

1

2

3

4

5 Transcript of the Meeting of the
6 CHARTER REVISION COMMISSION
7 FORUM ON ELECTIONS

8 held on Tuesday, July 22, 2003

9 Brooklyn Public Library, Grand Army Plaza

10 Borough of Brooklyn

11

12

13

14

15

16

17

18

19

20

21

22

23 AR-TI REPORTING COMPANY, INC.
24 305 Madison Avenue 142 Willis Avenue
25 Suite 405 P.O. BOX 347
 New York, N.Y. 10038 Mineola, N.Y. 11501
 (212)349-9692 (516)741-5235

1 Meeting convened at 4:20 p.m.

2 P R E S E N T

3 FRANK MACCHIAROLA, Chairman

4 COMMISSIONERS:

5 PATRICIA GATLING

6 JERRY GARCIA

7 KATHERYN PATTERSON

8 STEVEN NEWMAN

9 FATHER JOSEPH O'HARE

10 WILLIAM LYNCH

11

Also Present:

12

DR. ALAN GARTNER, Director

13

ANTHONY CROWELL, General Counsel

14

15

16

17

18

19

20

21

22

23

24

25

1 COMM. GATLING: Good afternoon everyone,
2 we're going to get started, now, now that everyone swam
3 in. My name is Pat Gatling I sit on the Commission I'm
4 chair of the New York City Human Rights Commission. I'd
5 like to welcome you to this forum on conducting of
6 election and the role of the Board of Elections and
7 Voter Assistance Commission. We'll have a forum now
8 from 4 to 6, then at 6:00 we will hold a hearing and
9 everyone can feel free to testify at that time as to any
10 issue concerning the Commission.

11 I'd like to introduce my fellow
12 Commissioners. To my left is the Chair,
13 Dr. Macchiarola, and to his immediate left is Alan
14 Gartner, the executive director and Anthony Crowell who
15 is counsel to his left. To my right, we have Father
16 O'Hare and Bill Lynch.

17 With that we'll begin and we'll hear
18 testimony from Mr. Ravitz who is the Executive Director
19 of the Board of Elections and he'll be followed by
20 Professor Krauss of the Voter Assistance Commission.
21 And we'll also be joined by Frank Berrios, who is
22 research director of the Commission.

23 MR. RAVITZ: Thank you very much, members
24 of the Committee. My name is John Ravitz. I'm the
25 Executive Director of the New York City Board of

1 Elections. I will introduce my team with me here,
2 George Gonzalez is Deputy Executive Director. Lucille
3 Grimaldi is Director of our electronic voting systems
4 Department, Pamela Perkins is the Board's administrative
5 manager and John O'Grady is our chief voting machines
6 technician, which is responsible for all the machines in
7 all five boroughs.

8 I appreciate the opportunity, we appreciate
9 the opportunity to address you today. We were notified
10 about this hearing late last week and as many of you
11 know we are in the process now of petition season, and
12 we have been open till midnight for the last two weeks
13 getting petitions and then getting objections and
14 specifics to those objections when people feel they
15 should follow them and next week we'll be holding
16 hearings for all five boroughs regarding that.

17 I started in this position January 31st of
18 this year and one of the things that I saw firsthand as
19 someone who had come from an elected official's position
20 is I knew about one tenth of what it really meant to put
21 on an election. The first day I got here I asked
22 Mr. O'Grady to open up the back of the machine so I
23 could see what it looked like, because for fourteen
24 years all I cared about was the front of the machine
25 because my name was on it. Ones you open up the Shoup

1 3.2 machine you see the intricacies of what it means to
2 put on an election and over the last six months from
3 having to go in front, having this agency go through the
4 redistricting process for the City Council and all the
5 intricacies that takes has made me appreciate in greater
6 detail what it takes to put on an election and as we
7 move forward, to the September primary and the November
8 election.

9 Someone asked me the other day, could the
10 Board of Elections perform a non-partisan election if it
11 was in 2005 and my answer was the Board of Elections can
12 do anything, and I preface that by, again, reminding all
13 of you what this Board had to do in 2001. In 2001, as
14 you know, on the day of the attack on September 11th it
15 was primary day. That primary was canceled. A new
16 primary was called for. That primary was put on with no
17 problems, a runoff was called on ten days after that.
18 There were no problems with that, and then a general
19 election. So I am very proud of the reputation and the
20 hard work of the men and women the New York City Board
21 of Elections has performed in probably the toughest
22 situations that any Board of Elections in this country
23 will ever have to do.

24 We also are in the process, though, of many
25 new events that will be occurring over the next few

1 years. The Help America Vote Act is going to be a huge
2 sea change not just for the employees of the Board of
3 Elections but also for the voters of the New York City.
4 For those of you who are I'm sure aware the Help America
5 Vote Act was signed in law by president Bush last year.
6 The President and the bill basically gives New York
7 State a great opportunity to move into electronic
8 voting, and that is what the plan is, but the Board here
9 at the Board of Elections and I serve on the HAVA
10 statewide task force have begun to deal with how we're
11 going to implement new electronic voting as well as
12 issues that HAVA is going to bring forward and the key
13 issue to that is for those people who are registering by
14 mail for the first time by mail are going to have to
15 show some sort of identification, either prior to voting
16 or when they come to the polls and we are in the process
17 of educating the public about that.

18 I am going to hand out just again for your
19 edification and you might have already received it, the
20 testimony that we submitted last week to the HAVA task
21 force at your leisure and for the record I hope you will
22 see some of the challenges this Board faces over the
23 next few years as we move forward.

24 As you know, we have 6,000 election
25 districts and 7,000 voting machines, and as I've stated

1 over and over again, unlike the State of Georgia that
2 went to electronic voting all at once I do not think
3 that is the responsible thing for us to do. It is our
4 hope that we can do electronic voting in a three stage
5 process, starting with one borough in 2004, hopefully
6 moving to two boroughs for 2005 and this would be for
7 the primary and the general election, and then under the
8 law we have to be fully compliant by 2006. We would
9 probably choose one borough that needs pre-Justice
10 clearance and also another borough as well, as we try to
11 work out the kinks in that, but this is a lot that will
12 have to be on our plate and we need to move very quickly
13 and aggressively in that fashion. I have alerted the
14 HAVA task force that in order for New York City which
15 has the largest amount of voters in the state to be able
16 to do this three year implementation of new electronic
17 voting, the new machine must be selected by the end of
18 this year and the procurement process also must be
19 completed by the end of this year so we can begin the
20 work that we have to do.

21 So you can see that there is a lot on our
22 plate already. If we were to have to put on a
23 non-partisan election in 2005, again, I think what I'd
24 like to share with you, and I have my staff also give
25 their views as well, are some of the technical issues

1 that we would have to face in terms of the process.
2 Everything from the look of the voting machine, because
3 in 2005 we still would be using the Shoup machine at
4 least in four boroughs as well as some of the issues
5 dealing with cost, staffing, education of the voters and
6 also some of the legal issues that would have to be
7 addressed as well.

8 I also have Steve Richmond, who is our
9 general counsel, who should probably pull up a chair
10 closer to us here and we have two Commissioners, I'm
11 sorry, three Commissioners from our Board here, the
12 president of our Board, Commissioner Schacher from
13 Brooklyn and Commissioners Cilme and Herman from Staten
14 Island, who are here today as well.

15 We have spent the last few days going
16 through what a non-partisan election would look on a
17 Shoup machine ballot if we would do it all together,
18 meaning to have it on the same day and what I'd like to
19 hand out to you now, because I guess a picture is worth
20 more than I can say, is a layout of what the Shoup
21 machine would look like if we included the non-partisan
22 elections as well. I think some of you saw a visual
23 that did not include that. We've now included that in
24 there so you could see what it looks like, and I'm going
25 to have Mr. O'Grady take you through because it would be

1 his responsibility to make sure that every machine would
2 have this look if we were to do that in 2005.

3 MR. O'GRADY: Good afternoon. The Shoup 240
4 machine has eight columns and 40 rows and is capable of
5 handling up to 40 parties on the machine configuration.
6 As you see, it's set up for the year 2005 with the
7 maximum capabilities of public office and private --
8 public and party offices. The first two columns would
9 be public officers; Mayor, District Attorney, Civil
10 Court county wide and Civil Court by district, going
11 down the machine bringing the machine down to line 18.
12 The data was gathered from the last two years on the
13 number of candidates who received the maximum candidates
14 in those contests.

15 The second column, column 2 would be the
16 party positions, okay, State Committee male, female,
17 co-leader, county committee and county committee in
18 groups.

19 The third columns, three, four, five, six
20 and seven would be for the Democratic Party. Again, row
21 down Mayor, Comptroller, Public Advocate Borough
22 President. Column 4, City Council, District Attorney,
23 Civil Court, Civil Court by District and your party
24 positions would be in columns 5, 6 and 7 leaving 8
25 columns for the Independence Party.

1 That means the other two parties on the
2 ballot would be on paper because the machine physically
3 could not handle the other parties and it would be moved
4 to paper.

5 MR. RAVITZ: Just for clarification for
6 the record that would mean the Conservative Party and
7 the Working Families Party would not be on the machine
8 for the primary.

9 CHAIRMAN MACCHIAROLA: This is not a
10 non-partisan --

11 MR. O'GRADY: This is non-partisan, correct.

12 CHAIRMAN MACCHIAROLA: This is not
13 non-partisan.

14 MR. O'GRADY: This is not non-partisan.

15 MR. CROWELL: How is this non-partisan?

16 CHAIRMAN MACCHIAROLA: It is not
17 non-partisan.

18 MR. O'GRADY: Not non-partisan, correct.

19 MR. CROWELL: We got confused.

20 MR. O'GRADY: Basically, that's how we would
21 set up the machine in 2005 for a non-partisan.
22 Basically, the machine could only handle four way
23 primary. Again, there's five parties for the partisan
24 primary in 2005.

25 CHAIRMAN MACCHIAROLA: So if I hear your

1 testimony, while this layout poses a considerable setup,
 2 names and offices on the ballot, if I heard what
 3 Mr. Ravitz said before, it poses problems which would
 4 require you to do a good deal of configuration, changes,
 5 but not insurmountable in the sense that 2005 could be
 6 done, even though, obviously, the preference would be to
 7 do 2009.

8 Am I hearing that right, John?

9 MR. RAVITZ: Yes.

10 CHAIRMAN MACCHIAROLA: Thank you.

11 MR. O'GRADY: Basically, that's it on the
 12 configuration of the machine.

13 CHAIRMAN MACCHIAROLA: Pardon me?

14 MR. O'GRADY: Any other questions about the
 15 configuration, what it would look like?

16 CHAIRMAN MACCHIAROLA: No. It's formidable.

17 MR. RAVITZ: Also, members of the
 18 Committee, you should know as HAVA is moving us forward
 19 into electronic voting. The Board has been very
 20 proactive over the years and that's why we have an
 21 electronics voting systems department and Ms. Grimaldi
 22 is the head of that department. She also deals with the
 23 problems we also have to face in terms of scanning
 24 ballots and I want her to address some of the issues we
 25 face, not just on paper that might occur in a

1 non-partisan if we go in the year 2005, but also if we,
2 under the Mayor's recent statement of wanting to go to
3 2009, what it would look like for a machine.

4 Because, again, we don't know, hopefully we
5 will know in the next few months what machines we're
6 going to be using in terms of electronic voting. From
7 all accounts I have picked up, we are probably going to
8 see a machine with a full face ballot, though, if we are
9 in electronic voting and that is something I think
10 Ms. Grimaldi also wants to address.

11 MS. GRIMALDI: I think there's two things
12 the Commission might want to keep in mind when you think
13 about this. One is whatever the ballot layout looks
14 like on the machine, chances are there's going to be
15 something on paper. No matter how we do it. It's going
16 to end up with stuff on paper. Something is going to be
17 on paper.

18 CHAIRMAN MACCHIAROLA: Would that be true in
19 a partisan as well as a non-partisan?

20 MS. GRIMALDI: If we do a non-partisan and
21 a partisan together on the same day?

22 CHAIRMAN MACCHIAROLA: Yes, right.

23 MS. GRIMALDI: We don't believe it's
24 possible to get whole ballot on the machine. Something
25 will end up on paper.

1 MR. CROWELL: How often is it that you have
2 to go to use paper in a purely partisan system?

3 MS. GRIMALDI: We have, but --

4 MR. O'GRADY: Last year we had one party on
5 paper and this year looks like it's going to be totally
6 on the machine.

7 MR. CROWELL: So last year there actually
8 was a party primary that was done on paper as well.

9 MR. RICHMAN: Commissioner, be aware last
10 year we had eight parties in the state. The machine can
11 handle four, so the likelihood was greater we could
12 handle paper ballots. However, given the limitations of
13 the machine, it's clear that at least, if all five
14 parties have a primary, at least one party is on the
15 machine and in the configuration that Mr. O'Grady gave
16 you have which is a typical Manhattan Assembly District
17 probably you have at least two parties going on paper in
18 each party primary.

19 DR. GARTNER: To be clear, this example
20 Mr. O'Grady gave us was for a partisan election if it
21 were held now would require that two parties would vote
22 on paper, is that right?

23 MR. O'GRADY: Correct.

24 MS. GRIMALDI: The point I was getting to
25 was not that we never have to go to paper when we have

1 partisan elections, but when you add the non-partisan
2 element to it, you have more on paper. And I'm only
3 mentioning that, because there's a limit to how fast we
4 can count paper ballots, as you can imagine. We scan
5 them, and the best rate we have ever achieved to date is
6 20,000 a day, citywide, in all five of our boroughs
7 working, the best we've done is counted through scanning
8 20,000 a day.

9 So the amount of the ballot that ends up on
10 paper determines what the volume of paper is, which in
11 turn determines how fast we can conclude the election,
12 we can conclude the count. So I think that's just
13 something that people should keep in mind. That's why
14 we bring up the point about the paper. So you need to
15 figure out, well, how fast are you going to count those
16 paper ballots, what resources do you need to get it done
17 within the time frame that's absolutely necessary.

18 MR. CROWELL: I take it the Board wouldn't
19 choose, of course, to have the race for Mayor,
20 Comptroller, Public Advocate, Council member on paper,
21 though.

22 MS. GRIMALDI: I think what we're looking
23 for is guidance on how the Commission thinks the ballot
24 is going to look, and also we also have Election Law
25 that we have to follow.

1 MR. RICHMAN: If it's conducted on the party
2 primary date, the Election Law mandates, the currently
3 five recognized parties in the state get preference on
4 the ballot. So if you're conducting a non-partisan
5 election on the same date, we have to give at least the
6 three parties that we can on the machine and the statute
7 does provide an exception that if the parties cannot be
8 accommodated that's the only time we can move them to
9 paper. We have ended up in some boroughs with a
10 different configuration. In Staten Island where the
11 Democratic Party primary is not as heavily contested we
12 could put four parties on that machine and we only have
13 one party on, who gets lucky. In some years when in
14 this case in Staten Island this year there will be no
15 party primaries in any primary, it just evolved that
16 way, as opposed to the other boroughs where you have
17 ballots that look like the samples you have here. Again
18 we're looking at citywide issues and the statutory
19 obligation to put the parties on first.

20 MS. GRIMALDI: The other item that John
21 mentioned is about the voting machines. I've heard
22 several people say that when we have electronic voting
23 machines, these problems go away because then we can do
24 whatever we want, but we need to be a little more
25 cautious on that. As long as there's a requirement for

1 a full face ballot, you will always be restricted as to
2 size. You have to get the whole thing on one surface,
3 the machine can only be so big, so you are restricted as
4 to what can fit on a machine.

5 Now, if we go to a touch screen where you're
6 paging through, obviously that goes away, then it's
7 limitless, you can do whatever you want and you just go
8 page by page by page.

9 There is a machine that is under development
10 that will be full face and is very large. Whether or
11 not that will accommodate everything remains to be seen,
12 but we shouldn't at that time approach that once you're
13 electronic everything is doable. That remains to be
14 seen.

15 CHAIRMAN MACCHIAROLA: So what I hear you
16 saying is, 2005, 2009 can both be accommodated by the
17 Board of Elections. They pose problems and they are
18 problems relating to the regulations governing the
19 ballot, as well as problems regarding the actual
20 configuration of the machines and numbers of lines they
21 can hold.

22 What I'm taking from this is, that we should
23 proceed to do our business, we should work with you to
24 insure that to the extent we can, we alert people in the
25 State to understand how important it is to get ballot

1 machines for us that can serve the needs of the ballot
2 proposals, whatever they are, whether it be partisan or
3 non-partisan, because these issues come up the other
4 way, and so that we really just have to, once we've
5 enacted our reforms, assuming that they are enacted,
6 just stay in touch with you and make sure that we don't
7 go too far astray in how we configure our ballot and our
8 proposals.

9 COMM. LYNCH: I'm just concerned about how
10 you determine in a non-partisan situation what stays on
11 the ballot and what goes on paper. That was not made
12 clear to me.

13 MR. RAVITZ: We have this book here which
14 I brought with me, this is the State of New York's 2003
15 election laws. I'll refer to our general counsel, but
16 it is very vague in certain sections, to answer your
17 question, Mr. Lynch, on that, so we really need
18 interpretation or really even amending some of the
19 sections that could really cause us difficulty in making
20 that determination.

21 MR. RICHMAN: Mr. Lynch, if we're holding it
22 on the party primary day, non-partisan elections,
23 including for citywide would have to be on paper under
24 the current statute. So we're talking about three
25 million and change pieces of paper to be counted because

1 the four parties have a preference on the machine, on
2 the current machine which is limited to four and as
3 Ms. Grimaldi said, we don't know what the machine is
4 going to limit us to, but the parties have to get
5 preference under the current statute, which is the only
6 framework we have right now to work with.

7 If you conduct the non-partisan election on
8 another day, then you don't have those problems, you
9 don't have any party primary that day and even using the
10 current machines, you can mechanically set up the
11 machine, you get the other costs involved of running a
12 full election, which is, I don't know what number we're
13 estimating, but I think last time we did it it was
14 approximately \$15 million for the City if you're going
15 to run an election citywide. I think one thing we have
16 to be mindful of is the Election Law is in place now and
17 for us at least it governs where we could put things
18 together.

19 Under the current Charter, when you have a
20 special election for Council conducted with the general
21 election as we did last year in the 38th Council
22 District that election appeared at the very bottom under
23 the general election ballot. We drew a line at that
24 point underneath the eight legal parties plus whatever
25 minor parties qualified for the ballot, then you ran a

1 special election using the independent nominating rules
2 with people picking different names and you had four of
3 the columns with the Council candidates below that. But
4 it was piggybacked on top of the standardized ballot
5 because it was run in conjunction with a general
6 election. You had that same thing if you had a
7 non-partisan election on a general election day as well,
8 in that the five parties are then entitled each to a
9 column of their own, then you could either move it maybe
10 to the far right as we have it on the machine since we
11 do have some extra columns, it will be in the same
12 position where you have your public questions now your
13 referendums, et cetera in those columns in the far
14 right.

15 The Republican Party at least for the next
16 three years has row A no matter what happens under the
17 Constitution of the state Election Law, Democrats
18 have row B, Independence Party C, Conservative has row D
19 and Working Families have row E on the general election
20 ballot period. That's something mandated by the
21 election constitution which gives the two major parties
22 the first two columns so we're talking about mandatory
23 statute change if you want to do that.

24 If you want to do a separate independent
25 non-traditional election date in terms of that first

1 round then we have less problems, then the question is
2 how do you conform the Election Law which has no
3 provision for independent election. We have an
4 independent nominating process in the statute which you
5 use for City Council but that doesn't provide for
6 runoffs or who moves on. That's a simple general
7 election one shot deal, the person who gets the most
8 votes that day wins, so there definitely is statutory
9 changes involved to deal with any change and maybe even
10 constitutional changes.

11 MR. RAVITZ: Then on the practical side
12 as Steve has mentioned, and Dr. Macchiarola said, we
13 would need to have a timing issue as well. If we were
14 to do a non-partisan on a different date, there is
15 everything from, again, legal issues about that we
16 aren't allowed to strip and reset the machines until 30
17 days following a primary election, to even the rushing
18 of an October date is always, we make it, but to get to
19 the November election, is something that is tough, and
20 then you never know if there's going to be a court
21 challenge for any of the races that are on the ballot
22 and you could have a situation where the machines are
23 impounded and that would stop the clock completely.

24 CHAIRMAN MACCHIAROLA: If we had a June
25 primary, although it is the legal time when primaries

1 should be held or have been held in the past, that has
2 not been adhered to, then a June primary with a November
3 election would not pose any problem from the standpoint
4 of a non-partisan election, is that what I'm hearing?

5 MR. RICHMAN: When would you conduct a
6 non-partisan election?

7 CHAIRMAN MACCHIAROLA: The non-partisan
8 primary would be in June.

9 MR. RAVITZ: And September primary would
10 be the partisan primary?

11 CHAIRMAN MACCHIAROLA: There is no partisan
12 primary. The State, the way the State Legislature does
13 it, they have the primary election the day before the
14 election or as close to the election as they could do.
15 We're not limited to that.

16 MR. RICHMAN: The mechanical problems. If
17 you do a non-partisan election in June, you have 30 days
18 which to canvass it, and absent a court challenge strip
19 the machines, get those same machines ready for the
20 September party primary which would be at least public
21 offices in a municipal election. You have two District
22 Attorney's, Civil Court judges plus the party petitions.
23 That's what the key is.

24 Trying to cram an additional election
25 between the September party primary and a November

1 general election creates real problems. Even for the
2 current system for the runoff system, we basically set
3 the machine for the potential for a runoff, mechanically
4 and if there is a runoff, the count from the September
5 primary are not removed from the machine. Those columns
6 are covered and you move to an extra column because we
7 cannot complete the judicial proceedings in the 30-day
8 time period to do a runoff two weeks after.

9 CHAIRMAN MACCHIAROLA: Do you think this
10 current system is worth preserving on the basis you have
11 described it? That's a rhetorical question, you don't
12 have to answer it.

13 But if that's where we're at that we can't
14 hold elections based on having a primary in June, and an
15 election in November, because that somehow conflicts
16 with a limitation on the amount of time you have to put
17 the thing together, that's an incredible admission of an
18 inability to conduct an election.

19 MR. RICHMAN: The Commissioners have urged
20 for years we go back to a June primary election so we do
21 not have the problem that the Court of Appeals puts
22 somebody back on the primary ballot the night before the
23 primary. The Commissioners together with the State
24 Association of Commissioners have made this unanimous
25 recommendation over the years. It has not been enacted.

1 We're required as an agency to implement the law as
2 given to us and we have to meet the requirements.

3 CHAIRMAN MACCHIAROLA: I'm talking about the
4 system that creates those kinds of difficulties.

5 MR. RAVITZ: Even with those
6 difficulties, I would refer you back to last year where
7 the State Senate race in the Bronx literally the 5:00
8 before election day, Monday night before election day we
9 were told to put a candidate back on the ballot when the
10 machines were already at the site, and that election
11 went forward and again was conducted in a way that no
12 one could ever find fault in. Our hands are tied to a
13 certain extent. Our hands are tied by this book, our
14 hands are tied by a Court situation that could come up
15 that we have no control over, but these are again, the
16 Board is not taking any position on non-partisan
17 elections except to present to the Charter Commission,
18 again, the technical issues that we would be faced if we
19 were mandated to put on such an election for '05 and
20 again, ' 09, there's huge question marks but again would
21 give us more time to travel up to Albany to make those
22 changes to the laws as well as to get more comfortable
23 with the new electronic voting and educate the voters.

24 COMM. PATTERSON: Could I ask a logistical
25 question? Let's assume for the moment that we have

1 non-partisan election primaries in June, and that
2 partisan primaries for those positions that are required
3 to be partisan primaries, District Attorney and Civil
4 Court judges are held as they are now. When we get to
5 November, which I gather is a statutorily required
6 general election day and therefore would be for both
7 partisan and non-partisan candidates, can you just, does
8 the ballot really have to look like column A, column B
9 and then way down below candidates for, let's say,
10 Mayor, Comptroller, City Council and so on, or is there
11 another way to interpret the statute so that the parties
12 get primacy for their, the party candidates.

13 MR. O'GRADY: The mechanical 3.2 voting
14 machines, the general format is strapped in row format
15 so mechanically the machine has to be strapped across,
16 you run your election in that format so there's no way
17 of locking out the columns in the format in a general
18 election. So you have to put the contests stacked on
19 top of each other. There's no way to split them off.

20 MR. RAVITZ: Again under the current law
21 we would be mandated to put the party positions first.

22 COMM. PATTERSON: So you would have in this
23 example, District Attorney and Civil Court judges would
24 be if I'm looking at the ballot the first thing I saw at
25 the top?

1 MR. RICHMAN: You would see technically the
2 District Attorney then Court judges and then Civil Court
3 and then if you would want to go then, assuming it's
4 under the independent nominating results, those
5 nominations would then follow, as John said you would
6 have to start Mayor in a row, then go across, you cannot
7 put them vertically. The Mayor would be across, how
8 many candidates you have in your proposal would be how
9 many columns you would have, followed by then
10 Comptroller, Public Advocate --

11 CHAIRMAN MACCHIAROLA: Two.

12 MR. CROWELL: It would be two, it wouldn't
13 be thirty.

14 MR. RICHMAN: Again, the question is where
15 do you put them. Normally we would put them in the
16 first two columns. It would be the Democratic and
17 Republican columns, but then you may have some
18 flexibility in the general to move them to the right.

19 COMM. PATTERSON: That's what I was asking.
20 How restricted are you by statute in giving primacy to
21 party candidates?

22 MR. RICHMAN: There's no discretion.

23 COMM. PATTERSON: Literally on the layout
24 of the ballot or is it just a matter of interpretation
25 that primacy reads because we all read from top to

1 bottom, left to right that it has to be in the upper
2 left hand corner? Can you bold face it, do something?
3 It just seems very peculiar to me, I think probably to
4 all of us, to have positions that are not the things
5 that get the high political attention as the ones that
6 you see first, when you look at the ballot, and yet I
7 think we always sense a certain queasiness amongst us
8 about getting a Constitutional amendment to change that.

9 MR. RICHMAN: I think the concern we have is
10 at least our reading of the law says that the candidates
11 winning designation by the party process, by the
12 primary, or being put on the ballot by party committee
13 in the case of statewide offices, those get the
14 statutory preference. I think the question then gets
15 how do you lay out the ballot below that, how do you
16 distinguish it.

17 Very honestly, last year for the special
18 election, John, we used a black line, I believe, and
19 then the new party headings under it, to at least try to
20 educate the voter that the person appearing in the first
21 column was not a Republican candidate, the person in row
22 B was not a Democratic candidate, C was not an
23 Independence, and D last year was the Conservative.

24 MR. O'GRADY: If the parties change again,
25 we run another header, it wraps around. It's called a

1 wrap around in case it wraps around, we put another
2 line.

3 CHAIRMAN MACCHIAROLA: Why does the Mayor's
4 name appear on the top?

5 MR. RICHMAN: In the current format? If
6 there was a party nomination, the Commissioners then set
7 it on the basis of geographic size of the relative
8 districts.

9 CHAIRMAN MACCHIAROLA: So all you really
10 need is an amendment that would reverse that system that
11 you presently have. And if there were two candidates
12 running for Mayor in the year 2009 when this would take
13 effect, and their position on the ballot was a matter of
14 judgment by the Legislature, you are a member of the
15 Legislature at one point in your life, is there any way
16 that you can imagine that the Legislature wouldn't
17 address this situation, John?

18 MR. RICHMAN: Imagine?

19 MR. RAVITZ: I'm still too close to being
20 a former member to even think about that. But as
21 budgets are decided in June and July and in all
22 seriousness, the Legislature needs to address the HAVA
23 issues now and as you can see they've not addressed it
24 as they've adjourned in the summer we would have to do a
25 full court press and ask for the help of the Mayor --

1 CHAIRMAN MACCHIAROLA: There would be no
2 funding issues involved in this. Unlike the issues
3 you're presenting, there's no issue of whether or not
4 the priorities for election ballot issues being
5 presented are properly presented. The real issue here
6 would be placement of people on the ballot and so all
7 you would really need is a change, if indeed we get to
8 the point where that is still an issue in 2009, a change
9 that would allow the most significant offices to be
10 enlisted, the most significant places on the ballot.

11 MR. CROWELL: I'd like to be clear about
12 some things. First off, from the staff's perspective
13 and actually Steve, you and I have had fairly extensive
14 conversation about this, it is not logistically
15 impossible now, given the law you've just stated for us
16 to hold a non-partisan election in 2005 or in 2009, that
17 in fact state laws would not absolutely need to be
18 changed to conduct this. I want to be clear.

19 MR. RICHMAN: As I said --

20 MR. CROWELL: I want you to be absolutely
21 clear because I think this is going to generate some
22 confusion which would be very unfair to everyone who has
23 been following this public debate.

24 MR. RICHMAN: The board could do it. The
25 question is how do you do it given the current statute.

1 MR. CROWELL: So it would be nice if we
2 could change the laws to make our lives easier,
3 unfortunately we can't always do it, but it is
4 technically possible to do it both in 2005 and 2009.

5 MR. RICHMAN: Again depending on the time
6 frame involved. Because again if we're counting paper
7 ballots for these offices, the question is 20,000, I
8 haven't done the arithmetic --

9 MR. CROWELL: We don't know if there
10 actually would be paper ballots. There's no guarantee
11 that we don't absolutely have to use paper ballots.

12 MR. RICHMAN: You could end up with the
13 possibility that the line is free.

14 MR. CROWELL: What you've given us is a
15 worst case scenario where there could be paper ballots
16 or not, it could be done in 2005 or 2009 regardless, but
17 we don't know the scenario yet and even under the staff
18 recommendations. The way we presented it, it is legally
19 possible and technically possible to conduct a
20 non-partisan election, either in citywide elections --

21 MR. RICHMAN: Yes.

22 MR. CROWELL: I wanted to be crystal clear.

23 MR. RAVITZ: In all candor, we at the
24 Board would probably be looking at a need for additional
25 funding. I say that because we have over 30,000 plus

1 election day poll workers who would have to be retrained
2 and the general public would also have to be retrained.
3 So again, I'm not throwing out numbers to intimidate or
4 to sway anyone's feelings about this, it would be, as I
5 said, it's going to be a major sea change when we move
6 to electronic voting for voters. It's going to be a
7 major sea change when we have to enforce the law to show
8 ID when people have registered, first time voters by
9 mail. A non-partisan election is certainly going to be
10 something new to the voters of the City of New York and
11 it's our responsibility at the Board of Elections to do
12 all we can to educate people.

13 MR. CROWELL: Assuming that over the period
14 of time between 2005 and 2009, if this were to take
15 effect in 2009, presumably you have worked out those
16 kinks about electronic voting and ID's, because there
17 will have been a number of elections in those years
18 between 2005 and 2009. So it wouldn't be like all of a
19 sudden you would be encountering that plus a
20 non-partisan election.

21 MR. RAVITZ: Correct. 2009 would
22 obviously give us the time to certainly --

23 MR. CROWELL: -- to work out whatever kinks
24 there may be.

25 MR. RAVITZ: And then plan for the future

1 and working with both the City Council and Mayor and the
2 State Legislature for that type of assistance.

3 MR. RICHMAN: Let me make clear. The only
4 concern I think I articulated to you is if you're doing
5 the non-partisan election on what's called the party
6 primary day, that's maybe the only time we would have a
7 real statutory problem. That's called the party primary
8 day and question becomes how can we legally conduct a
9 nonparty primary on a primary day. We haven't done it
10 for special elections or anything else. That's the one
11 issue -- the statute defines that day as primary day--

12 MR. CROWELL: I think we have that covered,
13 though.

14 MR. RICHMAN: That's the only thing that has
15 to be clearly resolved, which in my mind remains the
16 only possible impediment for legally conducting it on a
17 primary day.

18 CHAIRMAN MACCHIAROLA: Makes a strong case
19 for a June primary.

20 Are there any other Commissioners who have
21 any questions? If not, I'd like to express my
22 appreciation to you, John, and the Board. Do you have
23 anything you'd like to --

24 MR. RAVITZ: We have to wait and see what
25 our marching orders are and ask for the support of the

1 Commission if we do have to go to Albany and talk to my
2 former colleagues.

3 MR. CROWELL: What's the timetable, again
4 for electronic implementation?

5 MR. RAVITZ: If we're starting a phase in
6 process for the primary in 2004, it is our
7 recommendation to the State that they identify the
8 machine and that is, if it's going to be one machine for
9 the entire State, which still has yet to be determined,
10 but that machine be purchased and the procurement
11 process be completed by December 31 of this year.

12 CHAIRMAN MACCHIAROLA: John, thank you. We
13 also appreciate the presence of the three members of the
14 Board of Elections, very nice to have you. You've got
15 wonderfully cooperative people that we've met with
16 before and they've just been very helpful to us and
17 we're extremely grateful, John, welcome to that office.
18 We look forward working with you.

19 MR. RAVITZ: Thank you. Thank you all
20 very much.

21 COMM. GATLING: We've been joined by two
22 other members of the Commission to my right, Steve
23 Newman and to my immediate right, Katheryn Patterson.

24 We'll now hear from Professor Krauss from
25 the Voter Assistance Commission. Thank you.

1 PROF. KRAUSS: My name is Jeffrey Krauss.
2 I'm the chair of the New York City Voter Assistance
3 Commission. What I wanted to do is give you some
4 background on the Commission, tell you what we do, what
5 some of our problems are and what some of the
6 opportunities are in the future.

7 The Commission was created through a
8 revision of the New York City Charter in 1988 to
9 encourage and facilitate voter registration and
10 participation. The VAC is currently composed of 16
11 Commissioners; three appointed by the Mayor, six by the
12 Council and seven are ex officio, representing the
13 Deputy Mayor for Legal Affairs, New York City Board of
14 Elections, the Office of Management and Budget, Campaign
15 Finance Board and Public Advocate, the Corporation
16 Counsel and the Department of Education.

17 There is presently a part-time coordinator
18 and one full time staff person.

19 If we look at the work of VAC, it includes
20 monitoring compliance with Local Law 29, which requires
21 a number of city agencies who are not covered by the
22 National Voter Registration Act to provide voter
23 registration materials. We also hold a Charter mandated
24 public hearing each December to hear voters concerns.
25 In this way we're able to bring issues that the voters

1 have encountered during the election process to the
2 Board of Elections and in the last three years the Board
3 has in a subsequent VAC meeting provide a response in
4 which they address some of the concerns that have been
5 raised at the public hearing and also inform the
6 Commission of what if any actions they are taking to
7 address those concerns.

8 The Commission also publishes a number of
9 brochures that provide voters with information. The
10 Commission recently published new "Guide to your Elected
11 Officials" for each of the five boroughs. In addition,
12 over the years we have published materials in Spanish,
13 Russian, Greek and Korean designed to educate voters on
14 why they should vote, their rights as voters and the
15 absentee ballot process. We are presently completing
16 the first agency report since 1994.

17 A persistent problem for the Voter
18 Assistance Commission has been a lack of funding. This
19 dates back to the early 1990's and VAC's budget was cut
20 sharply at that time and over the years it has been
21 further reduced, making it difficult for the Voter
22 Assistance Commission to fulfill its Charter
23 responsibilities. The Bloomberg administration provided
24 a staff person on a part-time basis to serve as
25 coordinator. The Public Advocate and City Council were

1 also asked to provide us with staff, but they have not
2 done so.

3 If non-partisan elections are introduced in
4 New York City, it will require a massive public
5 education effort. While it has been noted that
6 elections to fill vacancies in the Citywide municipal
7 offices and City Council are already conducted on a
8 non-partisan basis, there have been no such citywide
9 elections since the Charter change. There have only been
10 a small number of Council elections. Therefore, most
11 voters in New York City are unfamiliar with non-partisan
12 elections and there will be a need to educate them.

13 This will entail printed materials, which should be
14 available electronically and also in a variety of
15 languages, videotapes and also public meetings.

16 The Voter Assistance Commission is the
17 appropriate City agency to oversee this educational
18 effort. However, before it can effectively do so, a
19 number of changes should be made. One, obviously, is
20 sufficient funding. The voter education effort would
21 require the hiring of a full time coordinator and
22 additional staff. I would envision the staff preparing
23 educational materials and conducting outreach efforts
24 throughout the city.

25 The seconded suggestion I have involves

1 restructuring the Commission. The present Commission is
2 too large and includes many individuals whose
3 independence might be called into question. I would
4 suggest eliminating the ex officio members of the
5 Commission and reduce VAC to a seven-member body whose
6 members would serve five year terms.

7 I would suggest the Charter Revision
8 Commission would reconstitute VAC in the following
9 fashion. Three members appointed by the Mayor, three
10 members appointed by the City Council Speaker and a
11 Chair appointed by the Mayor with the advice and consent
12 of the City Council. Such a reconstituted Commission
13 could oversee the educational effort required to
14 introduce non-partisan elections, fulfill the agency's
15 present mandate and perhaps do a better job of acting as
16 an advocate on behalf of the City's voters for the Board
17 of Elections.

18 Even if non-partisan elections are not put
19 forward by the Commission this year, I would urge it to
20 give serious consideration to the reconstitution of the
21 Voter Assistance Commission. Thank you and I'll answer
22 any questions.

23 CHAIRMAN MACCHIAROLA: At what point does
24 the voter assistance group get involved in this
25 education proposal? This would not occur until after

1 non-partisan elections were voted in, is that right?

2 PROF. KRAUSS: Yes. At least in terms of
3 the, I think we should --

4 CHAIRMAN MACCHIAROLA: In terms of voter
5 education. In other words, the role of public education
6 prior to this on the ballot, I would assume, would be in
7 the hands of the Campaign Finance Board, I would
8 imagine, Father O'Hare --

9 MR. CROWELL: For the Voter Guide.

10 PROF. KRAUSS: The Voter Guide, which is one
11 as respect of that, yes.

12 CHAIRMAN MACCHIAROLA: Until it's actually
13 adopted, you have no role.

14 PROF. KRAUSS: Well, right now the agency is
15 engaged in voter education efforts. It's just that
16 compared to what that effort would have to be if
17 non-partisan elections were introduced.

18 CHAIRMAN MACCHIAROLA: But you wouldn't be
19 involved before the ballot approval, right?

20 PROF. KRAUSS: Right now we do have,
21 relatively speaking --

22 CHAIRMAN MACCHIAROLA: In other words, if I
23 had someone contribute \$20 million for you to advertise
24 the appropriateness of the ballot proposal that's on the
25 ballot and explain to the voters what it would be, that

1 wouldn't certainly be your role?

2 PROF. KRAUSS: No.

3 CHAIRMAN MACCHIAROLA: So at what point
4 would education -- it seems to me that the education
5 you're talking about occurs after the event is already
6 enacted. That's like sort of educating somebody to read
7 after they've learned how to read.

8 PROF. KRAUSS: My view on that is there are
9 many voters in the City who really don't know what a
10 non-partisan election is and they would need to be
11 educated in that process, especially if these elections
12 are going to take place simultaneous with the partisan
13 elections.

14 CHAIRMAN MACCHIAROLA: So between the time
15 it's voted in and the 2005 and 2009 elections, you'd be
16 engaged in that.

17 PROF. KRAUSS: That's correct.

18 MR. CROWELL: I also would imagine that if a
19 voter called for information, you would direct them
20 where they could get it.

21 PROF. KRAUSS: That's done now.

22 MR. CROWELL: You would have on hand what
23 the ballot proposition is as you have in the past.

24 PROF. KRAUSS: That's on an ongoing basis,
25 people call the office, ask for information, e-mail ask

1 for information, I from time to time have gone out and
2 spoken to community groups about the ballot proposition
3 and about the voting process. Usually when hear not
4 from the Board of Elections but the Voter Assistance
5 Commission, their position is somewhat different. Then
6 they say, "Oh, never mind. We want those guys."

7 MR. CROWELL: So from time to time you give
8 information but it would not undertake a campaign for
9 itself.

10 CHAIRMAN MACCHIAROLA: Give us the level of
11 funding you're talking about that you have, is it truly
12 a viable entity or should we be looking to collapse this
13 into another city agency.

14 PROF. KRAUSS: That's a good question. I
15 think there's a role for the Commission, I think those
16 who back in 1988 thought that the Commission could
17 perform useful functions --

18 CHAIRMAN MACCHIAROLA: I think two of us
19 were on that Commission that actually put that forward
20 who are sitting here today.

21 PROF. KRAUSS: I'd like to think that the
22 work of the Commission would at some point go forward.
23 Our other problem, of course, now, has been the City's
24 fiscal crisis. When you're closing firehouses and make
25 other cuts, it's difficult to justify additional

1 expenditures for this agency. These things are cyclic
2 and I'm hoping at this point with the commitment that
3 I've seen at least from the present administration that
4 we can go forward with a larger staff and more resources
5 and do a better job.

6 COMM. O'HARE: In your judgment of the
7 history of the Voter Assistance Commission, when if ever
8 did its golden age exist?

9 PROF. KRAUSS: You know, there are those,
10 I've been around the Commission the last few years, and
11 I guess about ten years ago, I actually along with
12 Commissioner Sunshine at that time put together a little
13 pamphlet that was used in high schools. There are those
14 who tell me that in the early '90's, quite a bit of what
15 the Commission was doing, at least in terms of providing
16 information and providing outreach services, that that
17 was perhaps the golden age.

18 COMM. O'HARE: My recollection is one of the
19 primary purposes originally of the Voter Assistance
20 Commission was to facilitate and encourage registration
21 of voters, especially working through City agencies that
22 were going to make that. How effective has that program
23 been, encouraging --

24 PROF. KRAUSS: Since Local Law 29 has been
25 adopted, the City agencies have implemented and our

1 agency has overseen that implementation and assured
2 compliance. It's hard to measure the effectiveness of
3 something like that. Because the forms are made
4 available, they're now on the website they're now at
5 most of the agencies and they're given to people. The
6 problem is how do you measure the effectiveness by the
7 numbers of forms that come back? That's difficult to
8 find a measure. I think we're making the opportunity
9 available to people to register to vote. If they want
10 to do so, that's still their prerogative.

11 COMM. O'HARE: There's no way that the
12 passage of that law, perhaps, rendered the Voter
13 Assistance Commission redundant?

14 PROF. KRAUSS: We're there to oversee
15 compliance.

16 MR. CROWELL: I should say that I sit ex
17 officio for the Deputy Mayor for Legal Affairs on VAC
18 and have monitored from within the administration of
19 Local Law 29 which required that a voter registration
20 card be affixed to most applications for City services
21 at a specified group of agencies and as Chairman Krauss
22 has been saying, the difficulty is that often agencies
23 have repeat customers who are getting the same card so
24 you really can't track the success rate in getting
25 people to register because of the repeat traffic and

1 often license renewals come back each year with the
2 card. I think, for instance, the Parking Violations
3 Bureau, I think in the past couple of years, several
4 million or something they've given out, so it's really
5 difficult to track.

6 CHAIRMAN MACCHIAROLA: Questions?

7 COMM. NEWMAN: In the presumed golden age,
8 was there outreach at new immigrant groups?

9 PROF. KRAUSS: Yes, I believe there was.
10 That's one of the things we've been talking about. I've
11 met with the City's Commissioner for Immigrant Affairs,
12 I talked to the Vice Chairman Hershingson Cumie about
13 putting together a conference for next January,
14 featuring questions about the new voters and HAVA. So
15 we have some hope.

16 We're working with admittedly limited
17 resources, that doesn't mean we can't get something done
18 and make a modest contribution. At some point we're
19 hoping to go do more.

20 COMM. NEWMAN: What was your budget in the
21 early '90s versus now?

22 PROF. KRAUSS: At one point I believe it was
23 over a million dollars. No? Jane was actually on the
24 Commission.

25 MS. KALMUS: \$750,000 when Father O'Hare was

1 our first Chairman in 1989.

2 PROF. KRAUSS: It's far less than that
3 today.

4 MS. KALMUS: When I was doing the Mayor's
5 budget.

6 CHAIRMAN MACCHIAROLA: You want to go back
7 on? They're looking for you.

8 (Laughter.)

9 CHAIRMAN MACCHIAROLA: Thank you very much.

10 COMM. GATLING: At this time, we would
11 invite any public comment on this particular issue and
12 we'd ask that you limit your comments to three minutes,
13 so if there's anyone who would like to make a comment
14 regarding the issues that have been presented.
15 Mr. Spitz? Okay, Jane Kalmus, would you like to -- we
16 have a sign-in sheet here.

17 CHAIRMAN MACCHIAROLA: How are you,
18 Ms. Kalmus? It's nice to see you again.

19 MS. KALMUS: My name is Jane Kalmus --

20 CHAIRMAN MACCHIAROLA: Before you do, I want
21 to apologize to people who actually signed in ahead of
22 you, it's okay, I didn't know it and I saw it, I thought
23 they already testified, so I apologize to the people who
24 we'll call next, so I took you out of order, but I'm
25 sure no one has an objection.

1 COMM. GATLING: She was there at the
2 beginning, right?

3 MS. KALMUS: My name is Jane Kalmus, I'm
4 Vice Chairman of the Voter Assistance Commission, a
5 position that I have held since the Commission was first
6 inaugurated in 1989, when we had as our Chairman, Father
7 O'Hare, who also was Chairman of the Campaign Finance
8 Board. We have had four Chairmen since then; Father
9 O'Hare, Charles Hughes, Dennis Wolcott and Jeffrey
10 Krauss. We have had a series of coordinators, starting
11 with Nefa Segarra. We have a part-time coordinator now,
12 who is a full time employee of Mayor Bloomberg, assigned
13 to Carol Robles Roman, who is the representative to the
14 Voter Assistance Commission, and in her place, Anthony
15 Crowell sits with us as the Mayor's representative to
16 the Commission.

17 I was very interested in the remark that my
18 Chairman made just a moment ago, when he said that the,
19 either please restructure the Voter Assistance
20 Commission and give us back some of our dignity or see
21 to it that at least we are given a decent burial, and I
22 am hoping that if there is a place for the Voter
23 Assistance Commission in the non-partisan elections that
24 you all are trying to iron out, that you would permit us
25 to come up with a communications and marketing plan for

1 the benefit of all of the New York City citizens; that
2 you would permit us to do this sooner rather than later.
3 What I'm trying to say is if we have an opportunity, and
4 it would be senseless to make a plan before important
5 details about the Commission have been resolved. That
6 really is the purpose of what it is that I'm trying to
7 say. The important details that have to be resolved are
8 whether or not there is a role for the Voter Assistance
9 Commission in the City plan now. If there is, we can
10 improve on it. If there is not, in your judgment, I
11 think it would take something, Anthony, if the Charter
12 would have to, you create, the Charter was created by
13 the Commission and the Charter --

14 MR. CROWELL: The Commission was created by
15 the Charter. It would take a Charter revision to change
16 its composition.

17 MS. KALMUS: And that's what I'm asking that
18 you all consider.

19 COMM. O'HARE: Jane, what do you think about
20 your Chairman's suggestion about restructuring the
21 Commission?

22 MS. KALMUS: I think it's an excellent
23 suggestion. Excellent. He and I have not agreed on a
24 number of things, but I would stand by his side and
25 behind you. I think it would be probably the best

1 suggestion that I've heard in a number of years.

2 COMM. O'HARE: I wasn't sure whether you
3 were standing beside him or behind him.

4 MS. KALMUS: We'll work that out.

5 COMM. GATLING: Any other questions? Thank
6 you.

7 MS. KALMUS: Thank you very much.

8 MR. CROWELL: The next person is Glen
9 Nagpanday.

10 MR. NAGPANDAY: My statements are not in
11 regard to that or the Board.

12 MR. CROWELL: So you'll speak at the next
13 hearing, the general hearing. The next person is
14 Dorothy Williams Pereira.

15 MS. PEREIRA: My name is Dorothy Williams
16 Pereira and I'm speaking for myself today.

17 I don't know why you think this has been
18 such a big success, because I don't think that the
19 elections are run very fairly or very reasonably. I
20 don't think that the Voter Guide has been a reasonable
21 thing, I don't think that getting people to vote has
22 become successful, even when you get people to register,
23 and it's -- I was amazed when I went out and looked at
24 the amount of books that people were not registering in
25 parties. There's a real problem in the public of their

1 opinion of what goes on in elections. I think that they
2 think that they're meaningless in elections. I think
3 that they think that somehow something crooked is going
4 on in the election process, and I'm not sure that it's
5 not going on.

6 I know that the mistakes seem to be so
7 accidental, but I think it's a very strange mistake when
8 somebody puts a loser in a Voter Guide and leaves out
9 the winners. I think there's something very strange
10 about that, and maybe you should go down to a publishing
11 house --

12 CHAIRMAN MACCHIAROLA: Excuse me, you've
13 told us that before. Can you document that, that -- I
14 mean, I understand why losers would be in the Voter
15 Guide, because election is held, people win, people lose
16 and the Guide's already in the process of being
17 published, so I understand that. But can you tell me
18 which winners haven't been included?

19 MS. PEREIRA: Winners that haven't been
20 included?

21 CHAIRMAN MACCHIAROLA: In the voters guide.

22 MS. PEREIRA: Of primaries?

23 CHAIRMAN MACCHIAROLA: I've never seen that,
24 I followed it pretty clearly.

25 MS. PEREIRA: That happened in the Queens

1 Borough Presidency, the last election.

2 COMM. NEWMAN: You mean Helen Marshal was
3 not included?

4 MS. PEREIRA: Helen Marshal was included,
5 but other primary winners were not.

6 CHAIRMAN MACCHIAROLA: You mean of other
7 parties?

8 MS. PEREIRA: Yes.

9 CHAIRMAN MACCHIAROLA: Did they submit to
10 the Voter Guide the information?

11 MS. PEREIRA: Yes.

12 CHAIRMAN MACCHIAROLA: Could you tell us who
13 that was?

14 MS. PEREIRA: Myself. I won an opportunity
15 for the ballot and I was not in the Voter Guide.

16 CHAIRMAN MACCHIAROLA: What party were you
17 in?

18 MS. PEREIRA: Green Party.

19 CHAIRMAN MACCHIAROLA: Did that appear
20 before the primary?

21 MS. PEREIRA: Before what -- no, this is in
22 the general election booklet.

23 CHAIRMAN MACCHIAROLA: Were you on the
24 general election ballot? You were written in on the
25 ballot after the Voter Guide was printed.

1 MS. PEREIRA: The general election Voter
2 Guide was printed before the winners were elected?

3 CHAIRMAN MACCHIAROLA: The Voter Guide is,
4 Father would know this better than I, that's why the
5 losers were included, because the election hadn't been
6 completed before the Voter Guide --

7 MS. PEREIRA: It was a primary election.
8 After the primary election is over you get winners and
9 losers, you don't get that before.

10 CHAIRMAN MACCHIAROLA: Because of the
11 closeness of both elections, the Voter Guide is produced
12 before the primary is held. So that the --

13 MS. PEREIRA: We're talking about the
14 general election Voter Guide.

15 Chairman MACCHIAROLA: Before the general
16 election is held, the Voter Guide is printed for the
17 general election and the losers are included because you
18 didn't know they were going to lose, but the people who
19 are not included are those whose names do not appear on
20 the ballot. And so if your name didn't appear on a
21 primary ballot you weren't included because no one know
22 you were going to be there until after that occurred.
23 So had you been on a ballot, had you been nominated by
24 your party in advance, then you would have appeared.
25 But that's, I mean, I don't think, I honestly don't

1 think that that kind of a situation is worth the kind of
2 criticism of the Voter Guide that you just gave.

3 MS. PEREIRA: I think that --

4 CHAIRMAN MACCHIAROLA: I mean, you could
5 have clarified a little more.

6 MS. PEREIRA: We're talking about
7 non-partisan elections and we're talking about having
8 elections that aren't related to parties, and then
9 you're turning around and saying, oh, well, we're going
10 to eliminate write-ins, we're going to eliminate
11 opportunities of ballots.

12 CHAIRMAN MACCHIAROLA: I'm not saying
13 anything about eliminating anybody. You were the one
14 that raised an ad hominem criticism of the Voter Guide
15 and when I asked you what the basis of the criticism
16 was, it turns out that the criticism is based on a
17 circumstance beyond the control of those people who
18 produce the Voter Guide. That's all, and that's all I
19 wanted to say. I didn't want to go beyond that.

20 MS. PEREIRA: Well, I think that because we
21 are not getting the confidence of the public, and I
22 think we do not have the confidence of the public and I
23 think it's not an accident, I think that the reason
24 there are so many escapees to third parties and so many
25 escapees to blanks, it's because of a lack of confidence

1 in the system, and I think it's time that this country
2 recognizes that we are failing the voter and I think
3 that's very important.

4 I don't think that it is such a big deal
5 that we have so much third party things going on,
6 because of the nonsense that goes on with the control by
7 the Democrats and Republicans of the Board of Elections,
8 which is appointed, we need to have an elected Board of
9 Elections. We need to have voter assistance that's
10 really assisting the voters.

11 COMM. GATLING: Thank you.

12 MR. CROWELL: George Spitz.

13 COMM. GATLING: And again, we'd ask you to
14 limit your comments to the issue, the hearing issue.
15 Because there will be another hearing at 6:00.

16 MR. SPITZ: I've got other testimony for
17 that.

18 COMM. GATLING: Why didn't I know that?

19 CHAIRMAN MACCHIAROLA: You know, George,
20 it's like my diet. They really tell me I'm supposed to
21 eat six times a day and only a little bit each time, so
22 if I can get down to your weight that's what I'm going
23 to try to do.

24 MR. SPITZ: I don't even eat once a day.
25 I didn't eat at all today.

1 (Laughter.)

2 MR. SPITZ: I'll cut this. Honorable
3 Commissioners, the Board of Elections spends too much
4 time hearing petition challenges largely from the party
5 organizations against insurgent candidacies. This
6 undemocratic practice is not confined to the Democratic
7 Party. In the 2001 Mayoralty election, the Green Party
8 challenged the petitions of four candidates for Mayor
9 who sought to run against their organization candidate
10 and successfully removed three of them with the
11 cooperation of the Board of Elections.

12 Robert Kaufman, distinguished former
13 president of the City Bar Association has characterized
14 New York State's Election Code the most restrictive in
15 the nation. Julian Palmer, Executive Director of Common
16 Cause complained in '92 in "The Imperiled Candidacy;"
17 Larry Rockefeller, for U.S. Senate demonstrates also New
18 York's ballot access law is still the worst in the
19 nation.

20 The challenge for getting on the ballot is
21 like bungee jumping on a thread, while for incumbents,
22 it's a stroll in the park. The McGuire Commission in
23 2002 heard testimony from residents in Queens and
24 Brooklyn about the horrific challenges their petitions
25 obtained from those boroughs' Democratic Party machines,

1 which blatantly discriminates against Asians, Greeks,
2 Russians, Haitians and even a number of Hispanic groups
3 in nominating candidates for public office.

4 Speaker Sheldon Silver knocked his
5 Republican opponent off the ballot this year. Silver
6 can hardly be expected to rile a vote on reforming the
7 Election Law. You, Honorable Commissioners, cannot
8 change state Election Law, but you can set an example by
9 democratizing the elections, not just by placing them on
10 an admittedly desirable non-partisan basis.

11 First, you should reintroduce proportional
12 representation and I've gone into that before, I'm going
13 to cut that. Then you should reduce the number of
14 signatures, currently 900 for the Democrats, required to
15 qualify for a place on the ballot, to 25 registered
16 voters, about the number a respectable personal should
17 need, or substitute a modest filing fee refundable for
18 any candidate who obtains 10 percent of the vote.

19 The 900 signatures provides organization
20 candidates with a tremendous edge, because they're
21 placed on what is called an omnibus petition, which
22 contains all the candidates selected by the Democratic
23 bosses, from Mayor to County Committee. I know of no
24 one who knows every one of probably, no more one of the
25 candidates they signed for and while I started fifty

1 years ago, we used to go house to house and collect
2 signatures, they're all collected in the streets, even
3 by the bosses, and it's a phoney procedure.

4 Now, once relieved of the time-consuming
5 duties of inspecting thousands of signatures, the Board
6 of Elections will have no excuse for its failure to
7 enforce Section 17-162 of the New York State Election
8 Law which stipulates that, quote, "no candidate for a
9 judicial office shall directly or indirectly make any
10 contribution of money or other thing of value, nor shall
11 any contribution be solicited for him."

12 The East Side Lexington Democratic Club
13 maintains a practice of pressing candidates for
14 judiciary in Manhattan, even for those who live as far
15 away as Inwood, to purchase tickets for their annual
16 dinner. I understand most political clubs in Manhattan
17 do the same, although Frank Wilkinson, District Leader
18 representing another Democratic club in Yorkville, has
19 criticized the practice and his club does not finance
20 its operations in this illegal fashion.

21 Next week I intend to challenge the Board of
22 Elections' failure to enforce the law by filing a
23 complaint against the Lexington Democratic Club and all
24 the judicial candidates who violated Section 17-162.
25 I'm not going to add -- I'm going to ask for just a

1 reprimand and a small fine, since -- not a drastic
2 punishment. And I suggest that the Commission mandate
3 that the Board of Elections enforce this very reasonable
4 law and all other laws of the City and State of New
5 York.

6 Thank you.

7 CHAIRMAN MACCHIAROLA: Thank you very much.

8 COMM. GATLING: Any questions? Thank you,
9 Mr. Spitz.

10 MR. CROWELL: The next person is Richard
11 Wagner.

12 MR. WAGNER: I have nothing to say about
13 non-partisan elections, I want to testify to something
14 else.

15 CHAIRMAN MACCHIAROLA: We'll carry you over
16 to the next and you'll be at the head of the list.

17 MR. CROWELL: Then Robert McFeeley.

18 MR. McFEELEY: Hello, my name is Bob
19 McFeeley. I've been on the Voter Assistance Commission
20 since 1993, I'm a Mayoral appointee. I live on Staten
21 Island.

22 I wanted to comment in regards to two
23 issues; one that our Chair brought up about making the
24 Commission smaller. I do agree with him in regards to
25 making the Commission smaller. I have attended several

1 meetings where we needed a quorum of nine members and
2 then when we ever had to vote on it we needed unanimous
3 consent because according to Corp Counsel nine was the
4 number of votes out of a majority of sixteen so that any
5 time we had to vote on anything, everybody had to be
6 unanimous to get anything done. So limiting the number
7 and making it smaller would make it a little bit easier
8 to get a majority.

9 We had very bad attendance records during
10 the years in the '90s where the Council did not appoint
11 members to the Commission, so we couldn't even call upon
12 these people to show up because they weren't even
13 appointed and a lot of the ex officio members, whether
14 from the Board of Ed at the time, just never showed up.
15 So we would have very hard times even making a quorum at
16 times.

17 A second part in regards to what our mandate
18 is, in regards to increasing voter registration, while
19 in its heyday, even though I wasn't on the Commission I
20 did follow the Commission very closely, it did do voter
21 registration through the City agencies and to the point
22 where it included a code in the top right-hand corner of
23 the voter registration form for each of the different
24 city agencies. I called that a machine gun approach
25 while just hitting every applicant across the board, you

1 would still get duplicate registrations and very, as the
2 other Commissioners mentioned, that it's very hard to
3 ascertain whether or not you're doing a good job.

4 In my other job, I am the MIS director of
5 the Staten Island Borough President's Office and I've
6 come up with at least an idea of being able to register
7 new voters by a more identifying who is actually not
8 registered. I've done that in my own personal life in
9 registering voters around the neighborhood, by taking
10 reverse directories, combining it with the voter list
11 and with, under HAVA's new rules, we will be able to
12 incorporate the Motor Vehicle database with the voter
13 registration list and possibly Social Security database.

14 Now, the Board of Elections will have a
15 complete listing of all residents or a good portion of
16 the residents and will be able to identify who is
17 registered and who is not registered, so now you are
18 picking the people who you want who are not registered
19 and I could see that being in charge of helping
20 community groups to go to these people and registering
21 people who we know are absolutely not registered and
22 soliciting them to register.

23 The agency approach, unless the list or
24 applicants are sent to the Board of Elections first and
25 then did a match on who is registered and not, you're

1 wasting resources, time, energy and money by having
2 people fill out registration forms when they're already
3 registered.

4 CHAIRMAN MACCHIAROLA: This is a little bit
5 off the subject, but I think it is somewhat relevant.
6 When you -- you've registered people?

7 MR. McFEELEY: Mm-hmm.

8 CHAIRMAN MACCHIAROLA: You've done a
9 considerable amount --

10 MR. McFEELEY: Mr. Lynch will, in my
11 partisan activities in 1993 in the race with Giuliani, I
12 actually won the GOP contest in registering the most
13 Republicans in the State of New York and I have
14 Mr. Lynch --

15 COMM. LYNCH: I'm a Democratic poster boy.

16 MR. McFEELEY: Under the Dinkins
17 administration they cut the ferry service and I had a
18 sign saying "Register your anger, register to vote," and
19 people registered in droves and I registered 829
20 Republicans that year. I've registered thousands of
21 voters in my lifetime.

22 CHAIRMAN MACCHIAROLA: I actually didn't
23 know that. I just, the reason that I wanted to ask you
24 the question is because you said something in terms of
25 how you registered the voters, that you've actually

1 combed through lists. And when you approached a voter
2 you knew you were going to register that hadn't been
3 registered there, what percentage of the time, if you
4 can judge, and I know it's anecdotal, did the voter that
5 you spoke to realize that he or she was registered in
6 the party that you had identified or that person was
7 even registered?

8 MR. McFEELEY: The people I identified are
9 not registered. In other words, I knew they were not
10 registered by taking the reverse directory like the
11 Cole's directory and merging that with the voter list so
12 I now know the households that are not registered.

13 CHAIRMAN MACCHIAROLA: Did any of them think
14 they were registered?

15 MR. McFEELEY: Yes.

16 CHAIRMAN MACCHIAROLA: That's because why?

17 MR. McFEELEY: Because they got called for
18 jury duty.

19 CHAIRMAN MACCHIAROLA: It wasn't that they
20 filled out forms and those forms weren't turned in.

21 MR. McFEELEY: No.

22 CHAIRMAN MACCHIAROLA: One of the things I
23 have struck by is people who tell me they're in a party,
24 they go to the election to vote, it turns out they're
25 not listed in a political party. I was wondering f I

1 only heard it anecdotally, I know you've registered a
2 number of people--

3 MR. McFEELEY: I've done conversions, also.
4 Again I'm not allowed to do this as part of the VAC
5 Commission, in other words, I'm totally non-partisan,
6 but I have done conversions from Democrats to
7 Republicans.

8 CHAIRMAN MACCHIAROLA: Listen, you're my
9 kind of guy.

10 COMM. NEWMAN: Use him for your next
11 campaign.

12 CHAIRMAN MACCHIAROLA: Getting people
13 involved in the political process, doing it with a sense
14 of dedication, I actually don't care what party you're
15 in, I'm a Democrat, but just the fact that you're doing
16 it and getting people to understand that is, that's what
17 it's about.

18 MR. McFEELEY: May I point out this is the
19 other point I wanted to make in respect to the Board of
20 Elections, if you go to a non-partisan election with the
21 June primary and November, the way, as pointed out by
22 the Board of Elections, I can easily see political
23 consultants saying in the primary becomes second under
24 the current configuration because people have a history
25 of voting down the Democratic line, so if you, under the

1 current configuration, the Democrats are row B. I would
2 want to win the second position in the primary in June,
3 because then I would be under row B if you were listed
4 under that thing and I'm sure --

5 CHAIRMAN MACCHIAROLA: They obviously have
6 to do something to fix that.

7 MR. McFEELEY: I would suggest rotating by
8 ED. You would rotate each candidate around the board to
9 make it fair across the board.

10 CHAIRMAN MACCHIAROLA: We should work with
11 you.

12 COMM. LYNCH: Be careful.

13 MR. McFEELEY: Well, thank you.

14 CHAIRMAN MACCHIAROLA: Thank you very much.
15 We appreciate your testimony.

16 COMM. NEWMAN: Frank, the question you were
17 asking about who were registered, you might want to ask
18 the guy from the Board of Elections what percentage of
19 affidavit ballots actually turn out to be really
20 registered.

21 CHAIRMAN MACCHIAROLA: Yes, Steve.

22 MR. RICHMAN: Commissioners, I don't have
23 the statistics in front of me, but we can provide them
24 to you, but most of the affidavits that get filed are
25 usually by people who don't have registrations, and one

1 of the things we have instructed the inspectors to do is
2 to offer a registration form each time an affidavit
3 ballot gets done. The Commissioners are now considering
4 what some of the other boards upstate do right is to
5 attach to the affidavit envelope a voter registration as
6 well to make it easier for them to do it. But for
7 people who do file affidavits in the book, usually those
8 are last minute registrations.

9 We close the poll list books 25 days before
10 the election is the last day you can register. We have
11 until the 20th day to receive it. I guarantee you there
12 are some that don't get there on time when there are
13 groups that deliver us 10,000 the last night and some of
14 the problems come in keying the wrong names in, typing
15 them in wrong, the affidavits clear up, either serving
16 as change of address forms but we can get you figures
17 for the last election, 2003, 2002, the number of
18 affidavits filed, the numbers that were valid.

19 CHAIRMAN MACCHIAROLA: Is there any
20 suggestions for the Charter Commission --

21 MR. RICHMAN: That purely is a state
22 Election Law matter at this point in terms of the
23 affidavit ballot process and now HAVA mandates the same.
24 New York is one of the areas where -- New York is ahead
25 of HAVA. We've been having affidavit ballots at least

1 in the 25 years I've been in the business, so we're at
2 least ahead on that.

3 MR. CROWELL: There are no other people on
4 the list unless -- Mr. Garber?

5 MR. GARBER: I signed for this hearing.

6 MR. CROWELL: For 6:00 I believe --

7 MR. GARBER: I asked for today.

8 MR. CROWELL: Please come up. You can even
9 testify twice.

10 MR. GARBER: Good afternoon. My name is
11 Joseph Garber. I'm going to give some testimony and
12 comments relative to the election process the way I see
13 it as a poll inspector in the Williamsburg section of
14 Brooklyn for approximately ten years.

15 At present, anyone who comes in to vote,
16 votes without requiring to show any identification. I
17 feel this is wrong and too broad. There must be some
18 type of procedure instituted to claim to say who you
19 are. Okay, people who claim that they moved out of the
20 District are often shuffled from table to table by staff
21 who may be inexperienced. There seems to be a problem
22 with the election inspectors, poll workers, poll clerks,
23 information clerks coming on time to making sure that
24 the polls open on time.

25 There is, I'm going to say this honestly,

1 instances where there's falsification as to the actual
2 time that they arrive and being this involves getting
3 paid a certain amount of money for a particular number
4 of hours, I think this is definitely wrong. Where
5 you're entitled to take a break there are no captions
6 indicating, so I personally whenever I go out if I have
7 to go to the synagogue and usually I have to go at least
8 twice because the polls open at 6:00 and you can't say
9 your early morning prayers before 6 on many a day when
10 the election takes place. I sign out in the margin next
11 to my name that I left for synagogue, what time I left,
12 what time I came back. I remember on 9/11 I came back,
13 it was a long service a week before Rosh Hashana and
14 there's special prayers and I came back maybe fifteen
15 minutes before 9/11, so I remember that well.

16 I think there has to be some sort of
17 captions that the Board of Elections should devise that
18 any poll worker, regardless of title, should sign out
19 what time they go for break and when they return.

20 I've initially challenged voters whom I have
21 known to move out, particularly in my apartment
22 building, 121 Wilson Street, who still claim they live
23 there but the poll site coordinator was reluctant to
24 back me up in certain cases. I think there has to be
25 some prescribed guidelines issued by the Board of

1 Elections. In addition, I'd like to suggest that the
2 Commission evaluate the recruitment effort being
3 conducted by the Board of Elections to recruit staffers.
4 I know they've done some work with CUNY, but in my area,
5 I haven't seen any of these young students from
6 undergraduate or graduate schools, so I think we have to
7 look, are they effective in recruiting outside people
8 other than the people referred to by the clubhouses.

9 I was recruited under the Koch
10 administration. They had a drive for getting City
11 workers involved working the polls and I figured that's
12 a very good idea and I signed up. Also I think there
13 has to be publicity. This would fall under page 13 of
14 your report under government organization that every
15 Tuesday I believe the Board of Elections has a public
16 hearing where you're invited to hear the Commissioners
17 of the Board of Elections meet. I think this has to be
18 publicized.

19 Okay --

20 COMM. GATLING: Mr. Garber, could you wind
21 it up, please?

22 MR. GARBER: I'm winding it up. There's too
23 much electioneering going on inside of the poll. You
24 have to have that monitored and also the hundred feet
25 signs. Many times I go out and I wouldn't see them put

1 up properly, even though I'm not the coordinator, I say
2 they have to be put up. The training given to us poll
3 workers has to be revised, revamped and enhanced for a
4 more professional type of image to portray as far as
5 even the dress code.

6 Thank you for my testimony.

7 MR. CROWELL: I would urge Mr. Richman to
8 pay heed to what Mr. Garber is saying, since Mr. Richman
9 is very exacting as to the law as General Counsel to the
10 Board of Elections.

11 MR. LAVIN: I would also like to speak, sir.

12 MR. CROWELL: You also signed up for the
13 6:00. That's okay.

14 MR. LAVIN: My name is Stan Lavin. I just
15 want to state if we have non-partisan local elections, I
16 think people in an election will tend to vote for the
17 party candidates. When it comes to the local
18 candidates, I think, I get the sense they'll just walk
19 away, period, and not vote, not knowing who these people
20 are. Thank you.

21 CHAIRMAN MACCHIAROLA: Thank you.

22 MR. CROWELL: Anyone else?

23 DR. GARTNER: The forum is adjourned.

24 MR. DENNEHY: Could I just ask one question?

25 I worked a special election last year, earlier this

1 year.

2 MR. CROWELL: You're Thomas Dennehy?

3 MR. DENNEHY: Yes. I was thinking the
4 special election, how do they pick the candidates for a
5 special election? Do the bosses in the back room
6 decide?

7 CHAIRMAN MACCHIAROLA: You know what? I
8 think what you're asking is beyond the scope of the
9 Commission's hearing right now.

10 MR. DENNEHY: Because a special election is
11 very similar to the non-partisan election.

12 CHAIRMAN MACCHIAROLA: I understand that,
13 but I think what you're asking us are things that are
14 outside the scope of our knowledge as a Commission.

15 MR. DENNEHY: Think about that.

16 CHAIRMAN MACCHIAROLA: Thank you. I don't
17 think I want to. Thank you.

18 MR. DENNEHY: I don't want that to happen
19 with the non-partisan.

20 COMM. GATLING: At 6:00 we'll begin the
21 hearing, the public hearing, at which time you can sign
22 up and testify. Thank you.

23 (Time noted: 5:40 p.m.)

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

I, LINDA FISHER, a Registered Professional
Reporter and Notary Public, do hereby certify that the
foregoing is a true and accurate transcription of my
stenographic notes.

I further certify that I am not employed by
nor related to any party to this action.

LINDA FISHER, RPR

