

CHARTER COMMISSION

May 7, 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 we don't have it in the agenda, but minutes of the meetings. How many meetings were there? I think we accepted the last ones didn't we at the last meeting?

Deputy Clerk Johnson stated there are two minutes...I believe it's two or three sets of minutes that we had submitted that had not been approved.

Chairman Dykstra stated two or three, really.

Deputy Clerk Johnson stated there were two at least, the public hearing and the meeting after it. That constitutes two meetings.

Chairman Dykstra stated let's approve...does anybody want to make a motion to approve whatever minutes we haven't approved.

On motion of Commissioner Pepino, duly seconded by Commissioner Wihby, it was voted to accept the April 30, 2003, public hearing and April 30, 2003, regular minutes.

Chairman Dykstra stated all the minutes have been accepted.

Commissioner Cook stated I just have one comment on the minutes, and they were certainly...I read them, and they were accurate, but if we could have the word because be put in there when people may say cause, it would probably read better because I don't think there is any...there is certainly a word cause but that's not the one people are saying.

Deputy Clerk Johnson responded okay.

Commissioner Duffy stated Madame Chair, I'd like also to make a comment on the minutes of our public hearing. I know we approved them. I'm not making any additions, deletions, or corrections to the minutes. I just want to make an observation. Since I raised the question about the procedural aspects of how the public hearing was to be conducted, I think it's appropriate that perhaps I make my comment now in terms of why I was concerned in terms of the manner in which the public hearing was conducted, and sure enough, this past few days reinforced what my concern was, and that is one of our members was going to use the public hearing as a platform to take issue with comments made by the various speakers in order to position himself for whatever he wanted to have on the record, so I feel that the Commission was in fact being used in that instance as far as having that occur on a regular basis during the course of the public hearing. Secondly, I think the other thing that was quite obviously, there was one of our members that chose to somehow or other sit apart from the rest of us. That reminded me of back in the days when my son was in his youth, used to find ways to get attention. He used to sit apart from the rest of the family, so I think that particular situation was not in fact in keeping with the kind of things that I would like to think this Commission is in fact attempting to do as we go about rewriting the Charter for the City of Manchester, so I think that in the last remaining days and meetings that we have, I would hope that we can somehow or other find a way to get some decorum that I mentioned and some understandings as far as what it is we're trying to accomplish through these remaining meetings of the Charter Commission.

Chairman Dykstra stated I have a couple of Commissioners that want to respond, and I certainly do because you've basically questioned my...yes, you both will be able to speak...questioned what I did, and I did mention, I thought I was very clear that at all the public hearings, you asked questions. Commissioner Cook, Tessier, Soucy, we all asked questions at public hearings, so I wanted to be fair. Commissioner Shaw had wanted to ask a question of the Mayor, and you know, I thought okay, this is a public hearing. We don't do that. Then, I was wrong, and I admitted I was wrong. We have had that. Just because the rest of the Commissioners didn't want to ask a question, that's what we're here for. That's what we're supposed to do, and I think that was my call, but I wasn't coming out of character. That's what we've done. I tried to be consistent, and so if you say my being consistent, allowing the people to speak, I have to disagree with you because if I did it before, why wouldn't I do it at this hearing just because some of the Commissioners chose not to ask a question. To use that for politicians or political reasons, that's been going on forever. I mean, we've had our own Mayor use the bully pulpit for his viewpoints, so I do have a problem with you telling me

that I probably did something wrong in allowing people to speak. I've gotten so many comments from people on the street. I've gotten them on my recorder that it was one of the best hearings because people had interaction. We got comments from the Concerned Taxpayers, from other people that this was good. We've done it before, and why in Heaven's sakes would I change and not allow people to speak at the last public hearing? I just think that wasn't fair, and it wasn't right. That's my response. I feel I did the right thing, and since I've been chairing this, I think I've allowed everyone to speak, and I've never stifled anything, and I think discussion is healthy. It was a lot of interaction. You didn't have to believe it or support it. I allowed other people, like the other Aldermen to come out, and I never responded to them. Some attacked me on running for Alderman-At-Large. Some attacked me and said I should look in the mirror. I didn't even respond. I let them speak, and I think I did the right thing, so I think I did a good job, and I think there's a couple of Commissioners, Hirschmann and Shaw that do want to respond to your comments.

Commissioner Hirschmann stated thank you Mrs. Chairman. I'm just going to reply Pat because you're directing some of your contentiousness towards me which I understand, but when I came into the Aldermanic chambers, I learned for the first time that the City Clerk was going to give a power point presentation that I hadn't seen yet, so my natural thing to do was to sit in a seat where I could see the presentation up on the screen just like everybody else in the crowd. So I sat in my seat, and I didn't think I offended anybody, but if I did by sitting apart from you, I apologize, but I did it just...I wanted to see the presentation just as though Alderman Pepino at times can't hear well, he wants to sit in a certain spot, so I think you have to be a little more understanding that we have needs to do our job, and I sat where I thought I saw fit. There was an empty seat, and I'm sorry if I offended you.

Commissioner Duffy stated I accept your apology.

Commissioner Shaw stated well, I wouldn't apologize. I think it's one of the best meetings that you've chaired, Madame Chairman. I think the fact that you allowed the citizens not only to participate but to ask them questions which I thought...and I was disappointed that again we're four to four, and one side failed to really ask any questions. There must have been some concerns on the other side, but I guess they didn't care enough to really delve into the rationale for people having their position. The member of the Chamber of Commerce came forward. You know, we were criticized because we somehow asked her pointed questions. I found that her answers pointed to me what I've known for some time, that the Chamber of Commerce has a position on everything, but not necessarily from a knowledge standpoint. You know, the Mayor came forward, and he spoke many kind words about our Charter, but he had some concerns about it, and so of

course, it interested me, Madame Chairman, to find out if he had read, you know, when he said we gave the Mayor no raise. Well technically, we have given the Mayor a raise if he wishes to have the Aldermen pass that and put it on the thing for the citizens to vote on. You know, there's a lot of information that was given by these people who testify. I'll give you a perfect example. The Welfare Commissioner came forward, and he said that he would like to have the position elected. I think we all heard him quite clearly say that, Madame Chairman, but did you realize in our desire to have him appointed if the position was to be appointed, I found out that he couldn't accept the position. He is not one of the people in the City of Manchester that would be allowed to be appointed by the Mayor and Aldermen.

Commissioner Hirschmann asked why.

Commissioner Shaw responded why. Because you see, the Welfare Commissioner accepts a retirement pay from the City of Manchester, not the State retirement plan like our current Mayor accepts a pension from, and so therefore, we have a rule in the City of Manchester that anyone collecting a pension cannot be appointed to a full-time position of employee.

Chairman Dykstra stated that's interesting.

Commissioner Hirschmann stated I'm for that.

Commissioner Shaw stated you're surprised.

Chairman Dykstra stated we always learn.

Commissioner Shaw stated I was surprised too because I wanted to know in my mind why he was against this being elected [appointed], and it took me till two o'clock in the morning two days ago to figure out when I woke up, and I remembered that. So you see, these people that come before us, Commissioner, they have an agenda. They have an agenda, and the thing is that we should be able to converse with them and tell them where we're coming from on our particular thing, and that we want the same rights, especially with the Chamber, we want the same rights that she had in her town. From the very first meeting we had, the fallback budget was of concern to some of the members, okay, and now that we can do it, and the Governor has signed the law, you know, that could be a plus. It can be a minus, but anyway, Commissioner, I was disappointed in you. Like you're disappointed in me, I was very disappointed in you that you didn't think of one question to ask, one concern, and I was very, very disappointed, very disappointed in Commissioner Cook who said there is not one cent that can be

saved, and I would say that even if we saved only \$2,000.00, that's greater than one cent. Thank you. I'm sorry, but I was upset.

Chairman Dykstra stated see, debate is healthy, isn't it.

Commissioner Cook stated not this one.

Chairman Dykstra asked not this one. You can't choose them.

Commissioner Pepino stated we had our hearing. We listened to the people, let the people talk. We questioned them. They gave us answers. Now, when you go to the Board of Mayor and Aldermen, the people get up there and speak. They're not allowed to answer any questions. I broke that rule once. And they sit there, and they tell the Aldermen what they feel, what they're talking about, and after they get all done, now there's four Aldermen sitting here, then they say, well, we'll consider what you said. Now, did you ever sit in on a meeting, any of you, and consider what the public said? I never did. They take them and just file them. We had a meeting the other night, let the public speak. We asked them questions. The first thing our Chairman said we're going to discuss what the people said the other night. The Board of Mayor and Aldermen do not do that. You sit there and talk and like one of the people said what difference does it make if there's 12 or 14. Nobody listens to you anyway. Okay, now, another point, getting back to what Pat said. Bob Shaw made it very clear the Board of Mayor and Alderman's comments, you submit a letter. You have a problem. It goes on the agenda. They call your name. You get up there and you address it, so when you walk in there, there's no such thing as anybody getting up and saying, "I'm going to say this or that." You address that letter, and the comments that were made here...well, somebody might have had a problem yesterday or the day before. I don't mean problems like that. I mean problems where the guy has talked to the Alderman, the department head, and he's getting nowhere, so he sits down and writes a letter. It goes on the agenda. The Mayor will call the man's name. He gets up. There's the letter. This is what he talks about. No campaigning, no nothing. He addresses that letter and nothing else. That was proposed in 1978. It's been kicking around ever since, and now we're arguing about it which is true. It's very, very true. The comments are good, but like we're going to consider these comments. The Board of Mayor and Aldermen do not do that.

Commissioner Duffy stated just in response to Commissioner Shaw's point, I do agree, and I appreciate the fact that he recognizes that a number of the people making their statements do have an agenda. It would have been helpful, however, rather than you losing sleep over this matter to have the Commissioner of Welfare come out and say what it is, why he objected to having that position changed from elective to appointive because thanks to you, I think we now have some new

information because to the best of my knowledge, we were going to write something into the Charter that allowed him to continue in appointive capacity. And what you're telling us is that would have been in violation of the pension rules as far as the City of Manchester is concerned.

Commissioner Shaw stated in response to you though, he did give us his reasons that he didn't wish the thing to be appointed. It was that the Welfare Commissioner was more attuned to the citizens because of requiring them...they were really his boss, and there were a number, but he did fail if I'm not mistaken to mention that he would be excluded from the position.

Chairman Dykstra stated right now, we've had some discussion. We're going to be discussing, but we did kind of discuss the minutes and as I said before, I got a lot of good comments on the public input. Whether you're in favor of what people say or not, it's healthy, and it can be productive. We can't agree on everything people say, but we got some real good comments, so I was very happy and pleased with that hearing.

Chairman Dykstra addressed item 3 on the agenda:

Discussion of selection for legal services.

Deputy Clerk Johnson stated it's being distributed, a listing...at the last meeting that you had, you had asked that the Clerk's office in conjunction with the Solicitor's office to follow up on some of the attorneys that we had reviewed. There were a couple of suggestions that had come up along the line that we included here, but aren't necessarily...Basically, at first we were getting a lot of nos. They weren't interested, so what we did is we did it out by an e-mail and said this is what we're looking for and we were presuming about a two week turnaround capacity. I guess when we go down the list, I think the rates per hour are not altogether that different throughout them. However, the amount of time that's anticipated it to take does vary rather greatly. In looking at the overall situation, I guess the suggestion would probably be that Bernard Waugh would probably be the most cost efficient and seemed to be the most interested party in the responses that we have received from the e-mail.

Commissioner Shaw asked who was that.

Chairman Dykstra responded Bernie Waugh.

Deputy Clerk Johnson stated the last person listed on the list.

Chairman Dykstra stated he is quite good. He was very helpful. He basically came before Municipal and County Government quite a bit when I was there, helped me draft the conflict of interest ordinance we have in the State and in local government. It's not because he's probably the cheapest. What's this? There's a sales tax on this now?

Deputy Clerk Johnson responded no, a 4.25 percent is the administrative fees for any photocopying that needs to be done.

Chairman Dykstra stated oh, okay. Estimate six to eight hours.

Commissioner Cook stated because he lives near Vermont.

Chairman Dykstra stated pardon me.

Commissioner Cook stated he lives near Vermont.

Chairman Dykstra stated I don't know, Brad, you probably know him. He's an incredible person.

Commissioner Cook asked wasn't Bernie with the Municipal Association before he went into private practice.

Chairman Dykstra stated he was at our committee for eight years, so he understands municipal law. He's reasonable. I mean, I would support him. I don't know. I want someone else to come out and say if they have any other person.

Commissioner Cook stated there are a lot of qualified people on the list.

Commissioner Duffy asked is there any concern about someone that has an office other than in Manchester. Do you think that's a plus or a minus, I guess is my question.

Commissioner Shaw stated there's only one.

Commissioner Soucy stated probably that's preferential in some respects. I would think it would probably be preferential in some respects because so many Manchester people may have conflicts or may have conflicts existing.

Commissioner Duffy stated I would support Bernie Waugh as a candidate for this position.

Chairman Dykstra stated I would like to move that we hire Bernie Waugh. Do I have a second?

Commissioner Duffy duly seconded the motion.

Chairman Dykstra called for a vote. The motion carried.

Chairman Dykstra stated unanimous vote, everyone. Remember this. Nine votes. I don't want to hear it again though.

Commissioner Cook stated Keith is going to ask for reconsideration.

Chairman Dykstra stated oh well, I'll allow it. Maybe. Didn't I say one time no more reconsiderations? Okay, Bernie Waugh will be contacted by this office?

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

Chairman Dykstra stated thank you very much. We've got another thing done here.

Chairman Dykstra addressed item 4 on the agenda:

Continued discussion and actions relating to proposed revised Charter.

Chairman Dykstra stated we did want to address first of all the legality before we did anything else. I think it might be important with William Gardner's, Secretary of State, we're going to look at his letter that we are just reviewing right now. We will look at the legalities and kind of work down from there, and Carol, do you want to address...I mean, I haven't read the whole thing yet. Has everyone read this?

Deputy Clerk Johnson stated we received this letter late this afternoon. We actually requested that they fax it down to us so that we would have it for the meeting tonight because we understood they were ready to provide it. Basically the letter outlines that they have also conferred with the Attorney General's office, and the Attorney General's office basically said answer ours through theirs, so it's a combined response from both divisions in essence. The DRA had no problems with it, and they are following up with a communication to us to that effect as I understand it. There were two major points that the Secretary of State's office has submitted here. The Department of State is basically saying that the immediate elimination of the At-Large Aldermen is contrary to law, and they're citing specific sections and references to law in the second paragraph down, and the other item that they cited was RSA 48:2 which has to do with the appointment of

the City Clerk. They're feeling that 48:2 does apply, and in that instance, it would be an election of the Aldermen, not an appointment being the Mayor...

Chairman Dykstra stated so that we change that to Mayor's appointment, Carol.

Commissioner Shaw asked where is that.

Deputy Clerk Johnson responded that's in the last sentence of the communication.

Commissioner Shaw stated but we don't have to agree with this.

Deputy Clerk Johnson stated let me preface my comments on this, and I'm not taking opinions on this, and I'm certainly not part of this Commission, but I can tell you that if you do not address what is contained in this letter, by law we cannot place it on the ballot, and if you don't address the concerns that have been stated here, the only provisions other than that would be for the legislative body, which is the Board of Mayor and Aldermen, to request judicial review, so the Charter Commission basically has no jurisdiction in terms of that. Those were the two major categories. There is nothing else cited in the letter, so those are the two major categories that they found difficulties with and basically have not approved it for those two reasons. I don't know how you want to proceed with it from there, but it's not the fact that you're eliminating the positions. It's the fact that you are not allowing them to take their seat in November and complete that term, and the other is the process by which the City Clerk is appointed.

Chairman Dykstra stated oh, the City Clerk.

Commissioner Shaw asked which paragraph do you have.

Deputy Clerk Johnson stated in the second paragraph, it says, "I also suggest that you review RSA 48:2." The very last sentence.

Commissioner Shaw stated, "I recommend that the language in..."

Deputy Clerk Johnson stated it starts out with "I would also suggest." The last sentence of the third paragraph. 48:2 is a provision that says that the City Clerk is elected by the Board of Aldermen basically.

Commissioner Shaw stated well he is elected even under our procedure, he is elected by the Board of Aldermen. He's not nominated by them.

Deputy Clerk Johnson stated 48:2 basically provides for the appointment of the City Clerk the way the current Charter reads, and RSA 44:2 is what he is citing as

saying that makes 48:2 apply. That's his reasoning because he's referring back to 44:2 and saying 44:2 says it applies to cities as well as towns and therefore 48:2 does stand. Now, that is not the same opinion that you received from the City Solicitor's office, but all the same, it is the opinion that has come out of the Department of State and therefore is not acceptable to them.

Commissioner Cook stated I'm confused by the language of the third paragraph because I'm not certain that you're wrong, and I'm not certain that you're right, but the context of that seems to be talking about the At-Large positions and decreasing the size of a Board, and I think he's citing that Statute to say this is another reason why what we're saying about that is true and not talking about the City Clerk unless you've talked to him about...

Deputy Clerk Johnson stated I've talked to him as a result of this.

Commissioner Cook stated so he's talking about the City Clerk because he doesn't get there that way. I mean clearly that Statute talks about City Clerks, but it seems to be talking about the At-Large, so if you've talked to him and gotten clarification...

Deputy Clerk Johnson stated 48:2 has nothing to do with the At-Large. It's strictly dealing with the City Clerk.

Commissioner Cook stated I understand that, but where he says, "I would suggest you review 48:2 for the same reasons noted above" seems to be talking about the other thing, not about the Clerk.

Deputy Clerk Johnson responded no, he's talking about 44:2.

Commissioner Cook stated he is talking about the Clerk. If you've clarified it okay, but it doesn't seem to be saying that to me.

Deputy Clerk Johnson stated it confused me at first.

Commissioner Cook stated it confused me too.

Commissioner Shaw stated first of all, the Department of State is only the Secretary of State that's got this opinion. I think we need a legal opinion before I would change my mind, except on the Alderman part. I think that we're on quicksand on that one, but on this last part, I would give you an example of how the government would be structured if this sentence was correct. We have not had a third assessor for some time now. This position is appointed by the Aldermen, nominated by and has no relationship to the Mayor at all except that he could veto

the position, so if we had a position where 14 people brought in a City Clerk or four or whatever number of Aldermen brought in a nomination for City Clerk, we could end up at some point in our history where no City Clerk would be elected because the Mayor could veto the nomination if it didn't have a super majority of at least ten people. It's very, very bad government to allow 14 Aldermen to appoint one position in the City, very poor, so I mean not only do I disagree with the last sentence, but I think that we should look at our City for our own purposes and insist that we get more opinions than one and then fight our battles.

Commissioner Cook stated Carol, one more time. They're saying what about the...the change we made as I recall to the City Clerk's job is it's now nominated by the Mayor and elected by the Board of Aldermen.

Deputy Clerk Johnson responded yeah. It's confirmed by the Board of Aldermen. I would have to pull out...I don't have that. I'm not saying you need to change it today. I'm saying that those were the two issues.

Commissioner Cook stated okay, fine. I mean, I understand the first one. I think the first one is clear, but the second one is beating the heck out of me.

Deputy Clerk Johnson stated I mean, I can have somebody go down and pull that. I could have Steve go down and pull that Statute out if you want to look at it.

Chairman Dykstra asked Tom, do you have that memorized.

Deputy Solicitor Arnold responded no, I do not, sorry.

Deputy Clerk Johnson stated I don't either.

Chairman Dykstra asked Tom, do you want to address it at all.

Commissioner Pepino stated I'd like to read that, Brad.

Chairman Dykstra stated whereas we thought that was what we could do. I mean, he's saying we cannot do it, and do you still think he's right or...

Commissioner Pepino stated why don't we all play lawyer and get us a copy, and let us make a decision.

Chairman Dykstra stated I'd like to hear from the City Solicitor.

Deputy Solicitor Arnold stated as you know, our opinion differs from the Secretary of State's opinion. It still differs.

Chairman Dykstra asked so what could change that. I mean, is he the ultimate authority?

Commissioner Shaw stated no.

Deputy Solicitor Arnold stated I wanted to get 49:B, but under 49:B, relying on my recollection is that he reviews it. If he submits anything that he feels is not in conformance with the Constitution or general law is that he would give the language for correcting it, but if he objects, it cannot go on the ballot. The remedy, as Carol pointed out, was to have the Legislative body, the Board of Mayor and Aldermen, ask for judicial review, so the Statute sets up a system for getting judicial review of the Secretary of State's determination, but obviously that body has to ask for it.

Chairman Dykstra stated I don't think they'd have the votes to ask for it.

Deputy Solicitor Arnold stated somebody could go downstairs and get that Statute to make sure that my recollection is correct.

Chairman Dykstra stated well even if you disagreed with him, Tom, and he still disagreed with you as lawyers do disagree with each other, the bottom line is if he doesn't approve it, it doesn't go on, so if we want it to go on, we're going to have to change something.

Deputy Solicitor Arnold responded I think that's correct.

Commissioner Shaw stated I like the few words that he put in here. That fourth sentence up where he says appears to conflict with these principles. Appears. Appears. I mean, there's a difference.

Deputy Clerk Johnson asked do you want me to go back and get clarification.

Commissioner Cook stated what I would suggest is we're going to have another meeting in two weeks. I would suggest is you go back to the Secretary of State. I mean, it's clear what he's saying about the election of the At-Large or the term of office for the At-Large, but if he's saying, and I believe you've clarified it and I obviously believe what you're saying, but if they think there's something wrong with what we did with the City Clerk, a) what is it, and b) how do you fix it, not you might want to look at this Statute because that doesn't help us.

Chairman Dykstra stated I agree. It's got to be a little more specific.

Commissioner Hirschmann stated I read it five times.

Commissioner Cook stated that's why I asked my question. I didn't think it said that to begin with.

Chairman Dykstra stated have him send us the wording that he thinks should go in there.

Deputy Clerk Johnson stated a) what is it, and b) what did you say.

Commissioner Cook stated a) what is it, and b) how do we fix it.

Chairman Dykstra stated I thought they were supposed to, as Tom said, they're supposed to send us the wording, right.

Commissioner Cook stated because I didn't read that paragraph to say he was talking about the Clerk, and obviously, you didn't either. That's why you called him.

Chairman Dykstra stated so we'll just wait for that letter to come in. So that, we're going to wait on. The idea of the Aldermen-At-Large not being sworn into office...

Commissioner Cook stated I'd make a motion on that one, Madame Chairman.

Commissioner Pepino stated I'll second that, Brad.

Commissioner Cook stated moved to adopt the Secretary of State's suggestion by revising the language in Section 10.05(e) to state that the positions shall be considered abolished effective November 22, 2005.

Commissioner Duffy duly seconded the motion.

Commissioner Cook stated I thought Leo...

Commissioner Pepino stated oh, I seconded it before you read it.

Chairman Dykstra stated now we can have a discussion. Do you want to address your...

Commissioner Cook stated no, I think it's been addressed. I mean, she said this is what the ramifications of not following their advice are. They suggested the

language. He's consulted with the Attorney General. If that's the law, we ought to have it legal.

Commissioner Shaw stated all right, it says here somewhere that elected in November. What about if they're elected in September, but the Charter passes in September, and the position is eliminated. Is that his position here? In other words, we have...

Deputy Clerk Johnson stated we would have to go back and ask that of him.

Commissioner Shaw stated yeah, we haven't picked a date for the election yet. You know, maybe some of the people here who want to get rid of the 12 or the two or all of them would be nice, maybe have a September election because he clearly stated elected in November. Well, they're nominated in September.

Chairman Dykstra stated I could understand the rationale when I think of it that if someone does go in, spend the money for November, if they could know before that and not run knowing it's not there, that probably would be a better thing. Wasn't there legislation, Leo, that was brought forth about basically changing it or having a special election. Where is that?

Deputy Clerk Johnson stated we have copies.

Commissioner Shaw stated the special election is dead.

Chairman Dykstra stated so nothing is up there.

Commissioner Pepino stated no, there's something out there.

Deputy Clerk Johnson stated yes, we have a copy of what is out there.

Commissioner Shaw stated the Governor signed the bill.

Chairman Dykstra stated but that was the fallback he signed. Was it the fallback he signed?

Commissioner Shaw stated no, he signed the September primary for Charter.

Chairman Dykstra stated well then if we did it in September, then that wouldn't be a problem.

Deputy Clerk Johnson stated House Bill 151 passed the Senate with an Amendment. That Amendment went back, and the House concurred with the

Amendment, and it's my understanding that the Governor has signed that bill as well.

Commissioner Shaw stated that's my understanding.

Deputy Clerk Johnson stated with regards to the Charter Commission, municipal officers shall order as determined by the Charter Commission the proposed new Charter or Charter revision to be submitted to the voters at the next primary or general.

Chairman Dykstra stated so we can go to September.

Deputy Clerk Johnson stated so it could be submitted at a primary or submitted at a general election, and then it goes into the next regular state biennial election which this is not.

Commissioner Pepino asked isn't the fallback in there.

Deputy Clerk Johnson stated right now, they were talking about elections.

Commissioner Pepino stated I was saying you were reading it.

Deputy Clerk Johnson stated I'm only reading the section that applies to what you're discussing at the moment.

Chairman Dykstra stated right. We just want that information.

Deputy Clerk Johnson stated one thing at a time, I guess.

Commissioner Pepino stated I understand. You're reading a bill, read all of it.

Deputy Clerk Johnson stated the fallback budget is also addressed in the same legislation.

Chairman Dykstra stated okay, we can address that later, when we get to it. Okay, so right now, Tom, do you think that is something whereas the legislation is passed that we can have the Charter revision put on in September plus we could do that.

Deputy Solicitor Arnold asked and eliminate the positions.

Chairman Dykstra stated so once they're eliminated, then people wouldn't spend money and run in the November election. I just want to clarify with him.

Commissioner Tessier stated but they have to run in September too.

Commissioner Soucy stated but they are running in September.

Chairman Dykstra stated that's what I always wanted anyway.

Commissioner Tessier stated because September is your primary.

Commissioner Hirschmann stated so it would be effective that day.

Commissioner Soucy stated you'd still have to go back to the Secretary of State to clarify.

Commissioner Cook stated well, I think we should ask that before we make changes today to this.

Chairman Dykstra stated we still have time. That is still a possibility. Under this legislation, Tom, we can move, and we can do that.

Commissioner Tessier stated there's a motion on the floor.

Chairman Dykstra asked do I have a motion.

Commissioner Shaw stated he made a motion to do it, and he seconded it.

Commissioner Hirschmann stated motion to table.

Commissioner Dykstra stated no, we can take a vote on it and vote for it or kill it or you can do what you want.

Commissioner Shaw stated we don't have to kill it because he made a motion to table it. And I second that until we have more information.

Chairman Dykstra called for a vote. The motion carried.

Chairman Dykstra stated okay, let's clear up what we're doing here tonight. Basically, he made a motion to have this election in November.

Commissioner Shaw stated no, he did not.

Commissioner Hirschmann stated no, he did not.

Commissioner Pepino stated no, he didn't.

Commissioner Hirschmann stated no, that wasn't the motion.

Commissioner Shaw stated he made a motion that they would not be eliminated.

Commissioner Cook stated I made a motion to adopt the language in here, and that has been tabled.

Chairman Dykstra stated all right, so motions can still come on the floor about the September.

Deputy Clerk Johnson stated oh sure.

Commissioner Hirschmann stated I'll make that motion. That'll be a good motion.

Chairman Dykstra stated a motion made by Commissioner Hirschmann that this goes forth in the September election.

Commissioner Wihby duly seconded the motion.

Commissioner Cook stated for the same reasons we just tabled the last one, people might have different positions on when it should be if they find out that the Secretary of State's position on the timing here applies to September as well as applying to November, so either I would suggest that be withdrawn and we discuss that at the same time when we know it, or I'll make a motion to table it, depending on the wishes of the Commission.

Commissioner Shaw stated I would second your motion to table it.

Chairman Dykstra stated all right, so we can table that too.

Chairman Dykstra called for a vote. The motion carried.

Chairman Dykstra stated okay, so we're all in favor of tabling it to get the information and make sure if we can do it, then a motion would be acceptable at the next meeting. Okay? We'll have all that information?

Deputy Clerk Johnson stated so you want us to go back and clarify whether or not if it goes to the September ballot, then does the Aldermen-At-Large still go forward in November and would have to take office.

Commissioner Pepino stated Brad made it very clear. If you're wrong, how do we fix it?

Chairman Dykstra asked didn't we have this Charter effective on passage.

Deputy Clerk Johnson stated well, you're saying...yes. That's what we're saying because that's the question to them because...

Chairman Dykstra stated all right, that's good. All right, no, that's great. We got the time to do it, that's fine, and by that time, we'll even have our own attorney reviewing things also by the time we have our next meeting.

Commissioner Cook stated now, the Water Works.

Commissioner Shaw asked do you understand that three page letter.

Commissioner Cook responded not yet.

Deputy Clerk Johnson stated before you get to that letter, you just commented on the attorney reviewing what you've done so far. The attorney needs to review the final version, so we will not even give it to the attorney to review until then. I would also caution as part of that that we would anticipate at least a two week turnaround, so I'm thinking that at your next meeting, which is going to be two weeks from tonight, you need to take your final actions pretty much on this Charter because we won't have time for a legal review otherwise to meet your deadlines.

Chairman Dykstra stated but we'll have all that information from the Secretary of State.

Deputy Clerk Johnson stated we will have the Secretary of State's opinions back. I'm sure that he will be responsive. He was pretty responsible in this...

Chairman Dykstra stated so we can take our final votes there then.

Commissioner Shaw stated may I ask the Clerk a question. The Charter is on the City's web site?

Deputy Clerk Johnson responded yes, it is.

Commissioner Shaw stated when you send a message to this lawyer that he is our choice, could you mention in the letter that the Charter is on the web site.

Deputy Clerk Johnson stated the preliminary report is out there.

Deputy Solicitor Arnold stated I have made them aware of that.

Commissioner Shaw stated you know, if I was doing your work, I'd like to look at it at two o'clock in the morning. It's the best hour to refresh your mind.

Commissioner Cook asked why wouldn't Carol, I mean just as a matter of courtesy, with the knowledge that the preliminary report could be changed, why wouldn't she send him a copy of that along with the correspondence that we have received, just for information.

Chairman Dykstra asked you mean a copy of the Secretary of State's letter and all that.

Deputy Clerk Johnson stated I figured I would wait until you got through this evening because there were a lot of other technical changes that we had brought before you and would actually get added to your preliminary report, and those are a lot of minor changes, but they are changes, and they are things to be looked at.

Commissioner Cook stated whenever you have the best information for him, I think without saying tell us what you think of this before we've done something final, at least give him something to get up to speed.

Deputy Clerk Johnson stated you're not going to get anything back I wouldn't think until...

Commissioner Cook stated we're not asking for anything back.

Chairman Dykstra stated as long as they have as much information as we possibly can give him to help get this through. Okay, now it's the Water Works from C. Arthur Soucy.

Commissioner Shaw stated sent to him.

Chairman Dykstra stated sent to him from Richard Samuels.

Deputy Solicitor Arnold stated I guess what I would say is I reviewed the letter. I don't agree with his conclusion, the conclusion I think basically being that whatever action this Commission takes has to comply with the 1871 act. I don't think that's the case. I think that through a Charter Amendment that the voters of this City are free to change the organization of that Board if they wish to do so.

Chairman Dykstra asked so by this put an Alderman on is quite all right.

Commissioner Hirschmann stated it seems to be.

Deputy Clerk Johnson stated he wasn't objecting to that.

Deputy Solicitor Arnold stated I do not know...what we have in front of us is a letter to C. Arthur Soucy from Richard Samuels basically saying it's requested by the Board of Water Commissioners we have reviewed.

Chairman Dykstra stated if we have no problem with what we have done there, then we'll just let that go on to our attorney, right. We don't have to have any action on this if we feel it's legal and what we've done is okay. Any comments?

Commissioner Shaw stated Mr. Bowen did bring up something that concerned me.

Chairman Dykstra stated right. We have that. We have that listed.

Commissioner Shaw asked are we going to maybe correct that.

Chairman Dykstra stated we're going to address that. It's not in here. Is it part of this letter?

Commissioner Soucy stated maybe we should all read the letter first because that's clearly addressed.

Chairman Dykstra stated that's kind of a long letter we just got.

Commissioner Soucy stated I mean, there's no objection to the issue of the Alderman ex officio. There's a question as to what their powers would be. There is a question about the appointment of that Alderman, and then the issue of terms is addressed.

Chairman Dykstra asked you had no problem with what we did in that area.

Commissioner Soucy stated I mean, that's what the letter says.

Commissioner Shaw stated maybe we should have this Commissioner explain it to us.

Deputy Clerk Johnson asked you want to walk through those points.

Chairman Dykstra stated evidently the City Solicitor feels there is no problem, so let's hear from him if you want to again.

Deputy Solicitor Arnold stated I think that if you read the letter, and perhaps you should do that, he raises four points. The first point he raises is the method of appointment for the Aldermanic representative on the Board. I think that as I stated before that this Charter Commission is free to recommend that that method be changed if they wish to do so.

Commissioner Hirschmann asked there was something wrong with the method.

Commissioner Soucy responded it excluded the Mayor. It was in the text of the letter.

Deputy Solicitor Arnold stated it excluded the Mayor, if you read the letter.

Chairman Dykstra asked who is this Mr. Samuels other than attorney. Who is he?

Commissioner Cook stated he's counsel to the Water Works.

Chairman Dykstra stated oh, I didn't even know that. Okay.

Commissioner Hirschmann stated what we had decided was that the Aldermen would vote amongst themselves who would be the appointment.

Commission Cook stated he says, "By the language of Section 2.02 suggests that the Mayor does not participate," and he's saying that the 1871 Act clearly requires that the board shall be appointed by quote the Mayor and Aldermen. And he's saying it's only the Aldermen are doing it, and the Mayor is excluded, it's inconsistent with the Act.

Chairman Dykstra stated and you're saying that we don't have to follow the 1871 Act.

Commissioner Shaw asked how did we say the Mayor didn't participate.

Commissioner Cook stated we said the Aldermen are going to pick their representative amongst themselves because the Mayor is on there.

Chairman Dykstra stated okay, just one moment. He's saying that we don't have to conform with this. Commissioner Shaw, he's just addressing it, that we don't have to conform with the 1871 Act.

Deputy Solicitor Arnold stated again as I stated before I think that the voters of this City through a Charter Amendment are free to alter the manner on which those Commissioners are appointed if they wish to do so. I cast no opinion about which method that this Board might wish to recommend or feel is best, just that I don't think that you have to comply with the 1871 Act. The second point he raises is the removal of Water Commissioners in 2004. Again, I believe that you can do that. Actually, the Secretary of State didn't raise that point, but it would seem to fall in line with his general objections in his letter that once people are put into office, they should be allowed to serve out their term. He raises the issue of the powers and duties of the Aldermanic representative on the Board. As you can see in the letter, what he basically says is that you've specified the powers of the Mayor, but you do not specify the powers of the Aldermanic representative to the Board. Maybe you should do so. I think that's more of a practical objection than a legal one, and finally he raises the issue of the term of the Aldermanic representative. The special Act of course provided, if I remember correctly, that they have seven year terms.

Commissioner Soucy interjected six.

Deputy Solicitor Arnold stated six, okay, and the proposed Charter of course would change that and again in line with my prior opinion, I think that the voters of this City are free to do that if this Board were to recommend that those terms to be changed.

Commissioner Shaw stated I don't think it was ever, at least not my intent that the offices would be vacant on January sixth. How that got written....or whatever. I thought they were to stay until they finished their term, and they'd be reappointed based on you know...

Chairman Dykstra stated so we need wording to correct that.

Commissioner Shaw stated when he mentioned that, Tom Bowen mentioned that, I said no way that we can word it.

Commissioner Hirschmann stated it was part of that Shaw Charter.

Chairman Dykstra asked is there a way to address that.

Commissioner Cook stated as I understand the concern, I think it's probably a legitimate concern. I don't think we focused on it, and whether it came out of what one of the members of the Commission drafted or how it got put all together when it was put together, I think the problem is if you think about it that if you're going to add an ex officio member to a Board, one of the members of the Board,

unless his or her term happens to be up at that particular moment, is musical chairs, gets him. You got one more person in the room than you got chairs, and I think the mechanism by which that was done was to say the other ones are empty, and then because they're empty, the Mayor can appoint the other ones, and he'll probably appoint the same people. You could probably to do the same thing with a transition provision that said the Aldermanic representative will fill the next vacant position, and other people will continue and get away from that problem, but I think the issue came. We didn't increase the size of the Board by one. He put an ex officio person in which meant, you know, which one of you people isn't here any more, and we didn't say that. I would rather have us...I mean I think the idea that they shouldn't be vacant is probably valid, all the rest, for continuity, for fairness, for all kinds of things, but we probably want to craft or ask the Clerk's office to craft some kind of addition to the transition provisions that says okay, here's how we integrate into that. The next one that comes up won't be filled. It'll be filled by the Aldermanic position. That would be my suggestion.

Chairman Dykstra asked is that the only concern. Evidently like what Tom just told us is that we can go ahead and what we've done is okay, but we all have a concern with having them all eliminated at the same time. I certainly do, so is that all of ours, kind of a consensus that we have that concern and would you like the Clerk's office to address that.

Commissioner Soucy stated I guess I would suggest that since we have concerns about the Secretary of State's letter, and we also have this letter with some issues that we may want to submit it to our attorney, Mr. Waugh, for his opinion as well.

Chairman Dykstra stated no, I'm not into that.

Commissioner Cook stated Mr. Waugh's role statutorily is separate from the person who advises us during the crafting process because he has to take...

Commissioner Soucy interjected I'm just suggesting informationally that these are issues raised.

Chairman Dykstra stated but it's information that's legal.

Commissioner Cook stated that could be back up when he considers the thing. I think right now if the Clerk's office, the people who've been working on this, working with Tom, trying to craft a solution to this thing, all he's saying on the term of the Aldermanic ex officio is because of the six year term requirement and the Statute and what not, it should provide that the person if his term in office as Alderman is up will resign from the position to keep the thing consistent. That's no big deal because the persons can only serve while they're an Alderman and

aren't going to continue on after they're not an Alderman any more. I think that's the concern. Let's see what folks come up with. Again, I'm not trying to load it all on Carol, but we'll let Steve do it, but you know, if we can craft....I think there's a consensus we want to take out the automatic elimination. We've got to deal with this how does the person get integrated in, and let's see what they come up with.

Chairman Dykstra stated the other things we have done are legal. That's what we had basically voted on in the Charter. We're doing something that probably is not right, and we want to correct it.

Deputy Clerk Johnson stated I just have a follow-up question. I know that you've already gone over the other three items, but one of the items was also the mechanism of appointment of the Aldermanic representative, and I think if you wanted to try and address the concern that was in the letter, it would be very easy to do so by saying the Aldermen nominate the position but the full Board will confirm it, and that makes the confirmation consistent with all the members of the Water Works and that would be an easy way for us to do it. We could bring that in as language as well.

Commissioner Cook stated I move to do what Carol said which was to change it so that the nomination for those, I assume this applies to Water Works and we had parallel positions for Water Works and Airport Authority, and that the nomination will come from the Board but will be voted on by the full Board of Mayor and Aldermen which seems to address that question.

Chairman Dykstra stated okay, nominations from the Board but confirmed by the full Board.

Commissioner Duffy duly seconded the motion.

Commissioner Hirschmann asked what about removal.

Chairman Dykstra stated we're not done with this one. This is just the appointment. That's all.

Chairman Dykstra called for a vote. The motion carried.

Deputy Clerk Johnson stated so that was one. Now, the other issue that came up was removal.

Deputy Solicitor Arnold stated yes, that was the issue that was raised that their interpretation was that everybody would be removed from the Board.

Deputy Clerk Johnson stated which we've already addressed in the language that we're going to bring forward.

Commissioner Cook stated but the final issue, and I'm not sure it's a big deal, but the final issue was as to the ex officio Aldermanic one, and his concern is there's a statutory requirement for a six year term, so he's saying put something in that if they're not in there any more, they'll resign, or they'll resign every two years and be reappointed or something, and that'll take care of not mixing it up.

Commissioner Hirschmann stated the Mayor was every two years. What's the big deal?

Deputy Clerk Johnson stated that was part of the language that you previously asked for.

Commissioner Shaw stated the Aldermanic position is not appointed by name. It's appointed by the office you hold, so therefore I would say where it says Mayor, you just add and Alderman are ex officio members of this committee and have all the rights and duties. You only have to add one word, and Alderman.

Chairman Dykstra stated I thought the only concern we had was basically what we addressed, was them all leaving at the same time.

Deputy Clerk Johnson stated we'll bring you back language on it.

Chairman Dykstra stated we already voted on that, correct. Let's go on. Did we have any other letters that came in today? We had about the Clerk. We had the one from Gardner. We had the one from Mr. Samuels. We're going to hit all these.

Deputy Clerk Johnson stated there was this list that we had handed out at the last meeting with a bunch of technical changes too. Do you remember that? I said look at it and then come back at the next meeting. These are items that we feel you need to act on.

Chairman Dykstra stated we have in front of us all the concerns that the people at the public hearing had, and we have them listed. We also have items that she has from the proposed Charter that needed review, so we're kind of going through all these things correcting what we can. Why don't we go through the simpler thing first.

Deputy Clerk Johnson stated I think it is all pretty easy and straightforward.

Commission Cook stated the technical corrections one was fairly straightforward but we need to deal with it.

Commissioner Shaw asked aren't these a lot of them just technical.

Deputy Clerk Johnson stated they're changes that I can't make. You need to make. They're changes that we're recommending I guess be made for most of it, and the only one that I guess...in every instance we're recommending the change except for the very last one, we just wanted to make sure that you understood that there was a change there. It got brought to my attention that perhaps you didn't understand that you made that change. At the last meeting, we had sent them out to you.

Chairman Dykstra stated why don't we just start from the top and just zip right through. Just explain.

Deputy Clerk Johnson stated they're all minor technical changes, but because when we went through this with the Commission, some members were very concerned about even some of the smallest language in there, we wanted to make sure you were aware of changes. In the first instance, I think 3.01 to 3.12 is pretty self-explanatory. At the top of page six in the thing, it says Elderly Services heading, we said should be Elderly Services Commission.

Commissioner Duffy stated Carol, before you leave that, would it be advisable to put down Appendix A. You have Articles one through ten. You want to add Appendix A there as well.

Deputy Clerk Johnson responded thank you. Somebody is checking on me. That's good. The next was Elderly Services. When we reviewed it, it just says that. The heading should include Commission. That's a minor thing, but...Manchester Development Corporation, this is one of the public hearing comments actually. It should read Economic Development Office. Employees of that office are City employees, but the Corporation is a different entity.

Chairman Dykstra stated okay, that's fine.

Deputy Clerk Johnson stated the posting of the notice of the primary, there's a typographical error in there. It should say the last Tuesday of July, not June which is what it reads now. And the other is just renumerations because we felt that in order...paragraphs that are in Section 5.29(k) should be numbered.

Chairman Dykstra stated okay, so just make it clearer.

Deputy Clerk Johnson stated it makes it more clear and consistent with the other sections. Section 8.13(b), line four, the word authorities should be authority with an s in parentheses. That's the one where the Solicitor sends it to the proper authority or authorities. We came up with a head for Section 9.03(d).

Commissioner Cook asked shouldn't it be parentheses ies. Shouldn't that be authority, y, parentheses ies. Check with the resident grammarian.

Deputy Clerk Johnson stated okay. Item (d) needs a heading to go along with it. We figured gifts prohibited was appropriate for the language of that section. There's a typo. It should say board or commission, not board of commission. Existing officials and employees, delete subsection (b). It's inconsistent with (c). That was another thing that I think somebody was trying to refer to at the hearing, and I'm not sure that they were real clear about it, but when I read through that language in the transition provision, we had just lifted it out of the other Charter.

Chairman Dykstra asked what was it about though.

Deputy Clerk Johnson stated it has to do with the employees, and it doesn't apply because it was when they were going from terms to non-terms, and now you're not doing that. What you're doing is consistent with the next section, and so we would leave that one in, but we need to delete (b) and obviously we'll renumerate the sections as well. And the only other thing that we were trying to bring to your attention is under the Board of Registrars, we're requiring a member of the Board of Assessors. That was in 82 language. This is part of the Shaw Charter that got brought forward. We wanted to make sure because that is a change. We just wanted you people aware that we did make that change to the Board of Registrars. The Clerk's office supports that change because in the last Charter, it got removed.

Chairman Dykstra asked so you want it removed.

Deputy Clerk Johnson responded no. It's in there now in the old language.

Chairman Dykstra stated so you want to keep it in there.

Deputy Clerk Johnson stated we were looking to keep it in. We just want to make sure you knew that that change had been put in.

Commissioner Cook stated explain to me what the substance of it is.

Deputy Clerk Johnson stated the substance is that you have a member of the Board of Assessors that is sitting on the Board of Registrars.

Commissioner Cook asked and not vise-versa.

Deputy Clerk Johnson stated there always was one, and then in the 96 Charter, it got removed.

Commissioner Cook stated okay, as long as it's not a member of the Registrars has to be an Assessor, but an Assessor has to be a Registrar, I don't have any problem with it.

Chairman Dykstra stated I think probably you could make a motion on that, all of them or...

Deputy Clerk Johnson stated if you just take it as a whole to make those changes.

Chairman Dykstra asked do I have a motion to accept all of these.

Commissioner Duffy so moved.

Commissioner Tessier duly seconded the motion.

Chairman Dykstra called for a vote. The motion carried.

Chairman Dykstra stated okay, we have finished this review here. Now, we'll go on to the public hearing, all the different comments that Carol was so nice to put together.

Deputy Clerk Johnson stated actually it was Steve.

Commissioner Shaw asked in these items that we just reviewed, did that take care of the concerns of Joan Porter.

Chairman Dykstra responded no, she's in here, no.

Commissioner Shaw stated it has not yet.

Deputy Clerk Johnson stated she's in this list.

Chairman Dykstra stated she had things to do with the fallback and the carryovers.

Deputy Clerk Johnson stated Commissioner Wihby had found a couple of typographical errors. Can we get those addressed?

Commissioner Wihby stated 5.11 and 8.03.

Deputy Clerk Johnson stated 5.11, whichever is sooner.

Commissioner Wihby stated it's in the next paragraph. It's in one, not in the other. It's written in two, but not written in one.

Deputy Clerk Johnson stated let me get my copy out. Yes, okay, whichever is sooner.

Commissioner Cook asked why do you need it either place.

Commissioner Wihby stated it's written in one.

Commissioner Cook stated no, you're right. It's the next general state or municipal. The next one will be whichever is sooner, so you don't need it either place, I don't think.

Deputy Clerk Johnson stated no, you do need it in the second one. Let me go back and look at that okay. 8.03. Where?

Commissioner Wihby stated the Mayor's salary shall be set at.

Commissioner Duffy stated, Madame Chair, may I ask where are we in the review process.

Chairman Dykstra stated evidently there was a correction that Commissioner Wihby made, and she's looking for where it is.

Deputy Clerk Johnson stated there are two areas that Commissioner Wihby has brought forward. One, I'd like to go back and check when I can focus a little better. The second is Section 8.03(a). There's a word in there that says that the Mayor's salary shall be set and it says a \$68,000.00, and it should be at. So we'll make that correction as well unless there's an objection. The other one, I'll go back and look at.

Chairman Dykstra stated we don't need a motion on that. It's just a correction. We're impressed, Commissioner Wihby, that you are reading every word.

Commissioner Hirschmann stated as long as we're not putting a one in front of it.

Chairman Dykstra stated yeah, put a one in front of it. She's going to go check it again. So, we all have this list that we're going to be working from. Concerns.

Commissioner Shaw stated if you say so.

Chairman Dykstra stated I'm not going to accept any reconsiderations on this one. I tell you right now. Okay, right now these are the concerns. How do we want to go about this? We can just go down.

Deputy Clerk Johnson stated do you want to just read off what's on the list, and then if somebody wants to make a motion...

Commissioner Soucy stated could I just raise one other typographical issue that I just noticed opening to this page. On page 28, Sections 8.06 and 8.07, everything else has section before it except those two.

Chairman Dykstra stated we can probably, I mean, go through some of these things. Anything can jump out. I mean, things that haven't really been brought to our attention or was just at the meeting. The At-Large members, one elected from blocks of four wards. I mean that's one suggestion somebody brought out. If there's anything on here, you kind of just pick them out. We already discussed the At-Large positions are eliminated. Don't make it effective the same time people are running for positions, so we are already looking at that. Right? Okay, so that's one thing we're looking at. There are people that wanted to have the commissions back again. We've heard that, police, fire, highway, parks and recreation. Provide language that members of the boards and commissions cannot all be from the same ward.

Commissioner Cook stated that's in 96 Charter, but the language that we...I will take on the person who testified's word...but restored a lot of the language about boards and commissions but not all of it, and apparently that's one of the ones we did not restore.

Chairman Dykstra stated so this group or this Commission feels that you can have all of them from the same ward and the same political party.

Commissioner Shaw stated I like that. Ward one.

Chairman Dykstra stated I don't know if I do, all from Ward one.

Commissioner Cook stated Arah Street.

Chairman Dykstra stated you may change your mind and move out of Ward one, Bob.

Commissioner Shaw stated then, we'll change it.

Chairman Dykstra stated so I mean, if you want to discuss that. So the 96 Charter, the past Charter had that they can't be from the same political party.

Commissioner Cook stated could not all be from, or I think it was a majority could not be from...

Chairman Dykstra asked did you put that in, Bob.

Commissioner Shaw responded no. It was Mr. Cook's argument that when we get down to where we only have three people that they can appoint, it was ridiculous to name that one had to be blond, one dark-haired.

Commissioner Cook stated there was a concern the last time that everybody could be from one party, or everybody could be from one ward, and therefore that provision was put in. Now the countervailing argument is the Board of Mayor and Aldermen when they are confirming people to these things will try, you know, usually and historically have tried to put some kind of a balance to it. Those are the two sides of the argument. I don't have any particularly strong feelings about it, but if in fact it needs to be in there to avoid this Manchester traditional concern that everybody in some set of positions are going to be from one part of the City or another, we would restore it by putting in the provision that had been in the 96 Charter. That's the way to do it if we wanted to do it. I'm not proposing that.

Commissioner Shaw stated don't we have in the Charter that the Aldermen are supposed to set the criteria for who serves on what. In other words, the qualification to serve on the Fire Department is supposed to be Alderman-driven versus the old method that any, you know...I need a Democrat. I need a Republican. I thought that we had left it up to the Aldermen to decide. You only have three positions on many of these commissions. The Airport has seven. Take away four of them, two from Londonderry and two that we've appointed from the Board. You're down to three people.

Chairman Dykstra stated if they're setting the criteria, then why did you and others support the fact that we should be putting labor on all these commissions.

Commissioner Shaw stated well, I voted against that.

Chairman Dykstra stated no, you voted for it.

Commissioner Shaw stated no, I voted against that.

Chairman Dykstra asked did you. That's good.

Commissioner Shaw stated I voted against the labor.

Chairman Dykstra asked then how did it pass. Oh, you [Commissioner Pepino] voted for it. No, what I'm saying and what I'm questioning is that if they're going to set up all the criteria, why did we put labor in.

Commissioner Shaw stated I didn't think labor passed.

Chairman Dykstra stated no, it did. It did, so labor is on these except on the Elderly Commission. It passed. You remember the vote on that?

Deputy Clerk Johnson stated Commissioner Pepino voted with the...

Chairman Dykstra stated I think it's a reasonable question. If they're going to set the criteria, why are we mandating labor?

Commissioner Shaw stated we were going to give Londonderry the right to appoint the labor person.

Commissioner Duffy stated as they have on the current Board.

Chairman Dykstra stated we have labor on. Now, we do. Okay, are there any changes you want to make? Did you want to leave it that way?

Commissioner Soucy stated I'd like to make a motion. I'd like to include the existing language from the 96 Charter. It's Section 3.14(a), membership limitations, and it says, "No commission shall be comprised entirely of members of the same political party and no commission shall have a majority of members from any one ward of the City. The Mayor and Aldermen shall seek broad geographical representation for member of all commissions."

Commissioner Pepino stated there's nothing wrong with that.

Chairman Dykstra asked do you want to amend it to remove the labor.

Commissioner Pepino asked are you recognizing me.

Chairman Dykstra stated no. Yes. We had a motion by Soucy. A second?

Commissioner Duffy duly seconded the motion.

Commissioner Pepino stated if you remember how many years ago was it we had three Police Commissioners from Ward 2. Do you remember that? We had three from Ward 2. I'm in favor of the language. I'll second the motion for her language.

Chairman Dykstra asked are you going to reconsider your labor vote. Let's move. Any discussion on this. Hearing none, we're going to take a roll call vote.

Commissioner Duffy stated Madame Chair, just for a point of clarification. This applies to all of them, not just departmental commissions, so this is all commissions.

Chairman Dykstra responded exactly.

Deputy Clerk Johnson stated language would be added for all commissions as I understand the motion at this point.

Chairman Dykstra stated so if you're in favor, then they will not all come from the same political party or the same ward. You can't have them all from Ward 1, Bob. You've got to learn to live with that.

Commissioner Tessier asked why are we picking on Ward 1.

Commissioner Cook stated always pick on Ward 1. We're going to renumber them, and make it 12.

A roll call vote was taken. Commissioners Cook and Duffy voted yea.

Commissioner Hirschmann stated I wanted to keep political parties out of this thing. I'll vote no.

The roll call continued. Commissioners Pepino, Soucy, Tessier, Wihby, and Dykstra voted yea. Commissioner Shaw voted nay. The motion carried.

Deputy Clerk Johnson stated seven yeas to two nays.

Chairman Dykstra stated who said it's all five to four. Give me a break.

Commissioner Hirschmann stated you see now when you're picking an Elderly Services Commissioner, if they're a great person but they're a certain party, they can't get the job.

Chairman Dykstra stated you can have a lot of great people and separate them.

Commissioner Cook stated go down and register Independent.

Commissioner Soucy stated it says the Commission can't all be of one, so you can have four people from one party and one of another. You could have one person as an Independent.

Chairman Dykstra stated the vote is over. That's the way we had it in 96. I supported it then. It's the same as it was. It's not a problem. All right. We're done with that. Let's see here. Eliminate term limits. We had concerns about term limits for Planning Board, ZBA members. Anybody want to touch on that? I still favor term limits. Okay, nothing on that. Eliminate term limits for all commissioners. I like term limits. How about everybody else? You like them too, okay.

Commissioner Soucy stated I do not.

Commissioner Pepino stated I love term limits.

Chairman Dykstra stated consider having elections for certain boards and commissions such as Planning, ZBA and Library. Whose was that?

Commissioner Cook stated Scott Green.

Chairman Dykstra asked anybody want to comment on that.

Commissioner Hirschmann stated I thought it was a smart idea. Give the guy credit.

Commissioner Shaw stated but that was your original feeling.

Commissioner Cook stated he thought it was a smart idea when he proposed it.

Chairman Dykstra stated I think that's going to be too much...

Commissioner Hirschmann stated I did propose it. It was killed.

Chairman Dykstra stated I think it's fine if we have them appointed if there are term limits. You know, if we didn't have the term limits, I'd probably agree with you.

Commissioner Shaw asked what's the next one.

Chairman Dykstra stated all right, don't freeze salaries of Mayor and other officials so they can't be changed. Whose was that?

Commissioner Shaw stated the Mayor said that one.

Commissioner Hirschmann stated that's a double negative.

Commissioner Pepino stated it can be changed.

Chairman Dykstra stated it can be changed by the people. Any comments there?

Commissioner Duffy stated Madame Chair, as you know I have consistently supported making a change in this language that we've incorporated in this current draft of the Charter, and it ties in with the next bullet. I'm not necessarily suggesting that there need to be an increase for Alderman and School Board, but I do think that we need to find a way and again I will repeat what I said before, that Commissioner Shaw came up with what I thought to be a very creative way of dealing with the salary issue, so that we wouldn't have it tied into the Charter itself as a single number. What we need is some flexibility in that salary business, and if nothing else, we need to certainly acknowledge the fact that the existing number, \$68,000.00, has been in there since 1997. We're now into 2003, and if this Charter were to pass, it's possible it goes out to 2013, so I just think that that's a little preposterous, quite honestly that we don't have some flexibility in the Mayor's salary.

Commissioner Shaw stated well, history would teach us that the Aldermen don't change the salary. In the last 20 years, the salary has only been changed twice, once by the Aldermen, once by the current Mayor who was Chairman at that time of the Charter Commission, and he opposes our...and some people do. Why are we even putting his salary in there? Well, they put it in there, and they set it at \$69,000.00 or \$68,000.00, and they gave everybody a right to change it if they wish, and they didn't. Okay, what we're saying is that, well I'm saying...I don't know what the rest are saying, but I'm saying that give the people the chance. I think they'd be fairer than we will ever be or the Aldermen have ever been on the salary of the Mayor or the School Board, so I think that the Mayor could propose that the next Board of Aldermen increase the salary to \$168,000.00, put it on the Charter right up there and ask the citizens do you approve \$168,000.00, yes or no. Okay. I think that giving the people the right to vote on an issue that the Aldermen have failed, and only the current Mayor ever got a raise of any significance...

Chairman Dykstra stated it was a \$28,000.00 raise I think. Wasn't it a \$28,000.00 raise?

Commissioner Shaw stated it was, and I think he did a good job of it. I think that he only, as he repeatedly says...

Commissioner Cook interjected he didn't get a raise. Wieczorek got the raise.

Commissioner Shaw stated yeah, but the beauty of it is this, that he says the only thing I ever proposed that was correct was the proposal.

Commissioner Cook stated no, he didn't say it was the only thing.

Commissioner Shaw stated that was it.

Commissioner Cook stated I'd like to comment on the comments that we heard last week and then address this specific one. The one that we heard the most about was the At-Large positions, and when we get done going down the list, I'm going to have a motion on that for whatever it's worth, unless anybody else wants to make one, but on this one, it's not allowing the Aldermen to change the salary because you're right. That becomes a football, and the reason your original proposal, Commissioner Shaw, was I thought clever and then the ones that were follow-up adjustments to it with some mechanism that tracked either inflation or tracked the cost of living or tracked the unaffiliateds' salary increases or whatever the mechanism was was that it took it out of politics. Recently, and I don't know how many of you saw it and this is probably the sixth meeting in a row I forgot to bring it to, *The Nashua Telegraph* had an editorial about the Nashua Mayor's salary which is substantially higher than the Manchester Mayor's salary in which it proposed almost what we had been discussing, to take it out of the political realm. I think the best proposal we probably had was not tying it to some outside salary that we weren't under control of but probably was the one that talked about the unaffiliated employees because it was tied to something that was going on in the City, and I commend Commissioner Hirschmann for coming up with that thought, and I would only think that one of the real bad provisions that we have in this thing is that one, and I'm going to talk about the fallback budget when we get to it with a couple of suggestions, but I think we make a mistake if we don't revisit that issue because I just think it's unfair. I think it's wrong, and I think it's fanciful to think that the Aldermen who won't raise the salary will send it to the voters to raise the salary because they'll still be subject to the same criticism, and people will forget that it's in the Charter and accuse them of passing the buck, so they'll be between a rock and a hard place, you know. You voted for a higher salary, and you passed the buck and made us do it, and nobody ever remembers what's in the Charter that it's the law. So I think we ought to bite the bullet and go back to the one that said the Mayor gets the same raise that the unaffiliated employees get, and I will move that.

Commissioner Soucy duly seconded the motion.

Chairman Dykstra stated okay, there's a second. Is there any further discussion?

Commissioner Cook stated we better wait for Commissioner Pepino to come back.

Commissioner Tessier asked do you want to wait.

Commissioner Cook stated if I were being tricky, I wouldn't want to wait, but I do want to wait. My motion was that we restore the proposal that we had once had before, having heard all this testimony, that the Mayor's salary go up by the same amount that the raise of unaffiliated employees in the City of Manchester get, non-affiliated.

Deputy Clerk Johnson asked so you're tying it to the COLA, not to the merits, just to the COLA.

Chairman Dykstra stated there's a second by Commissioner Soucy. Any further discussion?

Commissioner Hirschmann stated I would be prepared to in transition say that in the year 2007 that the Mayor's salary be increased to say \$75,000.00, but to keep changing it, I wouldn't want to do that. I think that the voters see a number in the Charter now, and they expect to know. They don't want some uncertain number all the time, so I think that I would do that. I mean, the inauguration date has changed so now they get inaugurated in an odd year. 2005 there will be an inauguration, 2007. When that Mayor is inaugurated, I could see \$75,000.00 in that, lasting probably for five years and then there'll be another Charter revision. So, that's as far as I'd want to go.

Chairman Dykstra asked who's to say they couldn't have a Charter revision in a couple of years.

Commissioner Hirschmann responded they could. They could have one tomorrow.

Chairman Dykstra stated and then raise it then, so I mean...

Commissioner Soucy stated I think that first of all, I thought Commissioner Hirschmann's proposal to tie the Mayor's salary to the non-affiliated was by far the most thoughtful because it completely depoliticized the process. It took it out of the Mayor's hands, out of the Aldermen's hands in that it was reflective of

something going on in the City that everybody understood and was able to participate in which is negotiation of salaries and so forth. If you were to make that provision effective 2007, I think you would accomplish the same thing. If anything, I think it would certainly be less because as I understand the COLAs and perhaps Carol or Tom could correct me, they have not exceeded two percent in recent years.

Deputy Clerk Johnson interjected one to two percent.

Commissioner Soucy stated we've gone many years without extending COLAs to those people, so it would be even a smaller increase than the \$75,000.00, and I think the voters would be on notice of that. It would really resolve an issue that has been in dispute for quite some time with the last Charter Commission and with this one as well. I think that's probably the most thoughtful thing that we could do.

Chairman Dykstra stated if I could just interject. People correct me if I'm wrong. At that public hearing, I could have missed it but there was a couple of citizens that went for the Aldermen-At-Large. Basically all our comments for raising anything were not from the citizens. Did you hear any citizen come out and say raise the Mayor's salary?

Commissioners Tessier, Cook and Duffy responded yes.

Chairman Dykstra stated well, good. I want to know who it was. I don't remember.

Commissioner Duffy stated read the minutes.

Chairman Dykstra stated I did, but I don't know.

Commissioner Duffy stated it's in the minutes.

Chairman Dykstra asked was there an overwhelming amount of people.

Commissioner Pepino stated I didn't hear anybody.

Chairman Dykstra stated no, the Aldermen were asking for raises. I know there were two citizens that came out and said keep the Aldermen-At-Large. Maybe someone mentioned it, but there wasn't an overwhelming amount of people. There was one maybe.

Commissioner Duffy stated I'd like to get back to the discussion we were just having relative to the Mayor's salary. I would support the proposal in terms of tying it or first of increasing it to \$75,000.00 in the year 2007 provided that we also include the provision that it thereafter has increases with the non-affiliated employees. The fact is that to leave it as it is and not have a provision in there to increase that salary to \$75,000.00 and then have a mechanism in place to have it increased coincident with the non-affiliated just doesn't make any sense, so that's what I would be willing to support.

Chairman Dykstra stated we've never ever had till the last Charter, we've never had even the amounts in there.

Commissioner Cook stated the amount was a minimum, remember. The amount was a floor with the Aldermen having the power.

Chairman Dykstra stated I'd rather put it back in their hands if it's going to come to this.

Commissioner Shaw stated first of all, it is in their hands. Whenever they wish to raise the salary, it's within their right to ask the people about it. At a time when the School Department is in the process of laying off about 26 employees, some of them at the very lowest level, getting only about \$15,000.00-\$20,000.00 a year in salary I would presume, they're going to lose their jobs. On the City side, it has not been specified yet who is losing their job on the City side, but the budget is very, very tight, and there might be some attrition that would be forced on them. So I think that discussing again the Mayor's salary for the...

Chairman Dykstra interjected 25th time.

Commissioner Pepino stated 50th time.

Commissioner Shaw stated it's a 20 year discussion. I'm not going to change my vote, so I'll just let you know, Madame Chairman. My vote is not changing. I want the citizens to give the Mayor a raise, and I find it objectionable, Madame Chairman, that had they followed my foolish advice years ago, the Mayor would be making \$81,000.00 now and then we wait till the year 2007, \$68,000.00 plus \$1500.00 per year raise, wow. No, I'm voting no.

Chairman Dykstra stated unemployment is on the rise. Mayor Baines is still going to run for \$68,000.00. You're [Commissioner Shaw] going to run, so we got two candidates anyway. What more do you want?

Commissioner Duffy stated nominations are closed I guess, then. Is that what you're saying?

Commissioner Hirschmann asked are you in Pat.

Commissioner Duffy responded oh, no.

Commissioner Pepino stated what I'd like to do, I'd like to take this \$68,000.00 out of the Charter. Give it to the Board of Mayor and Aldermen, and let the Board of Mayor and Aldermen do what we say. They can put it on the ballot, but take it out of the Charter. It was never in the Charter before till the last one. Now, all of a sudden, we're stuck with it in the Charter again. We don't need this in the Charter.

Chairman Dykstra stated I didn't want it in, but it was based on the previous Board.

Commissioner Pepino stated we don't need this in the Charter, and I'll move...

Chairman Dykstra stated we never ever had the Aldermen and the School Board amounts in there, did we. So now, why do we have them all?

Commissioner Pepino stated I'll move the question.

Deputy Clerk Johnson stated we have a motion on the floor first of all.

Chairman Dykstra asked can you clarify what's on the floor.

Deputy Clerk Johnson stated there is a motion on the floor to increase the rate of the Mayor's salary at the same rate as the non-affiliated COLAs. That was not specified with an effective date and the time. I didn't catch one on that.

Commissioner Cook stated no, period.

Chairman Dykstra stated this is basically a motion, a second. We've had discussion. Any further discussion? Hearing none, we're going to take a roll call vote on increasing the Mayor's salary. We're taking a roll call vote on increasing the Mayor's salary.

Commissioner Hirschmann asked read the question.

Chairman Dykstra stated that's what she's going to do, but that's what the motion was.

Commissioner Cook stated the motion is to amend the draft Charter to change the Mayor's salary provision to have it increase with cost of living increases to non-affiliated employees which does, just for clarification's sake, does not include if they're in a merit situation, if they're in a promotion situation. This is the across the board one voted for all of them, not individual adjustments obviously.

Commissioner Pepino stated all you're discussing now, we discussed many years ago.

Chairman Dykstra asked is everybody clear about the motion.

Commissioner Duffy stated I need a point of clarification. That incorporates what Commissioner Pepino said, that is, it takes the number out of the Charter then.

Deputy Clerk Johnson responded no, the \$68,000.00 is still in there.

Chairman Dykstra stated it's still in there.

Commissioner Duffy stated well, wait a second.

Deputy Clerk Johnson stated by his motion, it is.

Commissioner Duffy stated you can't have it both ways. I think you've got to have the number removed in order to incorporate this language into the Charter.

Commissioner Cook stated the number in the Charter now...I don't care if it comes out because I think it becomes moot when you have an automatic mechanism.

Commissioner Duffy stated I know, but I think it's important to come out.

Commissioner Cook stated the \$68,000.00 does not set the salary at \$68,000.00. The \$68,000.00 says it will not go below \$68,000.00. That's what the present Charter says.

Chairman Dykstra stated then you're going to start at \$68,000.00 upward as the non-affiliates get theirs.

Commissioner Cook stated my motion didn't do that. I'm not sure it's wrong to do that.

Commissioner Hirschmann stated it would be about a \$680.00 raise a year.

Deputy Clerk Johnson stated so your intent is the provision for the Mayor's salary will not...

Commissioner Shaw asked why are we arguing over \$700.00.

Commissioner Soucy stated that's what I'm asking.

Commissioner Shaw asked why don't we wait to send the question to the citizens and give the Mayor and the School Board and the Aldermen a decent salary.

Chairman Dykstra stated we should take it all out and let the Aldermen decide. We should take everything out and let the Aldermen do it all again.

Deputy Clerk Johnson stated I need clarification because Commissioner Duffy raised a point and that is my understanding of your motion was that you were saying to increase the provisional rate of the Mayor's salary by inserting COLAs at the same rate as the non-affiliated.

Commissioner Cook stated correct.

Deputy Clerk Johnson stated so my question to you is then when we do the physical language to go with that, is it your intent that the \$68,000.00 would not appear because it's just going to tie from the current Charter to this Charter. That's what happens and presumably at the next fiscal cycle if they do it, that's when it happens.

Commissioner Cook stated I think it's probably a good suggestion, and it's probably inelegant to have the number in so that would be fine with me when you draft it to take out the \$68,000.00 if this passes.

Commissioner Shaw stated then we could pay the Mayor less if we wish.

Commissioner Cook stated no because there's an automatic increase.

Chairman Dykstra stated it's automatic. He's getting \$68,000.00.

Commissioner Shaw stated the new Mayor coming in could receive less. You could decide to change the salary down. You said the Charter said it's a base.

Chairman Dykstra stated leave it the way you had it, \$68,000.00 and up, and let's vote it up or down. Is that okay with you?

Commissioner Cook responded that's fine with me.

Commissioner Soucy stated it would be useful to clarify here your understanding of what would happen if the number...

Deputy Clerk Johnson stated if we remove the number from the Charter as you're proposing it, theoretically and I would have to go back and look at it but theoretically, if you have no number, and you have no other provisions in there, somehow or other, the rate could increase to \$75,000.00 before the next one percent or two percent COLA went out, so then the COLA would be based on whatever is at the time.

Commissioner Soucy stated so if you left the existing number and incorporated the language, then one percent would be one percent of the \$68,000.00 which would be \$680.00.

Deputy Clerk Johnson stated which is what I originally understood the motion to be, so that's all I want to clarify.

Chairman Dykstra stated we're taking a roll call vote on increasing the Mayor's salary with the non-affiliates. It starts at \$68,000.00. That stays in.

A roll call vote was taken. Commissioner Cook voted yea.

Commissioner Duffy stated until such time as we exclude the number, I am not going to vote in favor of this. We need to have the number removed because as I look at the draft, on page 27, Section 8.03, it says it shall be set at, and that language can't stay and have this.

Deputy Clerk Johnson stated it won't. I'm going to change the language to say it will start at \$68,000.00 and be increased proportionately with the COLA increases of non-affiliated. That's the way I'm going to draft the language because that is his intent in the motion as I understand it.

The roll continued. Commissioners Duffy, Soucy, and Tessier voted yea. Commissioners Hirschmann, Pepino, Shaw, Wihby, and Dykstra voted nay. The motion failed.

Commissioner Pepino stated we've put that to sleep.

Commissioner Shaw stated until two weeks from now.

Chairman Dykstra stated no. It's not coming back again. We're going by the rules of the Board of Mayor and Aldermen, so I will not accept some motions. I

guess, I'll do what he does. I think I've been fair enough in these motions. Okay, need a mechanism for adjusting...oh boy. Just cross that out. We've already addressed it. Aldermen and School Board members should continue to receive health benefits. I say no. How do you all say? Is it still a 5-4 no?

Commissioner Pepino stated no.

Commissioner Hirschmann stated no. Next item.

Chairman Dykstra stated let's go to the next. Get rid of the fallback budget provision that the previous year's budget be used.

Commissioner Cook stated I'd like to talk about the fallback budget. As some of the testimony pointed out, and I'm against the prior year's budget being the fallback budget, but I think there's a misconception of what happens in the towns because I read the Municipal Budget Act this afternoon, and I would commend to the staff to bring in for our next meeting those items that are not included in the fallback budget provision in towns. Towns don't have, do not have if they don't pass the budget a fallback budget of the prior year's budget. They have the prior year's budget except for the following items—bond issues that automatically go up, negotiated contracts that automatically go up, and a few other things that are like safety valves in a pressure cooker, and so this idea that we have towns somehow automatically have the prior year's budget as the default just isn't so. They have the prior year's level of spending except on certain things, and there are quite a number of those things. I think the objection we heard addressed on the prior year's budget being the budget was that it's a train wreck. Now, the fact of the matter is, we have a mechanism in here where you can reopen the budget and vote on it. The fact of the matter is the argument has been, and we've never used any default budget one way or another in Manchester, so it may or may not be relevant, but I think if we're really going to go with that, given the testimony we heard and given all the stuff that is in the State law, when people in a rational systematic process passed the default budget provision for towns, they said here are some things that could be real big problems that we ought to deal with, and before we just say a fallback budget is the prior year's budget, we should become educated in what those things were because that I think is what we heard about and that probably would deal with a lot of people's objections.

Commissioner Shaw stated why don't we adopt the 1982 Charter provision that the City close down. It sounds like the side that wants the fallback to be last year wants to close the City down, okay, and we operated under that for 13 years you know where the Mayor, at that time there were 12 Aldermen and if seven voted for a new budget, the Mayor could veto the budget and close it down. I think we find that under the six year plan, this new Charter that we have Brad, I find that it and

this a rare thought on my part, it gives too much power to the Mayor. It requires ten votes which I am totally opposed to the fact that two-thirds of 14 is 10. It's a super majority of the Aldermen, so if nine Aldermen favor keeping a fire station open at the other end of town, the Mayor could veto that if we wished, and then he would have his budget which maybe hired 20 you know highway workers or whatever. So I don't favor the Mayor's proposal. I favor the fallback or not having that, I favor the one that closes down government. It worked for me.

Commissioner Cook stated I think the answer to the question if it was a real question of why we can't just close down the City is we have apparently a new Statute that just passed that says the fallback budget can be that budget selected by the Charter Commission in a City or failure to adopt, it becomes the chief administrative officer's budget. That's my understanding of what happened in House Bill 151 or whatever it is, so that's why you can't do it, but why you shouldn't do it...You're required to have a fallback budget. We know that. Now the question is what is it going to be. If it's going to be the prior year's budget, my only point is there ought to be the same kind of safety valves in it that exist for towns which we have had reported to us.

Commissioner Duffy stated pending further research, I move to table this item at this time.

Chairman Dykstra asked what are we tabling.

Commissioner Duffy stated we're tabling the question about the fallback provision.

Chairman Dykstra stated there was no motion, so it doesn't have to be tabled. There was no motion made.

Commissioner Cook stated all I asked was for the staff to get the information on what flexibility there is.

Commissioner Duffy stated I was under the impression that there was a motion made.

Chairman Dykstra stated no, there was no motion, no second. He just wanted to discuss it.

Commissioner Shaw stated I think somebody asked that the Clerk bring forward the State law. Therefore if we have copies of the State law, couldn't we discuss it in two weeks?

Chairman Dykstra stated yeah, you can discuss it because it's open for discussion, but there was just no motion.

Commissioner Duffy stated all right, I amend my recommendation. I'll withdraw it with the understanding we'll have further discussion on this subject.

Chairman Dykstra stated restore the early January inauguration date. The only way I would go with that is if we got rid of the April date for the budget, so does anybody else have anything to say about that or do we just want to leave that? Allowing carryover moneys from year to year. Right now, we are not, and that was one of the concerns of Joan Porter. Wasn't that one of her concerns also, the department heads?

Commissioner Cook stated and Kevin Clougherty also.

Chairman Dykstra stated she spoke for all the department heads, had a concern about not allowing carryovers in the biennial budget.

Commissioner Hirschmann stated I proposed I believe the biennial budget portion because I wanted the taxpayers to know for a two year cycle what the City's spending and revenues would be and it would all lock into place into one vote and last for two years. In the budget process, there always has been traditionally every year the unspent moneys are collected and carried as a revenue to the next cycle. If you don't do that, then you have to raise more tax money, so I mean when I thought of the biennial budget, I was thinking of the taxpayers. I wasn't thinking of the departments, okay, so the departments coming forward and saying, "Hey, there's no incentive to us", well I wasn't thinking of them, so naturally they're going to say that. I was thinking of the taxpayers, so that was my incentive to have a two year budget. If there's no incentive tax-wise, I could care less. We don't need a two year budget otherwise.

Chairman Dykstra asked isn't that optional for the Board of Mayor and Aldermen to decide. That's just permissive, isn't it? That wasn't a mandate.

Deputy Clerk Johnson stated there's not a mandate, but the issue was that if there is a mandate in your proposal that says if you have a two year biennial budget, you cannot have carryover on the departmental level.

Chairman Dykstra stated I think that maybe that should be changed on the departmental level. All the departments are opposed to it, have a problem.

Commissioner Shaw stated I kind of agree with Kevin Clougherty. It's hard to believe. His contention is this, that it doesn't pay for department heads to save

any money in the first year because when they operate under a two year budget, they're concerned about the whole time. He said that under the 18 month budget, this was his quote, under the 18 month budget, the City actually was run less expensively than it was under a one year budget. He does, the Mayor doesn't if I'm not mistaken, favor a biennial. He wouldn't have to use one anyway, but Kevin's position is that the City could be run less expensively if the department heads knew in advance how much money they would have. Now, there are procedures for the open budgets. We put that in there, so they could easily find if they saved the money and then find that the Aldermen under some constraints must reduce their next budget, but that's the risk they take. I don't see the problem because basically when the Aldermen move all that money back into the City side as revenue, they then use it to spend next year. They say, "Well, we won't have to raise taxes by x because we have this money."

Commissioner Hirschmann asked what if you didn't have that million and a half dollars, then what would you do, Bob.

Commissioner Shaw responded then they wouldn't be able to spend it. If they don't have the carryover...

Commissioner Hirschmann interjected if they did spend it, then what would you do. You'd get it from the taxpayers.

Commissioner Shaw stated no. No, no. They'd have to go to jail. They'd have to go to jail if they overspend their budget.

Commissioner Hirschmann asked if they overspend their budget, they go to jail.

Commissioner Shaw responded yes, they have to go to jail.

Chairman Dykstra asked is there a consensus of this Commission that we allow carryover moneys. I'm just saying, this is a concern of all the departments. Joan Porter spoke for all departments. Do you feel that this is something we should address and change? I do. I don't have a problem with it.

Commissioner Cook stated I don't know enough about how the operations of the departments work with the carryover budget, so this is a pure question. Right now, we have a one year budget and at the end of the one year budget, if the XYZ department has \$25,000.00 left over, it goes back at the end, I assume if they're like every other government agency in the world, they scurry around to spend it by June 30, but if there's some left over, it comes back. It doesn't carryover to them. It reverts back to the City. The question I have is if we had a two year one, as I understand the advantage to two year budgeting is kind of taxpayer neutral. What

it is it allows for longer planning. The rationale is it allows for people to plan for two years and say, "Okay, I'm going to do a two year budget because I'm going to be having this program that's going to go for a period of time, and this is what I'm going to spend the first year and spend in the second." The question I guess I have, and I don't know how it works because we haven't had one is so I'm running department X, and I say I'm going to have a two year program, and I've got enough money in my two year budget for it, and I don't get it started on time because it snows too much or this or that or I can't get the contract, and I get to June 30th in the first year, and I haven't spent it, so it goes back to the City, and so I can't do what I'd planned for, does that somehow screw me up? I mean, I can see all kinds of reasons not to have two year budgets given the way we raise revenue in the State of New Hampshire and how unsure revenues are, but that's a different issue because the Mayor can take care of that by not proposing one. It's up to the Mayor to propose whether it's going to be two years in the Charter, but I guess on the one hand I'm sympathetic with the if you don't spend it in the first year, put it back in the pot of money and prove you need it for the second year and make the Aldermen take a second look and give it back to you which I guess is how it would work, but I wonder if their point isn't accurate that by not having the money run over, you're not really creating a two year budget. I don't know if somebody can answer that question.

Commissioner Shaw stated then, the Mayor can reopen the budget.

Commissioner Soucy stated that seems to be what Kevin's letter says.

Chairman Dykstra stated this is a concern that Kevin Clougherty did send that out and had a concern with it. What's the will of this Commission? Do you want to make any changes? Do you want to restore it? You don't?

Commissioner Shaw stated I move that we make the change that Kevin requested.

Commissioner Hirschmann stated I would prefer to not have a two year budget to be honest with you. If it was going to allow the departments to carry that money over, you're going to create a cycle. Your first year, it's going to be like this. You have a fund balance of revenue, then you don't have a fund balance because you're giving it to departments, and then at the end of the two year cycle, you're going to have a fund balance again because you'd be starting a new process. So you're going to create a hole that has to be filled. If you don't have a million dollars of revenue to fill that hole, you've got to get it from the taxpayers. I'll withdraw the biennial budget portion out of the Charter. Get rid of it entirely and go year to year because it's a safe effect.

Chairman Dykstra stated so if you removed the biennial budget, right now they can carryover moneys, right.

Commissioner Soucy stated no, they cannot.

Chairman Dykstra stated I mean in the old Charter.

Deputy Clerk Johnson stated in the old Charter, yes.

Chairman Dykstra stated in the old Charter, that's what I meant.

Commissioner Duffy stated Madame Chair, point of order, didn't I hear Commissioner Shaw make a motion just a moment ago.

Commissioner Tessier asked could you repeat his motion.

Deputy Clerk Johnson stated his motion was basically to delete the prohibition of the carryover.

Chairman Dykstra stated oh, he just said that.

Commissioner Shaw stated but nobody seconded it.

Chairman Dykstra stated I'll second it for discussion. Go ahead.

Commissioner Shaw stated if we were to vote to take out the right of the Aldermen to have a biennial budget, that's going too far because what we're saying is if in their wisdom and they see a necessity for a biennial budget and the Mayor and the Aldermen, they should be allowed to do it. We shouldn't be prohibiting ideas that might save us money. Your point is that we won't save any money.

Commissioner Hirschmann stated my point is the Legislature could enact it at any time. It doesn't have to be in the Charter.

Chairman Dykstra stated the same with the raise for the Mayor. They can go right to a referendum. Everything can go to a referendum.

Commissioner Cook stated another point of order, and I don't know the answer to this, and maybe somebody does. If we were silent on whether it carried over at all, if we didn't say it does carryover or we didn't say it didn't carryover, when they pass a two year budget, if in fact they do it, could they provide in the budget or by ordinance that went along with the budget that any moneys not spent would

lapse or wouldn't lapse. In other words, we're grappling with a question here that if somebody is proposing it, I mean right now the State law allows for cities to have two year budgets. That's why in 96 we put it in saying if the law changes you can do it, and they did it, so now it's legal to do it. So the question becomes, we don't say anything about moneys lapse, moneys don't lapse and then Tom, the question is when they pass the budget, can they say it does or doesn't lapse or is that inconsistent. I don't know the answer.

Deputy Solicitor Arnold stated I guess without researching it, my gut tells me that yes, they probably could pass an ordinance that's more restrictive than the State Statute that allows for carryovers.

Deputy Clerk Johnson stated the prohibition of carryovers because the Statute allows for it. We're doing the opposite.

Commissioner Cook stated so if we just took the thing out, we would leave it to the proposers and fashioners of the budget to fashion whether they wanted it to or not which I think goes along with what Commissioner Shaw was just saying about if they want to pick it and they want to design it, let them try it their way as opposed to us doing this 20/20 foresight thing that isn't so good.

Commissioner Shaw asked does the State law require the Charter to adopt a biennial budget.

Deputy Solicitor Arnold responded no.

Commissioner Shaw stated it doesn't, so then his position is correct. Commissioner Hirschmann has stated that we don't need to even address biennial budgets in the Charter because State law allows it.

Commissioner Cook stated yes you do because as I recall, the State law says cities which provide in their Charter to allow a two year budget can have one.

Commissioner Shaw stated that was my point, you see. You have to have them in the Charter...

Chairman Dykstra stated there is a motion on the floor. City Clerk, can you tell us what the motion is?

Commissioner Hirschmann stated so what you're saying, Commissioner Cook is we have to have a statement if the Aldermen want to create a biennial budget, they can have one.

Commissioner Cook stated if you want them to have the capacity to have a biennial budget, you have to have at least what's in the 96 Charter which said, it said it because it was prospective, they hadn't passed the State law then.

Commissioner Hirschmann stated so let's say it and leave it up to them.

Commissioner Cook stated if all you say is they can have a biennial budget and you leave it silent on carryovers and if Mr. Arnold is correct, which I would assume he is, they can fashion it any way they want, with carryovers, without carryovers.

Chairman Dykstra stated your motion was to delete the prohibition of carryovers.

Deputy Clerk Johnson stated right, in the biennial budgets.

Chairman Dykstra stated so the other language will still stay in there that they can have a biennial budget. Is that still what you want? We're going to take a vote here.

Commissioner Shaw stated I thought his idea to take out the biennial budget could be done. State law requires it.

Commissioner Cook asked Carol, which one is on the floor.

Chairman Dykstra stated that's what I'm trying to clear up. We're going to vote on this right now. You want to delete the prohibition of carryovers.

Deputy Clerk Johnson stated that's the motion on the floor right now.

Commissioner Hirschmann stated state it so that we can understand it.

Deputy Clerk Johnson stated right now in the current proposal that you have, it says if the Aldermen want to adopt a biennial budget, they can, but there cannot be any carryover by departments. What this motion in essence does is it says you're going to take out the language that says they can't have carryover by departments, but it doesn't prohibit the Board from at some point in time saying, "Okay, we're going to adopt an ordinance that if we do a biennial budget"...

Commissioner Hirschmann interjected that's what I want in the Charter, that the Aldermen have the capacity to write that ordinance. I don't want it left out. I want that wording in there.

Deputy Clerk Johnson asked you want the wording in there.

Commissioner Hirschmann responded yes.

Deputy Clerk Johnson stated okay. Do you want to accept that as part of your motion?

Commissioner Hirschmann stated I don't want the tail that wags the dog running the show again.

Chairman Dykstra stated you wanted the biennial to be in there, but you didn't want that provision...

Commissioner Cook stated so your Amendment to his...

Deputy Clerk Johnson stated so Commissioner Hirschmann is basically moving...

Commissioner Cook stated that's okay. That enables them to pass that thing I was talking about, but it doesn't require them.

Deputy Clerk Johnson stated let's have Commissioner Hirschmann is making a motion to amend the motion on the floor by adding a provision that the Aldermen will be able to by ordinance set out frameworks prohibiting carryovers or any other...

Commissioner Hirschmann stated I don't want to say prohibited. I want to say with regard to...

Commissioner Cook interjected with regard to the right for carryovers between fiscal years.

Chairman Dykstra stated to be determined by the Board of Aldermen through an ordinance, something like that.

Commissioner Cook stated they can write it, and we can look at it.

Chairman Dykstra stated this is just stating that they can do it by ordinance, just to clarify it. That must be an amendment because we already have a motion on the floor.

Deputy Clerk Johnson stated this is an amendment. It's by Commissioner Hirschmann. I don't have a second.

Commissioner Cook duly seconded the motion.

Chairman Dykstra stated we're going to have a vote on that amendment now and move along, and the amendment is to basically let the Aldermen put an ordinance together addressing carryovers.

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

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

Chairman Dykstra stated so that's done. So we basically now have removed that carryover problem that they had. They can let the Aldermen do it. That's done. Biennial budgets drastic, we'll forget that. Return to partisan elections so party will help fund candidates. My comment is whether they're non-partisan, we know darn right that the Democrats, Republicans are going to support their candidates.

Commissioner Cook asked you think.

Chairman Dykstra responded oh yes, they will. I can guarantee the Democratic newsletter and Republican newsletter will have their non-partisan candidates. Remove the requirement that candidates' party affiliation be identified on the ballot. I don't think it creates a partisan election. It still basically is non-partisan.

Deputy Clerk Johnson stated the only issue that I would point out here, and I don't know if anybody has considered this and I'm not taking a position either way, but there have also been comments made to our office with regards to the Hatch Act and federal employees. It's my understanding, and I did not get a chance to verify this this afternoon, but it's my understanding that the office that makes the rulings on that has interpreted the language in this Charter as being that it would be considered partisan for their purposes. Now, the federal Hatch Act applies to the executive branch of any federal. It doesn't affect legislative branches, but it does affect executive branches.

Commissioner Cook stated Mr. Guinta claimed, who works for Congressman...

Deputy Clerk Johnson interjected he's on the legislative branch.

Commissioner Hirschmann stated this doesn't affect him then.

Commissioner Cook stated he thinks he's affected by the Hatch Act because I've talked to him about it. So if he's not...

Commissioner Hirschmann asked who in City government would be affected. The Mayor.

Deputy Clerk Johnson stated I'm not saying that anybody presently would, not City government. I'm saying it's federal employees, so any federal employees living in the City would not necessarily be eligible to run for office.

Commissioner Cook stated we're not passing this for or against one person. My only question was he's the person that works for the legislative branch, and he thinks he's covered by it.

Deputy Clerk Johnson stated he could have that...

Commissioner Cook stated I don't know. He's told you he wasn't. Well, he must have checked after. I mean, I talked with him a long time before this.

Chairman Dykstra asked what do we want to do with this.

Commissioner Hirschmann stated I want to leave it alone.

Deputy Clerk Johnson stated I just wanted to bring that to your attention, so nobody would say I didn't know that after.

Commissioner Shaw asked are you going to get better clarification.

Deputy Clerk Johnson stated that's the best clarification I can give you.

Commissioner Cook stated the Hatch Act issue, Madame Chairman, is not whether Mr. Guinta is or is not covered because that's shooting at one individual which I don't think anybody was considering. The issue that we need clarification on, unless you're sure that they...

Deputy Clerk Johnson stated the issue was actually brought up by postal employees and some other people.

Commissioner Cook stated if postal employees...I've heard all kinds of numbers about how many federal employees there are that live in Manchester, but they sure as the dickens don't all work for a Congressman. Most of them work for an agency or something like that or the V.A. or you know somebody. The issue then becomes if somebody works for the Social Security Administration as a benefits worker and they can't be the ward selectman or moderator because of this, then I think we need to know that because I think one of the arguments about the non-

partisan/partisan, not maybe the major one, but one of them was the Hatch Act, so if you're saying administrative...

Deputy Clerk Johnson stated administratively, it's my understanding that the ruling by federal authorities would be that federal employees in the administrative branches or any agency thereof, the Hatch Act would apply in this instance, and they read it as being a partisan election. The minute that any designation appears on the ballot, I can go back and ask specific questions and get better rulings on that. I have not had an opportunity to do that, but I wanted to bring it to your attention.

Commissioner Duffy stated I think we ought to ask the City Clerk to get a statement relative to this matter from an appropriate authority. Excuse me. That we ask the City Clerk to research this and get a written opinion from an appropriate federal authority relative to the possible implications this may have on the citizens of the City running for elective office.

Commissioner Hirschmann stated the United States Attorney is Tom Colantuono. Why don't you write him a letter.

Deputy Clerk Johnson stated there's an office in the federal government. I have it.

Chairman Dykstra stated all right. She can bring that information back to us at the next meeting.

Commissioner Pepino stated Board of Registrars, we've already said in there if you want to become a Board of Registrar, you can't run for elective office. Okay. If you work for the State or you're a State Legislator, the Hatch Act will affect you. If I can recall, the only people who've ever been affected in the whole City since I've been around was they were after Paul Dwyer trying to say he was affected by the Hatch Act, but he wasn't. They were after Bob Pariseau. It was the same thing. Now this is the third one. Now, the State makes no exceptions to these because I was told 20 years ago, I couldn't work for the State if I was a State Rep, 20 years ago, so we're sitting here tonight and we're talking about questions.

Chairman Dykstra stated this is not something that we brought to Carol.

Commissioner Pepino stated we're talking about one person.

Deputy Clerk Johnson stated no, we're not.

Commissioner Cook stated we're talking about all the federal employees.

Commissioner Shaw stated we're talking 100,000 potential people.

Chairman Dykstra stated she's going to bring back the information. We want to do it right, so that's not a problem. We're going to keep moving on here. Charter should be voted on in November. All right, we'll just keep moving unless you want to jump in.

Commissioner Cook stated we're going to talk about that next time.

Chairman Dykstra stated Charter should take effect at beginning of next fiscal year. It's inappropriate to eliminate all members of Board, we already took care of that. Okay, we'll move on. Welfare Commissioner shall remain elected. We already discussed that, didn't we? MDC, we changed that. Department heads and officers need not be...

Commissioner Tessier stated you skipped two.

Commissioner Soucy stated could we just go back over MDC should not be listed as a board or commission.

Deputy Clerk Johnson stated we already took that out.

Commissioner Soucy asked was it just changing the terminology of it.

Deputy Clerk Johnson stated the terminology that we changed it to covers the department, not the corporation. That's the difference.

Commissioner Soucy stated I understand. That was Rick Fradette's comment. I just want to make sure that we had addressed it.

Chairman Dykstra stated public testimony at committees will interfere with the committee.

Commissioner Hirschmann stated no, that's not true.

Chairman Dykstra stated Mayor should not be nominating City officers.

Commissioner Hirschmann stated that's true.

Chairman Dykstra stated department heads and officers need not be in Standards of Conduct. They already have an ethics code. What was our thought on that?

Commissioner Soucy stated that was addressed in Joan Gardner's letter as well. There was an issue about that, financial disclosures.

Chairman Dykstra stated we had the officers in there, right.

Commissioner Shaw stated I don't think the officers should have a financial...

Commissioner Pepino stated that should come out of the Charter.

Deputy Clerk Johnson stated they do currently. Under the current provision that you have, they are required.

Chairman Dykstra asked how about the old Charter.

Commissioner Cook stated no, under the proposed one, not under the existing one.

Deputy Clerk Johnson stated under the existing one, they are not part of it. You changed the terminology of City officials, and in the process of changing that definition, that section applied and they now under the proposal will have to do a financial disclosure. You could exclude them from those provisions.

Chairman Dykstra stated make a motion to eliminate department heads and officers.

Commissioner Cook stated wait a minute.

Chairman Dykstra stated she asked how.

Commissioner Cook stated certainly that's how we could do it, but I think that would be...this is a pure question. I think intent when we put them in was to say that standards of conduct should apply to them. I think the objection was the financial disclosure aspects. Those are two separate questions. Whether conduct, full financial disclosure, I think there was testimony...correct me Carol if I'm wrong, that they already have to do something. Sign something or do something.

Deputy Clerk Johnson stated no, their suggestion was that the question about disclosures, they were saying they could sign a sworn statement, that that would satisfy it, and they I think put some language in their letter to that effect.

Commissioner Cook stated so the question becomes should we amend as opposed to delete this provision to allow for a separate kind of financial statement, not disclosure but statement. In other words, to the sworn statement for them.

Deputy Clerk Johnson stated the sworn statement that they were submitting would have applied to the entire section, not just the financial. I mean, it would have covered everything, probably stronger than what's in the Charter.

Commissioner Hirschmann stated I would say exempt them from the financial. We don't want to know their...

Chairman Dykstra asked what is Section 9.03. Is that just financial disclosure?

Deputy Clerk Johnson responded no. It's everything.

Commissioner Soucy stated standards of conduct.

Commissioner Cook stated but standards of conduct are different from financial disclosure, and that's my point. We want their conduct to be good, but I think they have a legitimate question about what their financial disclosure should be.

Chairman Dykstra asked if there's a place for them to disclose their finances then why can't we just remove them out of the financial disclosure portion.

Deputy Clerk Johnson stated we can put a statement in that that provision will not apply to department heads.

Chairman Dykstra stated so what we're doing is removing them from the financial disclosure.

Commissioner Cook so moved.

Commissioner Shaw duly seconded the motion.

Chairman Dykstra called for a vote. The motion carried.

Chairman Dykstra stated okay, they'll be removed from that because they already have a place where it applies. Add the word full to financial disclosure. Whatever. Financial disclosure of City officials should be quarterly. Okay, that's done.

Commissioner Shaw asked who's the City officials.

Deputy Clerk Johnson responded everyone.

Commissioner Hirschmann stated it's annually, right.

Commissioner Cook stated it shouldn't be quarterly. I mean, that would be filling out forms every minute.

Chairman Dykstra stated that was just someone's recommendation. We already have it in there yearly. That's enough. Eliminate provision that all actions be referred to the committee or lay over for five days. I know the departments had a problem with that. O'Neil did come up and say how last minute things, like he mentioned the flags. They had to move on it quickly. Are we tying their hands? I don't know.

Commissioner Cook stated I move that we delete it.

Commissioner Soucy duly seconded the motion.

Commissioner Hirschmann stated move to amend so that if there's a unanimous vote to get the American flags, the override...

Commissioner Shaw stated no.

Chairman Dykstra stated just get rid of it.

Commissioner Hirschmann stated he made a good point.

Commissioner Shaw stated no, he didn't make a good point. 20 flags...

Commissioner Soucy stated the issue of the flags is perhaps one example, but I do recall having served as an Alderman that there were issues that came up during the construction of the Airport that came up at the last minute, and many times we were called upon to vote on things that were not part of the agenda and that couldn't wait because in effect they would cost the City money if we weren't able to act in an expeditious manner. I think the flags might be one example, but I think one of the more costly items that the City would be...

Commissioner Shaw stated it is not true. It's not fair to the citizens.

Commissioner Hirschmann stated if you said on a unanimous vote.

Commissioner Shaw stated no, that's what they do.

Chairman Dykstra stated okay, there was a motion, Cook by Soucy, to eliminate layover for five days, is that correct. We are discussing it now. Commissioner Shaw, are you discussing this?

Commissioner Shaw stated I think it is wrong that the citizens are allowed to see the agenda for the Aldermanic meetings, and it must be published a certain number of days prior to the meeting, and then the citizens find out that on the night of the meeting that an Alderman or a Mayor by unanimous consent can add to the agenda items that do not give the citizens a moment or the press or the public or anyone else prior knowledge that this action is going to take place tonight. And then use it under the guise which is fair enough, the American flag, the 9-1-1, whatever. You see, I really believe that the citizens should require that they be given warning as to what is coming before the Board.

Chairman Dykstra stated Bob, can't you agree being a former Mayor that there are instances when you can save the taxpayers money because something has to be done at a certain time because there's an overrunning cost or anything. If you don't act on it, it's going to cost you such and such more. I mean, that is your responsibility.

Commissioner Duffy stated I call the question. I think we've heard all we need to hear.

Chairman Dykstra stated okay, we'll take a roll call vote.

Commissioner Wihby stated read the motion please.

Commissioner Dykstra stated to remove the five days.

Commissioner Shaw stated it's a breaker for me. He appreciates the fact that if you have a strong opinion or was it Lopez that said if you have a strong opinion, it is better to vote against the Charter than to vote for one you don't want.

Chairman Dykstra stated okay, here we go.

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

Chairman Dykstra stated here we go. We're leaving some stuff in.

Commissioner Cook stated well, it's good to know we have a dictator around here.

Commissioner Shaw stated I move we adjourn.

Commissioner Duffy stated I second it.

Chairman Dykstra stated we're not meeting till the 21st, so we'll try to get as much done as we can. Modify financial disclosure. We already took care of that. Removal of department head or City officer requires super majority, not merely six Aldermen. Anybody have any comments on that? They want you to go back to a super majority for removal.

Commissioner Hirschmann stated no, we don't want that.

Chairman Dykstra stated you don't want it. Anybody else? No. Public comments should be more interactive. Well, I'll vote for that.

Commissioner Cook stated it would be more interesting, but we can't legislate it.

Chairman Dykstra stated eliminate or consolidate City departments. We'll forget that, huh?

Deputy Clerk Johnson stated there are provisions in the Charter for that.

Chairman Dykstra stated they want to do it, they can do it any time they want.

Commissioner Cook stated I think the suggestion by the person testifying was that we as a Commission should have redesigned City government.

Chairman Dykstra stated no, the Board of Mayor and Aldermen have that right. I don't want to take it away. Okay, does the Board of Mayor and Aldermen have the authority to call a special election?

Commissioner Cook stated I didn't understand that question.

Commissioner Hirschmann stated I guess they do.

Chairman Dykstra stated well yes, we did if there's a vacancy. Okay, that's done. Does Mayor have veto power? We know he does...Carol is going to address this part of it, Commissioners.

Deputy Clerk Johnson stated there was a question raised about does the Board have the authority to call a special election. The Statutes provide provisions for calling special elections for certain things, and you have the vacancy provisions already in there, but one of the things when we went through it internally in the Clerk's office that we realized that is not consistent is the section that talks about the Clerk's office being in charge of doing the elections so to speak refers to the primary and the general and is absent any reference to the Clerk's office running special elections.

Commissioner Cook asked is that something that would be helpful to have.

Deputy Clerk Johnson stated I'm thinking that it might be more clear to put it in there.

Commissioner Cook stated why don't you come back next time and bring us a suggestion on how to deal with it.

Deputy Clerk Johnson stated I think it's just adding the word special into that election section.

Commissioner Soucy stated I would move that.

Commissioner Shaw duly seconded the motion.

Chairman Dykstra asked what's the motion.

Commissioner Cook stated to add special to the elections that can be called.

Commissioner Pepino stated if we're talking about special elections, how come we elect special election for an Alderman, not for a Mayor.

Commissioner Cook stated I believe that's the State law on that issue. The State Statute says that you appoint a Mayor.

Deputy Clerk Johnson stated State law governs that.

Chairman Dykstra called for a vote. The motion carried.

Chairman Dykstra stated that's taken care of, to put special in there. Okay, positive comments.

Commissioner Duffy stated Madame Chair, before we leave this first section, I just want to get a clarification. Going back to the At-Large issue, we're going to have that researched as I understand by the City Clerk and the Solicitor's office, right?

Chairman Dykstra stated for the designation of party.

Commissioner Duffy stated okay.

Commissioner Cook stated no, for when they take office.

Deputy Clerk Johnson stated as to when they take office with relation to the September issue, we were going to go back to the Secretary of State and get a clarification of that.

Chairman Dykstra stated I thought you meant the designation. We're looking at that too. Okay, we're going to start on this. These were the positive comments. The internal auditor. Aldermen on the Airport Authority and Water Commission. April is wonderful for schools. Elimination of At-Large positions is good because they're too expensive for the person of average means. Eliminating At-Large positions is a matter of expediency, saves money. Change of Welfare Commissioner to appointed position. Designating party affiliation on ballot gives voters an idea of what a candidate represents. Public comment at committee level has worked with School Board. Getting rid of benefits and health insurance for elected officials. Keeping non-partisan elections. Retaining no terms for department heads, and that was it, so we've basically gone through things, and we do have Carol coming back to address a few other things. We have already chosen our attorney to review. On the 21st, we should basically put together our report so that our attorney can review it, correct? And then it goes to what, to the Aldermen?

Deputy Clerk Johnson stated at point you will send your final report.

Chairman Dykstra asked it doesn't go back to Gardner.

Deputy Clerk Johnson stated well depending. If you make substantial changes, then it will go back. They'll have to look at those changes.

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

Respectfully submitted,

Deputy City Clerk

Approved for Commission: _____
Donna M. Soucy, Secretary