

HOLMDEL CHARTER STUDY COMMISSION
MEETING MINUTES
THURSDAY, MARCH 16, 2022
7:00 PM
CONDUCTED ON A VIRTUAL BASIS VIA ZOOM

Call to Order

Open Public Meetings Act Notice

I hereby announce that pursuant to Section 5 of the Open Public Meetings Act that adequate notice of this meeting has been provided in the notice, which was sent to the Asbury Park Press, the Two River Times, and posted on the bulletin board in Township Hall and filed in the Township Clerk's Office on December 28, 2021.

Roll Call

Chairman Kin Gee, Vice Chairman William D. Kastning, Commissioners Janet M. Berk, Gerald Buffalino, Zachary Gilstein and Special Council Kevin Starkey were present.

Pledge of Allegiance and Moment of Silence

Chairman Gee: Can you please stand for the pledge of allegiance and remain standing for a moment of silence to honor our troops both here and abroad that work tirelessly to protect us each and every day.

Approval of Minutes for the January 27, 2022 Meeting

Chairman Gee asked for a motion to approve the minutes for the January 27th meeting. Vice Chairman Kastning offered a motion to approve the minute, seconded by Commissioner Berk. A voice vote confirmed all in favor.

Chairman Gee: Before we turn to our guest speakers, I just wanted to reiterate some of the comments made at prior meetings for the benefit for those who are new to our proceedings. First of all, there's been some relaxing of Covid rules and some public bodies have returned to conducting meetings on an in-person basis. However, the Charter Study Commission is at a stage where our meetings involve guest speakers all of whom are from out of town. As an example, Ed Sausdali from the New Jersey Division of Local Government Services who made an excellent presentation of the various alternate forms of local government lives than 100 miles from Holmdel. The commission would like to return to in-person meetings; however, we also recognize the value and the benefit of hearing from our out-of-town expert speakers. Those speakers have expressed a strong preference and the need to come before the commission on a virtual basis rather than in person. The commission is an independent public body, and accordingly will make the decision based on the best interest to accomplish a statutory mandate. Therefore, we will evaluate the situation and will return to in-person meetings when we feel it's appropriate, but regardless of whether the meetings are conducted on a virtual or in-person basis, the public can still continue to hear and watch our proceedings in accordance with the Open Public Meetings Act. Secondly, since the very beginning of our proceedings we indicated that our plan is divided into three phases. The first phase is the study our current form of local government, the second phase is to explore alternative forms of local government, the third and final phase is to deliberate and make decisions for any recommendations. We have

concluded Phase One at the last meeting, we presented a summary of what we heard from the elected officials through our study of the township committee form of government. We are now in Phase Two to explore the alternate forms of government. We will hear from two experts from various alternate forms of local government that could be considered. In addition to the expert presentations, we thought it would be beneficial to hold direct discussions with elected officials in towns within Monmouth County that currently operate under those alternative forms of local government, including the different options within those forms. For example, whether the mayor is elected directly by voters or not and whether elections are held on a partisan or a non-partisan basis. We started with an interview with the Mayor of Ocean Township, which operates under the council-manager form of local government with elections held on a non-partisan basis, but the mayor is not elected directly. At the last meeting, we interviewed the Council President of Tinton Falls, which operates under the mayor-council form of government, in which the mayor is elected directly by voters. The mayor-council form of government allows elections to be held on a partisan or non-partisan basis, Tinton Falls opted to hold its elections on a non-partisan basis. Tonight, we are pleased that we'll have with us the mayor of Marlboro, he'll be logging in soon, which also operates under the mayor-council form of government, however, Marlboro opted to hold its elections on a partisan basis. We plan to have two different elected officials from the council-manager form of government where the mayor is elected directly by voters in partisan and non-partisan elections. When Phase Two is concluded, we will then move to Phase Three where we would discuss, deliberate, and make decisions on possible recommendations. Just to be clear, despite what you may see on the social media, the commission has not made any decisions or any recommendations it may make, all of our meetings are recorded, and the public can watch the video recordings of the proceedings. Ultimately, any recommendation by this commission is subject to approval or disapproval by all Holmdel residents in a public referendum. With that, we will turn to our guest speakers for tonight. In Phase One, we received significant comments about the local county committee, the so-called line, and what have been described as interferences from party bosses outside of the local town because elections are held on a partisan basis under the township committee form of government. In Phase Two, we learned that under alternate forms of government elections can be held on either partisan or non-partisan basis.

Presentation on the New Jersey Ballot Design and the "Line"

We are pleased to have with us our first speaker, Dr. Julia Sass Rubin from Rutgers University, she is one of New Jersey's leading experts on ballot design and the line under partisan elections. Dr. Rubin currently serves an associate professor and has been part of the faculty of the Edward J. Bloustein School of Planning and Public Policy since 2003. She is also an associate visiting professor at Princeton University's Princeton School of International and Public Affairs. Dr. Rubin's research interests include non-profit and public organizations processes, developmental finance and the intersection of educational policy, community development and social justice. Dr. Rubin has advised a number of organizations, including the United States Small Business Administration, the John D. and Catherine T. MacArthur Foundation, the Appalachian Regional Commission, the Overseas Private Investment Corporation, and the New Jersey Redevelopment Authority. Previously, she consulted for McKinsey and Company, worked in brand management for Procter and Gamble and Eastman Kodak Companies and taught strategic management and marketing at Assumption University, interesting place in Bangkok, Thailand, as the Henry Lewis Scholar. Prior to joining the Boston School faculty, Dr. Rubin was a postdoctoral fellow at the Alfred A. Tauman Center for Public

Policy at Brown University. Dr. Rubin earned her PhD and MA from Harvard University, an MBA with Distinction from Harvard Business School, and an AB with Honors from Harvard Radcliffe College. Welcome and thank you Dr. Rubin for being here, especially out of your busy schedule.

Dr. Rubin: Thank you very much, Mr. Chairman. I think my task is to speak a little bit about the county line and to share some of my research on this topic. It sounds like it was a focus of discussion already in the prior meeting, so I'm just going to flush out some of the details and let me begin by just contextualizing this a little bit.

The reason that the primary ballot and the county line are so important is that in New Jersey winning the primary is tantamount to winning the general election in much of the state, because our districts, both legislative and to some degree congressional, tend to be very favorable to one party or the other, so winning the primary becomes extra important and anything that skews the results of that primary becomes extra important to the ultimate outcome of the election. What I found in my research in looking at the primary ballots in all 50 states and in the District of Columbia, is that New Jersey's primary ballots are unique, our ballots are unlike that of any other state or DC. Most states have a primary ballot that is called an office block ballot and the reason it's called office block is that there are these blocks in which you can clearly identify the position that candidates are running for at the top and then all the candidates are listed below that position, so it's very easy for the voter to determine who their choices are when they're voting. A couple of states, principally Delaware and parts Pennsylvania, ballots look a little bit different, they put the candidates instead of below the position to the right of the position. I just want to clarify ballots vary within states obviously, but I looked at a significant portion of the counties within each state, so there may be some aberrations, but this accounts for the majority of all ballots in the country. So, again in a few states' ballots look a little bit different in that the candidates are listed to the right, but you can still tell who your choices are as a voter. By contrast, in all but two of New Jersey's counties, primary ballots are organized around the county line, or some people refer to it as the party line, which of course consists of all the party-endorsed candidates and those are shown in either a vertical or horizontal order depending on how the primary ballot is laid out. In the 2021 Essex County Republican primary ballot, and Essex is one of five counties that have a horizontal ballot design, and the county line is in Row E. In the 2018 Democratic primary ballot from Camden County, this is a vertical ballot, and the county line is in Column 2. In the 2020 Holmdel Township Republican primary ballot, the county line is in Column 8.

The county line provides candidates, who have been endorsed by the party, with many advantages. First of all, the line is almost always either the first or second column or row, so it's easy for the voter to see it when he or she enters the voting booth or opens their paper ballot. Second of all, the line is headed by, generally, the best-known candidate running that cycle, so in the Camden ballot in 2018 it was Senator Menendez. Of course, in 2020 it was then Vice President Biden and President Trump, and every cycle it would be whoever is most likely to be known to the voters, either the Senator or Presidential candidates, etc., and so everyone else on the line gains legitimacy from the fact that they are associated, by being on the line, with this best known candidate and that helps them. Candidates not on the county line are placed always in separate columns or rows and sometimes those columns or rows are separated from the county line by blank columns or rows, and it is really difficult to understand the logic of that, why there's certain spaces here or there. In the Camden ballot you have six blank columns between Donald Norcross who was running in 2018 for re-election to Congress for the House of Representatives and the two people who ran against him, and even more confusing for the

voters and the Camden ballot, the two people who are running for the House of Representatives against Norcross are running against each other and yet they are placed not only six columns away, but actually one on top of each other, and so a voter who notices that they are there might be inclined to vote for both of them because they think that they're actually running together like the voters in the county line.

The design, the uniquely New Jersey design, violates many rules of good ballot design, and I want to focus on the most important rule that it violates and here I'm going to be drawing on the excellent work of the Brennan Center at NYU. These county line ballots have very murky contest boundaries, so the problem is that voters cannot tell which candidates are running for each office and that is a terrible problem when it comes to ballot design. A good clear boundary ballot for a machine, so all you ideally would see when you walk into a voting booth, if you're voting by machine, is one office at a time. So, in this case you would see the lieutenant governor position and the two candidates who are running for lieutenant governor and then you would click next and you would go to the next set of choices, and the thinking here is that it is sufficiently confusing just to be in a voting booth with very little time to make your decision and trying to figure out the technology, you want to simplify the decision, as much as possible, for the voter. For a paper ballot, a clear boundary ballot would make it very obvious what the position is that the candidates are running for and who is running for each office so the choices for the voter are very clear. By contrast, in the 2017 Middlesex County Democratic primary ballot, can you tell what the contest boundaries are in that race, who are your choices if you're a voter a Democratic primary voter in Middlesex County? It turns out there are six people who were running for governor that year, five of them were in Row A and, for reasons that are completely impossible to ascertain, the sixth candidate was in Row B and four columns over. How about the 2020 Union County Democratic primary ballot, can you tell what the contest boundaries are for the House Representatives race? As it turns out, there were three candidates running, one of them was in Column B, there was a space in Column A and then there were two more spaces in C and D, and then you had two more candidates on the right, again really inexplicable for voters and very confusing. How about the 2020 Democratic primary ballot from Mercer County, in the House of Representatives race can you tell what the contest boundaries are, who are your choices as a voter? As it turns out, there are three, two of them are in Column A and, again, one, for reasons that are not clear at all, in Column B and to a voter walking into the voting booth it's not clear why you would have a candidate in B and two A, and so it's very easy for the voter to get confused and miss some of their choices or overvote. This kind of confusion and overvotes/undervotes are quite apparent, when I analyzed the 2020 primary results, I found substantial overvotes and undervotes. In fact, in the ballot with two candidates in Column A and one in Column B, what resulted, and this was the year that we were all voting on paper ballots, was a third of all the people who voted in that contest in the Fourth Congressional District Democratic Primary overvoted, they essentially voted for both Christine Conforti and Stephanie Schmid even though the direction said vote for one, because this is the county line and people are trained to vote for everybody in the county line in New Jersey, and so they just voted automatically and voted for both of them getting their ballots discarded for that contest. Now, a small overvote like one percent would be substantial and would be considered a serious ballot design problem, when a third of your ballots are thrown out because of overloads it's unheard of, it's a tremendous problem in terms of ballot design and the impact on democracy.

Chairman Gee: I just want to clarify because I think you used the term odd here, when you say overvote I think you kind of explained it, but I just want to make sure it's clear. That's what happened when a voter voted for more than one or two, whatever the number that they want. In your example it says vote for one, but they vote for two, then it gets disqualified and gets thrown out and so their vote actually didn't get counted. Is that right?

Dr. Rubin: In any contest if you vote for more people than you're allowed, your vote is not counted because it's an overvote, you haven't indicated a preference, and if you leave the ballot blank for a particular contest that's considered an undervote and, again of course, your vote doesn't count because they don't know who you wanted to vote for, so you're essentially disenfranchised because you're voting for too many people. The ballot isn't thrown out for everybody else, for example if they voted for County Clerk and Freeholders or Commissioners, those votes would still count, but their votes in this contested primary for House of Representatives would not count because they voted twice essentially, they voted once but they voted for two people.

So, parties enhance this problem in a way, they kind of encourage people to vote the line which makes it worse, which leads to additional confusion. For example, a flyer went out this past summer in Mercer County to Democratic primary voters and it says, "Attention Democratic voters, please come out and show your support, vote Column A on June 8th for our Mercer County Democratic candidates." Now, of course, everyone in the primary is a Democrat, but by sending out material like this telling voters to vote the line, Column A or Column B or wherever the line is, the parties reinforce the idea that voters just come in and they kind of blindly vote thinking that that is who the Democrats are, that is who the real Republicans are and that further undermines the idea of the ballot being an accurate reflection of voters will, they're kind of conditioned to vote a certain way. Not surprisingly, for all these reasons, all these advantages, being on the county line translates into a substantial electoral advantage. Historically, we see that in the fact that no state legislative incumbent, so anyone running for the state legislature who has already served previously, who was on the county line has lost a primary for the last 12 years and you might think, well incumbents generally win, they have an inherent advantage and that's true, but when you look at New Jersey relative to the rest of the country, you realize how out of line we are.

There're only two states that hold their state legislative elections on odd years us and Virginia. In last year's primary, in 2021, five state legislative incumbents in Virginia lost in the primary. If you look at the 2020 primary, which would be the rest of the country in this cycle, so it's a two-year cycle, 154 state legislative incumbents lost in 2020. Between 2020 and 2021, 159 state legislative incumbents lost, that's just one cycle. In New Jersey, in six cycles not a single state legislative incumbent has lost as long as they have the line, and this is true beyond the state legislature. I looked at congressional incumbent and I looked at the last 50 years, and what I found is that there have been no congressional incumbents, who are on the county line, who have lost a primary in that time. In fact, only two congressional incumbents have lost a primary at all and in both cases, they were running against another incumbent after redistricting when one of their districts was eliminated, and in both cases the incumbent who had the line or had the line in the larger county in the district won. In contrast, nationally, just in 2020, eight congressional incumbents were defeated in primary elections, so again 50 years versus eight just in one year, 50 years zero versus eight in just one year, so we are just very out of alignment historically with the rest of the country.

In 2020, I had an opportunity to go a little bit deeper on the impact of the line. If you recall, all of us were voting on paper ballots because of Covid and there were a number of contests at the primary level where endorsements were split. For example, there were three house races where different candidates were endorsed by different counties in the same congressional district or in the senate race on the republican side there were five candidates and they split the endorsements between them. I was able to compare what happens when you're on the county line in one county in the same district or off the county line in another county and someone else has the line, and what I found is that on average it translated into a 35-percentage point advantage. Being on the county line in one county versus not being on the county line and having your opponent on the line in another county, within the same congressional district, translated into an average of thirty-five percentage points, which of course is an overwhelming margin, it's virtually insurmountable. The range in one of those races was twenty-five percentage points, in the statewide senate primary and in the Republican US Senate primary the margin was 50 percentage points, so the average was 35, but even at 25 that's a really substantial difference. One example of that is the third congressional district republican primary for congress, there were two candidates and two counties, Kate Gibbs had received the county line in Burlington and David Richter had received the county line in Ocean, and of course they each won the county in which they were on the line. For Kate Gibbs, being on the county line in Burlington versus having David Richter on the county line in Ocean was a difference of thirty-four percentage points. For David Richter, in reverse, it was a difference of thirty-five percentage points on the county line versus having Kate Gibbs on the county line, so that's just one example of these races. I then looked at 2021 primaries, we didn't have very many split endorsements, this is of course the legislative primary versus the congressional one, but it was unusual in that there were a lot of incumbents who lost the line and what I found is that in looking at the line versus incumbency, the line won every time. For example, five-term Assemblywoman BettyLou DeCroce lost reelection after she lost the line in Morris County, she is of course a republican, she had the line in the two other counties in her district, but Morris is the largest county and so she lost because she lost that line. Assemblywoman and Deputy Republican Whip Serena Dimaso lost reelection after she lost the line in Monmouth; I'm guessing you're very familiar with this example. Assemblyman Auth and Assemblywoman DeFuccio did manage to win re-election, but they split endorsements, so they were on the line in Bergen and off the line in Passaic, they have both in their district, and they performed 11 percentage points better in Bergen than they did in Passaic, which is not consistent with prior performance in years when they've run in the past, the only real difference was where they were on the line versus not. These results were so dramatic that several journalists pointed out 2021 was year of the line or the line wins, but in reality, in New Jersey the line always wins.

The impact of that on our politics is really corrosive, so if you consider how the line is awarded, although there are some counties where there are conventions and there are ostensibly municipal party committees that vote on the line, in reality the decision to award the line really lies with the 21 Republican and 21 Democratic county party chairs through a process that in essence they have the power to grant the line and sometimes they defer to local municipal committees, sometimes they defer to county committees, but they really don't have to and in much of the state they do not. So, really decisions about who gets the line and who thereby wins the primary, and because of the way our primaries function as the general election, who essentially gets to serve in office comes down to forty-two people in our state. Candidates who are not selected by the party chairs, drop out in much of the state, and so we have very few choices for voters at the primary level and of course again, the primary is the general election.

For example, in 2021 Essex and Mercer there were virtually no contested races, this was consistent for most of the state. In the legislature, there were 240 state positions that were on the ballot for the New Jersey legislature in 2021, 10% of them were contested, twenty-four out of 240. I think we've gotten so used to not having any real choices at the primary level that it doesn't even shock New Jersey voters, but when you look at what's happening in states next to us it's really striking. For example, our primary was in early June, in May there was a primary in Pennsylvania. In Pittsburgh, a democratically controlled city, right in the state next to ours, in this contest there were four mayoral candidates for one position in the primary, thirty-nine judicial candidates for nine positions and two sheriff candidates for one position, this is what democracy is supposed to look like. Voters are supposed to have choices, but in New Jersey we really do not because candidates understand that if they're not endorsed, they really have very little chance of winning, and so they just drop out. Another impact of the line is that elected officials understand that the real power lies not with the voters, but with the party leadership and so they become beholden to a few party leaders rather than being concerned about the will of the voters, especially in districts that are heavily biased towards one party or the other, one party or the other is more powerful, and especially in positions at the county level or cross county level where there's just not a lot of voter awareness of candidate names, then the power of the line becomes even more important.

That leads to a lot of problems we've seen in our state over the years, a lack of transparency in government, some inside dealing, patronage and, of course, corruption. There are a couple of efforts underway to try to correct for this problem, one option would be for the legislature to essentially pass legislation reforming our primary ballots and bringing them in line with the rest of the country. Again, we are the only state that has a ballot that looks like this, so that is not likely to happen because the legislature would be punished or individual legislators would be punished, any that have tried to step out and endure such reform have quickly heard from their party chairs and they have generally backed off. There is a lawsuit challenging the constitutionality of the county line primary ballot, it was filed in federal court in July 2020 and initially it just had one plaintiff, Christine Conforti, the Mercer County ballot I showed you with a third of the ballots were cast out for the congressional race. In January 2021, five other candidates joined her as well as the New Jersey Working Families Alliance joined and the defendants are the six county clerks in Atlantic, Bergen, Hudson, Mercer, Middlesex, and Ocean counties. There was an amicus brief filed in June of 2021 by the League of Women Voters of New Jersey and Salvation and Social Justice, which was represented by the New Jersey Institute for Social Justice and Campaign Legal Center. There's a federal judge who has been assigned to the case, actually the judge was switched so we're on the second judge, and they are waiting for a court date so that is to come, it could be a real earthquake in New Jersey if that decision goes against the county line.

Another path for reform is a campaign by the Good Government Coalition of New Jersey, which is a non-partisan grassroots group, which in full disclosure I am part of, and that campaign is called the Better Balance New Jersey Campaign. Seventy-two organizations have signed a resolution to shift from a county line ballot to an office block primary ballot, which makes it easier for a voter to tell what position you're voting for and who your choices are, that resolution is gaining steam, but it's non-binding. Then finally, we come to what's happening in several communities across the state which is local efforts at reform and in Princeton and Maplewood that has consisted of efforts to change the primary ballot at the local level, and then of course in

other communities like Red Bank there is another charter commission going on and they are looking at moving to a non-partisan local government, essentially to eliminate the line.

Before I wrap up, I just wanted to speak to what's happening in Princeton and Maplewood with primary ballot reform, because people don't have the ability to force the legislature to change the law, and so the only way they can really take action is at the local level. The reform is to place all the local primary candidates on the county line, so it keeps the local government partisan, but everybody goes on the same line. The Princeton ballot has looked the same for about eight years, no matter how many people are running for council or mayor, at the primary level they're all on the line, they do give preference to the endorsed candidates they go first, but everyone's on the line and people do still run even if they're not endorsed and they win even if they're not endorsed, so the ballot position really matters.

Commissioner Buffalino: What had to be done to get that to happen?

Dr. Rubin: That's a great question, let me share Maplewood with you and then I'll come back to that question if I may, because it's a really excellent question.

What happened in Maplewood was that they also wanted to do something like Princeton because they found that when the endorsements would come out from the municipal committee, and Maplewood was a very democratic town like Princeton, but I think the phenomena again cuts across both parties, it's just whichever party is in charge, whoever doesn't get endorsed would drop out. The Maplewood Democratic Municipal Committee was unhappy about that, they wanted people to stay in the contest to have choices for voters, and so they commissioned a subcommittee to look at this issue and the subcommittee came back with a recommendation and they adopted that recommendation a little while ago, which was in essence do pretty much what Princeton is doing, so all the primary candidates at the local level who want to be on the county line would be placed on the county line and if that line is not available for any reason they would be placed on a separate line, but all together. The other kind of striking thing about this is actually a one-year pilot, they're running to test this idea, but it's going to be this coming year. The other striking thing that's unusual is that the local municipal committee can endorse no candidates or as many candidates as they want, so even though there are only two spots on the city council they can choose to endorse everyone who's running, which of course leaves the choice to the voters; that doesn't differentiate between the candidates and lets the voters decide. So a mock-up of the 2021 Maplewood primary ballot has five people running for two positions and all of them presumably could be endorsed or you could just have a couple endorsed that doesn't matter, the only way you would know is the tags, so in this case you've got the official tagline for two on the left and the others are have different taglines, but they're all on the line and if the line was not available for any reason then it would have everyone running at the local level on a different line, but they'd still be together, so the voter would still have a clear sense of who their choices are in that contest.

As to Commissioner Buffalino's question, that's a great question, as I said. Technically, that is entirely at the discretion of the county chair, because they serve as the campaign manager for the commissioners and that rabbit hole, I was trying not to drag you down and I won't drag you into it, but essentially that's what gives them the power to decide who gets the line. What happened in the case of Princeton and in the case of Maplewood, in Princeton they had to get the approval of the county Democratic party chair and she approved and it has just stayed that way, no one has dared to, even though there's a different chair now, go back on that commitment because it's become the norm now and the expectation is that it will continue that

way. In Essex, it's the same and Leroy Jones, who is the Democratic party chair in Essex and of course the state party chair, actually came to a meeting of the Maplewood Democratic Municipal Committee and he was asked before they decided to do this if he would support it and he said that he believes in democracy and so he would, and so they went ahead and voted and now the county clerk is examining ways to structure the ballot.

Chairman Gee: Does anyone have any questions for Dr. Rubin?

Vice Chairman Kastning: I assume if the judge makes a decision it'll be appealed, correct?

Dr. Rubin: I think that's probably a safe assumption.

Vice Chairman Kastning: Do you think it'll go all the way to the supreme court?

Dr. Rubin: I don't know, I think Kevin's probably a better person to ask about that than I am, I'm not an attorney.

Vice Chairman Kastning: In any event, we may not see a change for quite some time, right?

Dr. Rubin: It would be an earthquake, even if they appeal it, I think it would be really an earthquake. It is federal court, so I don't know how that would play out as far as how far up the chain of command it would go or the legal chain.

Commissioner Gilstein: Do you have any idea of the history of how New Jersey got here, and other states all got to some more Democratic place?

Dr. Rubin: There is an attorney by the name of Brett Pugach who wrote a law review article for Rutgers School of Law Review, and he goes through this quite extensively how we ended up here. It's a combination of bad State Supreme Court decisions and legislation, and we are a political machine state and there were more political machine states 50 years ago, but we have stayed a pretty strong political machine state and most of the others have gotten much weaker. I think that the primary difference is that we have this line, because it allows the party so much power that it's very hard to get around the party. There's a lot of other institutional structural things in New Jersey, like we don't have initiative and referendum so there's no way to walk around the legislature so to speak, everything has to go through the legislature. We can't change the constitution, we can't do anything without legislative approval and there's a lot of other factors, like we have a very split up media market, so people don't focus on statewide issues. There's a lot of reasons that have allowed political machines to stay very strong in our state, whereas other states have moved away from that, so this ballot, even though it was always a little outside the norm, but it wasn't as much unusual in prior decades, and I think that as other states have changed, we have not.

Commissioner Buffalino: Do you think this was part of the reason why the state passed the Faulkner Act?

D. Rubin: I don't know, I'm going to take a pass on that one.

Commissioner Buffalino: It seems like they gave an alternative way to do things that doesn't exist, but they carved something into the law, albeit back in 1950, to allow some options to be introduced into municipal governments that didn't exist at the time.

Dr. Rubin: The machines go back well over one hundred years, and of course Woodrow Wilson battled them. I don't know the history of the Faulkner Act and what precipitated that, so I don't want to weigh in.

Chairman Gee: If there are not any other questions, thank you very much Dr. Rubin, we really appreciate that information. It supports a lot of the comments we've been hearing as part of our study, so we really appreciate it. Thank you.

Invited Guest: Jonathan Hornick, Marlboro Mayor

Chairman Gee: We started the process where not only are we getting expert presentations on the various alternate forms of government, but the commission thought it would make a lot of sense that we talk with some of the elected officials directly who have already operated under the Faulkner Act. Our next speaker is Mayor Jon Hornick, who is right in the town next to us in Marlboro, and for this segment I'm going to turn it over to Vice Chairman Kastning to introduce Mayor Hornick and to go to the Q&A session.

Vice Chairman Kastning: Mayor, thank you for joining us this evening. Mayor Hornick was elected in 2007 and is now in his fourth term. He's a lifelong resident of Marlboro Township and resides there with his wife, Daryl and their three children Ethan, Olivia, and Sophia. Jon has more than 25 years as an attorney with Larocca, Hornick, Rosen and Greenberg where he practices private lender law, group advising public and private companies on secured and unsecured loan and equity transactions. He is a member of the Hall of Fame for both Marlboro High School and New Jersey Mayors. He was instrumental in forming the Marlboro Teen Advisory Committee, a volunteer group of Marlboro Township teenagers who live by the motto *Do Good*, it is now over 1400 members. He reenergized the Marlboro Economic Development Committee, and with a mandate to bring new businesses to Marlboro Township through outreach and promotion. In 2012, the mayor and the Economic Development Committee spearheaded the Shop Marlboro Property Tax Reward Program, the first program of its kind in the United States that rewards residents for shopping locally by directly reducing their property tax, and last year this program was signed into state law by Governor Murphy. The mayor and the township council has preserved hundreds of acres of open space. When the mayor was elected, he committed to open government and increased communication and now has more than 34,000 residents following social media platforms and more than 24,000 receiving township emails detailing events; to put that in context, the population is slightly over 40,000. Under his leadership, Marlboro is one of only six towns in New Jersey out of 565 to receive a AAA bond rating from both Moody's and Standard & Poor's. Welcome Mayor.

Mayor Hornick: Thank you so much, quite the introduction. I thank you for the opportunity to speak, I'm here for you to ask whatever questions you want to know about our form of government. My question for the Chairman or the Vice Chairman, and I missed the beginning of the meeting, what is causing this review, what is making you reevaluate your current form of government?

Chairman Gee: Right now, we're under a township committee form of government and our township committee introduced an ordinance back in July and then passed it in August to place the question, "Should a Charter Study Commission be Formed?" That was a public question that was part of two other initiatives that were on the November 2021 election, and the ordinance, and the statement that went with that, was that basically, should certain things be improved upon. Generally, most of us do believe that Holmdel has been a pretty reasonably well

functioning government, but are there things that could be improved upon, something that's good that could be even better, and there were a few things. One in particular, as an example, under the township committee form of government the mayor's decided by the council committee at the beginning of the year at a reorganizational meeting and a few years back there was some confusion where the incumbent mayor was re-elected, however at the January meeting he was not selected to be the mayor and there were people that were really confused. People thought that they were re-electing him as mayor and that was not the case. So, things came out and the thought was there are things that perhaps could be explored and looked at and make something that's good even better kind of thing so there unlike. There's not one major thing, but there are things that could be looked upon that could be improved upon, and the mayor is one of several things that I think is the most prominent.

Mayor Hornick: That was good background for me, thank you so much.

Commissioner Gilstein: I think we've heard a lot about this, but maybe you want to add some things. Please describe your current or past role and other experience in local government and administration.

Mayor Hornick: I was first elected to Mayor of Marlboro in 1997, I was 37 years old at the time, I had no prior government experience. Really, a lot of my experience came from my family being involved in local government, my late father Sol Hornick served as mayor of the town from 1980 to 1992, so those were the years from my age of 10 years old to twenty-two. I got to see how the town was run and I learned government that way. I then went away to college and law school and was practicing law at large law firms in Manhattan when I moved back to Marlboro to raise my family. What caused me to run was, I had no plans ever to go into politics having watched my father do it, I knew how brutal it could be, and local politics is the hardest. First, let me commend everybody who's on this call because it is a tough business to be in these days and anybody who chooses to be on a committee or represent a town in a local capacity is definitely a glutton for punishment, but I appreciate you and I salute all of you. It was that feeling that when I moved back here, I was asked by both the Republican and the Democratic party to consider running for office, and at that time I had no interest, but after discussions with my family and after a lot of reflection, I decided that if someone who was born and raised in the town, whose late father had served as mayor of the town, was unwilling to give his time to run the town, then who was supposed to do it and so that's when I decided that I was going to run. The other thing that disturbed me, and you may remember this, Marlboro had a very dark past with a bad mayor and he ended up going to jail and was very corrupt, and a lot of our unnatural development occurred because of that. Well, it's never one individual that's bad in corruption, there are other people who tolerate it and watch it happen and say nothing and when I moved back to town in 2007, those very people who were in office when that corrupt mayor was there were still running the parties in the town and I could have none of that. We ended up starting our own party, the Reformed Democratic Party, which was the next generation of people returning to town and a whole new breed and we swept into office. I won in 2007 with two council seats, we have a five-member council and then we picked up the other three and we held five seats for over a decade until this last cycle where we lost three seats in the last cycle, which went around in November.

Commissioner Gilstein: Any follow-up questions from other commissioners?

Chairman Gee: Mayor Hornick mentioned that this is a tough business, and we should be commended, I've got to mention the pay is really great.

Mayor Hornick: I'll announce my salary because I'm not embarrassed, I get the same money my father got in the 80s it's \$4,800 a year.

Chairman Gee: By law we are entitled to no compensation, just so you know.

Mayor Hornick: It's like no compensation because everybody thinks it's my full-time job which is amazing to me, because if they ever looked at the salary I couldn't pay a quarter of my taxes, but you do it for the right reasons, you do it because it's your community, it's where you're raising your kids. If each of you were unwilling to do it, then who gets to do it? There is nothing more impactful than a local committee on quality of life and the things that are important to your residents, nothing. People could petition the governor's office, the state assembly, the senate or even congress, nobody impacts somebody's life more than a local official and I have countless stories about it. The ultimate question is, we're in the strong mayor form here with a directly elected mayor, I answer directly to the people, I answer to the council in terms of explaining to them what we're doing, and they authorize the budget, so it's very similar to the federal government or the state government. It is most similar to being the governor with the state assembly or the president with congress and there's checks and balances on each of the separate aspects of the government. In our form of government, at least in my town, the mayor, in everybody's eyes, is responsible for everything, it doesn't matter if it's within my jurisdiction, meaning they think the school's my fault or when the power goes out it's my fault or and I'm sure you have a similar thing. In my view, if the public is going to hold me accountable and responsible, I need the most authority I can to impact those things that are important to them and that's what this form of government, on the positive side, gives a town. We have made huge strides going forward over the last decade, in areas that I never thought would be possible, and my intro, whoever wrote it did a great job, mentioned some of them, our teen advisory committee, our AAA bond rating from Standard & Poor's and Moody's, these are not easy things to achieve and I believe in a strong executive leaning government like we have. You have a better chance of achieving it than working as in a committee form or all the other forms that I've heard, because ultimately the mayor's responsible, the mayor's staff is responsible, the admin is responsible, we have to answer to our council, we get called in and they ask questions and we're held accountable that way, but with one person in the seat I believe things get done more quickly, less bureaucracy, less waiting for meetings, but that's just my opinion and this is the only form I've ever lived in.

Commissioner Buffalino: When did Marlboro change to a Faulkner Act Form?

Mayor Hornick: I believe it was sometime in the 60s.

Commissioner Buffalino: That long ago.

Mayor Hornick: Yes, because my father was elected in '79, and we already had the strong mayor system then.

Commissioner Berk: Could you explain what the check on your power is?

Mayor Hornick: Nothing can be done that is not within the budget, so the budget is approved by the council. We don't have flexibility, everything has to be put out per department per spend, there is some flexibility in emergency situations, but think of it as the same as congress, if there's no spending authority on the mayor, there is nothing I could do about it, I can't get anything done. That's the first check, the other check in our form is we've allocated, and this was probably done in the 60s, which I think was a mistake in the way it is because other strong

mayors that that I'm friendly with that I discussed this with don't have this, the appointment power of certain aspects of the government were divided between the mayor's office and the council, so they were separated. The zoning board is on the council level with us, the planning board by state statute is in the mayor's office, so there were divisions made. A lot of towns combine them into the mayor's office, and I think that's appropriate because it's really the same thing, but my guess is when they were switching over the council people at the time said we're not giving everything to the mayor's office, let us keep this and that's what happened.

Commissioner Berk: Do you have veto power?

Mayor Hornick: Yes, we have a five-member council, it is three to pass a typical ordinance, a bond related ordinance takes four and the mayor has the ability to veto it which could be overruled by four votes.

Commissioner Gilstein: In terms of describing your current form government, I think you've done a pretty good job. Is there anything else that we should understand about your form of government and how it operates.

Mayor Hornick: While it is a lot of authority in the mayor's office, the way that we have conducted ourselves we've included the council as partners in every aspect of what we do. A great example is our budgeting process, you know how the budgeting process works and the state requires you to submit it to your governing body by a date and then to submit it to the state by a different date. We prepare the budget and get the five-member council in a room, in front of the department heads, as early as possible so we bring them into the preparation side so everybody's fully knowledgeable about what's going on. There should be no debate at a Marlboro town council budget introduction or voting meeting, no theatrics, no politics, because everybody had a chance to build that budget from ground zero. We have zero base budgeting, meaning we start with zero and we go from there, and I think, if you go our route and you go to the strong mayor Faulkner Act, that's a really important thing to remember. It's very easy to shut the council out, but if you embrace them, you could do great things together and that's what we've tried to do for the last 14 years.

Vice Chairman Kastning: Is that working group public session?

Mayor Hornick: Yes.

Commissioner Buffalino: Do you take charge of the meetings that are held by the council?

Mayor Hornick: No, interesting enough in the strong mayor Faulkner Act the mayor is an invited guest, non-voting, I actually don't have to attend. Some of my colleagues, Mayor McCormick in Woodbridge does not attend, Mayor Fulop in Jersey City does not attend. I go because I feel that this is the chance for the residents to see their elected officials and regardless of what the meeting is called, everybody's always talking to the mayor and asking for something, which is fine, and I understand that's the role. I could see myself not going in the future if politics ever came to play at the local council level and there were theatrics going on I would stop coming to the meetings because I don't like wasting time in that regard, I believe in getting to the fair resolution. I have this saying that I've been saying for a long time, I don't care if you're a Republican, a Democrat or independent, if you're honest and you want to do good work for your town, we will find a volunteer job for you and we will empower you as far as you want to take it. I've never once checked somebody's party affiliation before appointing them because it's not important to me, what's important to me is that you really want to improve the community and

you have the same vision we have, which is to make Marlboro better every day. Once you elect people who are partisan, and Marlboro had a background of that, there was a lot of political fighting when my dad was mayor and I saw that, the job becomes almost impossible to execute, you have to enjoy fighting with people until two or three in the morning, which I do not want to waste that time, so I would stop coming to the meetings if that was the case.

Commissioner Gilstein: What do you think works best about your current form of government?

Mayor Hornick: Everybody should know, I'm not a fan of government, I was so disappointed when I was first elected in 2007 and how much bureaucracy there was for something that was obvious that should be done, that you'd have to wait for the county and the state and then the agency to sign off. Things that in the private world would be done overnight or in a week takes sometimes years to get done, so that frustrated me. In my form of government, we can move very, very quickly and get things done and I feel that used the right way it's a way to make great progress quickly. That's my favorite thing, we could cut out all the red tape in our form of government and get things done and I'll go back to saying everybody's holding your committee responsible, everybody's holding the mayor responsible in my town. The worst is if they're going to hold me responsible empower me to make the difference, they want me to make, don't just make me a mayor in name only and then not give me the authority to deliver and I answer the people every four years, there's no way getting around it. That's the way our democracy, our republic is supposed to work, you're supposed to perform and you get judged and someday I won't be the mayor anymore and there'll be somebody else in this seat and they'll be doing the same thing, they'll be performing and they'll be judged and if they don't do a good job, they won't be welcomed back and that's how our democracy, our republic was built.

Vice Chairman Kastning: Earlier you indicated your three councilman lost, the ones that were aligned with you. What do you attribute that to?

Mayor Hornick: Murphy, anti-democratic sentiment which I think is proper right. Just so everybody knows I was elected as a democrat, everybody knows I'm more in the center than anybody, if not I'm more to the right, so I'm not embarrassed to say it, I think the democratic brand is damaged right now. I think Covid hurt, I think social positions have hurt, I think the White House has hurt, I think President Biden has a very low approval rating right now and honestly, I think the country is divided. I think it's just very divided, I see it on the Republican side, I see angry Republicans who were calling other good Republicans rhinos, for whatever reason, because they didn't support Trump, I see Democrats, progressives saying that you're not liberal enough for us. I just think we're a divided country and Murphy lost Marlboro by 2700 votes, Jeff Canner who's a retired Colonel in the Army who had served for 17 years lost his seat by 45 votes, so all those people came back. I just think you saw a huge voter turnout, there's a lot of anger out there post pandemic and being in politics for as long as I have, the pendulum swings. I watched when Barack Obama won, democrats that shouldn't have won swept in, so it happens, and I think this November there'll be a red wave across congress, and I think both houses may flip.

Commissioner Gilstein: Just going back to the form of government, one thing you didn't speak about, but I get the sense it must be a part of how you function, is an administrator. Do you have a strong administrator that you've appointed and how is that structured?

Mayor Hornick: I believe I have the best Business Administrator in the State of New Jersey, John Capp, and he is responsible for running the town on a day-to-day basis. I set policy from

the mayor's office, we've worked together long enough that he knows when to check in and when not, but he and I are on the same page, he is me in the public sector, he's a workaholic, he wants to get things right and he does everything with a high level of passion. He's been here over 10 years now and he's great and it's building out the team. Lynn Franco's on this line, she's my confidential lead, I call her the Chief of Staff, she runs point. We have a bunch of other people; we have a strong CFO. My day is going into my law firm, which I have an office in Freehold and I call in and get briefed every day on everything that's going on. I talk to Lynn, I talk to John, talk to anybody else I have to and then all day long I'm receiving information electronically or we set up calls during the day and I multitask, my job allows for it. Biggest change for me than from my father, they didn't have technology, so he had to go actually sit in the mayor's office to perform the job, which was never good for his business because you can't be in two places at one time and it's hard to do. Today's day and age, with technology, you could execute the demands of the strong mayor Faulkner with the right staff, so very important to get the right staff in place.

Commissioner Gilstein: What could be improved in the way your current form of government works?

Mayor Hornick: I like the form of government, I think it's the right form for my town, which is a demanding town, a town that wants results and expects a lot of transparency and feedback instantaneously. I saw one of your questions were between partisan and nonpartisan, so I'm going to answer this question based on both retrospective and prospective and looking forward. So, the first thing I'm going to say is, I would change nothing over the last 14 years. I think our government was efficient, we did a great job and we've achieved a lot of milestones and moved the town forward. I am concerned about the political divide going forward. I'm not sure the town benefits from heavy duty roll up your sleeve politics on the local level, so I would, for the first time, listen to arguments for a nonpartisan based government, which I missed Mrs. Sass's description of because I logged on a little late, but I would be interested to hear that only because of what I'm seeing in politics today, which is so disturbing, a nonpartisan form government I would be interested in hearing about.

Commissioner Gilstein: The Faulkner form of government and others offer several options within the overall structure, so please provide your thoughts about what option your town has chosen, any considerations that led to the choice if you know and your thought on any advantages or disadvantage of the alternate choice. So, electing the mayor directly by the residents versus by the town council. You elect at large, right?

Mayor Hornick: Yes, town wide at large, 28 districts, last election had about 14,000 voters that came out town wide, it's a big election. I don't know why the town decided to go this route, I think it was the right route for our town ultimately, with one caveat, if you get a corrupt mayor like we had in the 90s it is devastating and I think that it is harder for a corrupt mayor operate today with all the transparency, with all the meetings being put on social media there are a lot more eyes on than there were way back when, so I think that problem dissipates. At the end of the day, the people get who they elect, so if they elect a thug that's who they get, it happens in all levels of government. I don't know what forced us to make this choice in our history because it was before I was born, but I do think it's the right form.

Commissioner Gilstein: The number of members on your council, you mentioned you have five council members. Do you know if there was consideration of larger, seven or nine?

Mayor Hornick: I don't, but it was this way when my dad was elected, it was five, so it's been this way since the 70s.

Vice Chairman Kastning: If you had the choice, would you try to change it?

Mayor Hornick: No, as long as it's an odd number I think it's fine, so you could get to a majority. I don't think seven adds anything or nine adds anything, I don't think there's a reason there are five at-large members, I think the only reason you would change it, in my mind, is if five members couldn't adequately represent the different demographics of your town. I know that Jersey City has a large number, they're a big town, they have over 100,000 people and they have diverse communities, so electing people for proper representation on the local level it is important to have a larger number. I don't see the need in Marlboro, I think five adequately covers our square miles, as well as the demographic of our population.

Commissioner Gilstein: You started to mention about this, holding elections on a partisan versus a non-partisan basis. Anything you want to add?

Mayor Hornick: Just what I previously said.

Commissioner Gilstein: Currently you elect on a partisan basis?

Mayor Hornick: Yes, we have two parties in town, we have chairpersons of those parties, we have committee members, two from each of the 28 districts that they have the authority to appoint. Different from what was said before, and I think this is different on the Democratic side than the Republican side in Monmouth County, and just to clear the record, I'm friends with both sides, very close with both sides. The county government on the Democratic side has virtually nothing to do with Marlboro, I mean there's no discussions at all, I think that's different on the Republican side, but that just could be the makeups of the town, but we virtually have no contact with them.

Commissioner Gilstein: I assume you're electing all of your members by law at large; you could do it by wards, do you think there would be any value to that.

Mayor Hornick: The ward goes to the demographic representation concept that I mentioned before, if you had certain sections that you felt were growing and needed to be represented, they needed to have a voice on the governing body, that's when I think you'd break up into wards. You see it more in urban areas where pockets of people live, but I don't see the need for it in Marlboro or Holmdel.

Vice Chairman Kastning: Can I go back to the prior question, how did the ballot appear for Marlboro's last election, were the incumbents on one line and the others who ultimately won on a separate line? How did it appear?

Mayor Hornick: They were divided by party, so it started with Governor Murphy on top and dropped down to the local level with the three Democratic candidates, who were the incumbents running, and then you had the Republican side from top to bottom, Jack Citarelli all the way down to the three Republican candidates who ended up winning.

Commissioner Berk: Is it always Democrats and Republicans or do you ever have independents running?

Mayor Hornick: We have, in Marlboro's history, had independents running. There were more disruptors, so what they would do is they usually split a party, whether they came from the Democratic side or the Republican side, and sometimes knowing Marlboro politics of its past, they were asked to run in order to achieve that goal.

Commissioner Gilstein: Are your elections held concurrently or on a staggered basis.

Mayor Hornick: Staggered, so the mayor runs with two council people and then three count, so control of the council's up opposite of the mayors, so that's the balance. So, the mayor will run with two council candidates, they won't be able to take control of the governing body in the same election the mayor seats up and then three council candidates run two years later.

Commissioner Buffalino: The seats are held four years, right?

Mayor Hornick: Yes, every two years.

Commissioner Berk: You talked about having a bad mayor, so if you're going to vote them out, it's going to be four years. Do you have a process to get rid of a mayor?

Mayor Hornick: There is no process that I know of, other than impeachment, so there's probably an impeachment process, there's definitely a recall mechanism under the Faulkner Act, I'm not familiar with it though. Thank God it hasn't happened

Commissioner Buffalino: Indictment and prosecution would be a factor, I hope.

Mayor Hornick: Yes, it would be a factor, but the public can get together for a recall, so they could, and if I recall correctly, there is a percentage of signatures they have to get of the amount that the elected official was elected for last time, 70% is ringing in my head, so if 10,000 votes were cast and you won by 7,000 votes you'd have to get 70% of 7,000, which is a large number to get on a recall, they don't make it easy. As far as indictment or criminal charges, I'm sure the governing body would censure the mayor and would vote some kind of resolution of no confidence, and politically I'm sure they wouldn't be able to get stuff done. When you see people step down, look at just what happened to Governor Cuomo of New York, it turns out he was accused by a lot of people of wrongdoing and he ended up stepping down and there's been no one prosecuting him, so the political pressure came from the Albany assembly, the Albany senate, he couldn't govern anymore. The ability to govern is the people to listen to you and if they say no, you have to take action and if you don't have the support to take the action you lose your ability to govern.

Commissioner Buffalino: So, the petition and referendum component of the Faulkner Act forms of government allows that to take place?

Mr. Starkey: Uniform Recall Election Act is the section of state law that applies to every single municipality in the same way, so really that's not a factor in which form is chosen.

Commissioner Gilstein: For those operating under the Faulkner forms of government, residents can petition for a referendum on something that the council has passed, or they can petition for an initiative on something they would like to do by getting 10% of the number of voters in the last election. Have the residents in your town ever done this?

Mayor Hornick: Not to my knowledge.

Commissioner Gilstein: What do you think about this opportunity for the voters?

Mayor Hornick: We have chosen to put things, as the governing body and mayor's office, on petitions for referendum in the past. I believe referendums are used for political cover for those who don't want to make difficult decisions. I don't believe it's a real check on the governing body or the mayor. I think when something should be done, it should be done, and you lead through example. I don't believe in referendum, I think to me it's a cop-out and I think if people are scared to make the decision that should be made they put it on a referendum and then they could use the excuse that the people didn't vote for it or they did vote for it and go that way. We were discussing a referendum years ago, after the 2012 Sandy Hook School shooting and at the time the mayor's office decided that we wanted our police officers in Marlboro schools. We went to the Board of Ed, and we said we're going to put them there and we want you to allow it, they ended up allowing it and there was discussion about going to a referendum to the town to see if they wanted it and we never ended up doing it. I don't think that's something for the town to decide, we did end up polling it and it was 52 for and 48 against interesting enough, but if you ask me what keeps me up at night it's one of those incidents happening in one of our schools and so for me the best way to protect it, to do my job, was to have police there, so I don't think that's something that should be left up to the public to decide. I think that goes to electing the mayor or the council and again, you have to answer every four years directly to the public, so if they didn't like it, they just wouldn't have re-elected it.

Chairman Gee: If I could interrupt, there are instances where it could make a difference. I can tell you for example, Holmdel is under the township committee form of government, it actually does not have initiative and referendum, except in certain things like bond ordinance because they say the taxpayer has to shoulder the debt. Six or seven years ago, there was a bond ordinance passed to have built certain recreational areas in certain areas which the residents were opposed to and there was a big public hearing it lasted until almost midnight, and notwithstanding that the township committee nevertheless passed the bond ordinance and the people actually did get the required number of signatures under the petition and said that they wanted this to be a referendum to be decided by the people and then the township committee actually rescinded that bond ordinance. So, there are instances, now unfortunately that only applies in a very, very specific case that was a bond ordinance and that is allowed, but in other ordinances that's not going to be allowed, so there are instances where I can see how it could work.

Mayor Hornick: We used to have our school elections in April and part of the incentive to move them to November that the government provided was that the school board no longer had to go to the public to have its budget approved. In my humble opinion, there are a couple things you have to get right to have a great town, having good schools is definitely in the top two, it has to be, and you can't let politics enter the school board. Once you bring elections into budgets, you will start watching it happen, it's terrible. Year after year Marlboro had a great record of passing what I thought were fair budgets and then something changed, and they could not get a budget passed. Same thing happened to the Freehold regional system, one year all the mayors had to come in and from the eight towns and we had to work it out a fair budget, we had to cut a certain amount, there were all these roles. I think, especially in this day and age, it's very dangerous to have to go to the public on issues, I think the better way is to entrust the people they elected to make the right decisions, because talking about slow moving and the inability to make progress, if you have to keep going back to the public on issues because people are scared to make a take a stance or unsure about what to do, I just don't think that's an efficient way to run a town.

Commissioner Gilstein: I would submit that the opportunity for initiative and referendum in the Faulkner forms of government, isn't to slow down it's just to be a check on the governing body that if you don't like something then you have that opportunity. Like in this one case where it was a budget thing, we had that opportunity and people got together and said wait a minute you're definitely doing something antithetical to what the public wants so there was there was a remedy, but the council went ahead and made its decision they weren't saying, "well wait a minute we better have a referendum on this," but at least the public had that opportunity. I understand your perspective on that, any other follow-ups from any of the other commissioners?

There were no questions:

Commissioner Gilstein: The last two questions are just giving you a chance to repeat some of the things you've said. If you want to reiterate or accentuate anything, if you could make any changes to your current form of government what would they be and why? Is there anything else you'd like to share with us?

Mayor Hornick: I addressed the changes and my answer only changed because of how politically divided the world seems to be, it's unfortunate. I always say on the local level there's no different way between the way a democrat or republican fills a pothole or plows a street or helps somebody who's in need, and there's such national divide now and even statewide divide that it's leaked down to the local level for the first time in a long time, and I think that's unfortunate. Going back to it, if that continues maybe a nonpartisan switch would be appropriate, I'm not ready to say that now, but it was the first time I'd listened to that. I enjoy public service, that's the thing I'd like to share, I think it's meaningful. I was taught that it was each of our obligation to give back to our community by my father and it was instilled in my family, I hope I instilled that in in my children, I hope that when they go to their towns that they want to participate the way they saw their father do it and their grandfather. I think that's really important and that's what makes communities work and special. I think all forms work, I will close with the same thing I said I commend each and every one of you for taking time out of your day to work for your public. It's so important and meaningful and you have plenty other things to do, your businesses, you have families, you have a life and to do this is special. I appreciate it as a neighboring town, Holmdel has a tremendous reputation it's really great. Let me ask you a question, did this committee do the Bell Works?

Chairman Gee: That was primarily the township committee in conjunction with the planning board and we're a Charter Study Commission. We were only formed after the November 2021 election for only one purpose and one purpose only, that is to look at our current form of government, study it, are there ways we could improve it and make any recommendations.

Mayor Hornick: I'll just tell you that improvement to your town is tremendous, it's an asset, it takes foresight. Whoever was responsible for that, I don't know if there's crossover for people on this committee and the township, I got to tell you what a vision and what a partnership. Whoever did that, who cares about their town, is leaving a legacy item and that said, I walk in that place and have a sense of pride and it's not even my town. Those type of things are special, so you keep doing stuff like that. I commend you.

Chairman Gee: There's a number of people that were involved and as you can imagine two different administrations with the township committee, these things don't happen overnight, so it's multi-generation in terms of different agreements with Bell Works, so a number of people are saying they get credit for it and rightfully they do, but it's probably not one individual. There was

a series of folks that were involved in different administrations and township committees, but before I forget I also want to say, right back at you in terms of what long years of service you have there and what you say about everything is so true, we know the time commitment and effort you put in.

Commissioner Buffalino: I have a question specific to Marlboro, what are you doing over where the old mental hospital is?

Mayor Hornick: That's a great question, that was actually state-owned. There was a deal cut between the Christie administration, the county and Marlboro that that is going to be cleaned up and become a county park. It's 411 acres, it should be more like Holmdel Park, but it'll be Marlboro Park in Marlboro. It'll be owned by the county and added to the county park system.

Commissioner Buffalino: Wonderful, when will that happen?

Mayor Hornick: That's a great question, which brings my example of government moves slow. They've been cleaning it up, they've been removing the buildings. I will tell you, interesting enough we did we provide security there by our police for years and the rumor is that place is haunted, and around Halloween we have a ton of people coming in and asking to go in to look around. I think when it does get dedicated as a park, I think it'll have a huge following during the fall and Halloween time that people just want to be there. There's something magical about that place or mysterious or spooky or however you want to say it, but it's something I'd like to see done in the next year. I think it's all related to the budget, it's hard to get people's attention today on stuff like that.

Vice Chairman Kastning: Supposedly it's when the bond issue for the site remediation gets paid off, I think that's some time away yet.

Commissioner Gilstein: Any other questions?

There were no further questions.

New Business

Chairman Gee: Is there any new business before we go into public comment session?

There was no new business.

Chairman Gee: Our counselor would like to make a comment.

Mr. Starkey: Some of the prior comments during the public portion, I thought there was maybe some misunderstanding or maybe we can refocus some of the debate and I just wanted to review really for members of the public primarily what the purpose of this Charter Study Commission is, why you're here. You're here to review the current form of government, to see if there are alternatives and to make a recommendation as to whether the form should be changed. There seems to be a misimpression that this body can change the form of government, you can't. The key word is you can recommend, only the residents of Holmdel have the right, and if you make a recommendation all that would do is put it on the ballot. It would have to be voted by the voters in Holmdel, they are the only ones that can affect any change. The purpose of these hearings is for both the commissioners and the public to get information and help in that decision. This meeting is subject to the requirements of the Open Public Meetings Act and that's the state law that says that all discussions have to be held in

public, notice of the date and time has to be given, a published agenda and the public has the right to observe the proceedings. All that's happened with every meeting that this commission has had, so far everything has been done publicly in meetings like this one, and in addition the public has been given the opportunity to comment at every meeting. There was one hearing held specifically just for the public comment. The invited guests who are attending are here to give information, I think there was some request by the public to question them, this is not a trial, an adversarial proceeding, or a deposition, this does not give the public the right to cross-examine the witnesses or the commissioners. The right of the public is, during public comment, to give comments and certainly the public is free to give their views on the form of government, where they think Holmdel should go, what is best suited for Holmdel. I would suggest though that while constructive input is welcome, diverse viewpoints are welcome, personal attacks really are not productive and in my view are just not warranted here. The process is designed to allow for the commissioners, and ultimately the residents, to get information to determine the best form of government for Holmdel, and Mr. Chairman, thank you, I just wanted to make that statement before we went to public comment tonight because some past comments have been made. I wanted to make that clarification.

Public Comment

Chairman Gee stated that the public comment would be opened and explained how participants can make comments and that there is a three-minute time limit.

Carole Bomber, 4 Spradley Lane, Middletown: I really had two questions for Mayor Hornick and one was, he mentioned in the beginning that they have no contact with the county, was he referring to the ballot, if you could get a clarification on that, I don't understand what he meant when really they have no contact with the county, as far as maybe government or as far as positions are concerned. Obviously, Marlboro, like Colts Neck and other townships, has to go through the county with wastewater management plans for example and I'm wondering how he meant that, whether it was just a ballot issue as far as operating under the Faulkner Act. The other thing I wanted to ask the mayor is, what happened to that bad mayor, did he get thrown out of office, did he get not re-elected, what had happened there. Those were my two questions.

Commissioner Gilstein: He went to jail, that was what Mayor Hornick said that he went to jail and the context of his comment about they have no interaction with the county was with regards to setting who would be on their ballot.

Ms. Bomber: So, that was the setup of the ballot, is that what you're talking about?

Commissioner Gilstein: No, not the setup, but just who would be on it on the democratic line.

Ms. Bomber: Okay. Do you know if the mayor is Republican or Democrat?

Commissioner Gilstein: He mentioned that he was a centrist democrat.

Vice Chairman Kastning: Just to clarify, he was answering it from the standpoint of the democrat right, so there obviously were republicans that perhaps might have had county interaction.

John Giampolo, 43 Blue Hills Drive: First question that I have is going from the statement that the counsel just made, if you make a recommendation which is then going to be placed on the ballot for voters to decide, if for example you make a recommendation to change our elections to nonpartisan, is there going to be any disclosure on the ballot that this Charter Study Commission and members of it have been campaigning for and requesting a change to our

government before you even got started in your study, because otherwise voters will be deceived into thinking that that recommendation was the result of an impartial objective study when it obviously was not, because on your websites and Facebook pages, for example, since at least early February you have been posting in large letters "Holmdel residents want change to nonpartisan government" or "Holmdel residents request the commission for change to nonpartisan government?" Similar question is, by way of another example, if one of your recommendations that ends up being on the ballot is to make one of the changes that we heard Mayor Buontempo ask for during a previous Charter Study Commission meeting, such as less frequent elections for the mayor, are you going to disclose on the ballot that it was something the current mayor asked you for rather than just a recommendation that you came to through an objective impartial study, because again otherwise voters could very easily be deceived and misled to think it was a recommendation that was reached after an objective impartial study when it was not, and by way of comparison I looked at the website and Facebook pages of another Charter Study Commission going on in Red Bank and nowhere on their website or Facebook pages do I see anyone from that Charter Study Commission promoting or campaigning for any changes that they're supposed to be studying.

Mr. Starkey: I just wanted to say, in response to the question about what goes on the ballot, that if a recommendation is made the state law is very specific and very narrow on what can go on a ballot, it is only the question. Sometimes you get things called interpretive statements that can be put on that in some circumstances are designed to give information to the voter, that is not the case here only the question that is established by state law can go on the ballot.

Chairman Gee: I should mention that there's reference more than one time now about things on our website. We typically would have next meetings, announcements, but also if there's something in the press about a Charter Study Commission, in this case the commission held a public hearing just for the public to make comments about Phase One and there was an article that reported on that written by a reporter for the Two River Times and that was the headline for a news article, and if you want to interpret whatever you want to interpret, but it was a reference on the reporting of the public hearing.

Tom Santora, 8 Willow Road: I think it's time we should probably meet in person, hopefully next meeting will be in person as opposed to Zoom. My question is, when do you believe the charter study will conclude their findings and make the recommendation, and will this be on the June ballot or the November ballot?

Mr. Starkey: I can tell you about the parameters for the Charter Study Commission, what your time frame is, you need to conclude your study, your work and issue a report either recommending a change or not within nine months of your election. Your election was in early November, so you have until I believe it is sometime in August to issue a report, that's by statute. You can do it sooner than that, you cannot do it later than that. Upon the issuance of the report, the Charter Study Commission is then dissolved automatically. Your question cannot go on the ballot at the June primary, the reason for that is because those are partisan ballots, they're separate ballots, so the questions can go on a single ballot and it will be at either a special election on a special election date or at the general election in November, so those are your parameters.

Jenelle Moschella, 2 Oak Tree Lane: My question was about what was just being discussed, if we had a special election would that be an additional cost to Holmdel residents and would that be shared and put to a vote by the Holmdel residents prior to so that we would have the option

of saying this is an important enough issue to be made a special election and incur such a cost or this is a great issue but it's not worthy of such a cost and I would prefer to use that money towards something like improving our schools or preserving Potter's Farm, so I'd prefer if you save that until November? Will Holmdel residents have that ability and will that information on cost and cost sharing be shared with us? That's a new question that I just thought of in response to the last speaker, but my original question would be, how will the information at the conclusion of stage two, thank you for having all these people here tonight I actually think that they were very beneficial in the information that they shared, so how will the information that you've gathered from these speakers and whatever other forms of research you're doing be shared with the Holmdel population prior to you making recommendations so that we have comparison models and what type of comparison models will plan on having, like bar graphs or surveys and in these comparisons are their public opinion, because we're hearing a lot of the benefits of the different forms and, also, some of the opposition of other forms from the different people that are coming on, however we're hearing from the people in those forms of government that are leaders, so clearly they are enjoying the benefit of that, which there might be a lot of benefit and the people might also feel that way, but it would be nice if we heard from the residents as well? Is there any ability or do you have any plan to gather resident survey from these towns as well and how will all that data be shared prior to any recommendations made by the committee and prior to any possible things made to set to vote?

Mr. Starkey: The ultimate decision here is going to be made by the Holmdel residents on whether or not the government has changed, so in terms of whether there's going to be a survey or not, in a way there will be. If there's a recommendation, the survey will be at the ballot box, the Holmdel residents have the final say on what happens. In terms of how to get this information out, how it's sort of compiled or put together, these meetings are public, I don't know if they're on YouTube, they're posted somewhere the public can come see them, but Phase One, Phase Two and Phase Three will be summarized and compiled into the final report that is issued to the residents, and if it's a special election it will have to be at least 60 days before the special election, so there'll be an opportunity to review that. The decision on whether it is a special election, or a general election is within the realm of the Charter Study Commission to decide based on when your report is issued, the issuance of the report triggers when the election will be.

Chairman Gee: I did want to mention I know that there are some new people on here, but all the meetings are recorded and if you go to YouTube and look under the Holmdel Township channel, you'll see all their meetings which include not only the Charter Study Commission, Township Committee, Planning Board, Zoning Board. The presentations during Phase Two, in terms of the various alternate forms of government by the two experts on there, they are posted on the website and within the next several days should be posted on the Holmdel Township website as well. The actual presentation you can certainly watch the video again recording of those that are already there, and then finally, as Kevin said, the expectation is that once we are finished with Phase Two, then there will be a public discussion, deliberation and recommendation, and from there that will all have to be drafted into a written report, because the end product, after it's all said and done, what this Charter Study Commission will need to do if it deems that it wants to make a recommendation is to file a report and that report will consist of whatever recommendation which would be the public question, but as well as supporting what the procedure what we've gone will go into a report and will all boil down to the recommendation, so all of that will come out at the end of that process. All of the information

right now, if it's not already on the Holmdel Township website or the Charter Study Commission website, they will be in the next several days, but I know that on the charter study website there's already the presentations, as well as the video recording of the things that we have had already.

Commissioner Gilstein: One thing I would add can maybe help to clarify, it's just as we dedicated a meeting to have a public hearing on Phase One, we do expect to have a dedicated meeting for a public hearing on Phase Two, do we not?

Chairman Gee: Yes, we do plan to have at least one more public hearing that's dedicated to receiving input from the public.

Tom Wood, 20 Heather Hill Way: First I'd like to again to thank all the members of the Charter Study Commission for your hard work and dedication and seriousness in considering this very important issue and putting forth this and other meetings. With respect to Mayor Hornick's comments, I thought his perspective was interesting. It's clear that the way the form of government is structured impacts the way that the office holder thinks about his job, how much power he has, what he's got to do, who he represents, he spoke in a way that I never heard a mayor of Holmdel speak. I'm not quite sure whether I'm entirely happy with one way or another, but it's clear what you're doing is important, structure does matter. I guess I would like to comment about a potential landmine which was uncovered in his presentation, so Kin Gee pointed out that under our current form of government the voters have the opportunity to force a plebiscite on bond issues, and I believe that's true for other expenditures from the township committee, and I would be concerned if you recommended a form of government where that was no longer the case. I guess my first question is, how does the potential changes in form of government impact the ability of the voters to affect spending that's decreed by the government? That's one question and I have a separate comment on Dr. Rubin's presentation, so Dr. Rubin's presentation I found fascinating. I've been a voter in a couple of other states, and I never really appreciated how different New Jersey is from other states and how confusing the ballots can be for both the primary and the general election and how powerful they can be. I mean I never would have believed in my wildest dreams that we had an election in New Jersey where more than a third of the ballots were discarded because they were improperly marked, and obviously the best solution would be for the state legislature to get off their butts and change the rules, but I don't think we're going to hold our breath and wait for that to happen. I think anything you can do to improve the situation in Holmdel would be a great step forward.

Chairman Gee: There was one question asked, since he named me in particular in terms of a landmine, but it is my understanding that it's a state law. Specific forms of government that basically says because the indebtedness of any bond ordinances paid for by taxpayers, the ability to petition to stop that is a statewide law that supersedes any particular forms of government, and in the other forms of government in Faulkner Act all allow initiative and referendum by petition, which is also much more expensive than the limited referendum you would have with the respect of bond ordinance.

Mr. Starkey: Sort of like the same answer I gave on the recall election, the right to have a referendum to object to a bond ordinance is available in all municipalities, so that won't change regardless of what you choose, but in the Faulkner Act there's much broader rights for initiative and referendum. What that is, essentially is the citizens can propose ordinances by petition and can object to a wide variety of ordinances also by submitting a petition, it's not used very much

but when there are hot button issues it can certainly be a factor, it can be used effectively and that's only in the Faulkner Act.

Chris DiMari, 7 Oaks Drive: The township form of government is already the best for Holmdel, though the Faulkner Act is primarily utilized by the largest New Jersey cities, such as Newark, Paterson, Trenton, Camden, Jersey City, to change their forms of government, usually then seeing long-term mayor tenures, very strong power, and a lot of corruption. In our historical small town of Holmdel, 18k population range, only two out of the fifteen towns have ever leveraged the Faulkner Act, why are we talking about this in our town during a pandemic? You brought on this study Ocean Township mayor, 28,000 residents, Ocean changed to a council-manager form of government, there's a democrat mayor serving his sixth year, second four-year term, on his way to a long run. In 2019, his full slate of democratic candidates took over the entire council, you've got yourself a very powerful situation going on there, not good. Democratic State Senator Vin Gopal had made an endorsement in this local election, "this certainly sounds like an even worse party ball scenario than the one in Holmdel that we keep hearing about." This form of government is not going to solve what seems to be one of the biggest problems for this small group of families in Holmdel, and a primary reason why this charter study exists, a party boss influencing elections. Tonight, we met the mayor of Marlboro, over 40,000 residents, double Holmdel, Marlboro converted to a mayor-council form of government back in the 60s defined as the strong mayor form. A democrat mayor, now in power since 2007, an extremely long time, he ran unopposed in 2019 for his fourth four-year term, as it is extremely challenging to unseat a long-term powerful mayor, Marlboro calls him the CEO of the town; his father was also the mayor prior for 12 years. He said tonight that one of the biggest risks is if you end up with a corrupt politician in the seat it is devastating, in Holmdel we already have the best government in the township form, we elect five committee members at large in three-year overlapping terms, the committee appoints and rotates the mayor annually, the balance of power is in the committee, we do not allow a mayor to become the strong powerful figure. The current Holmdel committee is diverse, two republicans, two independents and Mayor Buontempo and doesn't seem to be representing the republican values anymore. The system has been working for over 150 years, these other forms of government create power in the mayor and a start to big government and certainly an increase in taxes. For the many, many of my fellow residents that feel the same way and not wanting to change Holmdel, I am standing here tonight for all of us who love this small town and want to protect our township form of government and preserve Holmdel's legacy. As the Faulkner Act states, let's have a dialogue tonight commissioners, please tell us what you feel are the pros and cons to what is going on in Ocean and Marlboro and why changing Holmdel to either form of government will be good for the residents.

Chairman Gee: We are in Phase Two, we should explore the various options. The Charter Study Commission has not made any recommendations, have not had any discussion, I think that there seems to be a jumping into it. More importantly is that there are small towns that in fact have Levre Faulkner Act, but there are small towns that in fact have elected to switch to a form a government under Faulkner Act, Belmar, 6,000 people, Keansburg is even smaller than us, so it's not only for the big cities. Yes, some of the big cities clearly have that, but there are lots of towns within the same population size as ours.

Commissioner Berk: I think the process that was asked for will happen, but it's not tonight, I'm still digesting everything that has come in, so I don't think this is the time to be answering specifically about each town, we haven't been doing that all along. I need to go through

everything that's been done, I need to review everything and take it all together. We will be addressing the questions of why is this good, why is that better, what is good, what is not, but it's not tonight, it will happen it's just not tonight.

Chairman Gee: That's where Phase Three comes in, I guess I wasn't specific, the purpose of us asking these towns is that we have gotten two pretty good presentations on the different forms of government we can consider, and we should have a dialogue about that and then we thought it might be a really good idea to actually talk to the people who are currently in this form of government, but we're not jumping up and down and saying, "hey Marlboro is great, we should do this" or "Ocean is doing that." I think in a larger context not specific towns to say that, when we have that discussion and deliberation whether it's mayor-council form of government, whether it's council-manager form of government, absolutely that's where we need to have that discussion, but I don't think it's in the context of what is it about Ocean, but rather that form of government and the options that allows and compare to maybe what we have now and what changes and input that we've gotten so far.

Regina Criscioni, 35 Rambling Brook Drive: I wanted to make a statement about the two speakers, but I would like to say things about two people who spoke tonight. Mr. DiMari questioned how Mayor Hornick got re-elected three times, the possibility could be that he's doing a very good job and people are happy with him, that could be one possibility. If that's not true, the other possibility is because of this whole situation of being on the party line, I don't know if he was or not, but that would be all the more reason why we should go for non-partisan elections, so somebody doesn't stay in office just because he's the incumbent. The other speaker was Mr. Giampolo, he was talking about putting a disclaimer on the ballot, I know that is not allowed, but my thought is if it was allowed that would be very inappropriate because that would actually be biasing the voters. The voters should hear the question, the question should be as non-biasedly written as possible, so putting any kind of disclaimer like that on it would actually bias the voters one way or the other. Mayor Hornick sounded wonderful, everything he was talking about, the kind of government with a strong mayor sounded wonderful because it does do away with a lot of bureaucracy, things get done faster. The problem is, as he said, if you have a bad mayor that's a real problem and it might be stuck there because of the system we have the way, the ballot is designed. Dr. Rubin said that one third of the people on the party line, they have that advantage of 35%, if you have a strong mayor, you cannot have a partisan election just to prevent that kind of thing.

Vice Chairman Kastning: I would like to second to what Janet said, that and I've seen some head nodding here among the commission that once we've studied all the forms of government that's when we'll address which are most appropriate to be considered and make our final recommendation, and there will be public comment periods on that session, as well as a public only comment session at the end of this phase. It would be inappropriate for us to comment on things when we haven't heard all the alternatives.

Chairman Gee: There are not any more hands up, so I will close the public comment session. Can I get a motion to adjourn this meeting? Commissioner Gilstein offered a motion to adjourn the meeting, seconded by Vice Chairman Kastning. A voice vote confirmed all were in favor.

Respectfully submitted,
Bonnie K. Thomas, Commissioner Secretary