

1 MR. JOSEPHSON: The question is on adopting section
2 3.03 as presented. Is there objection (indiscernible) to
3 approve section 3.03?

4 MS. STURGULEWSKI: Don't you just feel like you have
5 the power of (indiscernible) and check it off with a
6 (indiscernible).

7 (Simultaneous speech)

8 MS. PARKER: (Indiscernible) understand how other
9 people go wait a minute, wait a minute, wait a minute.

10 (Simultaneous speech)

11 MS. HOLMES: Mr. Chairman, I would move for adoption of
12 section 3.04.

13 MR. JOSEPHSON: Section 3.04 is reported for adoption.

14 MS. STURGULEWSKI: I would move to amend for a proper
15 wording the Department of Law, to change it to an appropriate
16 type.

17 (Simultaneous speech)

18 MS. STURGULEWSKI: Well, the reason for that is we
19 don't know that we will have a Department of Law and we are
20 stating Department of Law and the borough doesn't have them,
21 the city doesn't have them and the (indiscernible) the
22 Department of Law.

23 MS. PARKER: (Indiscernible - voice lowered).

24 MS. STURGULEWSKI: It's under the.....

25 MS. PARKER: It's under the Office of Mayor.

1 MS. STURGULEWSKI: Office of Mayor and is not a
2 department.

3 MR. GARNETT: Want to change it to municipal attorney?
4 One of my (indiscernible) provision says that section titles
5 won't be involved in construction.

6 MS. WALTERS: I was going to say that too having
7 written (indiscernible).

8 MR. GARNETT: Yeah.

9 MR. JOSEPHSON: Well, you'd rather have (indiscernible)
10 municipal attorney?

11 MS. STURGULEWSKI: Well, that would be -- yes. And
12 then that would not (indiscernible).....

13 MR. GARNETT: No.

14 MS. STURGULEWSKI:from being a department?

15 MR. GARNETT: That's correct.

16 (Simultaneous speech)

17 MR. JOSEPHSON: Are there any other suggestions,
18 comments or amendments to 3.04?

19 MS. HOLMES: Is that -- does that stay as a stylistic
20 change?

21 MR. JOSEPHSON: Yes.

22 MS. HOLMES: Okay. What did we change it to?

23 MR. JOSEPHSON: Municipal change.

24 MS. PARKER: (Indiscernible - voice lowered).

25 (Simultaneous speech)

1 MR. JOSEPHSON: Without objection, we'll treat it as
2 stylistic. Okay, is there anything else on 3.04? Are you
3 ready to question on the motion?

4 MR. CHIEI: Question.

5 MS. ANGVIK: I do have a question. I believe it's
6 (indiscernible - voice lowered), but the attorneys represent
7 the municipality and serve (indiscernible). Is there any
8 (indiscernible) that citizen can use those legal people for
9 clarification of a concern that they have in relation to the
10 municipality, would be (indiscernible) the extension of that
11 service, isn't that the benefit of the community?

12 MR. JOSEPHSON: I see some conflicts of.....

13 WOMAN 1: Oh, I sure do.

14 MR. JOSEPHSON: Yeah, interest in that.

15 MS. STURGULEWSKI: They're suing the city, but they
16 come to you for legal -- the legal (indiscernible -
17 simultaneous speech).

18 MS. ANGVIK: Well, I'm also talking things like
19 community councils (indiscernible - voice lowered). I mean,
20 it would get some legal assistance from those people.

21 MR. GARNETT: We could certainly do that through a
22 municipal officer of one sort and then -- the way it is at
23 the AG's Office, they try to discourage people from just
24 calling up on the phone and asking to -- you know, what does
25 section so and so mean.

1 MS. ANGVIK: I've been discouraged many times by.....

2 MR. GARNETT: But you can go to your assemblyman or you
3 can.....

4 MS. ANGVIK: Yeah.

5 MR. GARNETT:go to (indiscernible).

6 MS. STURGULEWSKI: Okay, I have a problem in this area
7 and I must have missed some of this discussion. The --
8 there's been a lot of conflict between the assembly and the
9 Mayor as to who has the attorney and whose attorney it is.
10 And when we state here very indefinitely that the attorney
11 shall advise and assist all branches of the municipal
12 government, are we including the legislative body?

13 MS. HOLMES: Mr. Chairman, I think the intent was that
14 the attorney would do that. We tried on for size, very
15 briefly, in subcommittee having the attorney removable by a
16 maj -- a two-thirds majority of the assembly and that just
17 was terrible. But if there is a conflict, a legal conflict
18 between the two, the assemblymen hire their own legal.

19 MR. JOSEPHSON: Yeah, that's an interesting point. My
20 expectations (indiscernible) prohibiting (indiscernible -
21 voice lowered). The rest of that conflict exists. Well, say
22 the attorney advises and assists all branches of the
23 municipal government on legal matters, then that's that.

24 MR. GARNETT: Nobody (indiscernible) in a separate
25 section on the assembly that the assembly made (indiscernible

1 - simultaneous speech).

2 (Simultaneous speech)

3 MS. HOLMES: That's just the clerical (indiscernible) I
4 believe.

5 MR. JOSEPHSON: We know, on the contrary, we say that
6 the assembly should appoint (indiscernible - simultaneous
7 speech).

8 (Simultaneous speech)

9 MR. JOSEPHSON: Our point is that, if you read 2.08 and
10 3.04 together, it appears to me that the legislative body
11 will have a very hard time justifying hiring an attorney.

12 MS. HOLMES: The intent, and we discussed it at length
13 and it would be reflected in the minutes and it's commission
14 on 2.08 was not to, in any way, preclude the assembly from
15 hiring their own staff on any matter, but we wish to remain
16 silent so as not to encourage the (indiscernible). But I
17 could see, if it looks like it's going to preclude their
18 hiring their own attorney, that would be (indiscernible).

19 MR. JOSEPHSON: Well, but I don't -- I go further
20 because I would not want to preclude from hiring an attorney
21 on a regular basis at some point if they wanted to do it and
22 not just confine it to a matter.

23 MS. STURGULEWSKI: But on the other had, you don't
24 (indiscernible - simultaneous speech) as to hiring, do you?

25 MR. JOSEPHSON: No, I have no.....

1 (Simultaneous speech)

2 MR. JOSEPHSON: I have no opinion about it.

3 (Indiscernible - voice lowered) their attorney. No, I have
4 an opinion, but.....

5 MR. GARNETT: Well, the reason this came up and
6 (indiscernible) issue, I think, was Joe, you made a statement
7 (indiscernible) where it really, under the circumstances, of
8 this type of hiring arrangement, the government attorney in
9 state or municipal is the executive's attorney. Frequently,
10 there'll be battles of attorney's opinions because of
11 legislation and the government attorney is going to have to
12 be a Superman of some sort not to resolve all doubts in favor
13 of the executive when he's telling the assembly what's legal
14 and what's not. And there are certain things that are very
15 important before the legislative body to either have its own
16 attorney preferably or considered and rejected, have
17 (indiscernible) the municipal attorney. And I think what
18 Joe's saying, you know, probably does make it important to
19 say, with some specificity, that they may hire an attorney.

20 MS. STURGULEWSKI: Okay, how.....

21 MR. GARNETT: If that's what you mean.

22 MS. STURGULEWSKI: Yes.

23 MR. JOSEPHSON: I don't know how to do that, whether
24 it's over here or not in the clerk's. I mean, maybe we flag
25 it and we try to develop something.

1 MR. GARNETT: Why don't I do it in about 10 minutes and
2 come back?

3 MS. HOLMES: I -- Mr. Chairman, I don't want to
4 (indiscernible - voice lowered) that they may hire an
5 attorney, prevent them from hiring someone else at
6 (indiscernible - voice lowered). But enumerating without
7 enumerating all the people that (indiscernible - engine
8 noise).

9 MS. PARKER: Could you just say the assembly
10 (indiscernible - voice lowered).

11 MS. HOLMES: That was considered and we kind of decided
12 the last time around to leave it out because we didn't know
13 (indiscernible - voice lowered).

14 MS. PARKER: Did we finish that section?
15 (Simultaneous speech)

16 MS. STURGULEWSKI: But Mr. Chairman, could we lay that
17 on the table and let the attorney wrestle with it a bit?

18 MR. GARNETT: Okay, I'm not entirely sure what you
19 want, but.....

20 MS. STURGULEWSKI: We don't know either.

21 MR. GARNETT: Okay.
22 (Simultaneous speech)

23 MS. HOLMES: Mr. Chairman, if we eliminate the last
24 sentence in 3.04, I think that we eliminate the whole
25 problem, so I would move to delete the last sentence, seven.

1 MS. PARKER: (Indiscernible - voice lowered) every
2 place else we have, this is the person and this is their job
3 and the last sentence says these are their dues.

4 MS. HOLMES: I think it's pretty safe to assume that
5 the municipality's not going to hire an attorney to do
6 anything other than (indiscernible - simultaneous speech).

7 MS. PARKER: (Indiscernible - simultaneous speech).

8 MR. JOSEPHSON: The amendment is offered to delete to
9 the third sentence in 3.04. Is there discussion on the
10 amendment?

11 MS. STURGULEWSKI: Yes, I'd like to hear from Rick as
12 to taking the wording of 2.08 where we're really specific and
13 then the general -- the very general wording we would have
14 left of 3.04. It seems to me we are not really making it
15 easy or shorting (indiscernible) for the assembly to go out
16 and hire either staff or attorney, but on the other hand, we
17 are not prohibiting one from doing so. Is that accurate?

18 MR. GARNETT: Yeah, I think if you delete the last
19 sentence, you would lose some of this (indiscernible)
20 implication that Joe was talking about and the only question
21 is whether that sentence serves any other useful function
22 with respect to defining who the attorney advises, like for
23 instance, when you're talking about boards and commissions,
24 it did spell out very clearly that boards and commissions
25 advise a lot of -- the Mayor and the department heads and the

1 assembly so that there wouldn't be part as to who these
2 people report to or somebody claiming that he is the
3 exclusive reportee (ph). And I don't know if you -- it
4 occurs to me that the same consideration may apply to
5 (indiscernible).

6 MS. HOLMES: Mr. Chairman, this is the wording for the
7 '71 charter and they, in addition, say that he is the head of
8 the Department of Law, so they have set up a Department of
9 Law. I wonder if, instead of deleting the sentence as I
10 proposed, if we just took out all branches of, leaving the
11 rest of the sentence in. Joe, would that clean up your
12 objection?

13 (Simultaneous speech)

14 MR. PARSONS: I (indiscernible) changes, I didn't hear
15 you.

16 MS. HOLMES: Well, it just doesn't clarify that he's
17 the (indiscernible).

18 MS. PARKER: (Indiscernible - voice lowered).

19 (Simultaneous speech)

20 MR. GARNETT: You know, it's a difficult thing when you
21 try to be -- when you try to say something that I said and
22 then try to be cryptic, you know, make something possible,
23 but not encourage it is always a very difficult
24 (indiscernible) task. And I really feel that we're much
25 better off erring on the side of specificity.

1 MS. HOLMES: Mr. Chairman?

2 MR. GARNETT: I mean, (indiscernible) when I say.....

3 MS. STURGULEWSKI: Uh-huh.

4 MR. GARNETT:assembly (indiscernible -
5 simultaneous speech) controversy.

6 MR. JOSEPHSON: The other way of doing it, which I
7 don't know what I'm getting into here, but just say that the
8 attorney will advise and assist all municipal officers and
9 departments and the legislative, on request, (indiscernible)
10 go to the assembly (indiscernible), what does that do?

11 MS. STURGULEWSKI: (Indiscernible).

12 MR. CHIEI: It opens Pandora's box.

13 MS. PARKER: It just seems to me that makes
14 (indiscernible).

15 MS. HOLMES: I still, Mr. Chairman, don't see how
16 leaving that sent -- that last sentence in, in any way, keeps
17 the assembly from (indiscernible - voice lowered).

18 MR. JOSEPHSON: Because the Mayor would argue, very
19 likely, that the assembly can hire a clerk under section
20 2.08, but nowhere did the charter give the assembly the power
21 to hire an attorney and then point in fact, section 3.04 said
22 that this appointed attorney goes to advise all branches with
23 the borough (indiscernible - voice lowered).

24 MS. PARKER: (Indiscernible - voice lowered) all powers
25 not (indiscernible) by law with that charter, and if we don't

1 set anything to it, then they could go ahead and have
2 (indiscernible - voice lowered), right?

3 MR. JOSEPHSON: His attorney will draft an opinion for
4 it that says that by (indiscernible - simultaneous speech).

5 (Simultaneous speech)

6 MS. HOLMES: And they have a court case, which goes
7 back and studies the records of law and meetings and
8 (indiscernible - simultaneous speech).

9 (Simultaneous speech)

10 MS. PARKER: I think we ought to write it under the
11 legislative body with (indiscernible) staff, delete this
12 sentence completely.

13 MS. HOLMES: Mr. Chairman, if we plan to write in under
14 Article II that they can hired their staff, then I would say
15 that we -- that we should leave this last sentence in because
16 that clarifies it. And so if it's the intent of the
17 commission that we would write in the staffing thing and I
18 would (indiscernible) I would vote against my motion.

19 MR. JOSEPHSON: Okay, we're in a situation where,
20 again, I'm.....

21 MS. HOLMES: (Indiscernible - simultaneous speech).

22 MR. JOSEPHSON: Again, I would say very minded when you
23 get -- this is the reason why Wednesday and Thursday, you
24 have to have a new print of the document and the ability to
25 see how the sections relate to one another to reach these

1 judgments or we're not going to be able to do all that today
2 with the document before us.

3 The question now is on Mrs. Holmes' motion to delete
4 the third sentence. Lisa?

5 MS. PARKER: I was just wondering if it did say that
6 the (indiscernible) of the Mayor would be advised
7 (indiscernible) all the branches? The Mayor wouldn't ask him
8 if he -- you know, he wouldn't ask him to (indiscernible -
9 voice lowered).

10 MR. JOSEPHSON: No, he would advise them all, but the
11 problem is on matters of executive versus assembly power and
12 he'd be serving at the pleasure of the Mayor, he would have a
13 conflict and the legislative body may want to have his own
14 advisor.

15 MS. STURGULEWSKI: (Indiscernible) clarification. Is
16 branch talking in terms of departments or is it wider? When
17 we talk about all branches, does that.....

18 MR. GARNETT: Well, the municipal government did this
19 too.

20 MR. JOSEPHSON: Yeah, we said all branches, both
21 branches.

22 MS. STURGULEWSKI: So both branches.

23 MS. PARKER: (Indiscernible - voice lowered).

24 MR. JOSEPHSON: Now that's.....

25 (Simultaneous speech)

1 MR. JOSEPHSON: Yeah.

2 (Simultaneous speech)

3 MR. GARNETT: Well, let's see, you could be more
4 specific and say the Mayor, the assembly and the department
5 heads or something essentially.

6 (Simultaneous speech)

7 MS. PARKER: What is the motion right now?

8 MR. JOSEPHSON: The motion is to delete the sentence
9 beginning, the attorneys shall advise and assist.

10 MS. STURGULEWSKI: Mr. Chairman, I intend to vote
11 against that and I do think we're going to have to clarify
12 2.08 as much as a matter of policy. I think we're leaving a
13 gap there, it's a gap of inconsistency and (indiscernible -
14 voice lowered).

15 MR. GARNETT: Arliss, are you thinking in terms of say
16 another section between 2.08 and 2.09 like.....

17 MS. STURGULEWSKI: Yeah, where we're talking in terms
18 of possibly another section that would say as we did in the
19 old charter, the assembly may retain legal counsel and other
20 staff as it requires in the interim.

21 MR. GARNETT: Is that in the same section as the
22 appointment of the clerk?

23 MS. STURGULEWSKI: It was called special advisory to
24 clerk.

25 MR. GARNETT: I see.

1 MS. STURGULEWSKI: So I.....

2 MR. JOSEPHSON: Well, that would be fair to include.

3 MR. GARNETT: Yeah, well, I was thinking -- it seems to
4 me a little incongruous to lump the clerk in with all the
5 staff including the attorney.

6 MS. STURGULEWSKI: Yeah, I.....

7 MR. GARNETT: I would put in another short section and
8 just say the assembly may engage additional staff including
9 legal staff when it deems necessary, something to that
10 effect.

11 MR. JOSEPHSON: Very well. Do.....

12 MS. HOLMES: Question.

13 MR. JOSEPHSON: The question is on the deletion of the
14 third sentence, those in favor will say aye and those opposed
15 (indiscernible).

16 MS. WALTERS: Okay, this time we start with Josephson.

17 MR. JOSEPHSON: Aye.

18 MS. WALTERS: Parker?

19 MS. PARKER: Yes.

20 MS. WALTERS: Parsons?

21 MR. PARSONS: Yeah.

22 MS. WALTERS: Sturgulewski?

23 MS. STURGULEWSKI: No.

24 MS. WALTERS: Angvik?

25 MS. ANGVIK: Yes.

1 MS. WALTERS: Chiei?
2 MR. CHIEI: Yes.
3 MS. WALTERS: Holmes?
4 MS. HOLMES: No.
5 (Simultaneous speech)
6 MS. WALTERS: Six to two.
7 (Simultaneous speech)
8 MR. PARSONS: I don't understand why you would delete
9 that section if you're going to specifically put in a
10 provision allowing the assembly to have it's own lawyer.
11 MR. JOSEPHSON: I suppose because (indiscernible -
12 voice lowered).
13 MS. STURGULEWSKI: No, that's incredible.
14 MR. JOSEPHSON: If the -- the sentence is deleted
15 now.....
16 MS. STURGULEWSKI: What'd we just do?
17 MS. HOLMES: Deleted it.
18 MR. JOSEPHSON: We deleted the third sentence
19 (indiscernible - simultaneous speech). I don't think there's
20 any doubt in here.
21 (Simultaneous speech)
22 MS. WALTERS: It was five to two.
23 MR. JOSEPHSON: Five to two? Then we failed to delete
24 the sentence.
25 MS. ANGVIK: There's only seven of us here.

1 (Simultaneous speech)

2 MR. JOSEPHSON: I apologize. We have not deleted the
3 sentence.

4 MS. HOLMES: Okay.

5 MR. JOSEPHSON: Now the question is on 3.04 as printed
6 with the heading, Municipal Attorney. Is there an objection
7 to 3.04 as printed?

8 MS. STURGULEWSKI: Mr. Chairman?

9 MR. JOSEPHSON: Yes.

10 MS. STURGULEWSKI: Could we ask Rick, is it -- can you
11 offer any substitute wording of that (indiscernible - voice
12 lowered), I really don't think that does it.

13 MR. GARNETT: Well, okay, I certainly can, but then
14 again, we have to have some consensus as to who we wish, in
15 fact -- whom we wish, in fact, to be advised by the attorney.
16 Essentially me.....

17 MS. STURGULEWSKI: (Indiscernible - simultaneous
18 speech).

19 MR. GARNETT: Well, the public, the borough heads, the
20 assembly. All right, I think that the Mayor and the assembly
21 and the department heads is about as broad as you want to get
22 in terms of having the attorney directly responsible or
23 directly answerable to people (indiscernible).

24 MS. PARKER: What if we just deleted all?

25 (Simultaneous speech)

1 MS. HOLMES: So it would be just the Mayor, assembly
2 and department heads on legal matters.

3 MR. GARNETT: Yes.

4 MS. HOLMES: So we delete all branches of municipal
5 government?

6 (Simultaneous speech)

7 MR. GARNETT: Well, again, the city charter also
8 includes the clerk by the way. It's probably important to
9 have the attorney advise the clerk.

10 MS. STURGULEWSKI: How do they say it?

11 MR. GARNETT: The city says, get this, they shall
12 advise the clerk and the city manager.

13 MR. JOSEPHSON: Okay, Mr. Garnett had offered his
14 (indiscernible), does anyone wish to offer that language as
15 an amendment to the section?

16 MS. PARKER: Mr. Chairman?

17 MR. JOSEPHSON: Yes, Lisa.

18 MS. PARKER: Why can't we just say shall advise and
19 assist the municipal government on legal matters? Why do we
20 have to -- you know, just take out all branches, why do we
21 have to, you know, spell it out as to (indiscernible) work?

22 MS. STURGULEWSKI: Make that an amendment, Lisa.

23 MS. PARKER: I just don't know.

24 (Simultaneous speech)

25 MR. JOSEPHSON: Ms. Parker wants to delete the "brings

1 all branches out" seconded by Mrs. Sturgulewski.

2 (Simultaneous speech)

3 MR. JOSEPHSON: Is there discussion of this amendment?

4 Is there objection to the amendment? Hearing none, the
5 amendment is approved.

6 MS. STURGULEWSKI: Is it appropriate to go back to
7 (indiscernible)?

8 MR. JOSEPHSON: Pardon me?

9 MS. STURGULEWSKI: Would it be appropriate to go back
10 and clean up that area, defer from other at this time or
11 would you suggest we wait (indiscernible)?

12 MR. JOSEPHSON: We can go back now if it's a departure,
13 but it's so germane to what (indiscernible).

14 (Simultaneous speech)

15 MS. PARKER: Mr. Chairman, but I don't think it should
16 be a (indiscernible - voice lowered).

17 MR. JOSEPHSON: Let's dispose of 3.04 first, Arliss.

18 MS. HOLMES: Yes, we have the main motion on 3.04.

19 MR. JOSEPHSON: Okay, we have the main motion on 3.04
20 first. Section 3.04, as amended, is before you. Is there
21 further discussion of that? Is there objection to it as
22 amended? Hearing none, it'll be approved, 3.04. Now do you
23 want to go back?

24 MS. STURGULEWSKI: As far as (indiscernible), I'd like
25 to ask a question. I can see legal counsel and other staff,

1 I wonder what the situation is on hiring of bond counsel. It
2 seems, again, this was a big brouhaha as to who had the
3 authority to hire bond counsel. Remember this was a flat
4 (indiscernible).

5 MS. HOLMES: Mr. Chairman, I think that if we say that
6 they can hire legal help, that that includes bond counsel.

7 MS. STURGULEWSKI: Mr. Chairman, I would move.....

8 MS. HOLMES: Or other staff.

9 MS. STURGULEWSKI: Amend to add a section
10 (indiscernible) numbered stating that the assembly may retain
11 legal counsel, financial advisors and for bond issues and
12 other staff as it requires in the execution of a legislative
13 function.

14 MS. WALTERS: You should have gotten (indiscernible).
15 (Simultaneous speech)

16 MS. STURGULEWSKI: Retain legal counsel, financial
17 advisors for bond issues and other staff as it requires in
18 the execution of its legislative functions.

19 MR. CHIEI: Retain, you mean (indiscernible) retainer
20 fee?

21 MS. STURGULEWSKI: (Indiscernible) going to have to.

22 MR. CHIEI: Then you employ them, you're not going to
23 retain all these people.

24 MS. STURGULEWSKI: Well, then I was taking the word
25 from.....

1 (Simultaneous speech)
2 MR. CHIEI: You want to retain (indiscernible - voice
3 lowered).
4 MS. HOLMES: Financial advisors.....
5 MS. STURGULEWSKI: What does retain mean? Doesn't
6 it.....
7 MR. CHIEI: You're paying them a retainer.
8 MS. PARKER: How about if we engage them?
9 (Simultaneous speech)
10 MS. HOLMES: Financial advisors on bond issues?
11 MS. STURGULEWSKI: Okay, financial advisors for bond
12 issues.
13 MR. JOSEPHSON: As I had it, the assembly may retain
14 such legal counsel.....
15 MS. STURGULEWSKI: Comma.
16 MR. JOSEPHSON:financial advisor for bond issues
17 and other staff as it requires for the execution for its
18 legislative function. Is there a second to the amendment?
19 MR. PARSONS: Second.
20 MS. STURGULEWSKI: No.
21 MR. JOSEPHSON: I'll let Mr. Chiei inquire.....
22 (End of side B)
23 MS. HOLMES: It may be temporary.
24 MR. GARNETT: I guess retain could mean the paying of a
25 lump sum to approach (indiscernible) rather than.....

1 MR. PARSONS: Right.

2 MR. GARNETT:sort of piece work payment of work -
3 - for work actually done prior, you know, engage.

4 MR. CHIEI: Like you retain a consultant, pay them
5 \$1000 a year to have services available and then you pay him
6 by the hour.

7 MS. STURGULEWSKI: I would be happy to.....

8 MR. CHIEI: Why don't you say utilize?

9 MS. STURGULEWSKI: (Indiscernible) to use the work
10 engage

11 MR. CHIEI: Well, don't say engage, say utilize, you
12 might not have to pay for some of that. Say utilize.

13 MR. JOSEPHSON: Well, we're going -- let's try to do
14 this in (indiscernible) way. Is there an amendment then
15 change retain to engage?

16 MS. STURGULEWSKI: I so move.

17 MS. HOLMES: Second.

18 MR. PARSONS: No objection.

19 MR. JOSEPHSON: Is there objection to that? Is there
20 an objection? If not, we drop retain and insert engage. Now
21 is there -- yes, ma'am.

22 MS. HOLMES: I'd like to ask Arliss why we're saying
23 just for bond issues and financial advisors? Are we really
24 drawing it too tightly in the (indiscernible - simultaneous
25 speech).

1 (Simultaneous speech)

2 MS. HOLMES: (Indiscernible) as it is to hire a
3 financial advisor pertaining to some arguing the budget and
4 because we said specifically for bond issues, it might be
5 interpreted that that's all we meant in the way of.....

6 MS. STURGULEWSKI: Well, yeah, I think so. I would
7 think you want -- I don't like (indiscernible) to have any
8 provision in that would, in any way, encourage the hiring of
9 staff because I can see setting up, you know, two armies out
10 there and I think that's bad. But I think we (indiscernible)
11 something has to be and I would rather see it rather narrowly
12 drawn. I think it might be -- have horrendous consequence if
13 people went out hiring their own financial consultants to
14 come in and prove some points say on a budget. I think that
15 if the very heart of that system working is this acceptable
16 accounting and handling of the public fund and I think that
17 if it got into an investigatory type situation, they could
18 get it through their legal provision, you know?

19 MS. HOLMES: Arliss, who hires the CPA to do the audits
20 (indiscernible) that were provided for back in.....

21 MS. STURGULEWSKI: I don't know (indiscernible).

22 (Simultaneous speech)

23 MS. STURGULEWSKI: If we do call for that being
24 provided, I mean, we do call for the annual audit.....

25 MS. HOLMES: That's on page 16. The assembly shall

1 provide for an annual, independent audit by a certified
2 public accountant (indiscernible) municipal accounts.

3 MR. JOSEPHSON: Let me just ask, what if you said the
4 assembly may engage such legal counsel and other professional
5 consultants or advisors? Professional advisors and staff as
6 it requires, and that way, you would leave it open for the
7 financial without limiting bond issues, but that.....

8 MS. HOLMES: I really would concur with that and would
9 make that as an amendment (indiscernible - voice lowered).

10 MR. JOSEPHSON: But it wouldn't apply to
11 (indiscernible).

12 (Simultaneous speech)

13 MS. HOLMES: Such legal counsel and other professional
14 advisors.

15 MR. CHIEI: The other thing is I'd like to see
16 something where there's justification for this kind of
17 engagement of time, otherwise, you've got a wide open thing.

18 MS. HOLMES: Legal counsel, comma, other professional
19 advisors and staff in the execution of its legislative
20 functions (indiscernible - voice lowered).

21 MR. JOSEPHSON: Okay, Mrs. Holmes offers the amendment.
22 Questions. You all understand the amendment?

23 MS. PARKER: No. We could scratch (indiscernible -
24 voice lowered) advisors (indiscernible) bond issues.
25 (Indiscernible - voice lowered) professional, not advisors

1 (indiscernible).

2 MS. HOLMES: I would just (indiscernible).

3 MS. PARKER: (Indiscernible - voice lowered) what we're
4 doing is creating another monster potentially. We're giving
5 the legislative body, which may (indiscernible) strong Mayor.

6

7 MR. JOSEPHSON: Well, you know, if the Mayor is strong
8 as he has all the expertise, then that's not fair. I mean,
9 that's not where your strength should come from, the fact
10 that he who earns all the expertise and (indiscernible).

11 MS. PARKER: That's a good idea.

12 MR. JOSEPHSON: Huh?

13 MR. CHIEI: Mr. Chairman?

14 MR. JOSEPHSON: Yes.

15 MR. CHIEI: What is the control on this? How do you
16 control the assembly from it going out and.....

17 MR. JOSEPHSON: Well, there are two controls, one is
18 the political control, the other one is the Mayor's right to
19 veto.

20 MS. HOLMES: Mr. Chairman?

21 MR. GARNETT: Yeah, that's a question. Do we require
22 that the assembly do this engaging by (indiscernible)?

23 MR. JOSEPHSON: Well, (indiscernible) that's all the
24 resolution, I guess.....

25 MR. GARNETT: Might I speak to a resolution?

1 MR. JOSEPHSON: You can.

2 MS. HOLMES: Because resolutions are not in
3 (indiscernible).

4 MR. GARNETT: But sometimes they are (indiscernible).

5 MR. JOSEPHSON: Well, he can (indiscernible).

6 MR. CHIEI: I still see the Mayor though, Rick.....

7 MR. GARNETT: Yes.

8 MR. CHIEI: The Mayor can still veto this action the
9 minute the assembly turns around and then you say
10 (indiscernible - simultaneous speech).

11 MR. GARNETT: That's the question I had.

12 MR. CHIEI: The Mayor (indiscernible) to veto that.

13 (Simultaneous speech)

14 MR. CHIEI: If they override, then you win the battle.

15 MR. GARNETT: Well, I guess it involves a -- insofar as
16 it involves an appropriation of money.

17 MR. CHIEI: Well, the budget, how -- what kind of veto
18 (indiscernible)?

19 (Simultaneous speech)

20 MS. HOLMES: The assembly has (indiscernible - voice
21 lowered).

22 (Simultaneous speech)

23 MS. STURGULEWSKI: Especially this section that it is
24 by ordinance.

25 MR. GARNETT: Well, no, we're getting into a lot of --

1 this is why it's good to have all of it in front of us now
2 because (indiscernible).

3 MR. JOSEPHSON: Well, suppose we said that the
4 assembly, by ordinance, may authorize the.....

5 (Simultaneous speech)

6 MS. HOLMES: Mr. Chairman? How about inserting the
7 word temporarily after may, the assembly may temporarily
8 engage such legal consult other professional advisors and
9 staff.

10 (Simultaneous speech)

11 MR. PARSONS: I think it's good the way it is.
12 (Indiscernible) but the adversary condition that some people
13 have testified is important in the governmental process.

14 MR. JOSEPHSON: Yeah, and the only question is about
15 the veto and I feel that the language, as it is, does not
16 necessarily authorize the -- exercise the veto empowering
17 these people. We have to decide which one you want.

18 MS. STURGULEWSKI: I would like to see, by ordinance,
19 one of those things because I think that there is a possible
20 protection, but also a great opportunity for abuse of it. If
21 you get into a situation, a conflict between the two, but at
22 least vetoes, really just like taxi cab issues and others,
23 they're headline issues and they're public (indiscernible).

24 MR. JOSEPHSON: All right, can you do this? Can you
25 make it -- there's a veto power.....

1 (Simultaneous speech)

2 MR. JOSEPHSON: I know when (indiscernible -
3 simultaneous speech).

4 (Simultaneous speech)

5 MR. JOSEPHSON: You could say that the assembly subject
6 to the provisions of section 3.02(c).

7 (Simultaneous speech)

8 MR. JOSEPHSON: Huh? Why not?

9 MS. STURGULEWSKI: We don't want to (indiscernible).

10 MR. JOSEPHSON: No, no, that's the easy way to do it.

11 (Simultaneous speech)

12 MR. GARNETT: Well, if you say it's by ordinance, then
13 by implication, it's the veto (indiscernible).

14 MS. STURGULEWSKI: Right.

15 MR. GARNETT: But the question is whether you -- well,
16 as far as that goes, all right, so you start to sense by
17 saying by ordinance, comma, the assembly may engage such as
18 legal counsel (indiscernible - voice lowered) staff.
19 (Indiscernible - voice lowered) would be correct.

20 (Simultaneous speech)

21 MS. HOLMES: You said -- Mr. Chairman, that the
22 assembly would exercise the veto power over any action to the
23 assembly? That the Mayor? We have not said that he has the
24 veto party, only over ordinances. We've said by implication
25 that it's within (indiscernible - voice lowered) as to the

1 ordinance.

2 MR. JOSEPHSON: As to the ordinance and by that
3 (indiscernible).

4 MS. STURGULEWSKI: Mr. Chairman, I'd vote to add by
5 ordinance.

6 MR. JOSEPHSON: The amendment would -- is there.....

7 MS. WALTERS: There's an amendment to remove
8 (indiscernible - away from microphone).

9 (Simultaneous speech)

10 MR. JOSEPHSON: An amendment to the amendment would be
11 to begin the amendment with the phrase, by ordinance.

12 (Simultaneous speech)

13 MS. PARKER: I would say the assembly may, by
14 ordinance.

15 MS. STURGULEWSKI: I would say by the assembly.

16 (Simultaneous speech)

17 MS. PARKER: It's going to be a (indiscernible) right?

18 MR. JOSEPHSON: Is there objection to the amendment to
19 the amendment?

20 MR. PARSONS: Well, I'm not sure (indiscernible).

21 MS. ANGVIK: The assembly -- that they have to do it by
22 ordinance (indiscernible).

23 MR. GARNETT: I'm not sure of how it reads or -- no,
24 it's -- yeah, the Mayor (indiscernible).

25 MR. JOSEPHSON: All right.

1 MS. HOLMES: Does this mean that the public's going to
2 come in and testify about whether John Doe is a competent
3 attorney to be hired?

4 MR. JOSEPHSON: I think what -- the way it works is
5 that you adopt an ordinance that we all -- that you're
6 authorizing X dollars and then, you know, specified person in
7 the ordinance.

8 (Simultaneous speech)

9 MS. PARKER: What happens too is we set (indiscernible
10 - voice lowered) there is an ombudsman, but this kind of
11 stuff, you've go to go through (indiscernible - simultaneous
12 speech).

13 MR. GARNETT: Yeah, it is a problem because what Joe
14 just said, again, with this wording, it would be a question
15 in my mind of whether the assembly could provide for it
16 simply by a mechanism for hiring attorneys when they needed
17 to or whether someone could insist, look, every time you want
18 to hire a lawyer, you have to hire that lawyer by ordinance.

19 MR. JOSEPHSON: Well, then what you want to get to is
20 something that says pursuant to an ordinance authorizing.....

21 MR. CHIEI: Mr. Chairman?

22 MR. JOSEPHSON:the ordinance the assembly may
23 engage (indiscernible - voice lowered). Yeah.

24 MR. CHIEI: How does the assembly do it now present
25 day, what's their authority now?

1 MS. PARKER: (Indiscernible - voice lowered).

2 MS. STURGULEWSKI: The only time that.....

3 MR. CHIEI: They can tie it up, can't they?

4 MS. STURGULEWSKI: The only time they've done it really
5 has been with the ombudsman and they just do it, but they did
6 it by ordinance.

7 MS. HOLMES: Mr. Chairman, I have some real problem
8 with putting by ordinance here because of the time required
9 for setting it on the calendar, having public hearing. There
10 might be a legal case in which they needed legal advice, you
11 know, this week, next week.

12 (Simultaneous speech)

13 MR. GARNETT: There's a question whether you want to
14 (indiscernible - simultaneous speech).

15 MS. HOLMES: Can we set it up.....

16 (Simultaneous speech)

17 MS. STURGULEWSKI: I don't think that the
18 (indiscernible) should be applicable to hiring of staff.

19 MR. CHIEI: Mr. Chairman?

20 MR. JOSEPHSON: Mr. Chiei?

21 MR. CHIEI: Why have this thing in there at all?

22 MR. JOSEPHSON: Because we don't want -- well, we.....

23 MR. CHIEI: You're to encourage in this situation by
24 putting in the.....

25 MS. PARKER: Yeah, but I really think they should have

1 a right to hire their own legal (indiscernible), that's how
2 we got into it because they said.....

3 MR. CHIEI: They have it now, don't they, and
4 there's.....

5 MS. ANGVIK: No, they don't have it now.

6 MS. PARKER: But the Mayor has the lawyer and they get
7 (indiscernible - voice lowered) Mayor's attorney to resolve
8 conflict between the Mayor and the legislative body.

9 MR. CHIEI: Well, that's wasteful government.

10 MR. JOSEPHSON: All right, we have an amendment.....

11 MR. CHIEI: That's wasteful government, if they're
12 going to play that game.

13 MR. JOSEPHSON: We have an amendment to an amendment
14 pending, which is I think Mrs. Sturgulewski's amendment to
15 insert the term "by ordinance" after the assembly. Mr.
16 Garnett, (indiscernible) as a matter of style (indiscernible)
17 pursuant to ordinance?

18 MR. GARNETT: It would be better, yeah.

19 MR. JOSEPHSON: Would you read that, Arliss?

20 MR. GARNETT: Assuming (indiscernible).

21 MS. STURGULEWSKI: What does it change?

22 MR. JOSEPHSON: In other words, to say pursuant to
23 ordinance, the assembly may engage in legal counsel. I
24 think, Shari, in answer to your question, they can adopt the
25 ordinance in the absence of an emergency and do the hiring in

1 the face of the emergency.

2 MS. HOLMES: I just don't want the ordinance to have to
3 apply each time they want to hire a financial advisor on a
4 particular bond issue, that they would have to do it by
5 ordinance that (indiscernible - voice lowered). So pursuant
6 to would say that there would be an overall ordinance adopted
7 ahead of time and following that ordinance.

8 MS. STURGULEWSKI: Is that what you say now in the
9 ordinance?

10 MR. GARNETT: Yeah, and what would the overall
11 ordinance say is what -- would the ordinance say X dollars
12 are appropriated for the purpose of hiring an attorney when
13 the assembly deems necessary.

14 MR. JOSEPHSON: Or in that upon vote of an assembly by
15 resolution of the assembly engage (indiscernible).

16 MS. ANGVIK: Can I ask a silly question? Why is
17 pursuant do that and (indiscernible) doesn't?

18 MR. JOSEPHSON: Okay, because the problem was raised
19 under by ordinances as to whether you have to name John Doe
20 as hired.

21 MS. PARKER: And the word pursuant's (indiscernible)?

22 MR. GARNETT: Pursuant to would just mean the act of
23 hiring an attorney would be done in accordance with certain
24 standards and procedures and also with money that was
25 appropriated in the ordinance.

1 (Simultaneous speech)

2 MR. GARNETT: Pretty weird, isn't it?

3 (Simultaneous speech)

4 MR. JOSEPHSON: How we made that change, as a matter of
5 fact, it's agreed to that (indiscernible). The question is
6 on the amendment, which will now insert the phrase "pursuant
7 to ordinance."

8 MS. WALTERS: At the beginning of the sentence?

9 MR. JOSEPHSON: Yes, at the beginning of the sentence,
10 the amendment to the amendment. Is there objection?

11 MR. CHIEI: Yes.

12 MR. JOSEPHSON: All right.

13 MS. WALTERS: (Indiscernible). Okay, we're starting
14 with Parker this time.

15 MS. PARKER: Yes.

16 MS. WALTERS: Parsons?

17 MR. PARSONS: Yes.

18 MS. WALTERS: Sturgulewski?

19 MS. STURGULEWSKI: Yes.

20 MS. WALTERS: Angvik?

21 MR. ANGVIK: Yes.

22 MS. WALTERS: Chiei?

23 MR. CHIEI: Nay.

24 MS. WALTERS: Holmes?

25 MS. HOLMES: Yes.

1 MS. WALTERS: Josephson?

2 MR. JOSEPHSON: Yes.

3 MS. HOLMES: Question on (indiscernible).

4 MR. JOSEPHSON: This amendment is approved.

5 (Indiscernible) to the amendment is approved. Now you have
6 set the newly numbered section of -- as the chair has, it
7 reads, as amended, pursuant to ordinance, the assembly may
8 engage such legal counsel, other professional advisors and
9 staff as it requires in the execution of its legislative
10 body.

11 MS. HOLMES: Question.

12 MR. JOSEPHSON: The question is on that language that's
13 new material.

14 MR. CHIEI: Mr. Chairman?

15 MR. JOSEPHSON: Mr. Chiei?

16 MR. CHIEI: I have trouble with that one, as Dick would
17 say, and you just read a thing from the model charter where
18 you said a strong elected Mayor, you don't want to strip him
19 of any powers, you want to give him all you can so here you
20 have a strong elected Mayor with a good veto power and you're
21 creating an adversary situation against him, this thing that
22 we're proposing.

23 MS. HOLMES: Mr. Chairman?

24 MR. CHIEI: You have a strong elected Mayor with a
25 power that is dictatorial or you don't. Now you're creating

1 an adversary situation.

2 MR. JOSEPHSON: Lisa?

3 MS. PARKER: Under the power, she's saying that
4 (indiscernible - voice lowered) and stuff like that
5 (indiscernible) Mayor and the Mayor -- you know, if there was
6 a friction between the Mayor and the legislative body, you
7 could say (indiscernible). (Indiscernible - voice lowered)
8 to get information from the borough as to the legality or,
9 you know, what -- you know, just anything and it wouldn't --
10 they couldn't get it and they wouldn't tell -- just wouldn't
11 give them any information and there is a -- there's been a
12 problem there and.....

13 MR. CHIEI: You know, that happens all the time.

14 MS. PARKER:they'd get opinions, they'd get the
15 opinion of the Mayor.

16 MR. CHIEI: I'm just.....

17 MS. PARKER: They got.....

18 MR. CHIEI: Right.

19 MS. PARKER: They want an outside opinion.

20 MR. CHIEI: Again, I'm not trying to debate the thing,
21 I'm trying to, again, read this thing as the public would
22 read it as a public would see it. The public voted for a
23 strong elected Mayor and suddenly, they spot something like
24 that and they say now, what's this all about, you're
25 stripping, you got an adversary situation.

1 (Simultaneous speech)

2 MR. CHIEI: I don't want to have a debate on it.

3 MS. PARKER: (Indiscernible - simultaneous speech)

4 staff.

5 MR. CHIEI: Uh-huh. But (indiscernible) they're
6 inconsistent.

7 MS. HOLMES: I think that if the assembly abuses this
8 and starts setting up a separate department, it's going to be
9 expensive and if the voters will exercise their control on
10 the legislative body by (indiscernible).

11 MR. CHIEI: We hope they will, but if they never do.

12 MR. JOSEPHSON: Is there any further discussion at this
13 time?

14 MR. CHIEI: (Indiscernible) to the situation in public
15 is (indiscernible - voice lowered).

16 MR. JOSEPHSON: The amendment before us is really think
17 about -- I don't know if a substitute, but in lieu of
18 original language that I think was -- that Arliss had
19 proposed, do you want to (indiscernible) as a substitute or
20 (indiscernible - voice lowered).

21 MS. STURGULEWSKI: Wait a minute. I -- you
22 originally.....

23 (Simultaneous speech)

24 MS. ANGVIK: (Indiscernible) should that be a
25 substitute (indiscernible).

1 MS. STURGULEWSKI: Yeah, let's make it a substitute
2 motion. I mean, would that be simpler?

3 MR. JOSEPHSON: Well, then we could withdraw the --
4 well, yeah.

5 MS. STURGULEWSKI: Well, now.....

6 MR. JOSEPHSON: No, no, no, that's all right. Okay, I
7 understand.

8 MS. STURGULEWSKI: (Indiscernible) the vote on
9 (indiscernible) carry the section -- that section.

10 (Simultaneous speech)

11 MS. STURGULEWSKI: I'm a little (indiscernible).

12 MR. JOSEPHSON: You can do it either of two ways. We
13 can treat this as adopting.....

14 MS. STURGULEWSKI: (Indiscernible - simultaneous
15 speech) recommendation.

16 MR. JOSEPHSON: Well, given your history, why don't we
17 just do it twice and go through it twice?

18 MS. STURGULEWSKI: I'm a little confused as
19 (indiscernible).

20 MR. JOSEPHSON: The first -- the question is, shall the
21 following language be adopted as a substitute, pursuant to
22 ordinance, the assembly may engage such legal counsel, other
23 professional advisors and staff as it requires the execution
24 of its legislative body. If that had adopted, then I'll ask
25 whether that language is adopted and be done with it, okay?

1 All right. Can we call the roll then on the adoption of the
2 substitute (indiscernible) section.

3 MS. WALTERS: Parsons?

4 MR. PARSONS: Yes.

5 MS. WALTERS: Sturgulewski?

6 MS. STURGULEWSKI: Yes.

7 MS. WALTERS: Angvik?

8 MS. ANGVIK: Yes.

9 MS. WALTERS: Chiei?

10 MR. CHIEI: No.

11 MS. WALTERS: Holmes?

12 MS. HOLMES: Yes.

13 MS. WALTERS: Josephson?

14 MR. JOSEPHSON: Yes.

15 MS. WALTERS: Parker?

16 MS. PARKER: Yes.

17 MR. JOSEPHSON: All right, the substitute is adopted,
18 the question now is on the adoption of the new section. Is
19 there objection?

20 MR. CHIEI: Yes.

21 MR. JOSEPHSON: All right, call the roll on the
22 adoption and (indiscernible).

23 MS. WALTERS: Sturgulewski?

24 MS. STURGULEWSKI: Yes.

25 MS. WALTERS: Angvik.

1 MS. ANGVIK: Yes.

2 MS. WALTERS: Mr. Chiei.

3 MR. CHIEI: No.

4 MS. WALTERS: Holmes?

5 MS. HOLMES: Yes.

6 MS. WALTERS: Josephson?

7 MR. JOSEPHSON: Yes.

8 MS. WALTERS: Parker?

9 MS. PARKER: Yes.

10 MS. WALTERS: Parsons?

11 MR. PARSONS: Yes.

12 MR. JOSEPHSON: The language in (indiscernible)

13 section. Do you desire a recess for (indiscernible)?

14 MR. CHIEI: No, let's keep on going.

15 MS. STURGULEWSKI: (Indiscernible - voice lowered).

16 MR. JOSEPHSON: (Indiscernible - voice lowered). All

17 right, Mrs. Holmes, what is the next (indiscernible -

18 simultaneous speech)?

19 (Simultaneous speech)

20 MS. HOLMES: I move for adoption of section 3.05.

21 MR. JOSEPHSON: Okay, Mrs. Holmes moves for adoption of

22 section 3.05, is there a second?

23 MS. STURGULEWSKI: Yes.

24 MR. JOSEPHSON: Would you like a moment to read section

25 3.05?

1 MS. STURGULEWSKI: Yes.

2 (Pause)

3 MR. JOSEPHSON: Section 3.05 is before you for
4 discussion.

5 MS. HOLMES: Mr. Chairman, I would move -- or ask a
6 stylistic change, I guess, in line -- lines 24 and 25. It
7 suggests that we move during a temporary absence of
8 incapacity of the Mayor up to the first part of that sentence
9 or that subsection so that (c) would read, during a temporary
10 absence or incapacity of the Mayor, the manager shall impose
11 (indiscernible - voice lowered) Mayor.

12 MS. STURGULEWSKI: I think that -- yeah, could not be
13 done by established (indiscernible).

14 MS. HOLMES: Uh-huh.

15 (Simultaneous speech)

16 MR. JOSEPHSON: Is there objection to that?

17 MS. HOLMES: That was.....

18 MR. PARSONS: No.

19 MS. PARKER: (Indiscernible - voice lowered).

20 MR. JOSEPHSON: Mrs. Holmes motion, seconded by Ms.
21 Angvik. Anything else on 3.05?

22 MS. STURGULEWSKI: Come on, Jane, you have an
23 opportunity to object.

24 MS. ANGVIK: I don't want to object.

25 MS. PARKER: Mr. Chairman?