and the Planning Board from having experienced people who bring a lot to the City.

Deputy Clerk Johnson stated so that carried. You're all set. Airport Authority. We're on page six. Basically this is the same language as what had been...

Chairman Dykstra asked 96.

Deputy Clerk Johnson responded no. It's the same language that the committee had approved before. It's just restated here.

Chairman Dykstra asked what's the difference between 1996 and the new language.

Commissioner Cook stated the Chairman of the Board of Aldermen serves as Chairman of the Commission now.

Commissioner Hirschmann stated I make a motion to change that. I'd like to say an Alderman would serve, but he doesn't have to be the Chairman.

Chairman Dykstra stated you could put one member of the Board of Aldermen, cause they do that on some other commissions, don't they.

Commissioner Hirschmann stated selected by his peers or something like that.

Commissioner Soucy stated selected by the Aldermen elected.

Chairman Dykstra stated they do that for the Planning Board. What if the Chairman of the Board doesn't want to do it?

Deputy Clerk Johnson asked a member of the Board shall serve.

Chairman Dykstra stated a member of the Board of Aldermen. Is that what you want, Keith? A member of the Board of Aldermen shall serve. Is that sufficient?

Commissioner Hirschmann stated just strike out the Chairman of the Board of Mayor and Aldermen.

Chairman Dykstra stated okay, so a member of the Board of Aldermen.

Commissioner Hirschmann stated it's saying an Alderman shall serve.

Deputy Clerk Johnson stated it'll say a member of the Board of Mayor and Aldermen shall serve as an ex officio member of the Airport Authority, and you don't want him to serve as Chairman of the Authority either.

Chairman Dykstra responded no.

Commissioner Duffy stated that contradicts item 3.03 4) which says they shall choose the Chair.

Deputy Clerk Johnson responded yes, but it also says in a) in the first sentence unless otherwise prescribed. That's why.

Commissioner Duffy stated yeah, I realized that, but it's contradictory in any event.

Commissioner Cook stated if we're knocking it out, it doesn't count.

Deputy Clerk Johnson stated so, you're knocking that out.

Commissioner Hirschmann stated it will be an Alderman, but he won't be the Chairman.

Chairman Dykstra stated right, and they'll pick their own Chairman. That's their thing.

Deputy Clerk Johnson stated a member of the Board of Aldermen, you want the Board of Aldermen here, shall serve as an ex officio member of the Airport Authority period. All right, then you also now have, "The Mayor shall serve as an ex officio member of the Authority having all the powers and duties vested in other members consistent with the term of office."

Chairman Dykstra asked does he now.

Commissioner Cook responded he's in the Water but in the Airport.

Chairman Dykstra asked why isn't he on the Airport.

Deputy Clerk Johnson stated he's on Water, but not on the Airport.

Chairman Dykstra asked why was he not on the Airport.

Commissioner Cook stated remember, the Airport Authority Board was originally established by statute as I recall and is included in the inter-municipal agreement. I think what the inter-municipal agreement says is two people will be from Londonderry. I'm not sure it says the Mayor won't be one of the Manchester members, so I'm not sure this is inconsistent with that.

Commissioner Shaw stated it isn't inconsistent. It's a \$42 million business. He ought to be there.

Commissioner Cook stated I'm in favor of it.

Commissioner Soucy stated if our membership is limited to seven, and two of them are residents of Londonderry, one is the Mayor, one is an Alderman, that means we only have three public members left on the Airport Authority.

Commissioner Hirschmann interjected and one of those is a union member.

Commissioner Shaw stated it sounds good to me.

Deputy Clerk Johnson stated and one of those is a union member.

Chairman Dykstra stated I don't think we need the Mayor in there. Why? Did someone want the Mayor? Is that why it's there?

Commissioner Hirschmann stated well, why not.

Chairman Dykstra stated because it does. It's like two Aldermen, two people representing the Board of Aldermen.

Commissioner Hirschmann stated because the Mayor doesn't always show up. An Alderman might show up.

Chairman Dykstra stated if you don't have the Mayor, it leaves it open for another member.

Commissioner Duffy stated just for discussion purposes, I know that the Airport Director is concerned about too many layers of oversight, what have you. If in fact, a member of the Aldermanic Board and the Mayor are on the Airport Authority, that eliminates the need for having this Aldermanic Committee that is currently in place as I understand it.

Deputy Clerk Johnson stated that's a special committee. That's not a standing committee of the Board.

Commissioner Hirschmann stated we don't have purview over that.

Commissioner Cook stated yeah, but they'd probably come to the conclusion it wasn't necessary.

Commissioner Duffy stated they would say that we already have representation on the authority. That's the only rationale that I can come up with.

Commissioner Soucy asked what if we leave the language that says a member of the Board of Aldermen shall serve on the Airport Authority and delete the Mayor from the Airport Authority and leave the Mayor as the member ex officio on the Water Commission, but delete the Alderman and have it as it was before. That's the way it is existing.

Commissioner Shaw asked why is it so important that the Mayor serve on the Water Board but not the Airport Board.

Chairman Dykstra stated he's never served on the Airport.

Commissioner Shaw stated that's because it's history. History is what we're trying to change, I thought.

Commissioner Soucy stated perhaps you are in every instance, Commissioner Shaw, but I think there's some value to history. I want to see more public members serving on the Airport Authority, and I don't believe that both the Mayor and an Alderman should be serving there. I think one or the other accomplishes the same function.

Chairman Dykstra asked anybody have a problem with this, anybody else.

Commissioner Tessier stated I support that.

Commissioner Soucy stated I could see the Alderman from Ward 8 or Ward 9 serving on that or residents of that area.

Commissioner Cook stated I have great respect for public members, having been a public member of a couple of different boards, but if we are trying to perform a management and supervisory function that doesn't have overlap, that runs a large business-like department of the City, Airport being one, Water Works being the

other, and we don't want too many layers of administration, and we want communications to be as good as they can be, there is a lot of rationality to having the Mayor and an Alderman on each because there is then double communication. It's not just one person's impression of what happened at the Authority or the Board, whichever, but two people come in and say there's not a need for an overlap. There's no Water Works Committee of the Aldermen. There wasn't a, I don't believe, an Airport Committee of the Aldermen until the Authority became only advisory. I think what the chance is here that they'll be more streamlined, more business-like, more communication, and there is danger. There is a benefit, but there is a danger in having too many public members on any of these authorities who have an ax to grind about the thing. So very frankly, I think the way it's been designed and the way it's stated, now that we don't mandate who the Chair is going to be, because I think might put an accidental Chair in, I think that's a good change. I would leave them in.

Chairman Dykstra stated you have no problem leaving the Mayor in, the way it is. We're just basically making an Alderman a member. That's the only change so far. Any other changes in this section?

Commissioner Hirschmann asked that was for both Water and the Airport right.

Deputy Clerk Johnson stated can we just deal with one section at a time. So the change that I'm showing here that we just want to get a motion on and a second is that Airport Authority consisting of seven members. A member of the Board of Aldermen shall serve as an ex officio member of the Airport Authority, period.

Chairman Dykstra stated that's good.

Commissioner Hirschmann stated I would like it to say he's elected by his peers.

Chairman Dykstra stated a member of the Board. How else is he going to get on? They do it with the Planning Board. They put it in for the Planning Board, and they all vote on him. That's what they do. That's a process.

Commissioner Duffy stated that's a procedural issue rather than a policy issue.

Deputy Clerk Johnson stated he's right. You're not addressing the appointment at this point, so you probably want to just add...we can add that language in that the Board of Aldermen shall elect such member.

Chairman Dykstra asked what do they do with the Planning Board.

Deputy Clerk Johnson responded that's what they do. That's how they do it. We'll add that in too, but can we get a motion to that effect?

Chairman Dykstra asked a motion for what.

Deputy Clerk Johnson stated to change the language to what I just stated.

Commissioner Shaw asked who is on the Board of Aldermen, so I would know who could vote.

Chairman Dykstra stated who's on the Board of Aldermen.

Commissioner Shaw stated yeah, who is on the Board of Aldermen.

Deputy Clerk Johnson stated there are 12 Aldermen on the Board of Aldermen in this Charter.

Commissioner Shaw stated but there's a requirement that the Mayor chair the Board of Aldermen in all matters brought before the thing. The Mayor has no vote except if it's a tie.

Deputy Clerk Johnson stated he would not have a vote in this instance.

Commissioner Shaw responded yes, by State law he has a vote. He can veto. He could have half and half. He can vote. I mean, you can't overcome State law as to what is. This City is not run in any fashion unless somebody can come forward by a Board of Aldermen. It's run by a Board of Mayor and Aldermen, and they shall meet. Even the Board's rules say under RSA such and such. The Mayor is always present unless he doesn't want to be at all meetings of the Board of Aldermen which becomes the Board of Mayor and Aldermen.

Deputy Clerk Johnson interjected the Mayor can't veto the Chairman of the Board, I don't believe.

Commissioner Hirschmann stated I'm all right with it.

Chairman Dykstra stated I don't know. Let them deal with it.

Commissioner Shaw stated the rules say that. All I'm saying to you is...

Chairman Dykstra stated okay, we see another abstention or no vote here, so let's just move the question.

Commissioner Cook stated a one word question, Carol.

Deputy Clerk Johnson stated I'm trying to get a legal background.

Commissioner Cook stated all right, here's what my question is. The word consistent, the Mayor shall serve consistent with the term of office. Should that be coincident with the term of office or doesn't it matter? Is that just another way of saying during his term of office?

Chairman Dykstra stated consistent with the term of office.

Commissioner Cook asked is that just another way of saying during the thing.

Chairman Dykstra stated it's two years, during his term of office.

Deputy Clerk Johnson stated during his term of office, same thing.

Commissioner Cook asked consistent means that.

Chairman Dykstra stated yeah. Say, if he doesn't get reelected, he doesn't go back and sit on that Board.

Commissioner Cook stated I understand. I understand what it's aiming at. I just wondered if there was a better word than consistent, but if consistent is read that way, that's fine with me.

Deputy Clerk Johnson asked do you have a problem with consistent.

Deputy Solicitor Arnold responded no, I don't.

Commissioner Hirschmann stated I really think the way that it was drafted that it would have really weighted down the Chairman of the Board of Aldermen. The Chair of the Board of Aldermen, the Airport, Water, I mean that guy would had to be Superman.

Chairman Dykstra stated we're going to move on that part. Ladies and gentlemen, section b) where Commissioner Hirschmann made a motion, I need a second for that. That is to make it a member of the Board of Aldermen shall serve as an ex officio member.

Commissioner Duffy duly seconded the motion.

Deputy Clerk Johnson asked are we saying elected by the Board of Aldermen.

Chairman Dykstra stated it says a member of the Board of Aldermen shall serve. It doesn't say elected.

Commissioner Duffy stated quite honestly, I think you're just adding more in there than you need to add in.

Chairman Dykstra stated just leave it the way it is, shall serve.

Commissioner Duffy stated shall serve.

Chairman Dykstra stated that's all.

Commissioner Duffy stated they'll figure it out.

Chairman Dykstra stated that's all. Let them figure something out.

Chairman Dykstra called for a vote. The motion carried with Commissioners Shaw, Soucy, and Tessier duly recorded in opposition.

Deputy Clerk Johnson stated I didn't get who seconded this. I have Hirschmann by whom.

Chairman Dykstra stated by Duffy, and it's opposed by Tessier, Soucy, and Shaw. That was just to add a member of the Board of Aldermen shall serve.

Deputy Clerk Johnson stated but where you have no other reference here, it will revert back to the other section that says the Mayor shall make it, and the Board will confirm it because you have no other provision.

Commissioner Duffy stated I'm sorry, Carol, I missed your point. Could you repeat that please?

Chairman Dykstra stated can you repeat that for Commissioner Duffy.

Deputy Clerk Johnson stated I'm just going to go back to...

Commissioner Hirschmann stated I know Pariseau always wanted to be part of it when his constituents had problems. He always wanted to be on the Airport. Those Aldermen down in the south end might want to be on this thing.

Commissioner Shaw stated then they can be Chairman of the Aldermanic Committee.

Deputy Clerk Johnson stated here we go. Members of Commissions shall be residents of the City, nominated by the Mayor and confirmed by a majority of the Aldermen elected. So if you don't provide for anything else, it reverts back to that section, so that is what you're doing. You're saying an Alderman will serve, and that Alderman's name would be brought in by the Mayor and confirmed by the Board of Aldermen.

Commissioner Hirschmann stated that's not what I want.

Deputy Clerk Johnson stated that's what you have right now.

Commissioner Hirschmann stated that's not what I said. That's why I said elected by his peers.

Deputy Clerk Johnson stated but I was asked to remove that when the second was coming on the table.

Commissioner Shaw stated he still would be elected by his peers, but the Mayor gets to nominate him.

Commissioner Cook stated better nominated by the Mayor.

Commissioner Pepino stated it should be the Alderman from the ward down there.

Chairman Dykstra stated let's not get into that. All right, we'll just strike the whole thing if we have to. Let's just get this moving here. I mean, it was just a simple thing.

Deputy Clerk Johnson stated some of them want to and some of them don't, so it's up to them.

Chairman Dykstra asked do the majority here want to see the Board of Aldermen pick that member to sit on the Airport Authority. No?

Commissioner Hirschmann stated yeah, why not.

Commissioner Duffy stated no.

Chairman Dykstra stated you want the Mayor to pick that person.

Commissioner Cook stated I want them to vote for him. I want the Mayor to nominate him, otherwise you're going to get one of these crazy Aldermanic

traditions that somebody says because it happened once before, “Oh, I get to be the Alderman on that, cause it’s located physically in my ward” or something. You don’t want that. You want the person best qualified to fill it.

Chairman Dykstra stated you can never stop the Aldermen from doing that.

Commissioner Cook stated well, they can ask for it, and they can say to the Mayor, “I want it” and frankly the Aldermen can say we won’t vote for anybody but the Alderman from that ward if they want to do it. That’s their process, but I think the Mayor ought to do the nomination.

Deputy Clerk Johnson stated an amendment can be made to have the Aldermen choose or you could have an amendment that the Chairman of the Board chooses or you can leave it that the Mayor chooses.

Chairman Dykstra stated how about a member of the Board of Aldermen, who shall be elected by the Board of Aldermen, shall serve. Can we just interject shall be elected by the Board of Aldermen in that.

Commissioner Hirschmann stated what I’d like to see is when they have their first meeting, and they’re picking a Chairman of the Board, if they’re rational enough to pick a Chairman of the Board, they can pick who’s going to go on the Airport Authority, who’s going on the Water Works, who’s going on the MDC Board. That’s how it should be.

Commissioner Shaw asked don’t they vote for the Chairman.

Chairman Dykstra stated so you wanted the Aldermen to pick it.

Commissioner Hirschmann stated yeah, first meeting of the year, they should pick who’s going to be the Chairman of the Board, who’s going on the Airport Authority, who’s going on the Water Works, and who’s going on the MDC Board.

Chairman Dykstra stated okay, but we have to address it within this section here.

Deputy Clerk Johnson responded well no, you can put it right here.

Chairman Dykstra asked where.

Deputy Clerk Johnson stated where you have the election of a Chair, you can always add it in there.

Chairman Dykstra stated all right, so we're going to go back to Section 2 where it says election of chair. We can also add in there that the Board of Aldermen shall...

Commissioner Hirschmann interjected so when the Aldermen walk out of the room there, all those things will have been addressed by their Board.

Commissioner Duffy asked where are we looking.

Deputy Clerk Johnson responded 2.02, on page 2, 2.02 b). It says, "At the organizational meeting of the Board of Mayor and Aldermen, the Board of Aldermen shall elect a Chairman." You could also add into there and a member of the Airport Authority and a member of the Water Works.

Commissioner Hirschmann stated an Airport Authority member, Water Works Commission, Planning Board, and MDC Board.

Deputy Clerk Johnson stated well, MDC we don't know is going to be there ten years from now.

Commissioner Hirschmann stated well, we want to put it in there.

Commissioner Pepino asked what do you mean, "Shall elect a Chairman".

Commissioner Hirschmann stated they always elect a Chairman of the Board at their inaugural meeting, so they're going to elect a Chairman of the Board.

Deputy Clerk Johnson stated and a representative to the Airport Authority, the Water Works, and Planning Board. Those are the three statutory.

Commissioner Hirschmann stated and MDC Board. That sounds good.

Deputy Clerk Johnson stated well, you could say and any other boards or commissions containing representation by the Aldermen if you want.

Commissioner Hirschmann stated well, just put MDC Board. That sounds good.

Chairman Dykstra asked is it going to be there.

Commissioner Hirschmann responded it's there now.

Deputy Clerk Johnson stated you give them the opportunity to dissolve it at any point that they want under this Charter now.

Commissioner Hirschmann stated if they want to dissolve it, they can dissolve it.

Deputy Clerk Johnson stated well not if you put...not if you're adding that here.

Commissioner Hirschmann stated it doesn't say that they can't be dissolved by having that language in here.

Deputy Clerk Johnson stated so he's saying select a Chairman and a representative to the Airport Authority, the Water Works, Planning Board, and MDC Board. That's his motion to amend.

Commissioner Wihby duly seconded the motion.

Chairman Dykstra called for a vote. The motion carried with Commissioners Cook, Shaw, and Soucy duly recorded in opposition.

Deputy Clerk Johnson stated let's go back to 3.03. I think we're moving on to Water.

Chairman Dykstra stated Water Commission. Airport is done for now.

Deputy Clerk Johnson asked did we want to do the same thing. So we want to put the same verbiage. It says the Chairman of the Board of Mayor and Aldermen shall serve as an ex officio of the Water and serve as Chairman of the Commission.

Chairman Dykstra asked do we want to put a member of the Board of Aldermen in there.

Deputy Clerk Johnson asked do you want the same language as you have for Airport for Water or do you want to leave the Chairman of the Board serving as Chair.

Commissioner Hirschmann stated we want the same.

Chairman Dykstra asked what if the Chairman doesn't want to do it.

Commissioner Cook stated we're making the same changes that we made to the Airport.

Deputy Clerk Johnson asked is there a motion to do that.

Commissioner Hirschmann so moved.

Commissioner Cook duly seconded the motion.

Chairman Dykstra called for a vote. The motion carried with Commissioners Shaw, Soucy, and Tessier duly recorded in opposition.

Deputy Clerk Johnson stated Boards and Commissions not related to departments. The top section is the same as what you already had, and this is basically the same as the prior. There are two minor differences. One is under authority. We did remove that they would if requested by the Mayor nominate a department head because there is no such thing. Under these boards, they're not related to departments, but all of the other things are the same. The other thing that we added...

Commissioner Cook stated the changes that we made to the departmental commissions on those things about the holdovers and stuff...

Deputy Clerk Johnson stated that would appear here as well. I'll just add them to both.

Commissioner Cook responded thank you.

Deputy Clerk Johnson stated the other difference in this is if you look at item 12, it says alternates, and we put a provision in there for alternates. It wasn't in the last Charter, but the Board actually appoints alternates to the Zoning Board of Adjustment and the Planning Board in order to give people a chance to learn those laws and rules and so forth, and then they sort of move up the ladder.

Chairman Dykstra asked how about the old language.

Deputy Clerk Johnson responded it didn't have it.

Commissioner Cook asked don't the alternates serve when a regular person isn't serving, so it's more than just learning.

Deputy Clerk Johnson stated that's right. It's a learning process, and they also vote. For instance, if they sit in on a site plan, they have to follow it all the way through to the end.

Chairman Dykstra asked is there anything in there that State law addresses for alternates at all.

Commissioner Cook stated I think the State planning statute provides for all that.

Chairman Dykstra stated I thought it did.

Deputy Clerk Johnson stated the only thing that I did is I said that they would be appointed consistent with the provisions of everybody else. In other words, they're going to be a resident. They're going to be all of the other things. It's going to follow the same process as if it was a regular member except they are termed an alternate. That was never put any place, and it gets a little confusing once in a while when you can't find things.

Chairman Dykstra asked any problems with that.

Commissioner Soucy stated I just wanted to point out that it seems that the only commissions that we've eliminated through all of this are Elderly Services which I think is a shame, Parks and Recreation which is an enterprise fund which I think would benefit from having a commission, Police, Fire, and Highway. That's all that we've eliminated from this list by saying non-departmental related.

Commissioner Shaw asked do want a commission that can't have any authority.

Commissioner Soucy stated that's apparently what most of these have.

Commissioner Shaw stated by putting the Mayor and the Alderman on there, there was a sense...

Commissioner Soucy stated the Board of Health is a department.

Chairman Dykstra stated we did pass that.

Commissioner Soucy stated I mean you're singling out. I mean singling out the Elderly Services Commission to me would be a terrible shame. I mean, there are people who serve on that Commission because they are looking out for the interests of seniors in this community, and I think that's a benefit to that department. They serve in an advisory capacity.

Commissioner Shaw asked is there an elderly department in the City.

Commissioner Hirschmann responded of course there is. 25 years. Where have you been?

Commissioner Shaw asked is that considered a department, a one person department.

Chairman Dykstra stated we have that lady, what's her name. I forgot her name.

Commissioner Hirschmann stated Barbara Vigneault.

Chairman Dykstra stated Barbara, Barbara, yeah. So we have a department. We decided when we had voted that we were going to abolish the commissions and keep just those two.

Commissioner Shaw stated except required by law.

Commissioner Hirschmann stated just to go further in that, I do agree with Donna Soucy on that because the Elderly Service, yeah, they're advisory but we're getting five citizens out in the community that interact with Human Services and Elderly Services, and they do offer input. It's only advisory, but it gets them involved in our City government, so I would advocate for an Elderly Services Commission. I'm okay with that.

Chairman Dykstra asked what happens with the department. Do they have a committee? Doesn't the Elderly Department have a commission?

Commissioner Hirschmann stated I'll make a motion to put the Elderly Service Commission back on the table.

Commissioner Pepino duly seconded the motion.

Chairman Dykstra called for a vote. The motion carried with Commissioner Shaw duly recorded in opposition.

Chairman Dykstra stated so we have the Elderly Commission back in.

Commissioner Soucy stated that is the only four left then. Highway, fire, police, and parks.

Commissioner Hirschmann stated I think they actually helped that department head quite a lot, the Elderly Services.

Commissioner Soucy stated I think the remaining helped the department heads.

Commissioner Cook stated we'll see what people say when we have a public hearing.

Chairman Dykstra responded that's true. It's still not done. We're going to have a public hearing, so there are still things that can be done.

Commissioner Soucy stated then I would move that we include those four other departments that we've eliminated.

Commissioner Shaw stated and if they don't attend the meetings, how do we get...you know if they don't attend the meetings, they get fired.

Commissioner Soucy stated that provision is in there, with cause.

Deputy Clerk Johnson stated the Mayor, the Board can remove them.

Commissioner Shaw stated it's automatic.

Deputy Clerk Johnson stated no. Not in here.

Commissioner Cook asked you didn't keep that provision.

Deputy Clerk Johnson stated I didn't add in anything that hadn't been either discussed or was not a complete necessity because I didn't want to be taking positions. You can add it in.

Chairman Dykstra stated when we put this Charter together, we abolished the commissions. We did keep these that were listed. We just added the Elderly. We kept the Airport Authority and the Water Commission. That's the way it stands now under the Charter document that Commissioner Shaw brought in that now belongs to us.

Commissioner Cook stated can I ask a question about the labor rep. I mean, we've done so many things in so many different directions that my recollection was and this may not be consistent with Commissioner Shaw's draft Charter that he came in with, but my recollection is we took action to eliminate the labor reps.

Deputy Clerk Johnson stated then you put it back in.

Commissioner Tessier stated we brought it back in.

Chairman Dykstra stated I think it was a 5-4 vote.

Commissioner Shaw stated we have to have an elderly person from labor who's on that commission.

Chairman Dykstra stated I don't know of any elderly people in labor.

Commissioner Shaw stated nominated by the labor unions.

Commissioner Cook stated I'm making a motion to eliminate the requirement of a labor representative on boards and commissions, and if it gets a second, I'll explain why.

Commissioner Duffy duly seconded the motion, stating for discussion.

Commissioner Cook stated my rationale is the concern that was expressed earlier which was if you have an Alderman, if you have a Mayor, if you have two from column A and one from column B, and you have to have labor, you're going to end up with a very limited number of general memberships. If the Mayor wants to nominate somebody from labor, they can nominate somebody from labor, but the requirement of having somebody from labor mandated I think is inconsistent with the spirit of the Charter. Why would you say not and one will be from business, and one will be man, and one will be a woman.

Chairman Dykstra interjected and one will be a hair dresser, and one will be a plumber. Okay, I get the point. Let's move the question here. I'm going to take a roll call vote, and this is to remove the labor from...

Deputy Clerk Johnson stated from all boards and commissions.

Chairman Dykstra stated I mean the requirement. The Mayor can put them in, but not to mandate anything.

Commissioner Cook stated no prohibition against it.

Chairman Dykstra stated but you're just not mandating it.

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

Chairman Dykstra stated so it fails. It's still in there.

Commissioner Hirschmann stated so now we have to have a labor rep on Elderly Services.

Chairman Dykstra stated just what you wanted Bob. Thanks for your vote.

Commissioner Pepino stated Elderly Services has no employees. They're just an advisory for the Elderly Services. That's all they are. They do nothing else but that.

Chairman Dykstra interjected so are the others advisory. They're all advisory now.

Commissioner Pepino stated if I can recall, Ira Royer sits on there as a labor rep now, but they don't need a labor rep on Elderly Services.

Chairman Dykstra asked why do we need one on the others.

Commissioner Pepino stated I move to remove the labor rep from Elderly Services.

Commissioner Shaw stated please.

Commissioner Pepino stated it's not a department.

Chairman Dykstra stated he's making a motion.

Commissioner Shaw stated excuse me. I apologize.

Chairman Dykstra stated he's making a motion Bob, just like...

Commissioner Shaw stated I said I apologize.

Deputy Clerk Johnson stated the motion is to remove the labor representative from the Elderly Services Commission only.

Chairman Dykstra duly seconded the motion.

Chairman Dykstra called for a vote. The motion carried with Commissioners Cook, Shaw, Soucy, and Tessier duly recorded in opposition.

Deputy Clerk Johnson stated the next item is Board of Assessors, on page eight. The only change on Board of Assessors was we had been requested to indicate removal so we put any of the assessors may be removed for cause pursuant to Section 3.08 which is the same section as department heads and officers, and we included them in the language for the department heads as assessors.

Chairman Dykstra stated any questions, problems there.

Commissioner Hirschmann stated I want to address something. I'm on the section she's on is the assessors.

Deputy Clerk Johnson stated there's one other sentence in there I just want to point out that we did add.

Commissioner Hirschmann stated could I just bring up a point.

Deputy Clerk Johnson stated there's one more sentence that we took the liberty of adding in, and I want to explain why, and you can do what you want with it from there. In my discussion earlier today with the Solicitor's office on the Board of Assessors, the Board of Assessors is listed in here in essence in two separate places, one as a Board because they're performing the abatement functions, etc. under statute. The other is as a department so that the Board has some control over the functions of the department if it wanted to move the clerk some place else that's doing the finances, it could.

Commissioner Cook stated wait a minute, wait a minute, wait a minute. I thought one of the assessors was the department head, and that person had that title, not the Board had that title.

Deputy Clerk Johnson stated let me back up. The Board has power over reorganization of any department in the City, and the assessors is no different from any department.

Commissioner Hirschmann stated if they want to reorganize.

Commissioner Cook asked the Board of Aldermen.

Deputy Clerk Johnson stated right, the Board of Mayor and Aldermen, not the Board of Assessors. I'm sorry. So given that sense and the fact...what we did is we added a sentence in here that the assessors shall be entitled to a salary and benefit package similar to non-affiliated employees. Because of the removal factor and the fact that you're treating them as a member of a Board, it was felt if you had to argue in court that they are not an employee per se for the purposes of the Board of Assessors, you would need something that differentiates them as a Board as opposed to part of a department.

Commissioner Cook asked why did you say similar to. Why don't you just say as non-affiliateds.

Deputy Clerk Johnson responded because it leaves the option for the Board of Mayor and Aldermen to set it up in whatever standards they want within that

compensatory system, but it also does not place them as an employee and a Board member at the same time.

Commissioner Cook stated today, you have three assessors.

Deputy Clerk Johnson stated there are two right now.

Commissioner Cook stated you've got assessors. They're obviously full-time City employees as well as being members of a Board as well as one of them is a department head. I'm not objecting substantively. Just the word similar to. I mean, what are they? Are they non-affiliated employees? What's a department head?

Deputy Clerk Johnson stated do you want to explain to them what we're discussing because I'm not explaining this very well, and I don't know how.

Deputy Solicitor Arnold stated I'm not sure I could do it any better. We just wanted to make sure that there was a distinction between being a member of the Board of Assessors and being a City employee, that while they sit as a Board of Assessors doing the abatement and those functions that that is a distinction from being a City employee. Since they are full-time employees right now, we put in the provision that they will get a salary and benefit package similar to non-affiliated employees, cause they're non-affiliated now.

Commissioner Hirschmann stated this is where I was trying to get my conversation in here.

Deputy Clerk Johnson stated we're also placing in the for cause removal and I mean as employees, that's different than what an employee would be.

Chairman Dykstra stated but their functions come under State law too. I mean, that's addressed within State law right, for assessors?

Deputy Solicitor Arnold stated that's why we're trying to draw that distinction.

Chairman Dykstra stated I understand what you're doing.

Commissioner Cook stated I see where you're going. I'm not trying to cause trouble, but a Superior Court judge is a full-time State employee. A department head of a department in the City of Manchester is a full-time City employee, and so it's just the word similar to seems a little incongruous to me.

Chairman Dykstra stated they don't function by State law anyway. They're not set up like the Department of Highway.

Deputy Clerk Johnson stated you can strike that and just leave it alone. I mean, that's fine.

Commissioner Cook asked why wouldn't you just say as, a package as non-affiliated employees.

Commissioner Shaw asked why do you have to put in they get benefits.

Commissioner Cook responded because they're full-time City employees.

Commissioner Shaw stated then they automatically get benefits. There's a State law here somewhere that says they get benefits.

Deputy Clerk Johnson stated you can remove the sentence if you want.

Commissioner Hirschmann stated can I just talk about this department. I mean right now, it's under the Board of Assessors, but the Board of Assessors, that's the name of the department as well because we didn't change it.

Deputy Clerk Johnson stated right. It's listed as both.

Commissioner Hirschmann stated so we're talking about a department here, and there is a department head, and this is the only department head...say there's a vacancy for an assessor. The department head really doesn't get to pick who works for him. It says right here the Mayor selects who the assessor is. Why don't we want the department head in the selection?

Commissioner Shaw stated there's a rationale for that. Could I address that? The rationale is that they sit as a Board. They get to vote on abatements. If the department head could fire anybody in a department if he could or for whatever cause, he would be able to eliminate somebody who doesn't vote on his behalf for an abatement, okay. I mean this comes from the bottom straight up.

Commissioner Hirschmann stated let me play devil's advocate with you. What if the person nominated to serve the department head, his visions of being an assessor aren't congruent with the department head, and the Mayor puts somebody in there that the department head doesn't even like.

Commissioner Cook stated that's life.

Chairman Dykstra stated that's life. You know, work with people you don't like. That's life.

Commissioner Cook stated but as department head, the other employees of the assessing department come under the department head's purview as coordinated review, boom, ba boom, ba boom, not under the whole Board which was that question I asked before. The three assessors don't act as co-department head. One of them is the department head, and all of the employees are subject to the department head's direction, not to the three of them, but he doesn't boss the other two around in their function as quasi-judicial officers.

Commissioner Shaw stated it just sounds safer. It sounds safer and in fact, I'm sure if you were to check with the head assessor down there at the present time, the chairman, that he would recommend to you that this is pretty much the language he would like.

Commissioner Hirschmann interjected oh, I did check with the assessor that's down there, and he would like one of these positions filled, and it's vacant right now.

Commissioner Shaw stated that's the Aldermen's fault. That's not the Mayor's fault.

Chairman Dykstra stated they have to fund the money for it.

Commissioner Shaw stated that's the Aldermen. It says right in the current Charter the Mayor...

Commissioner Hirschmann stated we're writing all these fancy Charters and no one follows them. It says in the Charter there shall be three assessors.

Commissioner Shaw stated but that's their fault. They have the power to nominate. They gave away their power to the Mayor. That's the problem. That's not our problem.

Chairman Dykstra stated we have enforcement in there now.

Commissioner Shaw stated they're not doing their job, the Aldermen, at great expense to the City incidentally.

Deputy Clerk Johnson stated if you want to strike out that language, that's fine.

Chairman Dykstra asked anybody want to strike it. Leave it in. Okay. All right, let's move on.

Deputy Clerk Johnson stated and then the Board of Health we were asked to add those in so that it was including the physician, the dentist, and the nurse among the membership.

Chairman Dykstra stated I'd like to add a union member. I'm only kidding.

Deputy Clerk Johnson stated that's already in.

Chairman Dykstra stated oh, so I'd like to eliminate it.

Commissioner Shaw stated a union doctor.

Chairman Dykstra stated this is where I'm compromising, Commissioner Shaw.

Commissioner Pepino asked is there anywhere in here if the Mayor wants to consolidate this with something else, is there anything in there for this.

Deputy Clerk Johnson responded yes. It has been provided for.

Commissioner Pepino stated that's why they're keeping that one off. I would like to see them keep one more off.

Deputy Clerk Johnson stated could I just go back to that Board of Assessors. I have something to share with you that was part of why we had added that language, and Steve was nice enough to remind me. One of the things that we said is that members of boards and commissions shall be a resident of the City. You cannot mandate an employee to be a resident of the City, and that was why we put the distinction in. That was one of the major reasons. It just kind of dawned on me after the fact, so I apologize.

Chairman Dykstra stated okay, that's a good point.

Commissioner Hirschmann asked what happens if they move from the City. Does that disqualify them?

Deputy Clerk Johnson stated if somebody moves from the City that's on a board or a commission, you now have a vacancy.

Commissioner Hirschmann stated but not that one.

Commissioner Soucy stated but not them.

Deputy Clerk Johnson stated the Board of Assessors you will.

Commissioner Hirschmann stated so, they can't move from the City.

Deputy Clerk Johnson responded right because they would follow the same as the rest of the boards. That's one of the mandates in this section is that you're a resident of the City unless you change them and exclude them which you can do.

Commissioner Soucy stated but what you said then doesn't quite jive with that. You said that we cannot force employees of the City to be residents of the City.

Deputy Clerk Johnson responded that's why we put the distinction in that they would be compensated similar to the non-affiliated which would distinguish them as not being a standard employee.

Commissioner Soucy stated so as long as that language is in place, the residency requirement would not apply.

Deputy Clerk Johnson stated would apply. That's the whole purpose of having it there.

Commissioner Pepino stated unless they unionize. That's true. The City can negotiate that. You should live here.

Deputy Clerk Johnson stated because if you had a non-resident on that Board, you would have vacancy under the terms of boards right now unless you exclude this Board from that requirement, but it's obvious that in a court of law, they would rule unless you had distinguished them somehow, they would rule that they are a City employee and therefore entitled to live wherever they want, unless you know, they're so many miles away for emergency purposes and those kinds of things.

Commissioner Shaw asked is there a right under this Charter for the Aldermen to make boards and commissions if they wished. Are they from that?

Deputy Clerk Johnson stated they are restricted in that they cannot add boards and commissions for departments. They can add any other board or commission they deem necessary.

Commissioner Shaw stated it took out the word where it's related to departments...I mean in other words if they wanted to make a commission, why would we want to stop them? I don't know.

Chairman Dykstra asked how many commissions do you need.

Deputy Clerk Johnson stated you said you didn't want any department ones when you put it together.

Chairman Dykstra stated let's make it a larger bureaucracy, Bob. You're against that anyway, aren't you?

Commissioner Soucy stated you're only eliminating four. That was the point.

Commissioner Shaw responded 20 people.

Chairman Dykstra stated even the heads of those didn't want them.

Commissioner Soucy stated one question. The board cannot create commissions. The Board couldn't create a special...well, it can create committees, create a special committee of the Board for the Airport or special committee of the Board for...

Deputy Clerk Johnson interjected for police or anything else. Police actually go for Public Safety now which is Traffic.

Commissioner Hirschmann stated on 3.07, removals. Did it ever say that the Aldermen could do that too? Right now, it says only the Mayor can remove an officer, department head, or assessors.

Deputy Clerk Johnson stated right. This is the language that was accepted by the Commission to date.

Commissioner Hirschmann asked but what did it say in the past. It said that an Alderman could do it as well.

Deputy Clerk Johnson responded I believe he's right.

Chairman Dykstra stated it's got to be confirmed by the majority of Board of Mayor and Aldermen.

Commissioner Hirschmann stated but an Alderman used to be able to bring it forward. Now, it's saying only the Mayor can be bringing it forward.

Commissioner Duffy stated the current Charter calls for the Mayor to have that authority.

Commissioner Hirschmann stated I don't know what the old section was, but it used to be that a group of Aldermen could remove as well.

Deputy Clerk Johnson stated yes, in the 1982 Charter, I do believe you're right.

Chairman Dykstra stated the Mayor brings it forth, and they have to confirm it.

Commissioner Soucy stated Section 3.10. It says the Board can remove a City officer.

Deputy Solicitor Arnold stated but that's a City officer.

Chairman Dykstra stated it's a City officer. It's not like all...how many officers we got left?

Commissioner Soucy stated it just says Mayor may remove department heads. That's the existing language, so the Aldermen can remove City officers, but the Mayor can remove department heads under this.

Commissioner Cook stated yes, I'll tell you why because the City officers under the 1996 Charter were elected by the Aldermen. They were not appointed by the Mayor, so the appointing body could remove in both cases. That's why.

Commissioner Soucy stated right. That language would be consistent. It was consistent.

Deputy Solicitor Arnold stated if you look at 3.14 e). After a finding by the Board of Aldermen, if there is cause to remove a member of a commission, the member may be removed.

Commissioner Soucy stated that's a commission.

Deputy Clerk Johnson stated not a department head.

Deputy Solicitor Arnold stated that's right. I thought you were talking about commissions.

Deputy Clerk Johnson stated no, they jumped to department heads.

Deputy Solicitor Arnold stated I missed that. Sorry.

Commissioner Hirschmann stated I was just asking about 3.07.

Commissioner Soucy stated so the distinction is that this now applies to both City officers and department heads whereas it previously was...

Deputy Clerk Johnson stated the 1982 Charter, each department head shall serve a term of six years but shall be subject to removal by the Board of Mayor and Aldermen at any time for cause. That was the 1982 language. The 1996 language changed that so that department heads were done by the Mayor, and officers were done by the Board of Aldermen.

Commissioner Hirschmann stated for removal.

Deputy Clerk Johnson stated for removal.

Commissioner Hirschmann stated you're locking it in so that only one person can remove somebody. What if it's...

Commissioner Duffy stated it's the appointing authority that you want to have the power to remove.

Chairman Dykstra stated right, cause they're appointing it, but then it's still got to be a confirmation by the Board of Aldermen.

Commissioner Cook stated we're not doing that any more. Under this as I understand it, we now have the Mayor with the power to nominate officers and department heads.

Deputy Clerk Johnson interjected he's the only one that can nominate.

Commissioner Cook stated Aldermen can still obviously have to vote to confirm and to remove, so the question I guess the differentiation becomes can the Aldermen institute the process on an officer as opposed to a department head.

Deputy Clerk Johnson stated he's asking if the Aldermen shouldn't be able to do it for department heads or officers.

Chairman Dykstra stated even though the theory was the Mayor appoints.

Commissioner Cook stated no, the theory was, obviously the Commission can do whatever it wants, but the theory behind the present system was the Mayor is the CEO. The department heads work for the CEO. The employees of the department work the department head. If the Mayor is dissatisfied with the department head, he should be able to remove the department head, but because this is government,

not the XYZ Corporation, he shouldn't be able to just do it because politics gets involved in a lot of things. He has to get a certain number of Aldermen to confirm it. So that's the theory behind why seven Aldermen who may not like what's going on can't come along and say, "We want to fire Joe Jones. We don't like what he did today down in the Highway Department." That's the theory. That's the theory behind it. If you think it should be a different way, obviously you put it in the Charter.

Commissioner Hirschmann stated the only thing is what if a lot of people do feel somebody should be removed, but the Mayor doesn't bring it forward. He's stuck there. There's no other mechanism.

Commissioner Cook stated that's the power of the Mayor. Yeah, you fire the Mayor.

Commissioner Duffy stated excuse me, but you would be mixing. You know, the point of it is you want to have a streamlined structure. The appointing authority has the power to remove. Otherwise, you're getting into mixing and matching here.

Chairman Dykstra asked where's half of our Commission. Do we have a quorum here?

Commissioner Cook stated one, two, three, four, five, six, we have a quorum.

Commissioner Hirschmann stated I just wanted to debate it and find out the rationale behind that.

Chairman Dykstra stated let's move along here. Let's get something done. We're going to leave in about ten minutes or so. Finish this up. We've got a lot done. We're going to have to finish this next week, so we can have her get to work for the hearing.

Commissioner Cook stated if I could make a suggestion, Madame Chairman. Part of the suggestion is not just theoretical. It's personal, but it makes sense to me that we do the transition stuff next week, and we think about it. There's a notation in the transition section that there may be other transition things that need to come in.

Deputy Clerk Johnson stated I wanted to see what you did tonight in order to determine.

Commissioner Cook stated yes, to see what we did tonight, and I'd like to make a couple of requests of this Commission because when we work well together, we

do a nice job, and I don't say this in any sense of ill will, but it appears to me, and I think Commissioner Shaw was getting at this before, that there still seem to be four votes on this Commission on each side of a couple of monumental, earthquake issues. The two big issues have been since the first day we started non-partisan elections and At Large Aldermen, and if we take Commissioner Shaw at his word as I do that he will not be the fifth vote, I take to heart his suggestion that people think about their positions on those and how important they are because very frankly, and I'm not asking anybody to change their convictions because I'm certainly not going to change mine, but I'm just suggesting to you that we have done some good stuff in this Charter. We have made some changes to the Charter system of Manchester that are better.

Chairman Dykstra interjected I agree. I think it's a better Charter. I do. I know you probably don't.

Commissioner Cook stated well, in some ways, it's better, and in some ways, it's worse.

Chairman Dykstra stated well, it can't be perfect.

Commissioner Cook stated but if those two issues on which we seem to have a very close split are going to keep us from having any Charter, then people ought to think about the ramifications to that because I think what's going to happen is, if I don't miss my counting and I think I can count to nine or I can count to eight, we're not going to get any of that good stuff because people are so hell bent to leather on partisan elections and eliminating the At Large Aldermen. I'm not suggesting anybody should change their position. I'm not saying anything beyond that at this juncture, but if we have nothing to show for our work, and we think we've done some good stuff, I would implore all of us, these four and these four, to think about what the ramifications of that are.

Chairman Dykstra stated you know, I agree with you, and I kind of thought that from the beginning that that would be the problem, and all this work we've done, and I've said it before, if it comes to four to four, everything just dies, and it's done with, but you know, my good friend Commissioner Shaw, I mean I believe he was elected by the people to vote and to abstain all the time, I mean, to put it on say myself or Commissioner Tessier or Commissioner you know Pepino or someone, I mean if you believe so strongly in something, you vote for the people whether you're a five to four or whatever. I mean don't drop it on me.

Commissioner Shaw stated all right, you see I don't believe so strongly in the 12 and partisan or the 14 and non-partisan. That's not the issue. The main issue to me, the main issue, the one that I value the most is under State law 49-C:12,

meetings. That to me is the key issue, and we know that eight people don't agree with me. That's quite all right, and I'm not asking the four on one side to change their mind or the four on the other side to change their mind. I'm saying to you the most important thing before this committee from one Commissioner's perspective, 49-C. You were given it last week. Everybody has it.

Chairman Dykstra stated the bottom line is if we don't vote for the six p.m. ending of the meeting...

Commissioner Shaw interjected no, no. We could modify that. I didn't say that that was perfect. I did not tell you that it was perfect. All I'm saying to you, Alderman or Commissioner, is this. If you have a right to stick to your guns and they have a right to stick to their guns, then you must grant me one wish, that I have a right. I didn't say that I should win the argument, but I have a right to stick to my guns.

Chairman Dykstra stated right, you do, but what are they.

Commissioner Shaw stated so don't be upset with me.

Chairman Dykstra stated no, no, I'm not being upset. I'm just saying you're abstaining, so you're not voting. I mean, you can do that.

Commissioner Shaw stated I think that the Charter that we have before us today is not worth my vote.

Chairman Dykstra stated you've already made it very clear that you're not going to vote on this Charter. We know that. Brad Cook just brought it up now. It's going to be four to four. Let's call a spade a spade. You're not going to vote on it.

Commissioner Shaw stated we don't know if we're going to modify.

Chairman Dykstra stated unless Leona Dykstra or Commissioner Tessier changes their mind.

Commissioner Shaw asked well, why wouldn't you change your mind.

Chairman Dykstra stated well, you know what, first of all...

Commissioner Shaw stated don't get upset Alderman.

Chairman Dykstra stated I'm not upset. The thing is that I'm not saying that I can't bend. I am saying that I have bent on a lot of things here that I didn't want. A lot of us have.

Commissioner Shaw stated just bend a little more.

Commissioner Cook stated I make a motion we adjourn.

Commissioner Hirschmann stated no, I have comment. I have comment.

Chairman Dykstra stated okay, I'm not going to accept that motion. Five seconds, go ahead.

Commissioner Hirschmann stated there's been a lot of amendments that I quietly sat here and maybe I said yea. Maybe I never said anything, but I've placated many people with many amendments on times of budgets and all kinds of things that I don't believe in.

Chairman Dykstra stated that's right.

Commissioner Pepino stated same here.

Commissioner Hirschmann stated I've compromised on this document so much. In my heart, I'm a very conservative person, and in keeping the Charter the way it is now, there's only really two things that I don't like about the Charter, but have we done a lot of improvements? We certainly have, and it would be a shame to let all the good work die. It would be a shame.

Chairman Dykstra stated now before we continue, Carol we're going to end this meeting, but Carol has got a couple of important things to do, so we can clear this up.

Commissioner Pepino stated just let me say one thing.

Chairman Dykstra stated let her just address this Leo, first, okay because we need to do this, cause we're going to adjourn.

Commissioner Pepino stated I'll get it after. I'll address it before I leave.

Chairman Dykstra stated I mean we need to do this because next week we're ending it. We're going to put it forth if we have anything to put forth.

Commissioner Pepino stated we're not done with it yet.

Chairman Dykstra stated let her address this.

Deputy Clerk Johnson stated I would just like to use this as a working document going forward. What I did do is there is a couple of sections in here that are bolded and italicized that were just inserts. 2.06. Except those held in recess of meetings of the full board, that allowed that finance committee stuff not to have to have the public testimony. I think it just got overlooked. So, those are the kinds of changes that I made, and if we could just accept this going forward and if you are intending to go through the transition at the next meeting, perhaps you can read through the transition we've prepared for you, and if somebody thinks of something that should be in there or thinks there should be something else in there, I would really appreciate hearing from you so we can perhaps draft a little language ahead of time.

Commissioner Duffy asked do you think it's possible to get, now that so much of it is already in draft form, to get something out so we can have it in advance of next week's meeting.

Deputy Clerk Johnson responded yes.

Commissioner Duffy stated thank you.

Chairman Dykstra stated okay, they'll just send that to us. Is that all you have for us.

Deputy Clerk Johnson responded I believe that's all I have.

Chairman Dykstra stated Commissioner Pepino, I'll give you a minute, and then we're going to adjourn.

Commissioner Hirschmann stated next week, I want to talk about the Charter Commission itself, the next one because I don't know if we that...

Deputy Clerk Johnson stated you had some review by the Solicitor that was supposed to be done on that.

Chairman Dykstra stated you're going to get to talk. You're going to have the last word, Leo.

Commissioner Pepino stated look, I feel the same way as you do. All the things I voted for let's say those four wanted, I could have voted either way, but we voted with them. Now, we're getting with the hard corps.

Commissioner Tessier asked who's them.

Commissioner Shaw stated them is you guys.

Commissioner Cook stated we all did that on a lot of things.

Commissioner Pepino stated wait a minute now. We're supposed to be in a meeting. When the person is recognized and has the floor, nobody jumps all over him. I'm making it very clear. There's certain things that you were looking for, you, you Pat, you. We went along with you, at least I did, and Keith did on certain things.

Chairman Dykstra interjected and I certainly did.

Commissioner Pepino stated so now we're getting to the hard corps, the two and two. You people would have gotten nothing if we didn't go along with you. You wouldn't have got a thing out of the Charter.

Chairman Dykstra stated I mean look it, November, I didn't want November.

Commissioner Pepino stated and now you're saying hey, there's two issues that we're apart on. We've given. The hard corps issues have always been five to four. Every hard corps issue. I'm just saying I've given a lot. If you want to start voting all over again, I'll vote all over again.

Chairman Dykstra stated Carol is going to address one thing. We are adjourning. About the legality of Charter review. Just listen to her. Just clear this up for us, and then we're going to go.

Deputy Clerk Johnson stated one of the things, and actually the Solicitor can address this perhaps because he's the one that reviewed it, but one of the things you had asked is that we look at the periodic review that's contained in there. The way it's worded now is not consistent with State law. Do you want to address it or do you want me to keep going?

Deputy Solicitor Arnold stated keep going.

Deputy Clerk Johnson stated the current provision...the way you've written it now, if you wanted to do the periodic review something the way you put, you would have as a situation that you could have those people look at it, recommend to the Board either that the Charter revision was needed, and the question would then have to go through the ballot process as we did for this Commission, or they

could recommend specific amendments that the Board could consider. They could not mandate that the Board do anything. Charter revision under law, there are specifics as to how an amendment can occur, and that only can occur by having the Board send it or through an initiative process, and the revision can only be done through the process that you came here which is originally a question goes on the ballot as to whether or not the voters are interested.

Commissioner Cook stated so when you say the way it is now, what we acted on, not what was in the existing Charter.

Deputy Clerk Johnson stated what you acted on here now, you have a membership that is first of all not consistent with the nine membership, but you're also saying that it shall...

Commissioner Shaw stated I went back to the 82.

Chairman Dykstra stated okay, what was that. Okay, let's finish.

Commissioner Shaw interjected change the law. You did that for a fallback budget.

Deputy Clerk Johnson stated you're also saying in that review that they shall, the Board shall send it basically to a ballot. You know, those are the kinds of things you have in there that you can't have. If you want us to prepare something that allows a citizen review, citizens appointed by the Board to review the Charter and then make those recommendations either for some amendments or saying to the Board, "Yes, you should do a revision, and we suggest the question go out to the voters once every ten years, have somebody looking at it to determine whether or not it makes sense." That's certainly something that we can...we can take the language that's there and play with it a little.

Commissioner Cook stated first of all, it would be helpful if the Solicitor would come in next week and say, "Here's the provisions that are consistent with law," but assuming we come up with something, it's going to get a legal review, and when it gets a legal review, somebody is going to tell us what's legal and what isn't legal in it. We had that the last time. We had some we thought fairly creative ideas there were illegal.

Chairman Dykstra stated right, they weren't legal. Laws change.

Deputy Clerk Johnson stated but you had asked for that opinion. We're bringing that back to you.

Commissioner Cook stated I would think that because the items in the Shaw Charter draft...

Commissioner Shaw interjected no, revised.

Chairman Dykstra stated you mean, the one you abstained on.

Commissioner Cook stated...in the draft were from law before 49-B was passed aren't consistent, or 49-C was passed whichever it was, so tell us next week what is consistent with the law, so we can do it.

Deputy Clerk Johnson stated what we can do is bring you two options. One is the 1996 language which is definitely consistent, and the other is something similar to what you have there that would I think do some of what you're trying to do.

Chairman Dykstra stated we are going to finish it.

Commissioner Hirschmann stated I want the voters to have input. I want elected Charter Commissioners. I want that made known right now. He was talking about appointed five people.

Deputy Clerk Johnson stated the 1996 provisions is the other.

Commissioner Shaw stated well, I don't favor this again ever.

Chairman Dykstra stated you don't favor this ever again.

Commissioner Cook stated I won't run if you won't.

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

Respectfully submitted,

Deputy City Clerk

Approved for Commission: _____
Donna M. Soucy, Secretary