

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

JOINT COMMITTEES ON FINANCE AND GOVERNMENTAL
OPERATIONS

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May 18, 2009
Start: 10:27am
Recess: 3:21pm

HELD AT: Council Chambers
City Hall

B E F O R E:

DAVID I. WEPRIN
Chairperson

HELEN SEARS
Co-Chairperson

COUNCIL MEMBERS:

Simcha Felder
Erik Martin Dilan
Leroy G. Comrie, Jr.
Domenic M. Recchia, Jr.
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Diana Reyna
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A P P E A R A N C E S

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Rosie Mendez

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A P P E A R A N C E S (CONTINUED)

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CHAIRPERSON WEPRIN: Good morning.

And, welcome to today's Finance Committee hearing on the Mayor's Executive Budget for fiscal year 2010. My name is David Weprin. I Chair the Committee. And, this is the second week of the Executive Budget hearings.

This morning's budget hearing will be held jointly with the Council's Governmental Operations Committee, Chaired by my colleague, Council Member Helen Sears. Together, we will hear testimony pertaining to the proposed budgets for the Board of Elections and the Campaign Finance Board. In the afternoon, the Finance Committee will hear testimony from the Department of Juvenile Justice and the Department for the Aging.

Now, let's start with the Board of Elections. The Board of Election conducts all elections within the City of New York. The Board has a central office and five borough offices. The Board receives and examines candidate's petitions, registers voters, either by mail or on specified registration days and keeps the City's voter registration list current. Additionally,

the Board holds and keeps minutes of all of the Commissioner's meetings on the Board of Elections.

Currently, the Board of Election reports a structural deficit in fiscal 2009 of approximately \$7 million. The largest portion of this deficit stems from personal services overspending, approximately \$5 million above the budget projection of 13.6 million PS spending. In the January plan, the Board's current year, fiscal 2009, budget was impacted by its unfunded requirements to run several special elections, including those for vacant City Council positions, which cost just over \$1 million, as well as the Bronx Borough President position, which cost just under \$3 million.

The Executive Plan includes one-time funding of 2.5 million to fund costs associated with the special election for Bronx Borough President. No specific new needs funding was included to cover the fiscal 2009 costs of City Council's special elections.

As fiscal 2010 will include Citywide elections that may include one or more runoff elections and the possible introduction of

new voting machine systems, it remains to be seen whether the agency's proposed expense budget of 86.2 million will be sufficient. We will hear from the Board of Elections' Executive Director shortly to hear how the Executive Budget and recent PEG actions have affected the Board.

We're joined by Council Member Simcha Felder from Brooklyn; Council Member Erik Martin Dilan from Brooklyn; Council Member Leroy Comrie from Queens. And, I'm now going to turn it over to Chair Sears for a statement.

CO-CHAIRPERSON SEARS: Thank you very much, Mr. Chair. And, good morning. Glad to see you all here. And, just wish to say that I know that when you were last before us, it was the same problem that we all have to deal with is the inequity in your monies and who does what, having to conform to the federal regulations and not able to do that and not able to even use a new machine because one hasn't been picked yet. So, you have major problems. And, I generally feel that somehow the state and the federal government depend a lot upon the City to do certain things. But, that's for us, basically, to deal with down

the line.

So, we'll have your testimony.

But, I'm really-- we're interested in if anything has changed since your last testimony, particularly in your special elections, how you managed to do with that. They were quite a bit. What shortfall do you see? And, how are you prepared to handle the primaries, 'cause I anticipate they are going to be many candidates in the September primary Citywide?

And, really and truly, we do everything we can to see that life is made a little easier for you. But, sometimes, it's not quite so easy to do that. So, if you will just cover those issues in addition to what you have to say, I think it can be very helpful as to where we go in our budget negotiating. Thank you. Thank you, Mr. Chair.

CHAIRPERSON WEPRIN: We've been joined by Council Member Domenic Recchia from Brooklyn and Council Member Robert Jackson from Manhattan.

MARCUS CEDERQVIST: Thank you, Chair Weprin and Chair Sears, and members of the

1 City Council's Committees on Finance and
2 Governmental Operations. I want to thank you for
3 giving me the opportunity to appear before you
4 once again this morning on behalf of the Board of
5 Elections in the City of New York and for your
6 continuing interest in this agency. As you know,
7 my name is Marcus Cederqvist and I'm the Executive
8 Director of the Board of Elections in the City of
9 New York. I'm joined by John Ward, our Finance
10 Director, George Gonzalez, our Deputy Executive
11 Director; and Steve Richman, our legal counsel--
12 General Counsel, I'm sorry.

14 We appeared before the Committee on
15 Governmental Operations just over nine weeks ago
16 to discuss the deleterious impact that the Mayor's
17 Preliminary Budget for fiscal year 2010 would have
18 on elections in the City of New York. I've taken
19 the liberty of attaching a copy of the previous
20 testimony from March's hearing to today's written
21 testimony for your review. The major details have
22 not changed since the last hearing so I will avoid
23 repeating all of it again here today.

24 Nonetheless, it is vitally important that I take
25 this opportunity to remind you of some of the

major points that we discussed previously.

As you know from our previous meetings, the past year has been one of the most challenging in the agency's history. The Board conducted four elections in 2008 that collectively saw more than four million New Yorkers cast a vote and it processed 200% more voter registration forms in 2008 than it did in 2007. Already in calendar year 2009, the Board has conducted four Special Elections, including a boroughwide Special Election in the Bronx last month, and is preparing for two Special Elections for vacant State Assembly seats in two weeks.

The story is not new. Year after year the Board has historically been underfunded to complete its mandated tasks. This is punctuated by the severe pay disparity between employees of the Board of Elections and those of other City agencies. However, this institutional underfunding was severely exacerbated for fiscal year 2009 when the City adopted a budget that reduced the Board's budget by \$7.6 million, notwithstanding that everyone clearly knew voting activity would be exponentially greater in the

2008 Presidential Election cycle than it was in the 2007 off-year elections.

As mentioned earlier, Mayor Bloomberg issued proclamations to conduct Special Elections for three City Council vacancies and one vacant Borough Presidency so far in 2009, as he is obligated to do under the City Charter. The Board conducted those Special Elections as is mandated under law and is preparing for two State Assembly Special Elections that Governor Paterson called three weeks ago. As you know, none of these six elections are funded; however, the Executive Budget proposes to cover one of these elections.

There is a common and pervasive misperception where people confuse the fact that voting is a fundamental right with the fact that elections costs money. The Board of Elections does not control the level of activity required by law, court orders, and executive proclamations. Unlike many other agencies, virtually all of the Board's duties, responsibilities, and activities are prescribed by Federal, State, and local law. The Board does not have discretionary programs and activities to cut.

The Board does not have the discretion to delay or cancel an election based on municipal budget shortfalls, nor can it delay processing voter registration forms or providing language assistance to voters. We are mandated to perform these functions and others, such as processing candidate petitions. This year alone, we will process petitions for all municipal offices, including Citywide offices and City Council.

The budget reductions in the Executive Budget make it impossible for the Board to properly conduct the Primary and General Elections for this year, not to mention the likely Citywide run-off elections.

As you know, the staff was worked to the bone over the course of the last year to make sure that all the work was accomplished. It's the Board's understanding that it has been authorized for 351 full time positions Citywide. The materials contained in the Executive Budget indicate the administration's contention of a headcount as of March 28, 2009 of 342 positions. The Executive Budget proposes a reduction of 23

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2 full-time positions for the fiscal year beginning
3 July 1st, leaving the already understaffed Board
4 with an authorized head count of only 319
5 positions. Given the Board's obligations, the
6 Executive Budget's headcount reduction cannot be
7 achieved in a responsible manner.

8 Additionally, the Executive Budget
9 for 2010 does not properly fund either the Board's
10 overtime costs or the necessary number of
11 temporary employees for the upcoming election
12 cycle. As you know, both are necessary to
13 administer the bursts of activity revolving around
14 the busy period of designating petition review for
15 candidate qualification as well as setting up,
16 conducting, and re-canvassing each election. If
17 these cuts are enacted, we will not be able to
18 execute our constitutional and statutory
19 responsibilities in an effective and lawful
20 manner.

21 Poll workers are obviously an
22 essential part of the voting experience. The
23 Board continues to ask the City, albeit with
24 limited success, for support to ensure that it has
25 the resources to adequately train the poll

workers. There is an itemized list of requests in the previous testimony about these new needs. Again, that's attached to today's testimony.

If there is one bit of good news to report, it is that it appears the Board will not have to replace its current voting system for the 2009 elections. As we reported in March, certification of the new voting system by the State Board of Elections was delayed because the federal Election Assistance Commission decertified the lab that was conducting certification testing. Although an agreement between the State Board and the Department of Justice has not yet been finalized, we are cautiously pleased by reports from Albany that New York City will not be compelled to participate in a pilot program to implement the new voting systems on a limited basis this year. Nonetheless, we also realize that the new system is coming. The Election Assistance Commission reaccruited the testing lab and certification testing has resumed. Now that testing is back on track, the State Board said that they anticipate certifying the voting systems for use by the local Boards of Elections by

November 2009 and implementation of a new system in 2010 appears certain.

In light of the impending new system implementation, we are encouraged that the unspent HAVA funds have been rolled over in the Executive Budget for fiscal year 2010. As you know, these funds will be used for a comprehensive voter education effort to raise awareness among voters about the new voting system. Similarly, we are pleased to see the capital allocation for Gartner Consulting, that was not included in the Mayor's Preliminary Budget, has been included in the Executive Budget for fiscal year 2010.

Nonetheless, these developments do not vitiate the fact that the Board of Elections is underfunded and that the lack of support from City leaders has put the Board's mission to conduct fair and honest elections in jeopardy. Last year, at a time when everyone clearly anticipated historic activity and voter participation and when the Board's obligations were increased significantly by a Federal Court Order, the budget was reduced by more than \$7.6

million for the current fiscal year. The shortfall reflected in the Executive Budget is equivalent to the cost of conducting one entire Citywide election.

I must mention yet again the severe pay disparity between employees of the Board and those of other City agencies and other Boards of Elections in neighboring jurisdictions. Clearly, the dreadful current fiscal environment does not create an ideal setting for this point, but I am morally obligated to reiterate this topic on behalf of the hard-working men and women that we rely on every day to get the job done. They have been working without a contract since June of 2008. And, actually, if I could just take a moment to introduce Nicholas Amitti [phonetic], he's the Union President, who was kind enough to join us here today. I recently sent the reports detailing this pay inequity that the Board has conducted in the past to the staff of this Committee and would welcome the opportunity to discuss it further with you.

In conclusion, I'd like to reiterate what I stated when we met in March; that

the conduct of fair, honest and open elections is a fundamental right in our democracy and the cuts made to the Board's budget in the fiscal year 2009 and further reductions for fiscal year 2010 puts our democracy in peril. This is not hyperbole. This is a fact. As a result of the City's action, the Commissioners of Elections have been placed in an untenable position of either fulfilling their legal obligations despite the lack of adequate funding or deciding collectively that the City's failure to adequately fund elections relieves them of their legal obligations, thereby disenfranchising voters in New York City. Protecting the rights of the voters of this City is paramount. It is an understatement, at best, when I state that we need your support and assistance now if we are to succeed.

I want to thank you again for the opportunity to appear before you today and, as always, the staff and myself are here to answer any questions that you might have.

CHAIRPERSON WEPRIN: Thank you.

We've been joined by Council Member Diana Reyna from Brooklyn and Queens and Council Member Peter

1
2 Vallone, Jr. from Queens. I'm a little concerned
3 about these deficits because obviously, as you
4 pointed out in your testimony, you have mandated
5 functions. You can't just say, you know, you can
6 do more with less because, you know, you still
7 have to conduct the basic functions of the
8 elections and everything that is required with
9 that to institute a democratic process. What kind
10 of discussions have you had with OMB about these
11 deficits and your ability to perform your basic
12 functions?

13 MARCUS CEDERQVIST: Well, the
14 discussions really started as soon as last year's
15 budget was adopted. And, you know, we were
16 telling them right off the bat that, frankly, the
17 allocation given to the Board wasn't enough to do
18 our mandated functions. We've written letters, or
19 the Commissioners have written two letters to them
20 this year, especially the letters were somewhat
21 provoked by the Special Elections that were called
22 saying, you know, we're going to be running these
23 elections. They're not funded. We haven't
24 received responses to those letters. But, the
25 Board has been making the case.

And, in a sense, actually, and this wasn't a hearing with the Finance Committee, but the Government Operations Committee had a couple hearings throughout the election season last year. And, for the members of the Council that were there for that, they'll remember that actually we were, in fact, doing more with less 'cause we literally had to, this year, set up the elections twice; once on the regular lever voting machines. I'm sorry, once on the regular lever voting machines and once on the ballot marking devices. And, these were two totally different systems that had to be set up independently. And, we were using the same staff to do that. That is one of the reasons that we did incur some extra overtime costs. But, nonetheless, we literally set up the election twice.

And, on top of that, you know, we've gone over and over again with the Committee on Governmental Operations the level of work that we had to perform last year. I mean, it was really historic by any measure. From the turnout, which was historic at over 2.6 million voters, much higher than we've had in the past, to the

1 voter registration, which was, as I mentioned in
2 the testimony, over 200% more than we had in the
3 past. I mean, the Board staff processed a quarter
4 million voter registration forms in two weeks.
5 They were working around the clock. It was a 24-
6 hour cycle to do that. And, they worked, I think,
7 heroically around the clock to do that to make
8 sure that everyone who submitted a voter
9 registration form was able to vote. We got so
10 many voter registration forms that we actually,
11 for the first time, printed supplemental poll list
12 books so that those people who voted wouldn't have
13 to vote by affidavit ballot. They would be able
14 to sign in and vote on the machines just like
15 everybody else.

17 I don't know if I adequately
18 answered your questions. But, that's some of what
19 we-- the challenges that we were faced with.

20 CHAIRPERSON WEPRIN: But, you
21 anticipate closing out the fiscal year on June 30th
22 with a deficit.

23 MARCUS CEDERQVIST: Yes, we do. I
24 mean, that's partially reflected in the overtime
25 costs that we had to perform, you know, to make

1
2 sure that the job got done. And, also, for the
3 Special Elections that we've had. As you know, we
4 had three City Council elections in January. We
5 have two Special Elections coming up on June 2nd
6 for State Assembly and then, we had the
7 boroughwide race in the Bronx--

8 CHAIRPERSON WEPRIN: Bronx.

9 MARCUS CEDERQVIST: -- which is
10 partially funded in the Plan. But, the other
11 Special Elections are not.

12 CHAIRPERSON WEPRIN: Okay. And,
13 OMB, I gather, is aware of these deficits and they
14 have no problem with you closing out the fiscal
15 year with running a deficit?

16 MARCUS CEDERQVIST: They are aware
17 of it. We have sent them communications to that
18 effect. Whether or not they have a problem with
19 it, I can't speak to that, obviously. And, we
20 haven't received a communication from them in
21 response to those letters.

22 CHAIRPERSON WEPRIN: Are there any
23 other agencies that you know of that are closing
24 out their fiscal year with a deficit?

25 MARCUS CEDERQVIST: I do not know.

CHAIRPERSON WEPRIN: I don't know of any. Has this happened before, where you've closed out your fiscal year with a deficit?

MARCUS CEDERQVIST: In the past, yeah. Exactly, especially because a lot of the Board's activities really are kind of frontloaded towards the beginning of the year. In the past, there's always been a budget modification basically to make the agency whole. And, I mean, we're hopeful, obviously, that would happen again this year. But, that's actually my understanding. And, again, this is my second year at the Board. My understanding is that that's been pretty routine in the past.

CHAIRPERSON WEPRIN: Okay. We've been joined by Council Member David Yassky from Brooklyn. I'm going to turn it over to Chair Sears for some questions.

CO-CHAIRPERSON SEARS: Thank you very much. First, I really need to say I think your agency does heroic jobs, really do. And, I really commend all of you for that, because you get into a tug-of-war between the State and the City. And, somehow, you manage to come above that

1
2 fray. And, I think it's unfortunate that you get
3 caught in that.

4 Question for the BMD machine is
5 that the last time you came, there was a long
6 interval from voter to voter. It took quite a
7 while to set it up. And, it took quite a while,
8 also, from voter to voter. Has there been any
9 change in that timeframe?

10 MARCUS CEDERQVIST: For the ballot
11 marking devices?

12 CO-CHAIRPERSON SEARS: Yes.

13 MARCUS CEDERQVIST: Yeah. I mean,
14 there are actually some things that the vendor is
15 trying to do to speed up the machine itself. And,
16 these are software fixes.

17 CO-CHAIRPERSON SEARS: Um, hm.

18 MARCUS CEDERQVIST: With regard to
19 the voter, you know, again, the BMDs are
20 incredibly important. And, we've spoken about
21 this in the past. I mean it fulfills one of the
22 most important aspects of the Help America Vote
23 Act, which is that every single voter, regardless
24 of their ability or disability, should be able to
25 go vote in person, privately and independently.

1
2 And, the ballot marking device helps voters with
3 disabilities do that. And, you know, anyone,
4 obviously, can use it whether or not they have a
5 disability. But, it's especially important for
6 voters with disabilities 'cause it helps them cast
7 a vote in private and independently.

8 Depending on the level of
9 disability that a voter may have, obviously,
10 that's what determines how long it takes for that
11 voter to actually vote. One of the things the
12 Board tried to do proactively is, you know, the
13 Federal Court order, that mandated a ballot
14 marking device at every poll site, mandated one
15 ballot marking device at every poll site. We
16 actually tried to analyze the poll sites and
17 figure out where there may be a greater need among
18 the constituency at a poll site and put a couple
19 extra machines in certain poll sites so that if
20 there were a lot of voters who were going to use
21 it, that they be able to move along quicker and
22 wouldn't have to wait for any extended amount of
23 time. So, we, you know, we continue to monitor
24 that and take a look at all our poll sites to see
25 where we can add a BMD to help, you know, voters

with disabilities who want to use these machines.

CO-CHAIRPERSON SEARS: How many get trained to work on that machine?

MARCUS CEDERQVIST: Well, this year, everyone's going to get trained. As you know, last year--

CO-CHAIRPERSON SEARS:
[Interposing] Every inspector?

MARCUS CEDERQVIST: Every inspector, yeah, who goes through other training, is going to get trained on the ballot marking device. Last year, remember--

CO-CHAIRPERSON SEARS:
[Interposing] Now, do they get paid additional for that training?

MARCUS CEDERQVIST: No.

CO-CHAIRPERSON SEARS: I mean--

MARCUS CEDERQVIST: They don't.
And, they don't get--

CO-CHAIRPERSON SEARS: I'm asking 'cause we're talking budget here. That's why I'm--
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MARCUS CEDERQVIST: Right.

CO-CHAIRPERSON SEARS: -- bringing

that up.

MARCUS CEDERQVIST: They don't get paid additional for the training. Actually, if you go the previous testimony, one of the things we're looking for is extra compensation for training because we believe that that's going to help participation of the poll workers to actually attend training is an increased compensation for attending training.

CO-CHAIRPERSON SEARS: That seems to be a little--

MARCUS CEDERQVIST: [Interposing]
One of the things we were trying, you know--

CO-CHAIRPERSON SEARS: --wild, because we know what it takes to train the inspectors. We know how it is for them to work at those polls. And, to add this additional to every inspector, I could see a little bedlam. I can't imagine that every inspector would go smoothly with that machine.

MARCUS CEDERQVIST: Right. You'll remember, we appealed in the past for dedicated poll workers--

CO-CHAIRPERSON SEARS: Yes.

MARCUS CEDERQVIST: -- for the
ballot marking--

CO-CHAIRPERSON SEARS: Yes.

MARCUS CEDERQVIST: -- devices.
And, obviously, the funding wasn't there for that.
So, last year, we tried to make do and took some
of the poll workers. We tried to identify our
better ones and give them this additional
responsibility, in addition to everything else
they do at the poll site and ask them to take on
the additional responsibility of working the
ballot marking device.

This year, we're going to actually
train everybody on the ballot marking device. Now
that, you know, we're at the beginning of the
training cycle, we can do that. Nonetheless, I
mean, the ideal would absolutely be-- and I
believe this is a moral imperative, too, to have
dedicated poll workers for the ballot marking
devices, who are specifically there to help people
who want to use them.

CO-CHAIRPERSON SEARS: I agree.
How many approximately would you need dedicated to
each ED?

MARCUS CEDERQVIST: To each--

CO-CHAIRPERSON SEARS: Yes.

MARCUS CEDERQVIST: -- ballot
marking device?

CO-CHAIRPERSON SEARS: Yes.

MARCUS CEDERQVIST: You need
probably at least two per poll site. I don't have
the figures in front of me, but we've--

CO-CHAIRPERSON SEARS:

[Interposing] In shifting the hours--

MARCUS CEDERQVIST: -- testified--

CO-CHAIRPERSON SEARS: -- and stuff
like that. And, how many poll sites do you have
Citywide?

MARCUS CEDERQVIST: We have almost
1,400; a little under. It's, I think, the last I
remember was--

CO-CHAIRPERSON SEARS:

[Interposing] So, 1,400--

MARCUS CEDERQVIST: -- 1,359, I
believe, yeah.

CO-CHAIRPERSON SEARS: So, you
would need 2,800 dedicated poll watchers.

MARCUS CEDERQVIST: Right.

CO-CHAIRPERSON SEARS: And, what would that cost? Oh, I know it's-- what is it, 200--

MARCUS CEDERQVIST: That would be \$200 per poll worker--

CO-CHAIRPERSON SEARS: For the day.

MARCUS CEDERQVIST: -- per election event, yeah.

CO-CHAIRPERSON SEARS: Per election event. I think, Mr. Chairman, we need to look at that.

CHAIRPERSON WEPRIN: Absolutely.

CO-CHAIRPERSON SEARS: I know, I mean, 'cause just the thought of training the inspectors for what they have to do in that 14-hour day and to add the additional training of this particular machine is kind of a little horrifying. I think that we need to really look at that seriously. And, I mean that, because I think that's an incredible burden to ask those poll watchers to take on. They have enough just in dealing with the machine itself and particularly that they're the older machines, which leads to my next question because I know

some of my colleagues have questions.

For the existing machines, it has been stated over a period of time that it's difficult to get parts. And, I don't know whether you can get any parts anymore for these machines. And, if so, are all the machines going to be put in? I know you have to have a machine for each ED.

MARCUS CEDERQVIST: Um, hm.

CO-CHAIRPERSON SEARS: But, where does that leave it if you've got some machines that are not because you know they get on a truck. They get off the truck. They bounce around. They get a lot of abuse.

MARCUS CEDERQVIST: Um, hm.

CO-CHAIRPERSON SEARS: I mean, just by the nature of the fact that they're not stationary, where people go to vote. So, what is the condition of the machines today?

MARCUS CEDERQVIST: It's actually very good. I mean, our chief voting--

CO-CHAIRPERSON SEARS: Okay.

MARCUS CEDERQVIST: -- machine technician and really the voting machine

1
2 technicians in the borough voting machine
3 facilities do an amazing job of maintaining these
4 machines. And, they do that throughout the year.
5 And, actually, a lot of that is mandated, as you
6 know, by State law. There's a maintenance
7 schedule.

8 And, the State Comptroller actually
9 did an audit, statewide, of many of the
10 jurisdictions throughout the state. He picked a
11 sample and two of them were in the City of New
12 York. I think it was Staten Island and Brooklyn,
13 right? Yeah. And, they went and the audit was
14 really on Election Day preparedness. And, it was
15 pretty comprehensive. It dealt with things from
16 poll workers on down to the machines. And, the
17 City Board of Elections was actually specifically
18 cited for doing an outstanding job of maintaining
19 the machines and logging the maintenance
20 schedules; whereas, some of our colleagues in
21 other jurisdictions were cited for not doing that;
22 for doing a bad job; for not logging the
23 maintenance work that they had done. And so, you
24 know, we were very pleased with that citation we
25 received by the State Comptroller. The machines,

as you know, I mean, they're old.

CO-CHAIRPERSON SEARS: Yeah.

MARCUS CEDERQVIST: They've been
around for--

CO-CHAIRPERSON SEARS: Um, hm.

MARCUS CEDERQVIST: -- a long time,
since early--

CO-CHAIRPERSON SEARS: That's why I
asked.

MARCUS CEDERQVIST: -- '60s. But,
they've proven very durable.

CO-CHAIRPERSON SEARS: Um, hm.

MARCUS CEDERQVIST: And, our staff
has just done an amazing job of maintaining them
and, you know, doing the work that needs to be
done to make sure that they'll be able to be
deployed and used effectively.

CO-CHAIRPERSON SEARS: What does it
cost to do the voter guide?

MARCUS CEDERQVIST: I'm sorry?

CO-CHAIRPERSON SEARS: What does it
cost to do the voter guide?

MARCUS CEDERQVIST: Oh, the
information--

CO-CHAIRPERSON SEARS: Yes.

MARCUS CEDERQVIST: -- notice--

CO-CHAIRPERSON SEARS: Yes.

MARCUS CEDERQVIST: -- that goes out every year? It's just under \$2 million. Most of that is, as you know, postage. I think it's about four to \$500,000 for the actual printing of the voter guide.

CO-CHAIRPERSON SEARS: Um, hm.

MARCUS CEDERQVIST: And, that goes out to--

MALE VOICE: [Off mic]

MARCUS CEDERQVIST: I'm sorry, the information notices--

CO-CHAIRPERSON SEARS: Yeah.

MARCUS CEDERQVIST: --right, to distinguish from the City--

CO-CHAIRPERSON SEARS: Right, I understand.

MARCUS CEDERQVIST: -- Campaign Finance Board's--

CO-CHAIRPERSON SEARS: Yes.

MARCUS CEDERQVIST: -- Voter Guide, which--

2 CO-CHAIRPERSON SEARS: Right.

3 MARCUS CEDERQVIST: -- is much
4 larger.

5 CO-CHAIRPERSON SEARS: Okay,
6 'cause--

7 MARCUS CEDERQVIST: The printing
8 cost, I think if I remember correctly, is between
9 four and \$500,000 and then, the balance would be
10 for postage.

11 CO-CHAIRPERSON SEARS: Wow. Um,
12 hm. Okay. I have one other question and I think
13 Councilman Jackson has a question. To what extent
14 are the Federal Department of-- the DOJ, the State
15 Board of Elections and the Judiciary involved in
16 directing the operation of the City Board of
17 Elections?

18 MARCUS CEDERQVIST: Well, we're
19 under the Federal Court Order, which, you know,
20 brought the ballot marking devices into every poll
21 site.

22 CO-CHAIRPERSON SEARS: Um, hm.

23 MARCUS CEDERQVIST: Now, we're not
24 a party to the legal action, actually. The legal
25 action's between Department of Justice and the

1
2 State Board of Elections. And, some local Boards
3 of Elections actually did participate-- I'm sorry,
4 petition to be interveners. And, that was denied
5 by the Judge. So, really, the dialogue is really
6 between the State Board of Elections, the
7 Department of Justice and the Court. And then,
8 all of the local Boards of Elections are affected
9 by that.

10 CO-CHAIRPERSON SEARS: I see. I
11 see. Okay. I think we may have another question.
12 But, Councilman Jackson, you have a question?

13 COUNCIL MEMBER JACKSON: Thank you,
14 Madam Chair. I do have a question. But, before I
15 have the question, I have a grave concern about
16 the funding of the Board of Elections and whether
17 or not the Board of Elections can carry out their
18 constitutional responsibility and requirements,
19 based on their funding.

20 In listening to the Executive
21 Director, and in reading the paragraph on page 3
22 of his testimony, and I'm just going to reiterate
23 that for my colleagues that were not present when
24 he presented his testimony. He said
25 "Additionally, the Executive Budget for 2010 does

not properly fund either the Board's overtime costs or the necessary number of temporary employees for the upcoming election cycle. And, as you know, both are necessary to administer the bursts of activity revolving around the busy period of designating petitions, review for candidate's qualifications, as well as setting up, conducting, and re-canvassing each election. If these cuts are enacted, we will not be able to execute our constitutional and statutory responsibilities in effective and lawful manner."

Madam Chair and Mr. Chair of the Finance Committee, that is a grave concern, not only to myself, but to the people of New York City, who has a right. We have a right in order to have an electoral process that is set up; that have employees that are trained; to have the machines that are working. And, our constituents should not have to wait on line for hours and hours and hours and hours because of the lack of funding by the Board of Elections.

So, I have a grave concern about that on behalf of the people that I represent in Northern Manhattan. And, I'm sure that my

colleagues have a grave concern about that for the constituents that they represent, 'cause one of the things, as you know, Madam Chair, we want to make sure is that every individual, who has a legal right to vote, exercises that right to vote and, to not to have to wait in line for hours and hours and may have to miss work or may have to decide, based on the fact that it's taken too long to vote, that they have to leave. And, they will not be able to exercise their right to vote in person.

So, I'm asking the Executive Director, with respects to the Executive Budget for '10, how much is that less than the adopted budget in '09?

MARCUS CEDERQVIST: The Executive Budget, how much funding is less than...? Actually, if you take a-- three million, was it. Yeah, the underfunding is three million in addition to what the underfunding was last year. If you take a look at the page right after page 4, right after the testimony, so what would be page 5--

COUNCIL MEMBER JACKSON: Go ahead.

MARCUS CEDERQVIST: -- our Finance

Department has given a chart. And, it shows the
FY '09 versus FY '10.

COUNCIL MEMBER JACKSON: Well, has
the amount of work that the Board of Elections
must do, not, you know, not that you want to do
it, that you must do--

MARCUS CEDERQVIST: Right.

COUNCIL MEMBER JACKSON: -- has
that decreased in order to-- so, you know, you got
a decrease in your budget. So, has the amount of
work decreased?

MARCUS CEDERQVIST: No. Again, we
don't control the level of work that we do. I
mean, we're mandated by law to do certain things.
And, again, a perfect example of that is kind of
the perfect storm we had last year with the
absolute inundation of new voter registration
forms that had to be processed. Again--

COUNCIL MEMBER JACKSON:
[Interposing] You mean, especially with the
Presidential election, you're talking--

MARCUS CEDERQVIST: Right.

COUNCIL MEMBER JACKSON: -- about--

MARCUS CEDERQVIST: Exactly. Yeah-

-

COUNCIL MEMBER JACKSON: -- when President Obama was elected President of the United States--

MARCUS CEDERQVIST: Right.

COUNCIL MEMBER JACKSON: -- of America?

MARCUS CEDERQVIST: Right. And, it was an amazing level of activity that the Board had. You know, we had three quarters of million voter registration forms that we processed last year from January 1st through I guess the registration deadline I believe was October 15th.

COUNCIL MEMBER JACKSON: And, what is the average, even before that?

MARCUS CEDERQVIST: Well, the year before that, it was a little over 200,000. So, you know, you're talking almost three times as many that we did in a ten-month period.

COUNCIL MEMBER JACKSON: Now, with respects to nominating petitions--

MARCUS CEDERQVIST: Right.

COUNCIL MEMBER JACKSON: -- as you know, this 2009 is an election either every member

of the City Council is running for either re-election or new office. Maybe one or two are not going to run at all. And, there's so many candidates that are running. And, my question to you is, in 2009, do you expect that many candidates to file petitions compared to like the Presidential election or the State Assembly election and stuff like that?

MARCUS CEDERQVIST: Yeah, I would say you're probably going to have at least as many. I mean, you also have a lot of political offices that, party positions, that are up this year.

COUNCIL MEMBER JACKSON: Like what? I think it's--

MARCUS CEDERQVIST: District Leader.

COUNCIL MEMBER JACKSON: --District Leader.

MARCUS CEDERQVIST: State Committee members, County Committee members--

COUNCIL MEMBER JACKSON: County Committee?

MARCUS CEDERQVIST: Right.

COUNCIL MEMBER JACKSON: Judicial delegates?

MARCUS CEDERQVIST: Right, judicial delegates.

COUNCIL MEMBER JACKSON: All of those have to go on the ballot?

MARCUS CEDERQVIST: All of those have to go on the petition, right, this year. And, you know, I'm sorry, I think our General Counsel wants to...

STEVE RICHMAN: Yeah. Council Member, all of those are to be elected in the September primary for party position. And, if there is contested elections, as you know, especially for like judicial delegate, they are long slates. All of that has to be on the ballot; has to be printed; has to be then counted. And, again, we're talking about short deadlines because the judicial convention normally occurs a week after the primary. County Committee reorganization meetings have to be within 30 days of the primary. And, we may have the potential of a Citywide runoff, in which case, either an empowerment order or a Court ordered supervision

count may delay the process. And, the runoff's supposed to take place two weeks after the primary. It barely gives us enough time to get the machines back, count the votes and ship them back out.

COUNCIL MEMBER JACKSON: Yeah, but, some people may say oh, the Board of Elections, you know, you know, this is nothing new. You have to do this from previous years and what have you and so forth. And so, with the budget the way it is, only you're cutting \$3 million, you should be able to handle everything with this cut just take a bite off like everyone else. What do you have to say to those people?

MARCUS CEDERQVIST: Well, I tried to kind of, I hopefully delicately make that point in the testimony. I mean, there's this pervasive misperception among the public that because voting is a right, that it should just happen, you know, and that it doesn't have to be funded. And, that that people don't have an important part in the administration of elections. I mean, we have over 30,000 poll workers that give up an entire day. And, I mean, you're talking a long day. It's a

15, 16-hour day, to do this. And, they get paid very, very little to do it. And, they do it really as a public service. But, elections aren't free.

I mean, you know, we're not an agency that can defer a capital project or just decide arbitrarily that we're not going to perform some function that we usually do, 'cause everything's prescribed by election law. And, if we don't do something, we're disenfranchising somebody. I mean, the way we can cover this budget deficit is if the State Legislature were to cancel, or anybody was-- we can't do it-- but, if somebody was to cancel a Citywide election, that gets rid of our budget problems right there, 'cause that's \$13.5 million that we don't spend. And then, we're whole.

If we have a Citywide runoff election, then, our problem is compounded, 'cause that's not budgeted. And, that's \$13.5 million that isn't budgeted.

COUNCIL MEMBER JACKSON: You mean, if there's a runoff for a Citywide office--

MARCUS CEDERQVIST: Right.

COUNCIL MEMBER JACKSON: -- it will
cost how much?

MARCUS CEDERQVIST: About \$13.5
million.

COUNCIL MEMBER JACKSON: And, do
you have that money in your budget?

MARCUS CEDERQVIST: No, that's what
I'm saying. We don't. And, in fact--

COUNCIL MEMBER JACKSON: Okay.

MARCUS CEDERQVIST: -- we have an
under--

COUNCIL MEMBER JACKSON:
[Interposing] So, what if you say--

MARCUS CEDERQVIST: -- funding of
that much.

COUNCIL MEMBER JACKSON: What if
you say, for example, hypothetically, listen, we
don't have the money in the budget and so, as a
result of that, we're not going to run a runoff?

MARCUS CEDERQVIST: Well, that's
what I'm saying.

COUNCIL MEMBER JACKSON: What would
happen?

MARCUS CEDERQVIST: That's a good

question.

COUNCIL MEMBER JACKSON: What--

MARCUS CEDERQVIST: I mean, some of the things that could happen is--

COUNCIL MEMBER JACKSON:

[Interposing] I mean, you have the--

MARCUS CEDERQVIST: -- a significant [crosstalk]--

COUNCIL MEMBER JACKSON: -- brain trust in front of you. What would happen if you say listen, we don't have the money? We cannot run the runoff election. What would happen?

MARCUS CEDERQVIST: Does the lawyer have an answer?

STEVE RICHMAN: Council Member, you're asking the Commissioners to choose which law they want to violate. If you exceed--

COUNCIL MEMBER JACKSON:

[Interposing] But, if you don't have the money-- wait a minute. If I don't have money to put gas in my car, my car's not going to run. Right or wrong? Not unless I can pump air in there. And, I'm not being funny, either because gas costs money.

STEVE RICHMAN: But, Council--

COUNCIL MEMBER JACKSON: But, so,
if you don't have the money, what are you going to
do?

STEVE RICHMAN: That's the question
that the Commissioners made that decision last
year that even though we don't have the money,
we're going to conduct the elections with the hope
and the prayer that the City makes us whole, as
opposed to coming after the Commissioners and
saying, you're personally liable for the deficit.
And, we'll take a million dollars from each of
you, which I'm pretty sure none of the
Commissioners have. But, the--

COUNCIL MEMBER JACKSON:
[Interposing] You mean the Commissioners are
personally liable?

STEVE RICHMAN: The City Charter
provides that no agency head, and the
Commissioners are technically the agency head, can
spend money in excess of the amounts appropriated.
They violated that provision. We made those
expenditures 'cause the alternative would be to
deny the voters their voting rights and subject

1
2 the City and the Board to a federal lawsuits, not
3 only to compel the spending, but probably punitive
4 damages. So, I think they made the judgment that
5 the City, in the past, has always made the Board
6 whole. Special Elections traditionally were never
7 funded. But, we never went this far with a
8 Special Election held in February and we're at the
9 end of-- middle of May and they haven't made the
10 budget mod yet to make us whole yet.

11 CO-CHAIRPERSON SEARS: Councilman,
12 they run at a deficit. And, that is something
13 they're not supposed to be doing. And, I'm very
14 glad that your sensitivity has developed to such a
15 point because they do what they have to do. And,
16 they do it in heroic measures. They work enormous
17 overtime. They deal with the budget. And, you
18 raised the same question that we have raised.
19 What do they do? It is their obligation to do it.

20 COUNCIL MEMBER JACKSON: So--

21 CO-CHAIRPERSON SEARS: They just
22 can't sit and say we're not doing it 'cause we
23 don't have the money. They never do that.

24 COUNCIL MEMBER JACKSON: So, could
25 a member of the public or could the Commissioners

of the Board of Elections sue the City of New York for the funding in order to run the elections?
I'm asking a question.

STEVE RICHMAN: I think, theoretically, they could. Or, if a vendor, for example, we have a trucking vendor, - - spoke about that, who delivers the machines. If, for example--

COUNCIL MEMBER JACKSON:
[Interposing] I thought the machines just show up there.

STEVE RICHMAN: Regrettably, no, Council Member.

COUNCIL MEMBER JACKSON: Oh.

STEVE RICHMAN: We have to have to pay. But, for example--

COUNCIL MEMBER JACKSON: Okay.

STEVE RICHMAN: -- when the bill comes in from the Special Elections in the Bronx in two weeks for the Assembly, and assuming we put the voucher in to pay the truckers and the City rejects it, I would think (a) the vendor would have the right to sue, 'cause he performed the service. We'd probably be named as a defendant.

But, I'm pretty sure our legal position was Your Honor, we didn't want to do this, but we didn't have the money. Yeah, it's the City's obligation.

CO-CHAIRPERSON SEARS: Yeah, but, if I can inject, because the point that you're raising was discussed when they were before the Committee before. And, we are going to look at the Charter. We absolutely are going to do that. We discussed this before we opened the meeting because I think it's an issue that needs to be addressed and probably come before the full Council.

MARCUS CEDERQVIST: And, I appreciate that. I mean--

CO-CHAIRPERSON SEARS: [Crosstalk] do that.

MARCUS CEDERQVIST: -- that is what I alluded to at the end of the testimony. The untenable position that the Commissioners are in. And, again, the Commissioners are appointed by the City Council. You know, they have a budget allocation, which we knew from the beginning of the fiscal year that we were underfunded. And, they have the election law, which sets the

obligations that they have. And, they have to make a decision, you know, which one are they going to follow. Are they going to do what we're funded to do? Or, are they going to do what we have to do to fulfill their obligations under the election law and make sure that all voters have their rights respected and that nobody's disenfranchised.

COUNCIL MEMBER JACKSON: So, every time there's a Special Election, basically you're saying that that's not in your budget.

MARCUS CEDERQVIST: That's not funded, right. Now, in the past--

COUNCIL MEMBER JACKSON: So, you--

MARCUS CEDERQVIST: -- there's been a budget modification to pay for that.

COUNCIL MEMBER JACKSON: Okay. But now, you have two Assembly races in the Bronx.

MARCUS CEDERQVIST: On July-- I'm sorry, on June 2nd.

COUNCIL MEMBER JACKSON:
Assemblyman Ruben Diaz' seat 'cause he was elected Borough President.

MARCUS CEDERQVIST: Right.

COUNCIL MEMBER JACKSON: And,
Assembly Member--

MARCUS CEDERQVIST: Greene.

COUNCIL MEMBER JACKSON: -- Greene--
-

MARCUS CEDERQVIST: Right.

COUNCIL MEMBER JACKSON: -- who's
now the Deputy--

MARCUS CEDERQVIST: Right.

COUNCIL MEMBER JACKSON: -- Borough
President.

MARCUS CEDERQVIST: That's right.

COUNCIL MEMBER JACKSON: How much
is going to cost to run those elections?

MARCUS CEDERQVIST: For those two--

COUNCIL MEMBER JACKSON: Give or
take.

MARCUS CEDERQVIST: It's--

COUNCIL MEMBER JACKSON: Give or
take a, you know.

MARCUS CEDERQVIST: It's about
550,000 for both elections.

COUNCIL MEMBER JACKSON: And, to
run the boroughwide Borough President's race?

MARCUS CEDERQVIST: It was approximately two and a half million.

COUNCIL MEMBER JACKSON: Two and a half million.

MARCUS CEDERQVIST: Yeah, exactly. It's a boroughwide race.

COUNCIL MEMBER JACKSON: Well, couldn't we have just said that, you know, everybody believes that Ruben Diaz was going to win, let's not even do the election at all?

MARCUS CEDERQVIST: [Crosstalk]--

COUNCIL MEMBER JACKSON: Couldn't we do that?

MARCUS CEDERQVIST: -- discretion to do that.

COUNCIL MEMBER JACKSON: Excuse me?

MARCUS CEDERQVIST: The Board of Elections does not have the discretion to do that.

COUNCIL MEMBER JACKSON: So, you mean, even if 99.9% of the people voted for Ruben Diaz, Jr., you still had to run an election and spend \$2.5 million?

MARCUS CEDERQVIST: Um, hm. We're obligated under the law, yes, to conduct that

election. And, that election was called in
accordance with--

COUNCIL MEMBER JACKSON:

[Interposing] Well, if you--

MARCUS CEDERQVIST: -- the City
Charter.

COUNCIL MEMBER JACKSON: -- don't
have the money to run a Citywide election, can't
we ask each taxpayer that wants to vote to pay a
dollar or \$2 to--

MARCUS CEDERQVIST: Poll taxes have
been tried in the past. They weren't very
successful.

COUNCIL MEMBER JACKSON: They
weren't?

MARCUS CEDERQVIST: They're
unconstitutional and that's definitely not a road
that--

CO-CHAIRPERSON SEARS:

[Interposing] I don't think--

MARCUS CEDERQVIST: -- I mean, I
know and I understand the way you're presenting
the question. But, I know, obviously, no one
would ever want to--

CO-CHAIRPERSON SEARS:

[Interposing] Well, the Councilman--

MARCUS CEDERQVIST: -- go down that road.

COUNCIL MEMBER JACKSON: So, in essence, you're saying that the government is going to have to fund the Board of Elections in order for us to have our right to vote for who we want to on the day of election, in person, if we're available, and not have to wait 500 hours?

MARCUS CEDERQVIST: That's correct.

CO-CHAIRPERSON SEARS: Yeah.

You're absolutely right, Councilman. And, I do think that one, it should be a negotiating item. And, I feel very strongly about that. I feel very strongly that they should have dedicated people for the new machine. And, I'm glad that you are exercising such [crosstalk]--

COUNCIL MEMBER JACKSON:

[Interposing] Because, you know, I hear it from my constituents--

CO-CHAIRPERSON SEARS: Yeah.

COUNCIL MEMBER JACKSON: -- when they have to wait--

CO-CHAIRPERSON SEARS: You're right.

COUNCIL MEMBER JACKSON: -- a long time. And, they look at me like what are you doing about it.

CO-CHAIRPERSON SEARS: You're absolutely right.

COUNCIL MEMBER JACKSON: So, I'm raising the questions because I want to know what's going to be done about it, Madam Chair. And, you're the Chair of Government Operations, so, I'm asking you.

CO-CHAIRPERSON SEARS: Yes. Well, what we're going to do about it, in the next negotiating, the Chair and I, Finance, are going to send a letter to the Administration, be happy if you join on--

COUNCIL MEMBER JACKSON: I'll be glad to sign on.

CO-CHAIRPERSON SEARS: -- members of the Committee, that we can't put that money in. The Administration has to do it. And, I think if there is enough enthusiasm and fierceness over this issue, it should become a negotiating item.

It really has to.

COUNCIL MEMBER JACKSON: Well, I don't think it should be a matter of negotiations. In fact, it should be--

CO-CHAIRPERSON SEARS:
[Interposing] Well, if they're not--

COUNCIL MEMBER JACKSON: -- funded, period--

CO-CHAIRPERSON SEARS: -- going to do it. If they're not--

COUNCIL MEMBER JACKSON: -- in the Executive Budget.

CO-CHAIRPERSON SEARS: -- going-- right. But, if they're not going to do it, then it means that we get into that tug-of-war and we have to make a decision as to what our priorities are in 2009. And, I agree with you about people having to wait over the 30,000 poll workers, who get exhausted and not really getting enough money for their day. And, I'm really concerned about the BMD and the fact that all your poll workers are going to have to have this additional training. And, they're not going to be able to do it because they will. But, talk about

complications, I believe that it's going to take longer to vote. So, this has to be an issue for all of us to face. And, it's our responsibility.

COUNCIL MEMBER JACKSON: Well, thank you.

CO-CHAIRPERSON SEARS: With that, I want to thank you for--

COUNCIL MEMBER JACKSON: Thank you, Madam Chair.

CO-CHAIRPERSON SEARS: -- stirring up this. And, we will go further with it. Are there any other questions?

CHAIRPERSON WEPRIN: Yeah. Council Member Dickens has a question.

CO-CHAIRPERSON SEARS: Okay.

COUNCIL MEMBER DICKENS: Thank you so much, Chairs. Good morning.

MARCUS CEDERQVIST: Morning.

COUNCIL MEMBER DICKENS: Was there, in the Bronx Borough President-- were there any opponents? How many candidates was in that--

MARCUS CEDERQVIST: There were two candidates. As you mentioned, now Borough President Diaz and Anthony Ribustello.

COUNCIL MEMBER DICKENS: And, who?

MARCUS CEDERQVIST: Anthony Ribustello was the challenger.

COUNCIL MEMBER DICKENS: Oh, so, there was--

MARCUS CEDERQVIST: It was a contested election, yeah.

COUNCIL MEMBER DICKENS: Okay. All right. Well then, you have answered my question because if there's no opponent and there's only one candidate--

MARCUS CEDERQVIST: Um, hm.

COUNCIL MEMBER DICKENS: -- are you obligated for, say, a boroughwide to have an election?

MARCUS CEDERQVIST: We actually are because the voters have the right and the ability to cast a write-in vote. And, there may be a candidate, although not nominated by a party or having submitted designated petitions that would go around soliciting votes for a write-in candidacy. And so, we're obligated to actually conduct the election anyway.

COUNCIL MEMBER DICKENS: In the

last, say, five primaries, how many write-in candidates have you had?

MARCUS CEDERQVIST: Ooh, that's a good question. I mean, actually, if you go on our website, you see the official results of each election. And, there is actually every write-in vote is tallied on those results. You know, I can check that for you and get back to you. I wouldn't be able to--

COUNCIL MEMBER DICKENS:
[Interposing] I just would like to know if there is a high incidence of write-in candidates.

MARCUS CEDERQVIST: Yeah, you actually get hundreds of write-in candidates, you know, for various elections. I mean, obviously, the Presidential one, you get a lot. And, some of them--

COUNCIL MEMBER DICKENS:
[Interposing] Well, all right.

MARCUS CEDERQVIST: -- are very interesting--

COUNCIL MEMBER DICKENS: Um, hm. I really--

MARCUS CEDERQVIST: --people they

write in.

COUNCIL MEMBER DICKENS: -- meant
in a local primary, how many write-in candidates
[crosstalk]

MARCUS CEDERQVIST: [Interposing]
Yeah, I couldn't tell you that off the top of my
head. I would have to research that for you.

COUNCIL MEMBER DICKENS: I just
would like to know--

MARCUS CEDERQVIST: Sure.

COUNCIL MEMBER DICKENS: -- you
know. And, the reason I'm getting at that is
because where there is, you know, I understand
about the every voter has a right to be able to
have a write-in candidate. If it's an uncontested
race, and three people vote and the person wins by
three votes. And, they get 100% of the vote. Is
that right? If there's nobody running against
somebody and no write-in votes--

MARCUS CEDERQVIST: Right.

COUNCIL MEMBER DICKENS: -- then a
candidate, if three people vote, he's won the
election, or she has won the election--

MARCUS CEDERQVIST: [Interposing]

That's correct.

COUNCIL MEMBER DICKENS: -- with
three votes.

MARCUS CEDERQVIST: That's correct.

COUNCIL MEMBER DICKENS: Well, see,
that's what I'm getting at. And, the expense, the
high expense--

MARCUS CEDERQVIST: Um, hm.

COUNCIL MEMBER DICKENS: -- at
conducting a Special Election if it's uncontested.
Now, in the case of the Bronx Borough President,
it was contested. But, I'm really getting at
where it's uncontested--

MARCUS CEDERQVIST: Right.

COUNCIL MEMBER DICKENS: -- is
really my question. And, I'd really like to find
out, you know, about that and about what--
because, you know, in these times, if your budget
is cut like this, then we're disenfranchised
anyway.

MARCUS CEDERQVIST: Yeah, I
appreciate what you're saying is, you know, the
Board doesn't have the discretion, even if there
is a I guess what we would call an uncontested

election where there's only one candidate. The Board doesn't have the discretion to say okay, well, you know, we could save some money if we don't put out the machines. The State election law actually obligates us to conduct that election anyway. So, that's something, frankly, that it's over our level to make that determination.

COUNCIL MEMBER DICKENS: And, based upon some of the questions of my colleague, Council Member Jackson, some of this could be addressed by the Charter Revision Commission that's due to come up next year. Is that right?

MARCUS CEDERQVIST: I believe it would have to be by State, actually.

STEVE RICHMAN: Yes.

COUNCIL MEMBER DICKENS: Oh, state.

STEVE RICHMAN: The Special Elections are just like a general election. It would be State law and the State Constitution. The State Constitution mandates that every time a public office, such as a member of the Council or Borough President, is contested as a general election, which also would include the Special, the voter has to have the right to write it in.

So, you're talking about a State Constitutional change, as well as State election law.

COUNCIL MEMBER DICKENS: All right. Well, that answers my question. Thank you.

CHAIRPERSON WEPRIN: Any further questions? Seeing none, thank you for coming. And, I'm sure we'll be in touch. And, if you do have to run a deficit, we will do everything, which looks like you will, we will do everything in our power to urge, you know, the Mayor and the Administration and the Office of Management and Budget to provide the, and the Council, to provide the necessary funds because democratic process must go on. And, you're put in a untenable position, as you pointed out before, as to, you know, which law to violate. And, that's not a position that you really should be put in. Thank you.

Is the Campaign Finance Board in the house? You could come up. Okay. You have a prepared statement? Go ahead.

AMY LOPREST: Good morning, Chairman Sears, Chairman Weprins and Committee Members. I am Amy Loprest, Executive Director of

the New York City Campaign Finance Board. With me are Deputy Executive Director Shauna Tarshis Denkensolm and General Counsel Sue Ellen Dodell.

Pursuant to the New York City Charter, Section 1052(c), the Board submitted its estimated budget for fiscal year 2010 to the Mayor in March. As was required by the Charter, this estimate has been included in the Mayor's Executive Budget. The budget request is attached to this testimony.

The Board's budget for fiscal year 2010 is consistent with previous Citywide election years. The allocation for the campaign finance fund to provide matching payments to candidates is dramatically increased in a Citywide election. Our budget for fiscal year 2010 allocates \$50,800,000 for the fund. As in previous years, unused portions of the campaign finance fund will be returned to the City's General Fund after the elections are concluded.

The Board's request also includes funds for the Citywide Voter Guide. As you know, the Board publishes and distributes the non-partisan Voter Guide to every New York City

household with a registered voter. All candidates, whether or not they participate in the Campaign Finance Program, have an equal opportunity to make a statement in the Guide. The Board's allocation for the Voter Guide for this year is approximately \$7.6 million. The Board anticipates mailing nearly 6.4 million guides; 2.7 million guides for the primary election and 3.6 million guides for the general election. After our appearance before the Committee on Governmental Operations on March 12th, the Board submitted a letter to Chairman Sears which contains a more detailed breakdown of the costs associated with the Voter Guide.

These increased cost projections for the campaign finance fund and the Voter Guide are based on our experience from prior Citywide elections. As a result, the Board's budget request for the coming year contains a significant increase beyond the current year's budget. Still, it is important to note that this request represents a decrease from the CFB's budget for the previous Citywide election year in 2005.

Where we are able to contain costs, we are doing

so. Outside of the matching funds and Voter Guide, our costs will decrease from the current fiscal year to the next by approximately \$650,000.

The Board is busy with preparations for the 2009 elections. This past Friday, May 15th, was the filing deadline for Disclosure Statement #8, covering funds raised and spent over the two months ending May 10th, 2009. As of Friday, there are 263 active candidates registered with the Board.

The deadline for candidates to certify as participants in the Campaign Finance Program is June 10th. Forty-six candidates have already filed their certifications. Local Law 34 of 2007 moved the certification deadline from June 1st to June 10th, giving candidates more time to make their decisions to enter the Program. June 10th is also the deadline for candidates to submit their information to be printed in the 2009 Voter Guide.

The Board continues to offer its enhanced training program for candidates, with the CFB's Candidate Services Unit certifying 230 campaigns as having completed the mandated two-

part training course to date. The Board is also helping to make compliance easier for campaigns by focusing on early intervention. In addition to increasing the number of trainings we offer, we are scheduling compliance visits with campaigns earlier in the cycle, and we are working hard to utilize more plain language in our communications with campaigns.

Since 1997, the Board has also administered the mandatory debates among participating candidates for mayor, public advocate, and comptroller. The Campaign Finance Act specifies two debates before the primary election and two before the general election for each office. Earlier this year, the Board solicited applications from groups interested in sponsoring the debates for the 2009 elections. After reviewing those applications and conducting a series of interviews, the Board has tentatively selected sponsor groups to host the debates, and plans to publicly announce the 2009 debate schedule at a press conference next month.

As amended by Local Law 34 of 2007, the Campaign Finance Act places low limits on

contributions from those doing business with City government. The new law, in effect for the 2009 elections, gives New York City the most comprehensive limits on pay-to-play of any jurisdiction in the country. The Board completed its timely review of contributions filed in March, as required by the law, and the review process for the May 15th filing has begun.

The Board continues to improve our web-based informational gateway for candidates, called C-Access, which offers campaigns an instant and secure link to an array of useful information and services online. Last week, the Board also unveiled an updated and improved online searchable database, which brings greater transparency to the City's political process and provides the public with an easier access to campaign finance records reported by candidates. The update offers new search capabilities and an improved, user-friendly interface.

As always, the Campaign Finance Board looks forward to continuing to work with the Council to make the Program more effective and efficient. Thank you for your time, and we look

forward to your questions.

CHAIRPERSON WEPRIN: Thank you.

When you originally anticipated your budget, you did not anticipate a change in the term limit law.

How does the change in the term limit law affect the amount of money that you estimated would be required for the election for matching funds?

And, have you seen a significant fall off in candidates that would be eligible for matching funds to date, obviously, it's not complete yet, as a result of the change in the term limit law?

AMY LOPREST: Actually, our budget estimate was prepared after the, in March, after the term limits law was passed. We have about 260 candidates that are actively filing with the Board, and, which is about the same number as there were in 2005. So, the answer to your question simply is that our budget already takes into account any potential fall off from the term limits.

CHAIRPERSON WEPRIN: And, how many candidates were there in 2001?

AMY LOPREST: In 2001, I believe there were about 400 candidates who filed with the

Program.

CHAIRPERSON WEPRIN: Okay. Four hundred versus about 260 for '05 and--

AMY LOPREST: Yeah.

CHAIRPERSON WEPRIN: -- '09, you're saying.

AMY LOPREST: Yes.

CHAIRPERSON WEPRIN: Okay. What would have been your budget? So now, you would have probably estimated the 400 had the term limit law not changed?

AMY LOPREST: It probably would have been more like the 400, yes, if the term limits law hadn't changed.

CHAIRPERSON WEPRIN: Okay. And, what is the allocation for matching funds at the 260 level, approximately?

AMY LOPREST: It's about \$50 million, 50,800,000.

CHAIRPERSON WEPRIN: What would it have been at the 400 level?

AMY LOPREST: Well, we didn't calculate that number. But, in 2001, our budget included-- we paid out about \$42 million in public

1 funds, of matching funds. But, the matching rate
2 has increased from four to one to six to one.
3 And, also, we try to include in the budget a
4 number that's greater than what we might actually
5 pay out in order to avoid any potential problems
6 during the election with having a shortfall in
7 public funds.
8

9 CHAIRPERSON WEPRIN: How does it
10 work with the change of the six to one versus four
11 to one in the mid-year of the cycle? Everything
12 is recalculated retroactively? Or, is it only
13 from the date of the change in the law?

14 AMY LOPREST: It's recalculated
15 retroactively, 'cause no public funds have been--
16 no payments have been made as to date.

17 CHAIRPERSON WEPRIN: Okay. Was
18 that a complicated process to do that?

19 AMY LOPREST: We have a great
20 system staff. So, they achieved it relatively
21 easily. But, it's not a simple process. In
22 addition to the matching rate changing from four
23 to one to six to one, the amount on each
24 individual contribution that's eligible to be
25 matched changed from \$250 to \$175, which was the

more complicated programming issue.

CHAIRPERSON WEPRIN: I know when I first ran in 2001 and I was probably-- I took the rejections much more personally than I probably do at this point, when, you know, I have more people involved in the process. But, I know there were a lot of computer glitches back then and I think there's still some, but it may be less.

Specifically, like in the areas of, you know, this is not a, you know, a residential address when you know it's a residential address, 'cause, you know, we live in a City where, you know, there are a lot of what might have been a former commercial area, which is now a residential area and there's a lot of-- I know for a fact, personally, that there were a number of, you know, addresses that we claimed as residential addresses that you, you know, came back and said they weren't residential addresses. And, we kept disputing it and you kept coming back that it still wasn't residential addresses.

What have you done to resolve those type of issues when-- will you accept an affidavit from a resident that they actually live in a

1
2 residential address rather than whatever your
3 computer says is a residential address?

4 AMY LOPREST: Well, there's two
5 parts of that answer to that question. After the
6 2001 election, we updated the system by which we
7 used the computer, that system that we used, to
8 determine whether addresses are business or
9 residential. Now, we use a system that gets
10 information directly from the Department of
11 Finance and the City Planning Commission. So, it
12 should be much more up to date than the previous
13 information we were using. So, I think that the
14 problem has been greatly reduced just by that
15 change of the computer system.

16 In addition, campaigns are
17 instructed on methods by which they can, if our
18 computer system still says that your residential
19 address is a business address, various ways that
20 you can demonstrate to us that it is actually a
21 residential address, including statements from the
22 contributor; also, you know, a photocopy from the
23 phone book to show that you have a residential
24 phone number, those kind of simple solutions. So,
25 it's not that it's not solvable.

CHAIRPERSON WEPRIN: So, there are ways of-- what about the issue of Esquire and MD and DDS on checks because I know a lot of people that have personal accounts, if they're doctors or lawyers, often, you know, for whatever purpose, you know, for whatever protocol or titles, often'll put Esquire or doctor or MD on the checks. But, that doesn't mean that it's not a personal check. And, if it's claimed to be a personal check, I know that's been an issue that, you know, you send it back and say it's not a personal check. And, how did we resolve those issues? And, what's the status of those type of situations?

AMY LOPREST: Our auditors, when they are doing the reviews-- and, let me explain that the reason for these reviews is to ensure that when the public is paying money on these claims for matchable contributions that we're paying the money on claims that are eligible to be matched, which are contributions from individual New York City residents. And so, that's why the residency is important. And, that's why it's important that the checks come from an

individual's account. But, in the--

CHAIRPERSON WEPRIN: [Interposing]
No, I supported the legislation. I voted for it,
too.

AMY LOPREST: To answer your
specific question, we have, in our training
materials, a explanation of the process that our
auditors use, which is a combination of the name,
you know, and the professional designation and
your employer information. And, also, we have a
process by which you can resolve that, by, again,
getting a statement from a contributor.

CHAIRPERSON WEPRIN: So, it has,
you know, evolved, because I know there was an
issue a number of years ago where it would
automatically be rejected. So now--

AMY LOPREST: [Interposing] We try
and improve.

CHAIRPERSON WEPRIN: Okay. But,
you recognize that there are people that do have
personal checks, but have Esquire or doctor on the
check.

AMY LOPREST: Yes.

CHAIRPERSON WEPRIN: Okay. So,

that's a fact. Okay. I'm going to turn it over to Chair Sears.

CO-CHAIRPERSON SEARS: Thank you very much. And, good morning.

AMY LOPREST: Morning.

CO-CHAIRPERSON SEARS: Good to see you again, really. I know that some of my colleagues have questions, so I'm going to be very brief for the first time around. It has to do with the six to one matching. The question is that if someone has their campaign self-funded, what happens to the matching funds, 'cause I don't really know, 'cause if everyone opts in in that particular race with the Campaign Finance, that's not a problem. If someone opts not to join the Campaign Finance, is it still six to one? Or, does it increase?

AMY LOPREST: The law provides--

CO-CHAIRPERSON SEARS: At some point.

AMY LOPREST: -- for what we call a two-tiered bonus situation. If you're running against someone who has opted out of the Program, the first tier is triggered if the person has

1
2 spent 50% of the spending limit. And, what
3 happens is the matching rate goes up. The total
4 amount of matching funds you can get goes up.
5 And, the amount that you can spend goes up.

6 So, there's two tiers. One, if
7 your opponent has spent 50% of the spending limit
8 and the other if you have a non-participating
9 opponent who's spent three times the spending
10 limit, then your matching rate goes up to, it's
11 about \$8.50 per dollar. You get a higher amount
12 of matching funds. And, also, your spending limit
13 is lifted in that instance. So, you do get
14 additional matching funds at a quicker rate.

15 CO-CHAIRPERSON SEARS: So, if the
16 spending is lifted, is there a maximum on that
17 candidate that is in the Campaign Finance Program?

18 AMY LOPREST: People who are non-
19 participants are not bound by the spending limit.

20 CO-CHAIRPERSON SEARS: That I know.

21 AMY LOPREST: And so, if you are
22 running against a non-participant who spends three
23 times the spending limit, then you, as a
24 participating candidate, have no spending limit.
25 The total amount of matching funds that you can

receive is increased from what you would normally get if everyone in your district was a participant. And, also, you get those matching funds at a quicker rate. So, instead of at six to one, you get it-- it's \$8.57--

CO-CHAIRPERSON SEARS: I see.

AMY LOPREST: -- per dollar.

CO-CHAIRPERSON SEARS: Okay. Thank you. For the estimate of the election funding, which is the matching funding of approximately 50 million, how do you get to that number?

AMY LOPREST: We worked, before the 2001 election, and this is the formula we've used since then, we've worked with a statistician develop a statistical model that takes into account a number of factors, which include the number of candidates that are currently active; the expected number of competitive races and, as well as public funds payments that were made in previous election cycles. So, we use a statistical model to come up with that number.

CO-CHAIRPERSON SEARS: In the past, have you had any adjustments to that number after petitions were filed?

AMY LOPREST: What we do is we have actually never-- which we aim to have the number that we put in our budget request high enough so that we need not make any additions to the fund during the election cycle, after the budget is passed. Although the Charter and the Campaign Finance Act have emergency budget provisions in that instance, although we've never needed to invoke those emergency budget provisions. But, one thing that we do do is after the election, after the majority of public funds have been paid out, after, you know, when the elections are over, we have given money back to the City.

CO-CHAIRPERSON SEARS: Now, I know [crosstalk]--

AMY LOPREST: That we have left over.

CO-CHAIRPERSON SEARS: Yeah. And, that's a very good thing to do. I have to say that certainly there has been great improvement in the Campaign Finance. And, I want to thank you for that.

AMY LOPREST: Thank you.

CO-CHAIRPERSON SEARS: I know that

as you move along, I'm sure there'll be others that do because you're constantly having opinions that you have to review on. And, I'm no doubt that affects exactly what happens and how you do that. [Pause]

CHAIRPERSON WEPRIN: We've been joined by Council Member Rosie Mendez from Manhattan.

CO-CHAIRPERSON SEARS: And--

CHAIRPERSON WEPRIN: Anybody have any questions?

CO-CHAIRPERSON SEARS: Yes, Councilman Jackson has a question.

COUNCIL MEMBER JACKSON: Well, thank you, Madam Chair. First, I have a comment and then, I have a question. My comment is that as a member of the City Council that oversees-- the City Council oversees all of the agencies including New York City Campaign Finance Board and then, specifically as a candidate for reelection, I must say that I am personally satisfied with the communication of the liaison and the legal department that my campaign is having with the Campaign Finance Board. It appears as though that

the communication is timely and they're returning phone calls. And so, overall, I'm very pleased with the communication between my campaign and the New York City Campaign Finance Board.

CO-CHAIRPERSON SEARS:

[Interposing] I'm glad--

COUNCIL MEMBER JACKSON: So, that's a compliment.

CO-CHAIRPERSON SEARS: Yeah, and, I'm glad--

AMY LOPREST: Thank you very much.

CO-CHAIRPERSON SEARS: -- to hear that. And, you state that because there have--

COUNCIL MEMBER JACKSON: Yeah.

CO-CHAIRPERSON SEARS: -- been great improvements in the agency.

COUNCIL MEMBER JACKSON: And then, I have a question and following up on your questions about participants that are not registered with the Campaign Finance Board. And, more specifically, this past weekend, I heard on the news that Mayor Bloomberg has spent about 18 or \$19 million in his campaign so far. And, looking at, for example, let me take for an

1
2 example, William Thompson, who's running as a
3 Democratic nominee for Mayor, what is the maximum
4 any candidate, whether it's Bill Thompson, Tony
5 Avella, 'cause those are the only ones that I know
6 that are running for Mayor right now, what would
7 they be entitled to if they are participating in
8 the Campaign Finance law? How much would they be
9 entitled to as far as matching funds, because I
10 heard you say that there's a certain amount that
11 they'd be entitled to? But, they can spend beyond
12 that anything else that they can if they have it.
13 And, I don't think that they have it based on
14 those individuals that I know. But, I'm just
15 curious as to what would be the maximum that
16 candidates running for Mayor will be entitled to
17 compared to what Mayor Bloomberg has said that
18 he's willing to spend whatever it takes to be
19 reelected.

20 AMY LOPREST: Well, Councilman
21 Jackson, you're exactly right that a candidate
22 would be able to spend as much money as they can
23 raise. The amount of public funds that they are
24 eligible to get would go up to \$7.7 million.

25 COUNCIL MEMBER JACKSON: Seven

point seven, whereas, if everyone-- 7.7 million, whereas, if everyone, including let's say Mayor Bloomberg, was in the Campaign Finance matching funds, what would be the normal matching funds if every candidate running for Mayor was in the Campaign Finance Fund?

AMY LOPREST: About \$3.4 million.

COUNCIL MEMBER JACKSON: Three point four million.

AMY LOPREST: And, let me clarify that talking about Mr. Thompson, you know, he will be eligible to receive public matching funds for the primary election because he is opposed-- there will be a contested primary election, if there is a contested primary election. And, he would also be eligible for additional public matching funds in the general election. So, he would be eligible for up to \$3.4 million for the primary and then, he could receive \$7.7 million for the general election. In this--

COUNCIL MEMBER JACKSON:

[Interposing] Okay. Because in the primary, based on everything that I know, there's only two candidates that have filed, to my understanding,

Bill Thompson and Tony Avella. And, if that's the case, as you indicated, the maximum that they can receive will be 3.4 million in matching funds?

AMY LOPREST: Yes, assuming that there's not anyone-- I mean, assuming that everyone in the primary election is in the Campaign Finance--

COUNCIL MEMBER JACKSON: Right.

AMY LOPREST: -- Program.

COUNCIL MEMBER JACKSON: Right.

AMY LOPREST: Yes.

COUNCIL MEMBER JACKSON: And, as far as then the general election, in which I believe Mayor Bloomberg is running in that, or any other candidate, it doesn't really matter, but if someone that is not participating, those that are participating could receive up to 7.7 million?

AMY LOPREST: Yeah, that's correct.

COUNCIL MEMBER JACKSON: For the general election.

AMY LOPREST: That's correct.

COUNCIL MEMBER JACKSON: Okay.

Thank you. And, what about if someone was running in the City Council race and they were not

participating, will City Council candidates have an opportunity to get a little bit more also? I'm just asking the question.

AMY LOPREST: Yes, that bonus does apply, you know, the ratios are the same rate at the City Council or at any office--

COUNCIL MEMBER JACKSON: Do--

AMY LOPREST: -- that is covered by the Program.

COUNCIL MEMBER JACKSON: And, let me just tune in on City Council because there's 51 members of the City Council and I assume there's going to be so many more registered candidates in the City Council races throughout the City. Under the current formula, what is the maximum matching funds for a City Council candidate when everyone is in the Campaign Finance law as a candidate? And then, what if someone is not in, what is the maximum that a City Council candidate can receive?

AMY LOPREST: Well, City Council candidates can receive up to \$88,500 per election; so, 88,500 for the primary and then, another 88,500 for the general election. That's 55% of the spending limit.

COUNCIL MEMBER JACKSON: That's
55%--

AMY LOPREST: Five percent of the
spending limit.

COUNCIL MEMBER JACKSON: And, the
spending limit is a hundred and...

AMY LOPREST: It's about 161,000.

COUNCIL MEMBER JACKSON: Yeah,
okay, 55, okay, 55%. And, what if someone, a
candidate, is not registered and let's say they're
spending their own money.

AMY LOPREST: You know, as I said,
there are two tiers to this bonus.

COUNCIL MEMBER JACKSON: Um, hm.

AMY LOPREST: So, if you're running
against an opponent who spends three times the
spending limit, then the amount of public funds
would go up to I think it's-- I don't have all the
numbers in my head. I can send you a chart that
has all of the, you know, the, you know, it's on
our website, that has all of the, you know, the
configurations. But, they would get, you know,
whereas, where the Mayor went from 3.4 to 7.7
million, it would be the same amount. It's a

percentage. So, go from 88,500 to probably somewhere around \$160,000.

COUNCIL MEMBER JACKSON: Now, I believe your response, I believe, your response to a question or may have been in your statement that I believe you indicated that you believe there's enough funds in order to meet the demands of all those individuals that may be applying for matching funds. Is that correct?

AMY LOPREST: Yes. I mean, and, we, on purpose, create our budget estimate to be probably more than will likely be paid out in order to avoid the what would be a terrible thing that when we're about to make a public funds payment to not have enough funds in the public fund to make those payments. Also, you know, while there is an emergency budget provision for that, we would, you know, it would delay the public funds payment at the time candidates need it most. So, we try to avoid that.

COUNCIL MEMBER JACKSON: Well, let me thank you for your response. And now, I fully understand as far as, especially with the recent news about, you know, how much money is being

1
2 spent on the Mayoral race, what would a candidate
3 be entitled to if everyone was enrolled in the
4 matching funds and where a candidate may not be,
5 what they're entitled to. So, thank you. Thank
6 you, Madam Chair.

7 CO-CHAIRPERSON SEARS: Councilman
8 Jackson, just for a note, it's not a question,
9 but, we seem to have enough money to be able to do
10 the matching funds. But, we don't enough money to
11 run the election so that they could get the
12 matching funds. That's government at its best, I
13 can tell you. Thank you.

14 CHAIRPERSON WEPRIN: Yeah, I have--
15 what is the first date for the payout for matching
16 funds?

17 AMY LOPREST: We make the first
18 public funds payments after the Board of Elections
19 has set the ballot so that we fulfill another
20 requirement of the law that we only make payments
21 to candidates who are on the ballot. It usually,
22 that happens after petitions are filed and any
23 hearings on challenges are heard, usually the last
24 week in July or the first week in August.

25 CHAIRPERSON WEPRIN: Okay. And,

1
2 can you continue to qualify up 'til that time for
3 matching funds? Or, is there a cutoff at one
4 point?

5 AMY LOPREST: No, you can receive
6 claims for matching funds during the year of the
7 election; so, up until December 31st, 2009, you can
8 receive matchable contributions and get,
9 obviously, won't get your public funds. You'll
10 only get them after your audit is completed. But,
11 you would receive matching funds on those claims
12 up to the end of this year.

13 CHAIRPERSON WEPRIN: But, is there
14 a lag period? In other words, let's say you
15 designate the last week in July for payment of
16 matching funds. Can you submit applications for
17 that payment up to a week before, a day before, a
18 month before?

19 AMY LOPREST: The public funds
20 payments are made based on the disclosure
21 statements schedule. So, there's a disclosure
22 statement that's received on July 15th. And, that
23 first payment usually includes all claims up
24 until-- included in that disclosure statement.
25 And then, there are two additional disclosure

statements before the primary and payments are made four days after those disclosure statements are received. And, the law that was passed in 2007 adds another payment during that period. So, another payment that's not actually based on any particular disclosure statement to allow people to correct invalid claims and get additional matching funds if they're entitled.

CHAIRPERSON WEPRIN: And, what are the disclosure statements after July 15th, before the primary?

AMY LOPREST: I don't have them in my head. I certainly can send you the schedule. They're also on our website. I'll send you the schedule of the disclosure statements.

CHAIRPERSON WEPRIN: But, there were two others before the primary after July 15th.

AMY LOPREST: Yes.

CHAIRPERSON WEPRIN: Anyone else have any questions? Council Member Dickens.

COUNCIL MEMBER DICKENS: Thank you so much. Good morning.

AMY LOPREST: Morning.

COUNCIL MEMBER DICKENS: The chart

that you told Council Member Jackson about, can this Committee get it?

AMY LOPREST: Yes, I was going to-- anything I have mentioned, I'm sorry, make clear, I'll send it to the entire Committee.

COUNCIL MEMBER DICKENS: All right. Thank you. And, also, in reference to violations, where there are violations if a candidate has filed for Campaign Finance and there's violations, there are penalties and return of payouts. Is that right?

AMY LOPREST: Yes.

COUNCIL MEMBER DICKENS: All right. And, what is your success rate at actually collecting-- collections? And, whatever collections you do get, does it go back into Campaign Finance? Or, do you have to return it to the general pot? How does that work?

AMY LOPREST: We have a very successful collection rate. And, I'm going to let our General Counsel talk a little bit about where the money comes. But, we have a very rigorous collection policy and have a very successful collection. And, the money does go back to the

City.

SUE ELLEN DODELL: But, the public funds--

CHAIRPERSON WEPRIN: First, identify yourself for the record.

SUE ELLEN DODELL: Yes. Sue Ellen Dodell, General Counsel. When we receive public funds back, those go back into the Campaign Finance Board's public fund. When penalties are recouped, that goes to the City's General Fund.

COUNCIL MEMBER DICKENS: All right. And, the success rate of collections from your violators.

SUE ELLEN DODELL: We've been very successful. If you want, we can, you know, provide you with the, you know, the exact number. But, we usually are quite successful.

COUNCIL MEMBER DICKENS: And, when you say it goes back into the general pot, that it doesn't really go back in to assist with Campaign Finance, such as the reductions that you've had to do as a result of...

AMY LOPREST: No, no. Those reductions are actually, you know, when we

1
2 actually looked at our budget and made reductions.
3 It's not offset by those returns of collection.
4 To explain our collection process, I mean, in
5 addition to the audit process, you know, where
6 candidates have opportunities to respond, we send
7 collection letters. We post on our website those
8 who have outstanding penalties. But, our legal
9 staff has been very successful in working out
10 plans with people who need, you know, who don't
11 have the financial resources to pay their
12 penalties all at once can work out plans based on
13 their financial need.

14 COUNCIL MEMBER DICKENS: I know
15 you've been, you know, very successful at those
16 who have actually won elections. I just was
17 wondering how successful were you with those who
18 lost elections.

19 AMY LOPREST: We are, you know, we
20 do both.

21 COUNCIL MEMBER DICKENS: Thank you.

22 CO-CHAIRPERSON SEARS: Just have
23 one question on what Councilwoman Dickens was
24 asking. For someone to pay those penalties, are
25 they allowed to raise dollars with their Campaign

Committee in order to pay those fines?

AMY LOPREST: Yes, they are. They can raise money in accordance with the same rules that were in effect for the election that they're running. So, you know, to the extent the contribution limit or changes over the, you know, from year to year, they can raise money according to the laws that were in effect in the election that they ran in.

CO-CHAIRPERSON SEARS: So, that can go on during their audit process to raise monies?

AMY LOPREST: Yes.

CO-CHAIRPERSON SEARS: For that? All right. Thank you very much. And, I really want to commend you again. You may not have everything in your head. It seems to me you have all of it.

CHAIRPERSON WEPRIN: Council Member Dickens.

COUNCIL MEMBER DICKENS: I'm sorry, I just have one more thing. A violation of, and without being specific, if a candidate violates by having, say, an in-kind contribution, does that go towards their cap? It's not a-- when I say a

violation, it's actually not a violation. But, say, someone gives them time on where they now say on television if it's Citywide that they are, or on the City Council, whatever, if they get an ad that says I'm running and they don't declare it on their campaign, is that an in-kind contribution?

AMY LOPREST: Yes, it is. I mean, if someone, any goods or services that are provided to the campaign that they don't have to pay for are considered an in-kind contribution subject to both the contribution limit and, because it's money that you otherwise would have had to spend, that amount, you know, say it's, you know, a thousand dollars, would also count towards your spending limit, also.

COUNCIL MEMBER DICKENS: All right. I thank you.

AMY LOPREST: Okay.

CHAIRPERSON WEPRIN: We've been joined by the Staten Island delegation, Councilman Jim Oddo, Councilman Vincent Ignizio and I see Councilman Ken Mitchell in the back. So, Staten Island is in the house. And, before we close, 'cause we're about to close, I'm going to call

upon Councilman Vincent Ignizio for question.

COUNCIL MEMBER IGNIZIO: Yeah, sorry for the late arrival. We were fighting for firehouses in Staten Island, the delegation. So, I had a very quick, not so much a question, as more of a comment in regards to the administration of Campaign Finance Board. And, that refers to durable goods. What I was trying to get into the legislation that we passed, the most recent one, was a durable goods provision that anything bought over \$500 with, similar to a computer or a television or whatnot, would then be mandated to be donated to a local school or nonprofit. I still believe that. I think it's something that the Board should adopt and pursue because I have a question on where these durable goods go post the election cycle of which they're purchased. And, I think a lot of them are "stored" and God knows where. So, that's just something that I think could be helpful to the communities that we all live and serve in and that we take these durable goods and we legitimately voucher and donate them to local nonprofits or schools. Thank you very much.

CHAIRPERSON WEPRIN: Thank you.

Any further questions? Seeing none, thank you very much.

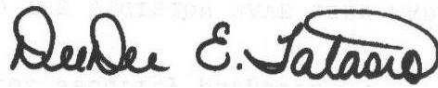
AMY LOPREST: Thank you.

CHAIRPERSON WEPRIN: We're going to take a five minute recess or so. And then-- ten-minute recess. And then, we'll hear from the Department of Juvenile Justice, from Commissioner Hernandez. Commissioner Hernandez and that aspect of the Finance there will be co-Chaired by Council Member Sara Gonzalez, head of the Juvenile Justice Committee. Finance is now in recess.

C E R T I F I C A T E

I, DeeDee E. Tataseo certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature

A handwritten signature in cursive script that reads "DeeDee E. Tataseo". The signature is written in dark ink and is positioned above a horizontal line.

Date

June 11, 2009