



FOR THE RECORD

The New York City Council
Progressive Caucus

Testimony to the New York City Charter Revision Commission

by Council Member Keith Powers

Manhattan Public Hearing

September 27, 2018

Introduction

Good evening, members of the Charter Revision Commission. My name is Council Member Keith Powers, and I represent District 4 in Manhattan.

Thank you for the opportunity to testify before you.

Tonight, I will focus on the city's land use process, specifically on why the City needs a comprehensive land use plan, an independent City Planning Commission, and a more transparent and accountable way to engage communities. This issue is a priority for the 22 members of the Progressive Caucus, for which I am Vice Chair, and countless other Council Members.

Many New Yorkers are unhappy about the City's current land use process. The current system seems to frustrate community members, grassroots organizers, elected officials and planners alike. This is because the City's approach to planning is largely reactive. Without a long-term city-wide plan in place, we are constantly reacting to private applications, natural disasters, school seat changes, homelessness, and other important infrastructure needs.

The status quo of ad-hoc planning causes frustration amongst all parties involved. We need a more proactive vision, one based on our short- and long-term needs. We need to envision a land use process based on equity, where communities are empowered.

Guiding Principles

These are the five guiding principles that reflect the Caucus's values that will drive our recommendations moving forward:

1. **Equity and fairness**, to ensure that all communities are doing their fair share and have access to affordable housing, services, and a healthy environment;
2. **Proactive and responsive plans**, that account for the housing and infrastructure needs of this growing city;
3. **Inclusive engagement**, to ensure all New Yorkers have a voice in land use decisions, regardless of language, age, income, ability, gender, religion, race, or ethnicity
4. **Resiliency and sustainability**, to guard against the future impacts of natural disasters and climate change;
5. **Transparency and accountability**, to ensure that New Yorkers understand how and why decisions are made, how to participate, and how those decisions affect them.

Recommendations

Guided by these principles, the Progressive Caucus is working with our community partners in advocating for these three recommendations:

- 1) Create a comprehensive planning framework that ensures every community contributes their fair share
- 2) Make the City Planning Commission independent and create a long-term planning office
- 3) Empower communities to engage in decisions through community board reform and changing the way the City interacts with and implements land use decisions

Conclusion

Our current land use system is not working. Much of it is done out of the public eye, with the outcome revealed and often negotiated just moments before a final vote.

Instead, New York City needs to engage in proactive planning—not guided by the latest real estate speculation, but by data-driven research, local input, a commitment to right past inequities and meet our long-term needs.

Thank you to the Commissioners for your time. We look forward to working with you, our colleagues at the Council and key stakeholders to delve deeper into these recommendations and achieve the goals we have outlined here today.

More detailed recommendations:

1. Create a Comprehensive Planning and Fair Share Framework

The City needs to assess as a whole the need for housing, public facilities, and neighborhood amenities, and use that assessment to develop a comprehensive framework to plan for the city's long-term needs, including housing targets which include affordable and fair housing, school seats, open space, infrastructure, and services. The City should also reform its Fair Share processes to achieve fairness in siting city facilities.

2. Make the City Planning Commission (CPC) independent and create a new office for long-term, community planning

Currently, there is a strong Mayoral majority on the CPC and a Chair that simultaneously directs the City Planning Department. The City Planning Commission must be reformed to ensure greater objectivity and independence from political actors. A comprehensive plan would require all City agencies who engage in planning work to emerge from their silos. This may require the creation of a new entity with the responsibility for coordinating this work, independent from the City Planning Department, assisting communities in developing plans, and increasing resources, technical assistance and support available to communities engaged in citywide and neighborhood-based plans.

3. Empower communities to engage in development decisions before, during and after formal land use processes.

A comprehensive plan cannot be a top down effort, but should be developed in collaboration with local communities. To accomplish this, Community Boards must be reformed and given increased resources. As recommended by the Mayor's 2018 Charter Revision Commission, the Community Board application and placement process should be reformed to better reflect the demographics in the communities they represent and reduce conflicts of interests. Community Boards should also be provided the resources to hire, contract or develop technical expertise to help advocate for the interests of local residents. Community Boards and Council Members should be given formal opportunities to provide input prior to the certification of land use actions.

①

Proposed Ballot Question:
Voter Input on the Sale, Lease or Management of Public Housing

FOR THE RECORD

Despite decades of efforts to encourage the creation of low-cost private housing, New Yorkers continue to face a severe shortage of affordable housing, and our city's most significant source of permanent affordable housing remains public housing — traditionally a mix of city, state and federally owned buildings under the control and management of the Mayor and his appointees through NYCHA.

Beginning under Mayor Bloomberg, and continuing under Mayor de Blasio, NYCHA has embarked on a series of so-called “public-private partnerships” including infill and participation in the federal Rental Assistance Demonstration (RAD) program.

At their core, these projects hand over publically owned and managed low-income housing and land to for-profit interests. This dismantling of traditional public housing is of



urgent concern to the half-million disabled, working poor and senior citizens that call NYCHA home. So are the living wages, union and civil service protections that generations of NYCHA workers have fought for.

To date, the details of these privatization deals and the potential consequences of removing affordable housing from the public housing stock have largely been hidden from voters. This backroom dealing must stop. Our public housing system is one of our city's most important public assets and safety nets; decisions on its future should be conducted with full transparency.

RAD works by transferring public housing units to the private sector. As our current homeless and affordable housing crises make clear, the private sector cannot be counted on to create and maintain adequate affordable housing.

③

A recent GAO study found that HUD is failing to adequately track impacts on tenants and monitor potential violations of resident rights under the law and HUD policies. While it's clear what private developers gain from RAD conversions — valuable public assets and public funding—it's not at all clear what, if anything, NYCHA residents — and our city's taxpayers — get from the process.

Take the Tri-Borough Building Conversions where the de Blasio administration was accused of intentionally sidestepping the city's Uniform Land Use Review Procedure (ULURP) when it sanctioned NYCHA's sale of the properties. Two of the Tri-Borough partners, BFC and L+M, have been targeted by the building trades unions for their (and their sub-contractors) use of non-union labor and records of wage and safety violations. Both have also been criticized by tenants for shoddy construction.

At a February 2015 City Council Hearing, then NYCHA Chairwoman Olatoye testified that Triborough would hire

④

NYCHA residents for a minimum of twenty percent of the complex's construction work and fifty percent of its maintenance work at a wage of \$15 per hour with no benefits — far less than the living wages that NYCHA workers currently earn.

In another example, NYCHA selected MGM Design and Wavecrest Management to rehab and run its Ocean Bay (Bayside) development. They won the appointment despite their record as the team behind Grand Street Guild, a low-income housing development on the Lower East Side that made news in 2016 when a man was killed in a malfunctioning elevator on New Year's Eve. Wavecrest's director of property management claimed that the elevators had been completely modernized during the renovations and had passed inspections each year — a claim at odds with news accounts documenting a history of problems and residents complaints that the elevators frequently shook and got stuck between floors.

9

Nine months later, gas service was shut off to hundreds of Grand Street Guild apartments. During the two-month gas shutdown, Councilmember Chin and other elected officials wrote to the regional administrator of the U.S. Dept. of Housing and Urban Development about “persistent safety concerns” at the complex. The elevator and gas issues, they wrote, have “called into question the quality of recent renovations at the complex, and merit a full and timely investigation...”

The recent federal investigation and settlement exposed the depths of NYCHA management’s incompetence and deceptions over the course of the de Blasio and Bloomberg administrations. Can current and future NYCHA administrations be trusted to ensure that resident rights, health and safety are protected in these RAD projects, which have far less oversight and protections than traditional public housing?

⑥

The future of public housing is simply too important for a single elected official to decide. For NYCHA and the Mayor's office to continue to contract with for-profit developers for infill and RAD projects — many of whom have very poor records serving low income tenants — is neither good policy making or wise use of taxpayer dollars. Voters — and not developers — must be given priority in deciding the fate of our city's primary source of affordable housing.

TESTIMONY OF LANCE VAN ARSDALE, JR.,
IBEW LOCAL 3 ASSISTANT BUSINESS MANAGER,
BEFORE THE CHARTER REVISION COMMISSION
SEPTEMBER 27, 2018

FOR THE RECORD

Good evening Chairwoman Benjamin and Members of the Charter Revision Commission,

Thank you for this opportunity to submit testimony regarding potential changes to the New York City Charter. My name is Lance Van Arsdale, and I am the Assistant Business Manager of International Brotherhood of Electrical Workers, Local Union Number 3, AFL-CIO ("Local 3"). Local 3 represents nearly 28,000 workers throughout New York City and surrounding counties. For nearly half a century, about 1,800 of those members have been telecommunications workers first working for Time Warner Cable and then subsequently Charter Communications (a/k/a Spectrum).

The relationship between those workers and their employers throughout Local 3's bargaining relationship with them has been significantly impacted by the New York City Charter's provisions regarding franchises primarily contained in Sections 363, 365, 372, 373, 375, and 376. Based upon Local 3's experience with the operations of these franchisees and with the process by which they received their franchises, we are convinced that the current franchise framework contained in the Charter is flawed, favors franchisees and prospective franchisees, and shields the process from meaningful community input and public scrutiny. But having those decades of direct experience with the telecommunications companies is not required to be able to identify that there is a major failure in the provisioning of telecommunications services in our City. I'm sure that any person in attendance tonight behind me could rattle off a list of problems they are experiencing with their cable television, telephone, or internet service.

Attached to this testimony are proposed changes to the previously cited sections of the Charter (as well as to others), recognizing that the Commission may be reticent to completely change the framework by which franchises are negotiated and awarded by the City. These changes would certainly provide more transparency to an opaque process. However, Local 3 truly believes that for any meaningful improvement upon the process, which will empower local communities and which will better ensure those companies to whom the City grants the enormous and lucrative benefit of a franchise (for any service but especially for telecommunications), this Commission must consider an alternative mechanism for the franchise process. In that regard, the framework of the Uniform Land Use Review Procedure ("ULURP"), we believe, is a good model. As Members of the Commission, you likely are familiar with the history of ULURP and how it was intended to encourage local community input into zoning and land use decisions, in the wake of the decades of infrastructure developments commissioned by Robert Moses over the objections of local communities.

Ultimately, the franchise process is one that implicates land use. A franchise permits a franchisee the considerable benefit of using the inalienable property of the City for a fixed period of time, in some cases up to fifty years, to provide services to City residents. In the telecommunications context, the franchisee's use of the City's inalienable property includes the ability to install the infrastructure needed to deliver services to the franchisee's customers. The construction attendant to this infrastructure installation and maintenance (or the failure to do so) has tremendous impact on local communities. For this reason, the franchise process, while being

directed by an agency with particular expertise in the area, should authorize Community Boards, Borough Presidents, and City Council Members to have a specific role in the negotiation of the terms of a franchise and the selection of a franchisee.

Recognizing that there is limited time this evening and many others that wish to testify, I have limited by remarks. But I welcome the opportunity to speak with you or your staff further about changes to the franchise process. We need a process that ensures that local communities have a formal and meaningful role in decision-making related to franchises. Only then will multinational corporations that invariably are the franchisees be accountable to the needs of New Yorkers and not merely to their shareholders.

Chapter 14

Section 363. Franchises.

a. Franchises shall be awarded only in accordance with the provisions of an authorizing resolution adopted by the council pursuant to the provisions of this section.

b. An initial determination of the need for franchises of a particular type shall be made by the head of the agency designated by the mayor as having the primary expertise and responsibility in the policy area covered by that type of franchise. Upon making such a determination, such agency, with the advice of the corporation counsel and such other agencies as the mayor shall determine, shall prepare a proposed authorizing resolution for that type of franchise and shall submit such proposed authorizing resolution to the mayor. Such a proposed authorizing resolution shall set forth the nature of the franchise or franchises to be granted, the public service to be provided, the terms and conditions of the franchise or franchises, including any subsidies that will be given to a franchisee, the method by which proposals will be solicited for the franchise or franchises and the criteria to be used in evaluating the proposals submitted in response to such a solicitation.

c. The mayor may submit such a proposed authorizing resolution to the council, together with an express explanation to the Council of the nature of the franchise or franchises to be granted, the public service to be provided, the terms and conditions of the franchise or franchises, including any subsidies that will be given to a franchisee, the method by which proposals will be solicited for the franchise or franchises and the criteria to be used in evaluating the proposals submitted in response to such a solicitation. Promptly upon submission to the council, the text of any such authorizing resolution, together with the mayor's express explanation, shall be published in the City Record. Within ninety days of receiving such a proposed resolution and the mayor's express explanation, the council or a committee of the council shall hold a public hearing on such resolution. The council may approve, approve with modifications or disapprove such resolution by majority vote. Any action of the council approving a modification to a proposed authorizing resolution or disapproving a proposed authorizing resolution shall be subject to the disapproval of the mayor in the same manner as a local law which is passed by the council, and any such disapproval shall be subject to reconsideration, repassing and adoption, notwithstanding the objections of the mayor, in the same manner as a local law which is disapproved by the mayor. The council may on its own initiative amend an existing authorizing resolution. The procedure for council review and approval of such a proposed amendment shall be the same as for an authorizing resolution.

d. No authorizing resolution or other action of the council may provide for any involvement by the council or any member of the council in the selection of a franchise pursuant to such resolution.

e. Pursuant to an authorizing resolution adopted by the council, the responsible agency may issue one or more requests for proposals or other solicitations of proposals, provided that (1) the corporation counsel shall have determined on contemporaneous written notice to the Council that

the request for proposals is consistent with the provisions of the authorizing resolution and (2) no such request or solicitation shall be issued unless either the department of city planning has determined in writing on contemporaneous notice to the Council that the proposed franchise would not have land use impacts or implications or such request or solicitation has been reviewed and approved pursuant to section one hundred ninety-seven-c and section one hundred ninety-seven-d. A community board may waive a public hearing and the preparation of a written recommendation with respect to any such request for proposals or solicitation which in its judgment does not involve a substantial land use interest. Any such request for proposals or solicitation issued in accordance with this subdivision shall set forth the criteria and procedures to be utilized in evaluating the proposals submitted in response to such request or solicitation.

f. The selection of a franchisee shall be in accordance with the provisions of the authorizing resolution covering franchises of the type involved. Each such selection and each franchise agreement shall be subject to the review and approval of the franchise and concession review committee pursuant to sections three hundred seventy-one, three hundred seventy-two and three hundred seventy-three.

g. Nothing in this section shall preclude any agency, prior to proposing an authorizing resolution, from issuing one or more requests for information or other solicitations of information regarding the availability of potential franchisees with expertise in the subject matter of a proposed type of franchise, suggestions regarding the appropriate terms and conditions which should be contained in an authorizing resolution for that type of franchise or any other information which would assist the agency in determining how to proceed with regard to the public service involved. Any such requests for information, and submissions made thereto, shall be contemporaneously made available to the public. The Council, Comptroller, Public Advocate, and Borough Presidents must receive contemporaneous express notice of the issuance of any such requests for information made pursuant to this section.

h. All franchises shall be consistent with the following requirements:

(1) Every grant of a franchise or modification thereof must be by written agreement approved by the franchise and concession review committee and executed by the responsible agency under the authority of an authorizing resolution adopted by the council in accordance with the provisions of this chapter.

(2) No such agreement shall be for a longer period than twenty-five years except that in the case of a tunnel railroad it may be for a period not exceeding fifty years.

(3) The agreement may, at the option of the city, provide for giving to the grantee the right of renewals not exceeding in the aggregate twenty-five years on a fair redetermination of the compensation to the city to be made upon standards and methods as therein specified. However, such renewals must be approved by the franchise and concession review committee, and only if there is an existing authorizing resolution then in effect.

(4) At the termination of such agreement all the rights or property of the grantee in the

inalienable property of the city to which the franchise relates shall cease without compensation.

(5) Any such agreement may provide that upon its termination the property, plant and equipment of the grantee shall, to the extent therein specified, thereupon be and become the property of the city, either without compensation to the grantee or on payment to the grantee of the fair value thereof as property, to be determined as provided in the contract, but excluding any value derived from the franchise. The city shall have the option either to take and operate on its own account the property, plant and equipment when so acquired, or to lease the same for a term not exceeding twenty years or to require that the property of the city be restored to its condition prior to the granting of the franchise.

(6) Every agreement granting a franchise for the performance of any public service shall contain an agreement by the grantee to recognize the right of its employees to bargain collectively through representatives of their own choosing, and at all times to recognize and deal with the representatives duly designated or selected by the majority of its employees for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment or other conditions of employment and not to dominate, interfere with or participate in the management or control of or give financial support to any union or association of its employees. This subdivision shall not apply to a contract providing for a modification or amendment of or extension of service under a franchise not containing a similar provision, provided that the term of authorizing resolution upon which such franchise is not extended thereby, was granted did not so recognize the right of employees and their representatives described herein.

Section 364. Revocable consents.

a. A revocable consent shall not be granted for a use that would interfere with the use of inalienable property of the city for public purposes, nor shall a revocable consent be granted for a purpose for which a franchise may be granted.

b. All revocable consents shall be revocable at any time by the responsible agency, shall be granted for a fixed term, and shall provide for adequate compensation to be annually provided to the city during the continuance of the consent.

c. Revocable consents, other than for telecommunications purposes, may be granted by the department of transportation with respect to property under its jurisdiction or by such other agency as may be authorized by law to grant revocable consents. Revocable consents for telecommunications purposes may be granted by the department of information technology and telecommunications. All revocable consents shall require the approval of the department of transportation.

d. Every petition for the grant of a revocable consent shall be filed with the department of transportation. Each petition shall state the location of the proposed revocable consent and shall be in such form and contain such other information as the department of transportation and other responsible agencies, if any, shall require by rule. Petitions for each type of revocable consent shall be distributed to and reviewed by the agencies required to do so by local law or executive order of the mayor. If, in the judgment of the department of city planning, a proposed revocable consent has land use impacts or implications, the petition for the proposed revocable consent shall be subject to review and approval pursuant to section one hundred ninety-seven-c and section one hundred ninety-seven-d.

e. Notwithstanding any provision of this charter or the administrative code, revocable consents to construct and operate sidewalk cafes shall be reviewed pursuant to subchapter six of chapter two of title twenty of the administrative code.-

f. Within five (5) days of the filing with the pertinent department of a petition for the grant of a revocable consent, a copy of such petition, and any supporting documents, must be made available for review by the public at the web site of the City of New York at the web pages of the pertinent department.

Section 365. Terms of agreements; enforcement.

a. Every agreement memorializing the terms and conditions of a franchise, revocable consent or concession shall contain adequate provisions by way of forfeiture or otherwise (1) to secure efficiency of public service at reasonable rates, if a public service is to be provided, (2) to assure the maintenance of the property of the city in good condition throughout the term of the agreement, and (3) to provide for adequate compensation to the city.

b. Every agreement memorializing the terms and conditions of a franchise, revocable consent or concession shall contain an agreement by the grantee that it will (1) permit the placement or display of the public health messages required by section 17-707 of the code, on any property subject to such franchise, revocable consent or concession, or any facility, plant, equipment or other property used in connection with such franchise, revocable consent or concession; and (2) bear any costs associated with the posting of such public health messages and any costs in terms of foregone advertising revenues associated with the placement or display of such public health messages.

c. The responsible agency shall also monitor the performance of the grantee and enforce the terms and conditions of any franchise, revocable consent or concession under its jurisdiction, and must report to the Council and the public each year the performance of each grantee.

Section 371. Public hearing on proposed agreement; publication of notice.

The franchise and concession review committee in the case of a franchise, or the responsible agency in the case of a revocable consent, shall hold a public hearing on the proposed agreement memorializing the terms and conditions of each proposed franchise or revocable consent before final approval of the proposed franchise or consent. Any such public hearing conducted by the franchise and concession review committee shall be held within ~~thirty~~forty-five days of the filing with the committee by the responsible agency of a proposed agreement containing the terms and conditions of the proposed franchise. No hearing held by the franchise and concession review committee or by the responsible agency shall be held until after notice thereof and a summary of the terms and conditions of the proposed agreement a) have been provided to the members of the Council, together with any proposed agreement, b) posted prominently on the web page of the franchise and concession review committee on the web site of the City of New York, together with any proposed agreement, and c) shall have been published for at least fifteen days, except Sundays and legal holidays, immediately prior thereto in the City Record, nor until a notice of such hearing, indicating the place where copies of the proposed agreement may be obtained by all those interested therein, shall have been published at least twice at the expense of the proposed grantee in a daily newspaper designated by the mayor which is published in the city of New York and having a circulation in the borough or boroughs in which the affected property of the city is located and a weekly newspaper or newspapers designated by the mayor which are published in the city of New York and have a circulation in the community district or districts in which the affected property of the city is located. In the event a franchise or revocable consent relates to property of the city located in more than one borough, notice of hearing in a weekly newspaper shall not be required; however, in that event, notice of hearing in two daily newspapers, and mailing by the grantee, no later than fifteen days immediately prior to the date of the public hearing, of such notice to the borough presidents and community boards and council members in whose districts the affected property of the city is located, shall be required. In the case of a franchise for a bus route which crosses one or more borough boundaries, notice of hearing in a weekly newspaper shall not be required; however, in that event, notice of hearing in two daily newspapers, and mailing by the grantee, no later than fifteen days immediately prior to the date of the public hearing, of such notice to the borough presidents and community boards and council members in whose districts the bus route is located, and posting of such notice in the buses operating upon such route, shall be required.

Section 372. Powers of the mayor.

a. The separate and additional approval of the mayor shall be necessary to the validity of every franchise agreement and revocable consent agreement.

b. Every such agreement shall before it takes effect be presented, duly certified, to the mayor for approval. Such agreement shall not be effective unless approved by the mayor within sixty days after it is presented to the mayor. Notice of presentment of such agreement to the mayor must be provided contemporaneously to the Council, the Comptroller, the Public Advocate, and the Borough Presidents, as well as posted contemporaneously at the web page for the franchise and concession review committee.

Chapter 14: Franchises, Revocable Consents and Concessions

* * *

Section 373. Franchise and concession review committee.

a. A franchise and concession review committee is hereby established. The committee shall consist of the following officials or their designees: the mayor, who shall serve as chair; the director of the office of management and budget; the corporation counsel; the comptroller; the public advocate, and one additional appointee of the mayor. Whenever the committee reviews a proposed franchise or concession or the procedures for granting a particular concession, the borough president of the borough in which such franchise or concession is located or his or her designee shall also serve as a member of the committee. If such a franchise, concession or procedure relates to more than one borough, the borough presidents of such boroughs shall designate one of such borough presidents or another individual to serve as a member of the committee for the purpose of considering such matter.

b. The mayor shall designate a public officer or employee to act as the clerk of the committee who shall be responsible for maintaining the records and minutes of the committee and performing such other duties as may be required.

c. The committee shall act by the affirmative vote of at least ~~four~~five members, except that the affirmative vote of at least ~~five~~six members shall be required to approve a franchise agreement, or a concession proposed to be granted pursuant to procedures that differ from the procedures established by the rules of the committee.

d. The committee shall:

(1) adopt rules establishing procedures for granting concessions through public bidding or by other means designed to ensure a competitive and fair process;

(2) review and approve the granting of concessions that are proposed to be granted pursuant to procedures that differ from the procedures established by the rules of the committee; provided, however, that the committee need not review awards of concessions that are not subject to renewal and have a term of less than thirty days;

(3) determine whether each franchise agreement proposed by a city agency is consistent with the pertinent franchise authorizing resolution, request for proposal or other solicitation pursuant to which such agreement was negotiated and require appropriate modifications to any such agreements to correct any significant inconsistencies; and

(4) review and approve the selection of franchisees pursuant to subdivision f of section three hundred sixty-three.

Section 374. Concessions.

a. No city agency shall grant a concession without either complying with the procedures established by the franchise and concession review committee or obtaining the approval of the committee prior to granting the concession.

b. The city planning commission shall adopt rules that ~~either list major concessions or establish a~~, as well as the procedure for determining whether a concession is a major concession. The city planning commission must make available to the public on its web page a) any and all lists of major concessions, and b) any and all determinations it makes of the existence of a major concession. A "major concession" shall mean a concession that has significant land use impacts and implications, as determined by the commission, or for which the preparation of an environmental impact statement is required by law. All major concessions shall be subject to review and approval pursuant to section one hundred ninety-seven-c and section one hundred ninety-seven-d.

Section 375. Registration with the comptroller.

All agreements memorializing the terms of franchises, revocable consents or concessions shall be agreements subject to the applicable registration requirements and other provisions of section three hundred twenty-eight except that the terms "vendor" and "contractor" as used in section three hundred twenty-eight shall be deemed to apply to the holders of franchises, revocable consents and concessions. Notice of the submission of such agreements to the comptroller must be contemporaneously provided to the public on the web page of the comptroller. Notice of the registration such agreements must be contemporaneously provided to the public on the web page of the comptroller. To the extent that the comptroller declines to register such an agreement, notice of such declining and the reasons therefor must be contemporaneously provided to the public on the web page of the comptroller.

Section 376. Central file.

Copies of all franchise and revocable consent agreements shall be filed with the department of transportation. The department of transportation shall compile and keep up to date a listing of all current franchises and revocable consents which shall be available to the public at the headquarters of the department and on its webpage. and shall include the date, terms, names of the parties, description of the permitted use and location of each franchise and revocable consent. Such listing shall be arranged and indexed so as to enable a member of the public to determine what current franchises and revocable consents involving use or occupancy of streets and sidewalks have been granted for any location in the city and the identity of the holder of each such franchise or revocable consent. To the extent that another city agency has primary responsibility for supervising the holders of such agreements, then the department of transportation must make such information available to the public at its headquarters and on its web page.

Section 377. Bureau of Franchises.

The bureau of franchises shall be discontinued as of the first day of July, nineteen hundred ninety. The records and staff of the bureau of franchises shall be transferred to the department of transportation, except that the records and staff of the bureau relating to telecommunications franchises shall be transferred to the department of telecommunications and the records relating to energy shall be transferred to such agency as the mayor shall designate. All such records of the bureau of franchises shall be made available to the public in all events, but must be made available to the public on the web page of the department of transportation and such other departments and agencies of the City as may be pertinent.

Chapter 48: Department of Information Technology and Telecommunications

Section 1070. Department; commissioner.

There shall be a department of information technology and telecommunications the head of which shall be the commissioner of information technology and telecommunications and the chief information officer of the city.

Section 1071. Deputies.

The commissioner may appoint four deputies, one of whom may be designated the first deputy commissioner.

Section 1072. Powers and duties of the department.

Except as otherwise provided by law, the department shall have the following powers and duties:

- a. to plan, formulate, coordinate and advance information technology and telecommunications policies for the city;
- b. to develop, maintain and implement a long range telecommunications strategy, and to provide the council and the public each year, not later than January 31, with a written statement of said long range telecommunications strategy, and to also provide the council and the public with a report, not later than December 15 of each year, such legal, regulatory, technological, engineering, financial, business, budgetary, labor, or other developments, that have occurred since January 31, that have impacted or effected, or may impact or effect, said long range telecommunication strategy;
- c. to administer all franchises and revocable consents relating to telecommunications pursuant to the provisions of chapter fourteen, including, without limitation, proposing authorizing resolutions for telecommunications franchises, developing and issuing requests for proposals or other solicitations of proposals for telecommunications franchises, selecting telecommunications franchisees, reviewing and approving petitions for revocable consents relating to telecommunications, negotiating the terms of contracts or other agreements relating to telecommunications franchises and revocable consents, and enforcing the terms and conditions of such agreements, and providing the council and the public with such reports as are required by this charter, or, otherwise, by law;
- d. to develop municipal uses of cable television and coordinate interagency uses of cable television and other telecommunications;
- e. to ensure that priority is given on at least one municipal channel to the cable casting of the public proceedings of the council and its committees, the city planning commission and other

state and city agencies;

f. to provide to city agencies such land-based and wireless voice, data, video or other communications facilities, and technical assistance or other assistance with respect to such facilities, as they may require for the effective discharge of their responsibilities;

g. to participate in developing, maintaining and implementing a long-range computer system and data communications strategy for the city of New York;

h. to assist in providing interagency coordination on matters related to data communications activities and interfacing of computers;

i. to provide appropriate, reliable, cost-effective and responsive computer and data communications services to agencies that require such services by purchasing and maintaining hardware, software and such other goods and services as may be necessary to effectively discharge the powers and duties of the department;

j. to provide assistance to agencies in meeting their data processing and data communications objectives;

k. to provide agencies using or proposing to use the services of this department with technical assistance in determining feasibility and resource requirements;

l. to simplify access to shared information, reduce communication costs and provide access to multiple computer systems by connecting computers and terminals of various city agencies, and of other public entities requesting such connection where such provision to such other entities would in the judgment of the commissioner be in the city's interests;

m. to plan and provide telecommunications coordination in support of disaster recovery;

n. to ensure security for data and other information handled by this department;

o. to institute procedures to assure restrictions of access to information to the appropriate individuals, where such restrictions is required by law;

p. to perform such other responsibilities with respect to information technology and telecommunications matters, including responsibilities delegated elsewhere by the charter, as the mayor shall direct, or as required by charter or law;

q. to provide to the public at no charge on the city's website an interactive map, updated as often as practicable and necessary but not less than once per week, displaying the following:

1. Permitted and approved street closures that do not allow for the passage of vehicular traffic on that street, including but not limited to closures for special events, crane operations and other construction work, film shoots and paving operations; and

2. Parking regulations. The information related to paragraph (1) of this subdivision shall be searchable and sortable by time, date and borough, except that street closures for crane operations, construction work and paving operations shall have the notation "subject to closure" during times where closure has been permitted and approved but where such closure may or may not occur on a particular day. All information required by this subdivision shall be available on the city's website as soon as practicable but in no case less than one week prior to any such closure or change, except closures which were applied for or planned less than one week prior to any such closure or change, which shall be available on such interactive map within seventy-two hours of the permit and approval of such closure. Where a permitted and approved street closure is due to a special event, the sponsor of the event with appropriate contact information shall be provided as part of such interactive map. For the purposes of this subdivision, special event shall mean any street fair, block party or festival on a public street(s) where such activity may interfere with or obstruct the normal use by vehicular traffic of such street(s); and

r. to provide to the public, at no charge on the city's website, an interactive crime map that, for each segment of a street bounded by one or more intersections and/or a terminus, shall visually display the aggregate monthly, yearly and year-to-date totals for the current and the most recent prior calendar years for each class of crime that is reported to the New York city police department, or for which an arrest was made, including crimes that occurred in parks and subway stations. Such map shall be searchable by address, zip code, and patrol precinct. All information required by this subdivision shall be available on the city's website as soon as practicable but in no case more than one month after a crime complaint has been filed. The mayor shall ensure that all agencies provide the department with such assistance and information as the department requires to compile and update the interactive crime map.

s. to provide to the council and the public such reports as are required by this charter or by law.

Section 1073. [Emergency communications systems of other agencies.]

With respect to emergency communications systems and emergency communications facilities administered by another agency, the department shall exercise its powers and duties only as the mayor shall direct pursuant to subdivision p of section 1072 of this chapter, or at the request of such agency.

Section 1074. Telecommunications.

"Telecommunications" shall mean the transmission of writings, signals, pictures, numbers and sounds or intelligence of all kinds by aid of wire, cable, optical fiber, radio, satellite, electromagnetic wave, microwave or other like connection between points of origin and reception of such transmission, including all instrumentalities, facilities, apparatus and services incidental to such transmission.

Section 1075. 311 citizen service center reports.

a. Definitions. For the purposes of this section, the term "department" shall mean the department of information technology and telecommunications. The term "directory assistance call" shall mean any call received by the 311 citizen service center that is entered into the 311 computer system in the directory assistance category. The term "request for service" shall mean any call received by the 311 citizen service center that is entered into the 311 computer system in the request for service category.

b. Within seven business days from the end of each month, the department shall submit in electronic format to the speaker of the council, the public advocate and each community board, and shall make available on the city's official website, a report regarding requests for service received by the 311 citizen service center since April 1, 2004, disaggregated on a month-by-month and fiscal year-by-year basis. Such report shall include, but not be limited to, the following information: (1) the total number of requests for service received in each request for service category by each agency or agencies to which the requests for service were directed; (2) the total number of requests for service received in each resolution status category by each request for service category and by each agency or agencies to which the requests for service were directed, where such information can be directly accessed by the 311 citizen service system; and (3) the average resolution time for each request for service category by the agency or agencies to which requests for service were directed, where such information can be directly accessed by the 311 citizen service system. The data contained in the report shall be provided citywide and disaggregated by zip code, community district, council district and borough.

c. Within seven business days from the end of each month, the department shall submit in electronic format to the speaker of the council, the public advocate and each community board and shall make available on the city's official website a report regarding directory assistance calls received by the 311 citizen service center since April 1, 2004, disaggregated on a month-by-month and fiscal year-by-year basis. Such report shall include, but not be limited to, the following information: the total number of directory assistance calls received for each directory assistance category by each agency or agencies to which the directory assistance calls were directed.

d. Within seven business days from the end of each month, the department shall submit in electronic format to each community board a list setting forth all requests for service that were identified to have occurred in the respective community district received by the 311 citizen service center during the immediately preceding month, as well as all unresolved requests for service from prior months. Such report shall include, but not be limited to, the following information for each request for service: (1) the request for service category; (2) the agency or agencies to which the request for service was directed; and, (3) the current status of the request for service, where such information can be directly accessed by the 311 citizen service system.

e. The department shall convene a quarterly meeting of representatives from each of the community boards within the city to discuss the content and format of the reports required to be prepared pursuant to this chapter, or as otherwise required by this charter, or, otherwise, by law.

**City Zoning & Land Use Priorities
Historic Preservation, Environmentalism, Protecting Communities**

My name is John Manning. I am a resident of Bay Ridge, Brooklyn. I speak this evening to ask the Charter Revision Commission to prioritize the issue of protecting our City, and its communities, from the negative aspects of overdevelopment. Historic preservation, environmental protection, and the sustainability of neighborhoods that working people call home, are three vitally important concerns for the long-term future of our City. We must require and empower the Department of City Planning, and the rest of City government, to address the overexploitation of our neighborhoods, the displacement of people of modest means, and the destruction of our national heritage. Thank you for the opportunity to testify.

The City of New York and the Greater New York Region have a rich heritage and a beautiful natural environment. This is the finest natural harbor on the Atlantic seaboard. Lower Manhattan and Brooklyn are among the places where our nation's history began.

My neighborhood, Bay Ridge, is zoned so that buildings are not taller than 6 stories. It is a wonderful community to live in or visit. Brooklyn Heights, and other sections of Northern and Central Brooklyn, are national treasures. One block from my apartment building, there is a small

Revolutionary War cemetery. Two blocks away there is a botanical garden maintained by community volunteers.

Due to the political power and influence enjoyed by the Real Estate Industry, General Contractors, other special interests, and their lobbyists, all over town there is an enormous square box high-rise going up. Many of these buildings are eyesores. Working class people and small business owners are being displaced. Communities that contribute a lot to the City are being destroyed. It is absurd that government policy encourages this while our mass transit and infrastructure needs are neglected.

In many European cities, during the post-World War Two reconstruction, there was a blend of modern buildings and the restoration of historic areas and city quarters. We can do that here. Historic preservation is not just one building. It should be an area. We meet tonight in a charming 200-year-old landmark. Two blocks away, at the South Street Seaport, is a slice of 19th Century urban America. However, here in lower Manhattan, in almost every space that becomes available, garish, ugly high-rise buildings are springing up all over.

Constructing new buildings and blocks that are aesthetically pleasing, neighborhood friendly and affordable for working people is something we can do. Small to medium size parks and gardens are vital to a stable community.

I ask the Charter Revision Commission, when drafting proposed City Planning and Land Use Law, to not be beholden to the rich and powerful, but to appreciate the need for a City that is enjoyable to live in, where people who work for a living have a secure place, and the importance of the legacy we will leave behind for future generations.

Thank you,

John F. Manning
6901 Narrows Avenue
Brooklyn, New York 11209
(718) 491-3701
jmanngf@verizon.net



**CITIZENS UNION OF THE CITY OF NEW YORK
Testimony to the City Charter Revision Commission**

City Hall
September 27, 2018

Good evening Chair Benjamin and distinguished members of the New York City Charter Revision Commission. My name is Rachel Bloom and I am the Director of Public Policy and Programs at Citizens Union. We thank you for holding this and other public hearings, and giving Citizens Union the opportunity to publicly share our recommendations with you.

We offer our congratulations to all the members of this Commission, the first one comprised of nominees from multiple branches of our city government and the first one convened by Council legislation. We hope the diversity of perspectives on this Commission leads to bold and innovative reforms that benefit the majority of New Yorkers.

Throughout its history, Citizens Union has supported periodic comprehensive review of the New York City Charter absent a political agenda via the appointment of an independent Charter Revision Commission to ensure that city government is operating effectively, efficiently and in the public's best interest. We believe that this Commission must not simply revise, but undertake some bold reforms. This process and the recommendations that come out of it must strengthen the integrity and transparency of government institutions so that public confidence is greater, and New Yorkers are able to better participate in governmental decision-making.

Over the coming months, Citizens Union will be submitting detailed testimony on a host of issues to the Commission in the following broad categories. The first four categories listed below are ones that we identified in partnership with our good government colleagues Reinvent Albany and the League of Women Voters of New York City. They are:

- 1) Election Reform
- 2) Open Government and Transparency
- 3) Ethics Reform
- 4) Government Efficiency and Accountability
- 5) Land Use

Tonight, Citizens Union will provide recommendations on the first Issue Area: Election Reform. In coming hearings, we plan to testify and submit written testimony in the other issue areas.

1. Institute a Top-Two Election System

Citizens Union urges the Commission to consider establishing a top two election system, making the first primary election open to all eligible voters, regardless of party status, so that every registered voter can participate in the primary which is often the most determinative in who is elected to office. A top-two election system would permit all party registrants and unaffiliated voters to vote in the first round for candidates of any party or none at all. The top two candidates would advance to the general election in November to determine the victor. This would allow for a greater number of New Yorkers to vote in the most determinative election and create greater competition and choice for voters. It would provide that the voice of the 1.38 million voters, who are now effectively shut out from choosing many of the city's elected officials because they are not affiliated with the Democratic Party, is heard. By simply increasing the number of voters eligible to vote, we would increase the number of participating voters, a matter of high importance considering New York City's deplorable voter turnout rate. This new system would not prohibit political parties from endorsing candidates of their own choosing; it would just change the manner of their selection. In advancing a top-two election system, we are not taking politics out of elections or government, we are simply ending partisan control. New York cannot have effective representative government if there is not participation from all eligible voters.

2. Institute Ranked Choice Voting

Citizens Union urges the Commission to consider instant runoff voting for New York City elections. Instant runoff voting, often known as "ranked choice voting," allows voters to rank their preferences for candidates, rather than only voting for one candidate. New York City election law provides that, unless a candidate running in a citywide primary receives 40% of the vote, a runoff election is required. Runoff elections are held at a great financial expense to New Yorkers; the 2013 runoff election for the office of Public Advocate is estimated to have cost New Yorkers \$13 million, more than the entire four-year budget of the office of Public Advocate. In addition, in a city marked by terrible voter turnout in even high profile elections, runoff elections have abysmal voter participation, leading to a tiny percentage of voters selecting citywide candidates. The voters who turnout in runoff elections tend to be older, richer and whiter and not representative of New York City as a whole. In other cities where instant runoff voting has been implemented, it has led to both increased voter turnout and participation (In Oakland, CA, a 2010 election using IRV increased voter participation by 42%). Finally instant runoff voting has led to more diverse candidates- by gender and race – in cities where it has been implemented. The diversity of the New York City Council has improved over years, but with a mere 11 female Councilmembers out of 51, it is not at all reflective of the city it serves. New York needs instant runoff voting and we strongly urge you to develop a ballot proposal to bring it to the voters this fall.

3. Increase Ballot Access by Reducing Petitioning Signature Requirements

In the spirit of increasing opportunities to participate in elections, Citizens Union is interested in ways to make it easier for people to become candidates and ease the process of appearing on the ballot. Being a candidate in New York is notoriously difficult because of the draconian ballot access laws currently in place. We recommend you put forth a ballot measure to decrease the number of signatures candidates need to collect. Lowering the signature requirement would likely enable more candidates to get on the ballot because they could better withstand aggressive challenges from other candidates, and it would limit the confusion for those collecting petitions. Lowering signature requirements would not change the requirements for who can sign a petition, and would eliminate the need to memorize complex sets of

rules while reducing the legal gamesmanship that often attempts to block legitimate candidates from the ballot based on technicalities. Additionally, Citizens Union will continue to push for greater reforms to ballot access at the state level to ensure there is an even playing field and consistency among local and state elections.

4. Enact True Independent Council Redistricting

Citizens Union urges the Commission to address City Council redistricting this year. While the City appears to have an independent redistricting commission, it is independent in name only. Because all its members are directly chosen by elected officials, there is too close a connection between those who draw the lines and those who appoint them. We propose that 1/3, or 5 members, including the Chair and the Executive Director of the Redistricting Commission be appointed by the Campaign Finance Board. This will create a necessary buffer between the Council and Mayor and Redistricting Commission members who draw the lines. Consequently, the Redistricting Commission will have greater independence and draw lines that more accurately reflect coherent city communities. Furthering that aim, we propose changes to the criteria for drawing lines: currently Chapter 2-A, Section 52-f prohibits the drawing of districts to favor or oppose any political party; this provision should be expanded to prohibit the drawing of district lines that favor or oppose an incumbent legislator, or any presumed candidate for office. Lastly, the plan will have to be approved by 11 of 15 Redistricting Commission members instead of the current 9.

The suggestions put before the Commission are many, and the decisions to be made by the Commission and the voters are important to the continued success of our city. Because these decisions are so important, Citizens Union believes that the Commission should not put all that it seeks to accomplish before the voters in 2019. Rather, it should focus on what is needed now and postpone other matters so that they can receive greater public review and consideration in time for their inclusion on the 2020 ballot. We feel that the off-cycle 2019 election, where there will be limited elections on the ballot, will have too low a turnout to present Charter proposals to a sufficiently large enough number of New Yorkers.

We thank the Commission for its work and consideration in addressing the many important reform issues facing New York City. We look forward to the continued work of the Commission and assisting in its assessment of what changes are needed to the form and function of our city government.



THE CITY OF NEW YORK MANHATTAN COMMUNITY BOARD 3

59 East 4th Street - New York, NY 10003

Phone (212) 533-5300

www.cb3manhattan.org - info@cb3manhattan.org

Alysha Lewis-Coleman, Board Chair
Manager

Susan Stetzer, District

FOR THE RECORD

September 27, 2018 Charter Revision Hearing

My name is David Ford and I am representing Manhattan Community Board 3. I am the Chair of our newly formed Charter Revision Task Force. The issues I am highlighting today were previously voted on by the board for the Mayor's Charter Revision. However, the CB 3 taskforce will be working on a broader spectrum of issues to participate with Charter Revision Commission 2019. My statement today is consistent with a resolution passed by the full board during our June meeting.

Community Board 3 requests that the Charter Revision Commission conduct meetings and hearings with Community Boards, including members and staff, for input as to the workings of the boards and clarifications and codifications requested. Community Boards currently have charter-mandated responsibilities in reviewing and coordinating city service delivery, planning and reviewing land use, and making recommendations for the City budget. Community Boards are the structure for citizens to participate in planning for their community. Reforms and clarifications in the City Charter would ensure that Community Boards can carry out their charter-mandated responsibilities in a meaningful manner.

Community Board 3 recommends that Community Boards have independent budgets. Community Boards have a budget of approximately \$200,000 for a staff of 3-4 and office operating expenses. 90% of budgets are allocated for staff salaries, and Community Boards have been threatened with budget cuts that would necessitate layoff of staff – this would greatly reduce their ability to carry out their mandated responsibilities.

Community Board 3 recommends that Community Boards have a full time urban planner on staff and budget appropriation to fund this position.

Community Boards have a charter-mandated responsibility to review, analyze and make recommendations on land use through the Uniform Land Use Review Procedure (ULURP), and Community Boards are comprised of volunteer members without ability to work full time on reviews; many Board members do not have urban planner expertise. Community Boards are city agencies with complex responsibilities that must operate according to City mandates that include many legal and procedural city requirements.

Community Board 3 recommends that full support services be assigned and codified to specific agencies/offices and include personnel support for staffing issues, personnel benefits, technical support and maintenance, use of city facilities for community meetings, fiscal information systems support, law department support, protections from harassment or unfair practices, and other support services that are included in other agencies. The offices of the Borough presidents' processes payroll, but other administrative and technical

support is lacking, and Community Board managerial staff are the only city employees in NY without personnel services and support, and without codes of conduct, and other standards,

Community Board 3 requests that the Charter Commission consider creating standards and promoting transparency by publishing board demographics and vacancy status, which would promote more representative and effective boards.

The City Charter requires the Borough President appoint "adequate representation from the different geographic sections and neighborhoods within the community district"; but there is no accountability for compliance. Community Board 3 has gone through periods of many vacancies and lack of diverse representation—in geographic, ethnic, and subject matter expertise. This has greatly impacted the Community Boards ability to effectively represent the community. Suffice to say, the current Manhattan Borough President's targeted outreach and focus on areas of expertise has made our board more representative and more effective.

Community Board 3 recommends the Charter Commission review the mandated notification process to take into account Community Board schedules by giving notice at an earlier stage or lengthening the notification time.

There is City Charter mandated time/notification periods, such as ULURP notification - with mandated time period for Community Board review. In the case of a ULURP, agenda items must be posted in City Review, which has a 3-week process for submission and posting. Community Boards post meeting schedules and agendas in accordance with Open Meetings Law and with specific agendas to elicit the widest possible community input, there are often times when an agenda item just misses posting on the monthly Community Board agenda and must be held for another month.

Community Board 3 recommends that the Charter Commission do not limit terms of members.

Limiting community board members would deprive boards of long term members and their institutional knowledge that allows them to engage effectively with city agencies. Some city projects take many years, or decades, to complete; preserving institutional knowledge is critical. It is very difficult to find members that are qualified, diverse stakeholders able to dedicate their time; and term limits would remove many of these members. Appropriate turnover of board membership should continue to be addressed by the current structure of appointment by city council members and the Borough President.

Thank you for taking the time to hear my testimony.

###

**STATEMENT OF JEFFREY M. WICE
ON REDISTRICTING REFORM**
New York City Charter Revision Commission
September 27, 2018

FOR THE RECORD

I am a Fellow at the SUNY Rockefeller Institute of Government where I direct "NY Counts," a program designed to educate and work with New Yorkers on census and redistricting issues. I have served as counsel to the post-2000 and post-2010 New York City Council redistricting commissions as well as redistricting counsel to 5 New York Assembly Speakers and 4 New York Senate Democratic leaders. My work in redistricting has taken me across the country, assisting state and local governments with the nuts and bolts mechanics of the redistricting process. I have also taught election and redistricting law at Hofstra and Touro Law Schools and serve as a Fellow at SUNY Buffalo Law School. I've also co-authored a book chapter reviewing New York State's redistricting process in *New York's Broken Constitution* (SUNY Press, 2016). I am speaking on my own behalf.

I'd like to address changes to the City Charter's redistricting provisions in Chapter 2-A (Sections 50 through 52).

New York City has one of the best redistricting statutes in the nation. The Charter allows for transparency, several rounds of public hearings and most importantly, prioritized ranked criteria. The criteria, including (a) limits on population deviation, (b) minority voting rights, (c) recognition of communities of interest, (d) specific compactness requirements, (e) limits on crossing borough or county boundaries, and (f) restrictions against partisan gerrymandering, have worked well.

The Charter's criteria permitted the City to create plans that were given prompt Voting Rights Act approval by the U.S. Department of Justice in the last two cycles. Further, not a single lawsuit was brought against the 2003 or 2013 plans. This was due, in part, to the meticulous way the federal Voting Rights Act and other charter provisions were followed.

The post-2000 and 2010 commissions conducted thorough legal and racial voting studies of proposed plans before they were enacted, tasks many other governments fail to undertake before enacting plans and resulting in prolonged legal challenges in courts.

I have used the New York City Charter provisions as models for other states and cities to emulate.

However, there is one section of the Charter that should be amended. Section 52(h) requires the districting commission to ensure that its plan is effectuated, "including but not limited to submitting such plan for preclearance by the United States department of justice pursuant to the United States voting rights act of nineteen hundred sixty-five, as amended, and making such adjustments in its plan as may be necessary and appropriate to respond to a determination of a court or the United States department of justice."

New York City's 2013 redistricting plan was the last redistricting plan approved by the U.S. Justice Department under Section 5 of the federal Voting Rights Act. On June 25, 2013, The United States Supreme Court's handed down a decision in *Shelby v. Holder* 570 U.S. 2 (2013), holding that Section 4 of the Voting Rights Act was unconstitutional. Section 4 contained triggering language that placed New York, Kings and Bronx counties under Section 5 review to guarantee that minority voting rights were not diluted in the new plan. Although Section 5 is still good law (prohibiting certain jurisdictions from implementing any change affecting voting without receiving preapproval from the U.S. Attorney General or the U.S. District Court for D.C. that the change does not discriminate

against protected minorities), the Court determined that Section 4's triggering mechanism was outdated, based on standards developed in the 1960s and 1970s.

I suggest that the Charter section be amended to either drop the section referring to federal approval under the Voting Rights Act. Section 52(b) already insures that the Voting Rights Act requirements be followed. However, Section 52(h) could also be amended to read that the districting plan shall simply comply with the Voting Rights Act and that the redistricting commission be tasked with adjusting its plan as may be necessary and appropriate to respond to a court's determination.

I'd also suggest that this charter review commission consider recommending that the redistricting commission become an independent body. Currently, Section 51 permits the City Council to reject the redistricting commission's first plan. To make the commission's plan truly independent, the City Council's review role can be eliminated.

Redistricting Commission appointments are now made pursuant to Charter Section 50. The Mayor, Council majority party and council minority party leaderships make the appointments. The appointed members of the post-2000 and post 2010 commission worked well together and there is no need to amend this section unless this commission wants to recommend changing the membership to appointees selected by a lottery or other competitive process. A neutral city agent, such as the Comptroller, could administer an alternative appointment process. I'd be glad to suggest alternative appointment processes (following the example used by California where partisan elected official involvement is minimal).

Thank you for the opportunity to present my views on the city's redistricting process. I can answer any questions you might have as well as assist your staff on any of the concepts I've discussed.

JMWice@gmail.com
(202)494-7991

Charter Revision Commission Testimony

September 27th, 2018 – City Hall, Manhattan.

Good evening Commissioners. You have many challenges to deal with, not the least of which is doing a comprehensive analysis of a City Charter, which takes up 75 Chapters and literally thousands of pages, but one of the problems the public has is that we don't necessarily know which proposals you're going to put on the ballot, so it may make certain proposals a moot point. For instance, if you're proposing the abolition of the office of Public Advocate, it doesn't make sense for members of the public to make proposals about changing the nature of the office or how that person is elected. If you're going to propose allowing Community Board members to be elected, it doesn't make sense for the public to spend much time on whether the Borough President or the Councilmembers should be appointing them. In my case, I've previously proposed allowing candidates to run for office by paying a filing fee instead of collecting petition signatures. Now, if that suggestion gets ignored or for any reason you find it impractical, I would for example suggest lowering the percentage requirement for designating petitions to 2.5% rather than 5%. Currently the system we have is discriminatory towards minor parties because it requires minor party candidates to get a number of signatures equal to 5% of their registration, while depending on the district, Republicans or Democrats may only need to get a number equal to a fraction of one percent of their registration. This makes absolutely no sense especially when you consider that minor parties traditionally have far fewer resources than their major party counterparts.

In the same vein, it doesn't make sense for me to make suggestions about ballot access for minor party candidates, if you're going to place on the ballot a question relating to non-partisan elections. So, I would suggest that the best way to handle this is that as you continue your

deliberations, you devote an evening (or maybe even a series of evenings) specifically devoted to hearing expert testimony on the issues of ballot access and electoral reform. I hope that in addition to looking at the issue of non-partisan municipal elections in councilmanic districts similar to how they're constituted now, I hope that this Commission will seriously look at the issue of electing the City Council through Proportional Representation. Many of you may be aware that **Proportional Representation** is used in western democracies all over the world to elect their legislative bodies, in countries like Germany, Italy, Israel and Japan, just to name a few. You may not know though is that we had Proportional Representation in New York City for eleven years from 1936-1947. Voters and Mayor LaGuardia were fed up with the corrupt and ineffective Board of Alderman, so Mayor LaGuardia appointed a Charter Revision Commission just like you, who offered the voters a better way. In many respects, this experiment with democracy in New York City was the golden age of legislative diversity in New York City. Not only did we see the first African-American members of the New York City Council elected, but we saw independent Democrats who weren't beholden to Tammany Hall get elected. We saw Republicans actually get elected in a proportion equal to how voters were actually voting. We even saw many members of minor parties elected for the very first time. So, not only was it an age of racial and gender diversity in city government, but it was an era of political diversity as well. Unfortunately, this system had the misfortune of being around at the height of the red scare in this country and because there were two Communists who were elected, Tammany Hall and other machine politicians used their election to paint Proportional Representation as a tool of Communists, which in the midst of the Cold War would give Communists a foothold in the halls of American government. There's a terrific book about this era in city government called "Defining Democracy: Electoral Reform and the struggle for

power in New York City” by Dr. Daniel Prosterman, whose a distinguished political scientist and Professor.

It may seem contradictory for me to propose non-partisan elections on Monday and Proportional Representation on Thursday. But as Francis Barry points out in his book *“The Scandal of Reform”*, the elections held under Proportional Representation were non-partisan! Every registered voter was able to participate at every stage of the process. Now, there were many different aspects of Proportional Representation, which were vastly different from how we generally think about implementing non-partisan elections, not the least of which was that there weren’t 51 different local districts, instead the elections were held on a boroughwide basis, which is something that people may not necessarily want to turn back to. But an organization called Fairvote, has an interesting proposal for how to balance the best aspects of Proportional Representation, with the best aspects of having local districts. So, I’d encourage you to hold at least one night solely devoted to the study of Proportional Representation, perhaps including testimony from Dr. Prosterman, Mr. Barry and the CEO of Fairvote Rob Richie. It seems silly to completely abandon such a vibrant era in city government just because of red-baiting in the late 40s.

Initiative and Referendum

I briefly had the opportunity to address the issue of initiative and referendum in response to a question from Commissioner Albanese in Queens on September 20th, but there were four suggested changes that I wanted to reiterate as you consider how to allow New Yorkers themselves to pass laws.

1. I think the current signature threshold is far too high. The 50,000 minimum signature number or 45,000 signatures if voters use the alternative two-step method. I would urge the commission to lower it.
2. The Mayor should not be able pre-empt a ballot question by appointing a Charter Revision Commission, as Mayor Bloomberg did with the UFT's ballot proposition on smaller class size.
3. Aside from charter change, New Yorkers should have the ability to petition for legislative questions as well. If New Yorkers feel passionately about free lunch for 7th graders or mandating that police officers live in New York City or that every borough gets a bike share program, why shouldn't they be able to petition for that? This initiative process has worked well in states like Arizona and California.
4. Lastly, sometimes there are decisions, which are better decided by a legislature than by the masses. What if you were to allow voters to collect petition signatures to force the City Council to vote on a piece of legislation? Too often it seems as if meritorious bills get buried in the committee process and never make it to the full council for a vote. Generally, we know that if a bill comes to the floor of the City Council for a vote, it's assured of passage. That's the sort of thing, which smacks of an insider dominated governmental process, heavily influenced by special interests. This only makes the crisis of public confidence and the pandemic cynicism among New Yorkers, even more pronounced. Let's change it.

Make Community Board Districts coterminous with Council Districts

Currently, there are 51 Council districts and 59 Community Board districts. What this leads to is two, three or four council members all representing portions of the same

Community Board districts. That means they send a staffer each to every Community Board meeting. That means, the district manager and staff have to brief each of those councilmembers on community issues. That means that the Chair (or Committee Chairs), need to lobby multiple councilmembers instead of one to make sure the Community Board's will is done on land use proposals. This system is duplicative, wasteful, inefficient and often ineffective. I would suggest instead that you make Community Board Districts match up directly with Council Districts. This would allow each councilmember to have more familiarity with Board members and staff. It would allow the staff of a Councilmember the opportunity to be more intimately familiar with the issues that repeatedly come up in that Community Board and wouldn't cause them to need to devote a staffer to a board meeting, in a district, where they may only represent a small portion of the community. So, I'd suggest either reducing the number of community districts from 59 to 51 or increasing the number of council districts to 59. In addition to the benefits of greater efficiency and more precise specialization, this sort of coterminous districting, could potentially pave the way for other types of districts as well, possibly even including fire districts, police precincts or civil court districts. The issue of coterminous districts was studied at length by the state charter revision commission on for New York City was convened back in 1972 and even back then, the Commission staffed determined that *"the individual New Yorker lives in a jurisdictional maze....having the net effect of making it more awkward and difficult than it should be for the ordinary citizen to get things done"*. This problem has gotten even worse today and it often seems like New Yorkers need a decoder ring to find out who to call for what problem. It shouldn't be that way and I hope you'll give New Yorkers the choice to simplify that just a bit.

Since this is the last hearing that's scheduled for at least a while, I wanted to call your attention to a few other tweaks to the city charter, which I believe the public could strongly benefit from.

**Allow Borough Presidents to make appointees to the Taxi and Limousine Commission
(TLC)**

Currently, the Mayor appoints all nine appointees to the TLC, with the advice and consent of the City Council. While there is a mandate that there's at least one appointee from each borough, those appointed don't necessarily represent the interests and values of the voters of a particular borough. The reason that this is so important now in an era where so many of the public policy debates in our city focus on Uber, Lyft and other ride hail services is because those of us that live in the outer boroughs have been woefully underserved by many different aspects of transportation- buses and subways and even taxi service. I think one way to give Staten Islanders, who are accustomed to waiting an hour after a missed ferry or trying to persuade a yellow taxi driver to drive to Staten Island from lower Manhattan, a voice in these issues, is to allow our Borough President at least one appointee. The fear that many of us, who live in transportation deserts have is that the recently enacted cap on ride hail vehicles will only add to the scarcity of outer borough transportation options, because drivers may cruise around Manhattan, awaiting only the expensive and easy fares. So, allowing each Borough President an appointee on the TLC is by no means a panacea, but at the very least it gives us a voice. Sometimes when you're a frustrated commuter used to standing on express buses, waiting for a late ferry or seeing

your uber driver cancel on you without reason, voice being given to those frustrations can be incredibly satisfying- even if it doesn't lead to concrete results.

The Form of Ballot Questions

While different Charter Revision Commissions have made different decisions in terms of how to place these questions on the ballot, sometimes putting many diverse policy areas on the ballot as one question, under the theory that the Commission's work represents a comprehensive examination of the areas in which the city charter needs improvement and that's how voters should approach it. This was the case with the Schwartz commission back in 1989. Sometimes as was the case in 2010, it's determined that all of the proposals should be on the ballot in one questions because of how much room there is on the ballot. This year though, the three questions the Mayoral commission has put on the ballot are on there as three separate questions. I would strongly urge the Commission to not put unrelated and diverse suggested policy changes on the ballot as one question. While it may make sense to group proposals related to electoral reform or community boards or policing or budgeting together, I think to put all of your work to a single yes or no vote would be a mistake. We saw that this was precisely what happened with the proposed amendments to the state constitution back in 1967. The delegates to the constitutional convention did some great work on issues related to education, municipal home rule and reform of the court system, but because of the controversy involved in a question having to do with the repeal of the Blaine Amendment, New Yorkers ended up voting no on the entire proposed constitution and making the work of the delegates all for naught. I fear that if this Commission puts on a controversial or hot button issue like some of the issues you've

heard testimony about that this could torpedo some of the common sense reforms that you're considering.

Voter Representation on Future Charter Revision Commissions

While the composition of this commission is politically diverse and represents a broad cross section of governmental stakeholders and geographic fairness, at the end of the day, it's composed only of people appointed by politicians, just like every previous Mayoral commission. Given the fact that so many of the proposals you're considering involve ways to make city government more effective, more progressive and more representative to the needs of New Yorkers, why not allow New Yorkers themselves to have some direct representation? So, I would suggest that you consider mandating that for all future charter revision commissions, you allow New Yorkers to elect at least one borough wide member of the charter revision commission and at least one member of the commission that represents the city as a whole. Having six members of future commissions elected by the voters still allows the Mayor or the Speaker to have a controlling majority of the commission and by extension controlling the agenda, but by giving the voters a voice, it allows them to have a direct say on some of the proposals the commission would consider. In order to avoid the same sort of special interest control being exerted in these elections that we see in other municipal elections, I would hope that these elections would be completely non-partisan, that there be full public financing for these elections and that any current elected official be prohibited from appearing on the ballot for this position.

Other

While I'm not offering any specific policy proposals, I would urge the commission to consider holding hearings (or public meetings), featuring expert testimony on some of the following areas:

- Campaign finance and the imposition of a system similar to “Democracy Vouchers” in Seattle. Also a potential ban campaign contributions from employees of non-profit organizations, who get discretionary funding from the city council
- Recall for NYC elected officials
- Reform of the selection process for city Judges
- The role of the Public Advocate and mayoral succession
- Changes to the management of city pension funds and the role of the City Comptroller’s office
- Separating Animal Care and Control from the NYC Department of Health

Sincerely,

Frank Morano

Secretary, New York State Reform Party

Radio Talk Show Host, AM 970 The Answer

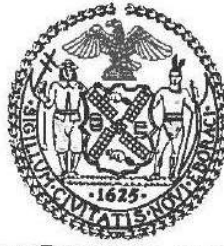
PopulistReformNY@gmail.com

816-8-MORANO

BENJAMIN J. KALLOS
COUNCIL MEMBER, 5TH DISTRICT

244 East 93rd Street
New York, NY 10128
(212) 860-1950 Voice
(212) 980-1828 Fax
www.BenKallos.com

BKallos@BenKallos.com



**THE COUNCIL OF THE
CITY OF NEW YORK**

FOR THE RECORD

CHAIR

Planning, Dispositions,
& Concessions

CO-CHAIR

Progressive Caucus

COMMITTEES

Civil Rights
Education
Governmental Operations
Higher Education
Land Use
Oversight & Investigations
Women

Our City's Charter is in desperate need of an upgrade for the next generation.

The last telegram was sent in 2006, so I don't think the Charter should require telegraph to be maintained by NYPD Commissioner. The minimum wage is about to be \$15, and I think the Mayor's fourth enumerate power should be to pay election workers \$20 a day.

We are presented with an opportunity to examine the balance of powers, the infrastructure of our government, and ultimately who is empowered to make decisions on behalf of the 8.7 million people who call this city home. Since August, I have carried a copy of the Charter around with me, highlighting interesting sections, and soliciting input. I must admit that I haven't made it all the way through to Section 3103 of the Charter. My testimony represents a best effort through a cursory review identifying challenges with proposed solutions as a starting point.

I joined hundreds of New Yorkers in participating in the Mayor's Commission by testifying over several months in favor of several items on the ballot including term limits and urban planners for Community Boards and a slate of Campaign Finance Reforms to reduce large contribution and match more small dollars with more public dollars to finally get big money out of New York City politics.

First and foremost I would ask that if these measures pass, this Commission not weaken them in anyway and in fact strengthen them by adding a requirement that any part of the Charter adopted through a vote of the people only be subject to change by those same people at another vote. Along those lines there are certain reforms must be protect from future change without a vote of the people, such as ethics reforms for life time term limits and enshrine reforms in the Council to make the job full time, eliminate "lulus" for equal compensation and standardize budget allocations for each Council Member.

In the face of an attack on our rights from the Federal government, New York City is in need of its own bills of rights guaranteeing residents a right to a free higher education and child care, affordable health and mental health care, access to parks, libraries, and public transit, affordable internet, freedom from hunger, clean air and water, just to name a few.

Though residents may testify here or submit a petition for a new law for the voters, we can create a pathway for residents to submit bills to the City Council for a guaranteed hearing and vote.



BENJAMIN J. KALLOS

NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

Ultimately the 1989 Charter Revision Commission gave many of the powers from the Board of Estimate to the Mayor and boards appointed by the Mayor. Regardless of the Mayor, other elected officials and communities have often been without power to stop a wrong. My recommendations hope to democratize many of the city's most powerful boards with appointments from the Borough Presidents and the Council to achieve fair housing and affordable housing goals. Borough Presidents and Community Boards must be empowered to veto bad rezonings, the Council empowered with a final vote on franchises that have left residents without reliable cable or Internet, and both empowered to initiate land use changes in their own right.

Top three:

1. **Land Use:** Empower communities in land use by changing the makeup of decision making boards to have fewer Mayoral appointments and include representation from the City Council
2. **Budget:** Create a budget that anyone can review complete with budgeted amounts, modifications, and spending with the ability to drill down to individual salaries and how much they spent on pencils.
3. **Protect the Will of the People to Enshrine Campaign Finance and Ethics Reforms:** Reforms that are essential to the functioning of our democracy, established through previous referenda, local law, and City Council rules, should be enshrined in the City Charter.



BENJAMIN J. KALLOS
NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

Table of Contents

I.	Create a New York City Bill of Rights	5
II.	Support for the 2018 New York City Charter Revision Commission	5
A.	Match Every Dollar with a Full Public Match	5
B.	Match Small Dollars with More Public Dollars	6
C.	Lower Contribution Limits	6
D.	Term Limits for Community Board Members	6
E.	Urban Planners for Every Community Board	6
III.	Respect the Will of the People	6
A.	Protections for Charter Amendments Voted on by Residents	6
B.	Empower Residents to Propose Legislation for Council and Mayoral Consideration: CrowdLaw	7
IV.	Springing Powers	7
I.	Remove Relics from the Charter	8
A.	Remove Outdated References	8
B.	Remove Poverty Wages from the Charter	8
V.	Improve Democracy	8
A.	Get Big Money Out of New York City Politics	8
1.	Stop Matching Big Dollar Contributions	8
2.	Eliminate War Chests	8
3.	Kill All the Zombie Committees	9
4.	Young Adult Voter Registration Act	9
5.	Act Now	10
B.	Expand Candidates and Voters Now	10
1.	Empower Residents to Run for Office	10
2.	Automatic Voter Registration	10
3.	Separate Voter Assistance and Campaign Finance	11
4.	Remove Post-Census Half Term	11
5.	Lifetime Term Limits	11
VI.	Ethics Reforms to End Patronage and Corruption Citywide	12
A.	Protect the Civil Service from Provisionals	12
B.	Publicly Post All Government Jobs	12
C.	Lifetime Ban on Lobbying	12
D.	Protect Compensation from Politics	13
E.	Protect Oversight Officials and Agencies from Retaliation	13
VII.	Permanently Reform the City Council by Protecting and Expanding Reforms	13
A.	Full Time Elected Officials	14
B.	Equal Compensation for All Council Members: Eliminate "Lulus"	14
C.	City Employees May Not Be Party Officials	14
D.	Standardized Budget	14
E.	Standardized Formula for Setting Discretionary Budget for Council Members	15
F.	Capping the Budget Allocation of City Council Speaker	15
G.	Notify Residents about Legislation that is Ready for a Vote	15
H.	Better Legislation Using Scientific Method	15
I.	Excessive Reports, Studies, and Taskforces	16
J.	Use New York's Best Natural Resource: It's Experts	16
VIII.	Empower Residents through the City Council and Borough Presidents	16
A.	Support 2010 Recommendations	16
B.	Expand Advice and Consent to All Agency Leaders	17



BENJAMIN J. KALLOS
NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

C.	Agency Leaders Terminated for Cause	17
C.	Expand the Right of Visitation	17
D.	Empower Residents through Community Boards and Borough Presidents	17
E.	Binding Land Use Votes	18
F.	City Funded Environmental Assessment and Impact Statements	18
G.	End Automatic Reappointment with Standardized, Public Applications	18
H.	Ensure Representation with Automatic Removal for Non-Attendance	19
I.	Prohibit the Appointment of Partisan Party Officials or Lobbyists	19
J.	Member Training	19
IX.	Land Use	20
A.	Expand Appointments to Land Use Boards and Commissions	20
A.	Meaningful Public Review	21
B.	Protect Potential Landmarks from Eternal Limbo	21
C.	Expand Council's Power from "Major" to Review All Concessions	22
D.	Require Wage and Job Standards Following City Action	22
E.	Land Use Approvals Must Not Spring Eternal	23
F.	Follow 197-a Plans	23
G.	Fair Share	24
H.	Achieve Fair Housing and Affordable Housing Goals in Every District	24
I.	Protect Residents in Affordable Housing from Displacement by New Development	24
X.	Bridging the Digital Divide with Universal Broadband and Improved Cable and Phone Service	25
B.	Voting Rights for All Borough Presidents on Multi-Borough Franchises	25
C.	City Council Member Participation Following Authorizing Resolution	26
	Section 363 should be amended to strike (d) and allow Council approval and council member involvement in the franchisee selection process.	26
XI.	Contracting	26
D.	Collective Bargaining	26
E.	Stop Government from Overpaying	26
F.	In-Source Over Out-Sourcing	27
G.	Engage Public in Contracting and Awards	27
XII.	Empower Residents in the Budget Process	27
A.	A Transparent and Accountable Budget	27
B.	Transparency to Spot Light Hidden Funds	28
C.	Scope Capital Projects to Prevent Overruns	28
D.	Fiscal Impact Tracking	29
E.	Expand Budget and Performance Oversight Requirements	29
XIII.	Conclusion	30



I. Create a New York City Bill of Rights

The Charter fails to include values, a recognition of certain inalienable rights, to guide and restrain our government as it makes decisions moving forward through the generations. As we see our rights on a federal level eroding, we as a City must affirm and extend them, following the example of cities throughout the nation who have adopted a new bill of rights for the now and the future. The Commission should evaluate codifying in the Charter a bill of rights for all New York City residents, protecting or creating the right to:

- free higher education (including vocational training or city college);
- free child care;
- affordable health care including mental health;
- reproductive choice;
- knowledge, with free libraries in every community;
- safety, with timely responses from police and fire;
- public transit that is rapid, reliable and within walking distance for all;
- fitness, with access to parks and recreation in every community;
- freedom from hunger;
- affordable heat, water, and power;
- affordable Internet;
- clean air and water;
- a home in your community free from displacement;
- light and air in residential communities;
- meaningful participation in the decisions of government.

In some cases, the City of New York is well on its way, while in others we have a long way to go; but including these rights will empower a new generation of residents and activists to fight for and win what in many modern cities have become basic rights.

II. Support for the 2018 New York City Charter Revision Commission

On September 6, 2018, the New York City Charter Revision Commission adopted its final ballot language. I testified before the Mayor's Commission no less than three times over the span of three months on June 19, July 23, and August 9. I was proud to testify in favor of multiple reforms that will be before the voters as three ballot questions on November 6, 2018.

A. Match Every Dollar with a Full Public Match

Increase the public match from 55% to match every small dollar (approximately 85% of the spending limit). The proposal on the 2018 ballot is to increase the spending cap from 55% to only 75%, a great improvement, but not enough to allow a candidate to run a competitive campaign solely on small dollar contributions. This Commission should not lower this number, and should only consider increasing it in 2019 to 85% to match every small dollar.



BENJAMIN J. KALLOS
NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

B. Match Small Dollars with More Public Dollars

Small dollar contributions of \$175 currently matched with 6 public dollars should be matched with 8 public dollars. This Commission should not lower this match and should only consider increasing the match to 10 for contributions of \$100 or less.

C. Lower Contribution Limits

Lower contribution limits to \$2,000 for citywide, \$1,500 for borough and \$1,000 for City Council because you should not be able to give more to the Mayor than the President. The Commission should not increase these contribution limits and should only consider removing automatic annual increases.

D. Term Limits for Community Board Members

Community Boards must no longer be a lifetime appointment and must have term limits of two terms of 8 years. This Commission should not remove these term limits and should only consider adding term limits for leadership of the Community Boards.

E. Urban Planners for Every Community Board

Each Community Board will have access to urban planners and to hire other land use professionals through a new Community Engagement Commission. This Commission should only consider whether to provide Urban Planners directly to each Community Board.

III. Respect the Will of the People

When, through their votes, the public directly voices its opinion on policy matters, we must respect this. The public voted to impose term limits twice, in 1993 and 1996. Ignoring this clear mandate, in 2008 Mayor Bloomberg and allies on the Council overturned this, allowing three instead of two terms. The backlash created by this forced the people in 2010 to, for a third time, impose a limit of two terms and prohibit elected officials from making changes to terms that affect their own careers. But this Charter Revision Commission, whether intentionally or not, created a problem. It delayed the full implementation until 2021 and created a council where half the members are able to serve three terms and the other half, only two. This meant that in 2021 a supermajority of the Council is term limited and out of office. The Council Members were in office at the time were granted three terms, seeing their seniority protected and ensuring they could run for open seats for higher office in 2021.

A. Protections for Charter Amendments Voted on by Residents

With the recent Mayor Commission's proposals on the ballot, some are already discussing how the City Council or even this Commission can undo many of the vital reforms that will be voted on in November. We should not put our city through a repeat of the term limits debacle. Sections of the Charter which exist because of a vote of the people should only be removed or amended by a vote of the people. This Commission should review all items in the Charter owing their



BENJAMIN J. KALLOS
NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

existence to a successful ballot measure and add a sentence for each designating them as protected from amendment other than through a vote of the people.

**B. Empower Residents to Propose Legislation for Council and Mayoral
Consideration: CrowdLaw**

Throughout the city, residents are being empowered to vote on how City Council Members allocate discretionary funding in their communities through a process called Participatory Budgeting. While this is a positive for civic engagement, the legislative process still remains opaque. In my office we have empowered residents who have ideas for legislation to participate in our policy nights, often meeting with me and working with staff. Residents from kindergarten students, to middle school students, to those who found the law inadequate to address their problem, have helped draft legislative language which I have in turn introduced, secured hearings, and seen signed into law.

At the same time, many have criticized the Mayor's and prior Charter Revision Commissions for proposals that could be passed through the City Council and signed by the Mayor without a vote of the people. Under the New York Section Municipal Home Rules Law Article 3 Sections 24 and 25 residents may currently petition to put proposed laws directly in front of voters by collecting signatures. But for amendments to the administrative code or parts of the Charter that would otherwise not require and should not require a vote of the people, this Commission must provide an additional method for resident initiated proposal, including a pathway toward a hearing and vote. The Commission should require the Council to accept ideas for legislation in paper or online, with a reduced requirement for physical or online signatures from residents to require a hearing within 90 days and a vote 90 days thereafter. While the Council would be free to vote the legislation down and the Mayor could veto a potential bad law, it would truly empower residents in the legislative process.

In addition to this direct democratic mechanism for proposing new legislation, the city should also be required to engage the public in making legislation, whether proposed by Council Members or the Mayor. This type of resident-initiated legislation and greater resident involvement in the process has lots of challenges. But it is not a reason for the government not to engage with people whose lives will be impacted by its decisions.

IV. Springing Powers

Constituents come to me every day and say "there ought to be a law." More often than not there actually is a law and the solution is actually following the Charter and Administrative Code. The greatest of reforms are mere words on paper unless those in power choose to exercise their authority to investigate and enforce. History is riddled with elected officials who looked the other way through willful neglect or because the power was so frequently unused it was forgotten. I recommend this Commission review every power in the Charter, those that are used and those that go ignored, and propose a system of checks and balances that allows for different parts of our government to act when those with the primary responsibility fail to do so. If one office is tasked with investigating wrongdoing but refuses, perhaps for political or personal



BENJAMIN J. KALLOS
NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

financial reasons, there must be a mechanism by which that power is automatically entrusted to another.

I. Remove Relics from the Charter

A. Remove Outdated References

The last telegram was sent in 2006. If we followed the letter of the Charter we should be removing the police commissioner for his willful neglect of the city's telegram system. Section 438 gives the commissioner the power to "erect, operate, supply and maintain ... lines of telegraph and telephones..." The Police Commissioner failed to do so and telephone services have been maintained as franchises. The Commission must remove from the Charter this and other relics of history. If not, I cannot wait to send the first telegram in a decade.

B. Remove Poverty Wages from the Charter

Setting the wages for inspectors of elections is apparently one of the Mayor's four top powers, as laid out in Chapter 1, Section 8. However, wages initially set at \$20 for working Primary Day, \$35 for working on the General Election, with a whopping \$3 for Chairs of the Election Board, would today be poverty wages of \$1.25 an hour for an exhaustingly long 16 hour day. To prevent this embarrassment and other relics that history forgot, this Commission should remove references to specific wages in the Charter, and should even consider striking this wholly unnecessary provision.

V. Improve Democracy

A. Get Big Money Out of New York City Politics

1. Stop Matching Big Dollar Contributions

The first \$175 of big money contributions of as much as \$5,100 are still matched, meaning many candidates get millions in public dollars without ever taking a small dollar contribution. Any contribution over \$175-ideally lowered to \$100-should not qualify for public matching. There is no reason why a citywide candidate receiving a contribution of \$5,100, needs \$1,050 in public dollars as any type of reward for taking such a large big money contribution. This would also force big money candidates to actually solicit small dollars from residents if they want the public matching funds.

2. Eliminate War Chests

New York City's Campaign Finance system had discouraged the creation of campaign war chests by non-participants who were not relying on small dollars, particularly among incumbents, by making contributions to political committees of non-participants ineligible for transfer for matching in future elections. In 2016, this law was thrown out by Local Law 189



BENJAMIN J. KALLOS
NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

which was authored specifically to allow contributions first made to a committee created by “one or more candidates to aid or take part in the elections of such candidate or candidates” to transfer funds to a candidate’s principal committee and still have the transferred funds eligible for public matching. In effect, it allows incumbents who do not face a competitive election to war chest with big dollars, giving them an advantage over every other candidate who participated in the public matching funds program.

The impact of the repeal of the anti-war chest by non-participants provision in Local Law 189 was immediate. In 2013, only 5 incumbent New York City elected officials did not participate in the public matching funds program. In 2017, non-participants in the public matching funds program increased to 17 incumbents, more than triple.

3. Kill All the Zombie Committees

Another loophole is for candidates in City elections to skirt contribution limits by opening candidate committees for state and federal offices, raising tens of thousands of dollars from outside a system designed to limit the influence of big money in our city.

When candidates do not use the money in their city, state, or federal accounts for an election, or once those candidates are no longer in office due to a term limit, losing an election, resignation in disgrace, or even death, their campaign committees live on as “zombie committees.”

One notable example involves convicted – and re-convicted – on felony corruption charges, former Assembly Speaker Sheldon Silver who is barred from ever holding public office in New York. Yet, through a campaign account called SpeakerPAC, Silver is able to use \$428,764 for political purposes or legal defense. Unfortunately, Silver is one of example of many former elected officials who maintain campaign accounts years after having left, or been removed, from office.

To prevent the buildup of a “war chest” or the spread of “zombie committees,” all money raised for the purpose of an election cycle should not be transferred to another committee and instead should be given to the City following the close of that election cycle to cover the costs of public matching funds program.

4. Young Adult Voter Registration Act

High School students in public and private schools should be required to receive voter registration forms during class, those forms should be coded based on the school, and the City should review those codes to evaluate the effectiveness of handing students registration forms and we as a city can better ensure our youngest eligible voters actually register. This would improve upon the decade-long-unenforced YAVRA, a 2004 law that only requires registration forms be made available and sent along with high school diplomas. Voting and civic engagement must be a part of every child’s education so that they can grow up to become active participants in their democracy.



BENJAMIN J. KALLOS
NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

5. Act Now

This Charter Revision Commission has an opportunity to correct this problem now, so that we do not have another cycle of municipal elections where the wealthy few get to decide who runs our great city. Forty-nine municipal offices are scheduled to be “open” for the 2021 election. This unprecedented turnover presents a rare opportunity to encourage candidates to seek small donors and enter office indebted only to the people they serve. With an incumbency advantage of 98%, our next opportunity will not come around until at least 2029. If we want our government to mirror our population and serve everyone, we must act now. For if we want our democracy to be for the people, it must be funded by the people.

B. Expand Candidates and Voters Now

1. Empower Residents to Run for Office

We should take this opportunity to offer a different method to gain access to the ballot. Currently, prospective candidates have 37 days to collect 450 signatures if running for City Council, 2,000 for borough president, and 3,750 for citywide office in order to appear on the ballot. This process has given rise to “ballot bumping” by political clubs and created a cottage industry of lawyers hired by campaigns to knock their opponents off the ballot, often on technicalities like an incorrect or missing date at the top of a signature page.

Requirements for ballot access exist to better ensure candidates have some measure of support from the communities they seek to represent. While in some neighborhoods campaigns gather signatures by targeting registered voters of their party in door-to-door canvassing, in high density residential neighborhoods or any area near public transportation, it is common practice to gather signatures at random from individuals on the street. Some campaigns, like mine, take the time to verify these signatures before submitting to BOE, striking any who are not registered voters, not a member of the same political party, and/or not a resident of the same district, but others do not. Further, it is accepted practice to present multiple candidates on one signature petition page.

Signing for someone who is running for mayor, for example, also counts as a signature for every candidate on the page, even if the signatory has no idea who they are and otherwise would not have signed their name to endorse the candidate appearing on a ballot. Such common practices in no way signify a candidate’s level of support in the district they seek to represent. A campaign donation of \$10 demonstrates support far better than a hastily scribbled signature from a voter as they rush into the subway.

2. Automatic Voter Registration

If the government is to impose a voter registration burden, then it is the responsibility of government to use all opportunities to help otherwise eligible voters to register. Automatic voter registration ensures that when someone who is eligible to vote interacts with a government agency, they are registered to vote or their existing registration information is updated, unless



BENJAMIN J. KALLOS
NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

they opt out. Additionally, agencies may transfer voter registration information electronically to election officials to prevent errors and ensure the timely transmission of new or updated registrations.

Twelve states and the District of Columbia have already approved automatic voter registration and, where implemented, it has increased registration rates and lowered costs. In the first six months following enactment, Oregon added 222,197 new voters through automatic voter registration. This represented a nearly four-fold increase in DMV-related registrations compared to previous election cycles before automatic voter registration was enacted.

3. Separate Voter Assistance and Campaign Finance

The administration of the public matching funds must be done impartially and separated from legislative advocacy, voter registration, and voter engagement. The New York City Campaign Finance Board is entrusted to impartially administer the public matching system, determine which candidates qualify for hundreds of thousands or millions of dollars of payment, and conduct post-election campaign audits that often result in thousands of dollars in fines for which a candidate is personally liable.

Recently, the Voter Assistance Advisory Commission (VAAC), with responsibilities to register voters, has been expanded by the agency to include advocacy through the brand “NYC Votes” for legislative reforms in Albany, as well as targeting specific districts for voter registration drives, candidate debates, and even “Get Out the Vote” (GOTV) calls to voters. This last activity is a typical campaign activity which CFB has classified as a “permissible campaign expense.”

4. Remove Post-Census Half Term

Section 25 should be eliminated. Having an election in 2021 for a two-year term to allow for new districts to be created following the created in unnecessary and wastes money to put on a costly election. The commission should extend the term following a census to four years. The new council maps can either go into effect in 2023 or, given that states received full redistricting information in March of 2011, there can be a mandate that new districts be drawn immediately afterward. Current computer technology allow for rapid redrawing of district boundaries. New maps can be completed before the petitioning process begins in June.

This Commission should also repeal Section 22 and remove the Council’s ability to add or reduce the number of members at will.

5. Lifetime Term Limits

New York City-based legislators account for 26 State Senators and 65 State Assembly Members. In 2016, 60 (66%) legislators faced no challenge in the party primaries. Of the 24 who did face challengers, 3 lost. This is a reelection rate of 97%. With a registration advantage of 4:1, New York City is dominated by Democrats and General Elections are largely pro forma. In fact, 23



BENJAMIN J. KALLOS
NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

city-based state legislators faced neither a primary nor general election opponent. No wonder the average tenure in the State legislature is over a decade.

All 59 municipal offices were on the ballot in New York City in 2017, all but 10 featured incumbents. Of them, 23 (47%) were uncontested in the primaries. None lost their primary races and only 1 lost the General Election. This constituted a reelection rate of 98%.

Incumbents are nearly impossible to unseat and what we see now is officials moving back and forth between the State Capitol and City Hall. While the city has term limits, they are merely limits on the number of consecutive terms one can serve, not a lifetime limit. While the City's existing campaign finance system better ensures a candidate can financially compete against an incumbent, the power of incumbency (or virtual incumbency in the case of an official switching between levels of government) is still too great a hurdle for otherwise qualified candidates to overcome or even gain momentum against. In order to have truly open elections, empower residents over political machines, and end the game of musical chairs between Albany and New York City elected officials, this Commission must place before the voters lifetime term limits for New York City elected officials.

VI. Ethics Reforms to End Patronage and Corruption Citywide

A. Protect the Civil Service from Provisionals

One of my goals as the previous chair of the Committee on Governmental Operations was to reduce the number of provisional employees within the city's workforce. State law requires the City to reduce its provisional headcount by 8,600. Yet it has increased from 22,939 in October of 2014 to 23,052 as of March 2016 and the City has applied for, and been granted, repeated extensions. These provisional employees are in civil service positions that are filled non-competitively and do not receive the same benefits and protections as civil service employees. This Commission should place a limit on the number of provisionals.

B. Publicly Post All Government Jobs

Getting a job should be about what you know, not who you know. On August 16, 2016 I proposed Introduction 1248-2016 to require all non-elected, non-civil service positions within the government to be publicly posted online for at least 14 days prior to conducting interviews. This should include the positions of deputy mayor and commissioner, as well as positions within the Board of Elections in the City of New York, which remains one of the last vestiges of the corrupt Tammany Hall system and is riven with patronage hires.

C. Lifetime Ban on Lobbying

In August of 2018, noting a "crisis of faith," Senator Elizabeth Warren (D-MA) introduced legislation imposing a lifetime ban on lobbying for the president, members of Congress, Cabinet secretaries, and judges. Explaining her reasoning, Senator Warren said "our national crisis of faith in government boils down to this simple fact: People don't trust their government to do the



BENJAMIN J. KALLOS
NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

right thing because they think government works for the rich, the powerful and the well-connected and not for the American people. And here's the kicker: They're right."

To remove real and perceived corruption, the Charter should be amended to effect a lifetime ban on lobbying for elected officials and agency heads.

D. Protect Compensation from Politics

Pursuant to Administrative Code § 3-601, every four years an Advisory Commission is tasked with "the review of compensation levels of elected officials." This Quadrennial Advisory Commission is convened by the Mayor and makes recommendations to the City Council, who may modify or disregard them before a vote. In 2010, citing the economic downturn, then-Mayor Bloomberg declined to call a commission, resulting in ten years of stagnant compensation for elected officials.

When the commission did meet in 2015, it failed to recognize the value of foregoing outside income when it made its recommendation to the Council. The Council then had to make its own calculation and voted on a number higher than what the commission recommended. To avoid this disconnect between commissions and elected officials and long periods between commissions, as well as to keep compensation from rising too rapidly, Section 26 should be amended to read that the salaries of elected officials should be fixed to the Consumer Price Index (CPI). Section 27 should be removed.

E. Protect Oversight Officials and Agencies from Retaliation

Our system of checks and balances empowers certain elected officials and agency leaders with oversight of elected officials or institutions. However, the power of the budget gives those being overseen direct and indirect power to curtail those with oversight authority. Whether directly through the terms of their employment or indirectly through the power to reduce financial resources, those with oversight authority are at risk and cannot do their jobs. The future employment status of the head of the Department of Investigation has come into question repeatedly. The budget of the Public Advocate has been the frequent target of Mayors seeking not to have a strong check on their power. Even Council Members can face retaliation from their Speaker that may not only harm them, but their districts through the loss of discretionary funding. This Commission must investigate how to provide additional protections for those in oversight roles, starting with protecting budgets for the Public Advocate, individual Council Members, the Department of Investigation, and the Conflict of Interest Board. The Commission must go further by requiring certain agency heads to be protected from termination other than for cause with a vote of the Council, such as amending Chapter 34 Section 801 stipulating such for the Commissioner of the Department of Investigations. These changes would empower elected officials and agency leaders to be independent and truly protect them when they do the right thing, even if that is to the consternation of those in power.

VII. Permanently Reform the City Council by Protecting and Expanding Reforms



BENJAMIN J. KALLOS
NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

A. Full Time Elected Officials

On February 19, 2016, Introduction 1086-2016 was enacted. This legislation, which I authored, made being a Council Member a full time position. This law eliminated nearly all forms of outside income and in doing so restored public confidence in the Council. Following the indictments of former State Assembly Speaker Silver for steering State money toward clients his law firm represented, the practice of allowing officials to receive other sources of income can no longer be defended as anything other than a recipe for corruption. Codifying this law into Section 23 of the Charter protects it from unscrupulous officials and will preserve a powerful check on corruption.

B. Equal Compensation for All Council Members by Eliminating “Lulus”

On February 5, 2016, the City Council adopted my Resolution 980, which banned additional compensation, or “lulus,” for council members who chaired committees or were in leadership. Prior to this, compensation was handed out by the Speaker as a reward for loyalty... As of now the only council members receiving additional compensation are the Speaker and Minority leader.

Speaker Mark-Viverito took the commendable step to initiate a reform that reduced her own power to control the Council. Speaker Johnson supported that effort and has continued it into this Council session. But a future Speaker, supported by members who want additional money, may seek to roll back this reform and return to Council to system that rewards loyalty to the Speaker at the expense of one’s constituents. Codifying this into the Section 23 of the Charter will prevent any future Speaker from doing so.

C. City Employees May Not Be Party Officials

The 1989 Commission Report notes that all elected officials, other than council members, are prohibited from serving as district leaders. This was an odd and likely political decision that must be corrected. In order to eliminate real or perceived examples of using one’s government position to favor a particular party, or vice versa, the existing prohibition for serving as a State Committee member while also employed by the government should be expanded to include district leaders and county committees and should include all elected officials.

D. Standardized Budget

In the past, members were rewarded for loyalty to the Speaker with more money in their staff and office budget, or punished for opposing the Speaker by seeing that money taken away. On top of being poor practice and creating a system of patronage within the Council chambers, this practice ultimately hurts the constituents who council members were elected to serve. A smaller budget means less staff to handle constituent service, conduct outreach for services and events, or advocate for funding for district needs. Budgets for council members must be set equally, the only exception being a transparent formula which allots more money for a district office based on district-by-district real estate prices or districts separated by bodies of water where more than



BENJAMIN J. KALLOS
NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

one district office might be necessary. Without this, members from districts with more expensive real estate are disadvantaged as they will have to spend money allocated for staff on office rent.

E. Standardized Formula for Setting Discretionary Budget for Council Members

In the 2014 Council rules reform, a data-driven formula accounting for economic differences between districts was created and applied. This sliding scale awarded additional money to council members who represented lower income neighborhoods so as to direct more funding to areas demonstrating greater need.

F. Capping the Budget Allocation of City Council Speaker

The Speaker of the Council should not have a pot of money that is too far above what the other 50 members are allotted. The Speaker's portion should be capped at 50% of the allocation to all 50 other members of the Council in order to ensure fairness and an equitable distribution of funds.

G. Notify Residents about Legislation that is Ready for a Vote

In 2009, long after smartphones were in everyone's pockets, New York City residents could not see online how their city and state legislators had voted on important legislation. At the time, I filed a freedom of information request with the New York State and City legislatures for digital copies of these voting records. The State would eventually provide the voting records to me, which I then put online, a practice the State later adopted. Following my request, the City Council posted their voting records online. When I was elected in 2014, I worked with Speaker Melissa Mark Viverito to include in the City Council Rules a mandate for an open API for our legislation. In 2017, we launched the open API along with an alternative interface for reviewing legislative documents through Councilmatic. However, as of today, we are stuck with a generations old transparency requirement to lay bills on the desks of Council Members 8 days prior to the vote. If you want to know what the City Council may vote on in the next week, you will not find it online, but you can visit City Hall at midnight or in the intervening days to see what is on the Council Members' desks for yourself. While a paper version should be available for anyone who does not have Internet and wishes to see for themselves, it's been nearly a decade since I put the votes online and letting residents know online what the City Council is voting on is long overdue.

H. Better Legislation Using Scientific Method

The City's Charter and Administrative Code are littered with outdated laws often passed to address a crisis of a moment that has long since been averted. Yet the laws remain on the books none the less. Worse still, many provisions, if followed, would be at best a waste of tax payer funds and at worst a violation of state or federal law.



BENJAMIN J. KALLOS
NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

Legislation should be required to state: (a) the problem it intends to solve, (b) discrete methods for addressing the problem, (c) objective metrics for success, (d) planned evaluation, (e) evaluation to determine if goals are achieved, (f) grounds for sunset.

I. Excessive Reports, Studies, and Taskforces

Where the City Council lacks authority over the Mayor or an agency under the Mayor's direct control, legislation mandating a report, study, or taskforce is often heard, negotiated, and passed. There are so very many reports, most honored in the breach, that there is even a Report and Advisory Board Review Commission to "remove those requirements that are no longer relevant." This Commission should clarify that the City Council already has the power to request reports and other information from the Mayor and his or her administration and that those requests are required to be honored, in a timely manner, without needed to file a Freedom of Information Law request. Furthermore, the Commission should grant the Council to right to direct access of information held by city agencies.

The Council should be allowed to adopt a resolution or rule identifying which information should yearly be compiled into a report to be released to the Council and publicly. The matters would still be part of the public record, with public hearings held in accordance with the State and City Administrative Procedures Act, and ultimately passed by the Council. The current process requiring reporting legislation be negotiated with the Mayor is outside the scope of the Charter, as amended, and the Executive should not be required to agree to sign a law allowing for oversight.

J. Expert Testimony: Use New York's Best Natural Resource

New York City is a business, cultural, and academic capital of the world, attracting and retaining the world's best minds in all areas spanning all fields. Yet few if any of these experts participate in forming or even shaping public policy. The Commission must require the Mayor, Rule Making Agencies, and the City Council to reach out to academics and other experts to solicit their expertise as part of the legislative and rule making process. Academics and experts must be able to register who they are along with their expertise as part of a publicly maintained and reviewable list of those available on any particular topics.

VIII. Empower Residents through the City Council and Borough Presidents

A. Support 2010 Recommendations

In 2010, then-Mayor Bloomberg called for a charter revision commission. On August 23rd of that year, a final report was issued containing recommendations I generally support, including:

- an explicit requirement that the mayor must enforce all laws
- language to strengthen fair share (discussed later in this testimony)



BENJAMIN J. KALLOS
NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

- improving the composition of the Franchise Concession Review Committee (discussed later in this testimony)
- the disclosure of independent campaign expenditures
- reforming the 197-a, 197-c, and 197-d processes (discussed later in this testimony)

Manhattan Borough President Gale Brewer, in particular, proposed several needed reforms such as greater budget transparency (discussed later in this testimony), and more specificity in units of appropriation.

B. Expand Advice and Consent to All Agency Leaders

Chair, Chiefs, Commissioners and Board Members have enormous power to set the agency agenda and implement day to day procedures. Section 31 should be amended to grant the Council the power to hold a hearing and a vote on commissioners of the Art Commission, Board of Health, Board of Standards and Appeals, City Planning Commission, Civil Service Commission, Landmarks Preservation Commission, Tax Commission, Taxi and Limousine Commission and public members of the Environmental Control Board to include the currently excluded Chairs and the leadership and members of all other boards, commission and agencies. It is of note that this was suggested of the Corporate Counsel in the City Council's 2010 Recommendations. Furthermore, with Borough Boards responsible for working through District and Borough Service Cabinets with certain agencies, the Commission should require Borough Commissioners and Chiefs for those agencies to come before a hearing of the borough board for their advice and consent subject to City Council call up and vote.

C. Agency Leaders Terminated for Cause

On the federal level, the House of Representatives can initiate impeachment of federal officials and has, on 19 occasions begun impeachment proceedings against federal judges, cabinet secretaries, and presidents. The City should have a similar mechanism that allows the borough boards to initiate the removal from office, for cause, of a commissioner. The final vote to remove should be with the Council.

C. Expand the Right of Visitation

Under Charter Chapter 25 Section 627, Council Members are only specifically "authorized to inspect and visit at any time the institutions and facilities" of the Department of Corrections. This Commission must specifically empower the Comptroller, Public Advocate, Borough Presidents, and Council to visit and inspect all city owned, operated, leased, concessioned, or franchised properties on 24 hours' notice, with the ability to conduct surprise inspections with reasonable cause.

D. Empower Residents through Community Boards and Borough Presidents



BENJAMIN J. KALLOS
NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

The City Charter allots 5 percent of the capital budget and 5 percent of the discretionary budget to the borough presidents to spend as they see fit. These allotments are assigned to each borough president based on each borough's population, geographic size, and the proportion of its residents living in poverty. But this power alone is not sufficient to ensure budget decisions by the borough presidents' are followed through. Borough Presidents should be granted the powers to report on all capital assets and projects in their borough, hold hearings on all capital assets and projects the funded, and propose amendments to Executive Expense and Capital Budget for the Council to vote.

E. Binding Land Use Votes

Unlike council members, the larger personnel budgets of the borough presidents allows them to hire dedicated land use professionals and weigh in on land use matters. Yet despite having this greater expertise at their disposal and being charter-required to render decisions on ULURPs and other land use items, the position of the borough president on these matters is merely advisory. Borough Presidents are entrusted to consider the effects on the borough as a whole, not one council district. Without binding powers, the office cannot live up to its designs, and the voters are being denied real representation at the borough-level. Similarly, this applies to community boards, who, without binding authority, are denied the ability to truly represent their neighborhoods. Community Boards, jointly with borough presidents and council member(s), should have the power to initiate a land use action like a rezoning through ULURP. Once an item like a rezoning is proposed, the DCP should dedicate urban planners to the project to produce the Environmental Impact Statement (EIS) and other materials and, within six months, respond with all pre-application materials.

A combined "no" vote by a Community Board, Borough Board, and Borough President should have a binding effect and stop a project from moving forward. No projects should be approved against such overwhelming community opposition.

F. City Funded Environmental Assessment and Impact Statements

The Charter mandates the funding of EIS for 197(a) this should be expanded to include funding for EAS and EIS for any Community Board, Council Member or Borough President initiated zoning text amendment or rezoning.

G. End Automatic Reappointment with Standardized, Public Applications

Every Community Board should benefit from the best application process in New York City. Borough presidents have innovated their applications, but there has been limited sharing of best practices across boroughs. A standardized and transparent selection process for Community Boards, with reporting on best practices to the public and between government agencies is needed.

A standard, publicly available online application will end the culture of automatic reappointment, encourage stronger performance, and better ensure members reflect their communities.



BENJAMIN J. KALLOS

NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

Members may be volunteers but they are part of a government entity and their decisions affect their entire neighborhoods. The public has a right to know who they are and what may affect their decision making.

H. Ensure Representation with Automatic Removal for Non-Attendance

A little known, rarely used, and politically sensitive section of the New York City Charter §2800(b) authorizes a Borough President or a Community Board by majority vote to remove members for “substantial nonattendance at board or committee meetings over a period of six months.” The Commission should amend this section by setting an objective percentage of board and committee meetings that each board member must attend in a given six-month period and that, if such percentage is not met or surpassed, the member is automatically removed from the community board.

With community boards, council members, and borough presidents unlikely or unwilling to use the existing Charter powers to remove members with poor attendance, providing automatic removal for failure to attend will finally require attendance among board members and improve representation for their community.

I. Prohibit the Appointment of Partisan Party Officials or Lobbyists

Vibrant boards must represent communities instead of political parties, elected officials, or those with financial interests before the board. To that end, members of the executive boards of political parties, the staff of elected officials, elected positions such as district leader and state committee members, political club presidents, and individuals with a candidate committee or political action committee (PAC) must be prohibited from serving on community boards, where their influence would only distract from the boards’ mission.

Urban Planners for Community Boards

Community Boards must be provided technical expertise, resources, and guidance in order to encourage greater involvement in often-complicated land use decisions and foster collaboration among the 59 community boards. Upon request, each Community Board must be provided with an urban planner that works for the board and not the mayor or borough president. This independent expertise will empower the community boards to fulfill their charter-mandated responsibilities.

J. Member Training

While we should make available whatever professional expertise is necessary for a community board to carry out its charter-mandated responsibilities, we must also ensure that each member receives specific training in the major issue areas that will come before a board. All members should, within six months of their appointment, be required to attend trainings on conflicts of interest, city budget, and land use, including landmarks, Board of Standards and Appeals, and ULURP. Should a board member fail to complete any of these trainings in the time allotted, they



BENJAMIN J. KALLOS
NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

should be automatically removed from their position to ensure everyone on the board has the minimal expertise they need to represent to adequately their community.

IX. Land Use

A. Expand Appointments to Land Use Boards and Commissions

Following the Board of Estimate of New York City v. Morris, the 1989 Charter Revision Commission dissolved the Board of Estimate which “controlled budgetary decisions because the mayor [had] no vote on such matters” as well as land use, contract, and franchise powers giving the majority of these powers to the Mayor. This has resulted in a “strong Mayor” formulation of government in which a newly empowered City Council and Public Advocate have spent decades testing and growing their power.

Whether advisory or entrusted by binding powers, boards exist to provide advice and expertise to elected officials on complicated matters. If however, these boards are comprised of appointed members by only one elected official, such as the Mayor, then there is no guarantee the boards are representative of the city as a whole. Each board must have appointed members by each elected office or institution.

The Board of Standards and Appeals and the Landmarks Preservation Commission are examples of two powerful boards which are under total Mayoral control. Having control of all five of BSA’s appointments gives the Mayor control over private land and, through the high number of variance approvals concentrated in certain neighborhoods over the past two decades, gives the Mayor the power to de facto rezone portions of the city without a vote of the Council.

The City Council’s 2010 Charter Recommendations included giving each of the Borough Presidents and Public Advocate an appointment on the LPC, this recommend is in track and moves farther.

Established by the Charter in 1936, the City Planning Commission originally had 7 members, all appointed by the Mayor. This was expanded in the 1989 Charter revision to include 6 additional members to allow for an appointment by the public advocate and one each by the borough presidents.

All three of these land use bodies must be reformed to empower communities and expand the number of elected officials with real power in every step of the land use process. This Commission must examine these bodies and come back with recommendations for how they could be empowered. As a starting point, I suggest amending Chapter 74 of Section 3020 and reducing the Mayor’s appointed members to 5 and including appointments from the Public Advocate and each Borough President, as was done in 1989 for the CPC and met Constitutional scrutiny. All members must have professional requirements with similar geographic and professional background.

All three should have five appointments added by the City Council. Both the Mayor and the Council should be required to appoint members from each borough, spanning multiple political



BENJAMIN J. KALLOS

NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

parties, representing specific communities including one each for a rent-regulated tenant, a homeowner, and community preservation organization. Objective criteria must be set forth to ensure that appointments not only meet the criteria but actually represent the interests of their communities.

A. Meaningful Public Review

Land use items are only subject to public review once they are a “done deal” where input from elected officials and the communities they represent are not only unwelcome but not engaged. Rather than working together for the best possible use for land, communities are forced into a zero sum fight in favor or against a project as whole, forcing the rare community victor to throw the baby out with the bath water. The City Council’s 2010 Charter Report called for an initial Community Board hearing within 30 days of the filing of pre-application documents with the Department of City Planning. The Commission must go further and require community notice and public hearings as soon as a city agencies with land use authority begins any negotiations on any matter for example:

- City Planning – Applicants would go before the Community Board during pre-application.
- Board of Standards and Appeals – Applicants would go before the Community Board upon filing for a variance.
- Housing Preservation and Development – Applicants selected for affordable housing subsidies, tax abatements or city land prior to defining initial terms would go before the Community Board and could be called up by the Borough President or Council
- Department of Buildings – Applicants for demolition of more than one multi-family dwelling or new construction of more than 20 units would be required to appear before the Community Board and could be called up by the Borough President or Council.

B. Protect Potential Landmarks from Eternal Limbo

On the 50th anniversary of the landmarks law, the City Council sought to undo years of preservation with Introduction 755, to remove nearly 100 properties from the LPCs calendar under the auspices of a “timeline.” It included a poison pill provision to preclude the consideration of any building that did not get designated for 5 years. During the dispute, the one complaint that came from nearly every Council Member and neighborhood they represented was that buildings, districts and sites cherished in the community spent far too long in limbo being considered for landmark status without the protection of even being on the calendar. The Commission must examine the process by which districts, properties, and sites are evaluated by the LPC and propose a formal process for evaluation. The 2010 City Council Charter report suggested that the LPC should advise the Community Board of whether it would initiate a study and how long it would take. This Commission must go farther, by empowering a Borough President, Council Member, or Community Board to submit a district, property or site for evaluation with a response provided within 6 months. All should be empowered to force a vote by LPC on whether to calendar after 6 months.



BENJAMIN J. KALLOS
NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

Existing landmarks as well as potential landmarks under evaluation or on the calendar as well as must have protection under the Charter preventing the Department of Buildings from issuing any permits without the explicit permission granted by a vote of the LPC.

C. Expand Council's Power from "Major" to Review All Concessions

The qualifications for major concessions are:

- marinas with over 200 slips
- a permanent performance or spectator sport use with over 2,500 seats;
- for parklands in or adjacent to Community Districts subject to the comprehensive off-street parking regulations, contained in Article I, Chapter 3 of the Zoning Resolution of the City of New York, accessory parking lots with over 150 spaces and, for all other areas, accessory parking lots with over 250 parking spaces on parklands;
- a use for which a new building of over 20,000 square feet of gross floor area will be constructed when such building will be located on property other than parkland;
- a use for which a new building of more than 15,000 square feet of gross floor area will be constructed when such building will be located on parkland;
- an open use which occupies more than 42,000 square feet of open space other than parkland
- an open use which occupies over 30,000 square feet of a separate parcel of parkland;
- a use which in total occupies more than 2,500 square feet of floor area or open space and more than 15 percent of the total square footage of a separate parcel of land that is improved for park purposes, including passive and active recreational use, or that was improved for such purposes at any time during the preceding year; or
- a concession comprised of two or more components, no one of which exceeds thresholds set forth in paragraphs (a) through (h) above, where at least two of such elements each exceed 85 percent of any applicable threshold set forth in such paragraphs.

This is an extremely high bar and burdensome to the point that even concessions considered to be major do not count. The bar is so high that only 7 concessions have been reviewed since 1976. Public review should be expanded to cover more new development. Too much development in the city is constructed as of right, removing them from the scrutiny other projects face. This leaves the public on the outside of a process that should allow for communities to weigh in about the impact the project will have on the neighborhood and advocate for benefits like affordable housing and good jobs during and after construction.

The ULURP process should be expanded to include large projects, even in areas currently zoned as of right. It must also include any construction on NYCHA land.

D. Require Wage and Job Standards Following City Action

The City often creates value for developers and landlords through land use actions increasing development rights, transferring city land below market, providing tax incentives such as



BENJAMIN J. KALLOS

NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

abatements, low interest and zero payment financing, and even direct subsidies. In many cases the City is literally printing money for developers and the beneficiaries of this process must be required to pay its employees doing the construction work, maintaining, and servicing the building to have certain wage, training, health, disability and retirement standards to ensure city actions are not benefiting greedy developers on the backs of residents working for poverty wages without benefits but instead must build up our working families. A failure to do so only perpetuates the affordable housing crisis and forces the city to step in to provide the benefits greedy developers will not, only adding to their corporate welfare.

E. Land Use Approvals Must Not Spring Eternal

Unfortunately, many of the most generous land use changes or transfers of city land are made only to go without any construction for years, decades, generations, or ever. In my district, a 1973 approval by the Board of Estimate for Rockefeller University to build over the FDR Drive did not result in construction until 2016, more than 40 years later. A 2007 deal to develop a former three-block-long Con Ed site on the FDR has remained an empty lot for a decade with no construction in sight. The Planning, Dispositions, and Concessions Land Use Subcommittee that I chair in the City Council frequently sees properties transferred for affordable housing development that have remained empty lots for a decade or more. In the generations and decades that intervene, the community is deprived of the resources it needs and is instead stuck with a blight that will never go away. If and when the project does move forward, a notice made decades ago is insufficient to inform residents who may be impacted, especially those who may not have even been born when it was originally delivered. In addition, in the intervening time, priorities may likely have changed. The City Council's 2010 Charter report suggested a 10 year limit on the disposition of city land. This Commission should set a limit of 3 years for developers to take advantage of a zoning change or to develop on city land and an additional 2 years, for a total of 5 years, to complete a project after a land use action is taken. Otherwise, the approval should be allowed to lapse in order to provide an opportunity for the community to provide a renewal or hopefully find a better use for the property.

F. Follow 197-a Plans

To create a 197-a plan requires intense dedication over many years and comes at considerable cost. When completed, the City should recognize these efforts by Community Boards to improve their neighborhoods by adopting the plans and taking measurable steps to act on them. It is telling that only 13 197-a plans from 12 community boards have been adopted since 1992, the last of which in December 2009. Given the cost of producing these plans, the amount of time it takes for adoption, and the City's history of ignoring the plans in whole or in part, it is no wonder our community boards have all but ceased producing them. The 2010 City Council Charter Commission Report suggested requiring City Planning Commission to meet with a Community Board following a successful 197-a. The Commission must go further making these plans binding and requiring the Department of City Planning and applicable city agencies to return within one year with zoning or other changes to and further report on compliance with applicable 197-a in any subsequent land use decisions.



BENJAMIN J. KALLOS
NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

197-c and 197-d

The Uniform Land Use Review Procedure (ULURP), while successful in providing predictable timelines established by the City Planning Commission (CPC), and encouraging public input, has received criticism regarding the advisory roles of the Community Boards and Borough Presidents, as well as the structure of the Pre-ULURP process. The current roles of Community Boards and Borough Presidents, being purely advisory, enable CPC to not give their recommendations adequate consideration and ignore community input. Given the increase of negotiations conducted solely between developers and community groups, the probability of community input being left out of the ULURP process is high. Borough Presidents should have more than simply an advisory role within ULURP. The omission of input and recommendations could additionally be mitigated through standardizing the structure of recommendations - presented as rules created by the CPC to guide Community Boards, Borough Presidents, and Borough Boards "in commenting in a uniform manner on different types of proposals subject to ULURP".

G. Fair Share

As Co-chair of the New York City Council Progressive Caucus, fair share is a priority. No community should be unfairly and disproportionately burdened with facilities such as corrections facilities or homeless shelters. The 1989 Charter Revision Commission recognized this and created the Fair Share Criteria. However, nearly thirty years later this provision has not created a city which equitably sites facilities. This commission should examine how to better enforce these provisions with objective measures, criteria and enforcement.

H. Achieve Fair Housing and Affordable Housing Goals in Every District

The city's plan for hundreds of thousands of new and preserved units of affordable housing has resulted in targeting low-income communities of color for a vast majority of these units and nearly every rezoning. Meanwhile, affordable housing is a citywide issue. From the wealthiest to the poorest neighborhoods, there is a problem when residents of every socio-economic level share the same concern. Each and every day someone contacts my office because they can no longer afford to stay in the neighborhood. If negotiations with their landlord fails, they must look to other neighborhoods, usually outside of Manhattan, because that is the only place affordable housing now exists. Displacement in a moderate income community, can force residents into a low-income community, only to displace that low-income community into a very low-income community, and so on into what has become the opposite of a virtuous circle. This Commission must examine how we as a city can achieve fair housing goals and build affordable housing in every community district.

I. Protect Residents in Affordable Housing from Displacement by New Development



BENJAMIN J. KALLOS

NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

Even mandatory inclusionary housing and affordable housing development can result in the displacement of residents living in rent regulated apartments that are exponentially less expensive than new “affordable units” that are tied to an Area Median Income for a region that includes counties like Westchester, with its median household income of \$86,226, as compared with \$55,191 for New York City. Even the current count of new and preserved affordable housing does not account for rent regulated units lost to new affordable housing developments. The best thing we can do to protect our communities is to protect what makes them unique, their residents, who are otherwise facing displacement.

X. Bridging the Digital Divide with Universal Broadband and Improved Cable and Phone Service

A. Expand Authority to Improve Access and Service to Cable and Internet

On June 11, 2018 the United States officially lost Net Neutrality. Under the Trump administration’s Federal Communication Commission (FCC), led by Chairman Ajit Pai, a former Verizon attorney, we are not going to get it back anytime soon. Without a mandate for Net Neutrality, international corporate conglomerates will soon decide who gets access to fast lanes on the Information Superhighway, who will get the slow lane and who will be blocked entirely.

New York State is in a unique position to secure Net Neutrality and other concessions for residents. A recent change in the law gave the State more power through the State’s Public Service Commission to regulate franchises and transfers so that they could require them to be in the “public interest.”

The City Charter should allow us to extract commitments from telecommunications companies, including:

- Universal access to high speed broadband
- Net Neutrality
- Bridge the Digital Divide with discounted internet of \$14.99 a month for homes where a child qualifies for free or reduced school lunch or a senior qualifies for Supplemental Security Income, covering at least one million New York City residents.

New York City, which has so much underground infrastructure of its own, has a Franchise and Concession Review Committee (FCRC) empowered by the State of New York with similar, though rarely- used, powers to secure similar concessions. Our charter must empower our city to demand more.

B. Voting Rights for All Borough Presidents on Multi-Borough Franchises

The Franchise and Concession Review Committee is tasked with, among other powers, selecting franchises and is made up of six members, the Mayor as chair, the Director of the Office of Management and Budget (appointed by the Mayor), the Corporation Counsel (appointed by the Mayor), an additional appointment of the Mayor, the Comptroller, and the Borough President for the borough in which a franchise is located and shared among the borough presidents citywide,



BENJAMIN J. KALLOS
NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

under Charter Chapter 14 Section 373. This gives the Mayor four out of the six seats on the board, two of which are directly employed by the Mayor, with the addition of the Mayor's appointment, there is no way for the Mayor to lose a vote of the FCRC. As with other boards, commissions, and committees, the Franchise Concession Review Committee (FCRC) should have fewer mayoral appointments and more from other elected officials. The composition of the FCRC should be rebalanced to include appointees from the Public Advocate and the Council, and the borough presidents, who currently share one vote depending on which borough the franchise is located within, should be allowed one vote each for any multi-borough franchise matters. Consideration should be given to including the Commissioner of the Department of Information Technology and Telecommunications.

C. City Council Member Participation Following Authorizing Resolution

Section 363 should be amended to strike (d) and allow Council approval and council member involvement in the franchisee selection process.

XI. Contracting

D. Collective Bargaining

On several issues, The City of New York appears to have a policy of "do as I say not as I do." We can appear hypocritical when we require the private sector to offer paid sick leave but refuse to offer those same minimums to our own city employees and using the excuse of Collective Bargaining. If it is right to regulate the private sector to require employers to do the right thing, without employers receiving any government relief, the government must not demand concessions from its employees through their union just to do the right thing. Governor Cuomo pushed the State of New York to provide a minimum of 8 weeks of paid family leave, increasing to 12 weeks over the coming years, for the private sector. Meanwhile, the City of New York only agreed to give its teachers six weeks of paid parental leave and took away raises and vacation days from managerial employees in exchange for paid parental leave so that the city actually made \$5.8 million off the backs of employees. This Charter Revision Commission must amend Chapter 54 on Collective Bargaining to require that any law passed by the State of New York or the City of New York that applies to private sector employers giving new rights or protections to private sector employees must be made immediately available to public sector city employees as a minimum benefit. Doing the right thing should not be a negotiation.

E. Stop Government from Overpaying

It often seems that it is more expensive for the city government to purchase everyday items like trash cans that skyrocketed in price from some \$545 dollars to nearly one thousand. The Procurement Policy Board is comprised of five members, three appointed by the Mayor and two by the Comptroller, under Charter Chapter 13 Section 311. This Commission should give the Mayor five appointments, maintain the Comptroller's appointments, along with adding five appointments for the City Council and consider providing Borough Presidents with



BENJAMIN J. KALLOS

NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

appointments. Furthermore, if the procurement process yielded bids or even an award that exceeded the cost to purchase on the open market at retail or if in sufficient quantity wholesale then the city should be free to do so at the lowest rate. This would expand the elected officials with a representative at the table and enable the city to keep our costs low and ensure government is spending tax payer dollars wisely.

F. In-Source Over Out-Sourcing

The city government far too often outsources work that could more easily be done with existing civil servants, or worse enters into contracts retaining outside consultants to do for years what a team of civil servants could have been hired to do without paying overhead. Following the City Time debacle many if not all of the consultants have either been brought in or replaced within DCAS. Meanwhile Charter Chapter 13 Section 312(a) (3) requires an "analysis of the costs incurred and the benefits derived from providing the service with city employees." This analysis is submitted to the Comptroller, Council and collective bargaining units. This analysis should also be made available to the public with a link and reference in any and all subsequent public notices.

G. Engage Public in Contracting and Awards

It is only once an award has been made that the public finally has an opportunity to have their voice heard at a public hearing for items over \$100,000, though if the contract is for less than one million, the hearing need not take place if no one signs up for speak, under Chapter 13, Section 326. Most members of the public don't realize a project is moving forward until a groundbreaking or construction crews show up to begin work, by which point they've missed their chance to participate. Even then, by the award stage, it is simply an up or down vote, too late to have a meaningful voice in the process. The Commission must require notification for affected Borough Presidents, Community Boards, and Council Members, so that all may have a voice in key elements of the request for proposals, an opportunity to encourage local residents to respond as well as playing a role in evaluations of any received proposal. Where the contract affects property in only one Community District, Council District or Borough, the hearings should occur where effected and if possible as part of a regularly occurring monthly meeting.

XII. Empower Residents in the Budget Process

A. A Transparent and Accountable Budget

Residents have a right to know how their tax dollars are being spent, down to the last penny. I was proud to author and pass Local Law 218 of 2017 to upgrade the Charter by removing floppy disks and replacing them with putting the budget online. Doing so has already empowered residents to find a \$791 million error in the budget.



BENJAMIN J. KALLOS
NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

However, the city's budget remains too opaque for residents to see for themselves. Charter Section 100(a) only requires a breakdown of units of appropriation for "personal services" (staff salaries) and "other than personal services" (everything else). While it is bolstered by Charter Section 100(c) which requires "[e]ach proposed unit of appropriation shall represent the amount requested ... for a particular program, purpose, activity or institution" as well as Charter Section 100(d) requiring "a statement of the programmatic objectives of the program, purpose, activity or institution involved," most agencies simply list the two codes of "personal service" or "PS" and "other than personal service" or "OTPS." This leaves hundreds of millions in individual line items on the budget. The \$791 million mistake was not that residents could not see how that near billion dollars was being spent, but that the lump sum of money was incorrectly allocated to the wrong division within the agency.

Sadly, rather than having the budget in one place, residents must piece together allocations in the budget, notices in the city record, and expenses released through the Comptroller's Checkbook 2.0 just to get an idea of what is going on. There is so much transparency that you can literally look up what every city employee earns.

The Charter Commission must require that the City make the budget and spending available in real time for residents and elected officials like me to see when and where every penny is being spent, on everything from citywide spending on affordable housing to the salary for an individual. Whether it is making our city budget available in QuickBooks, or some other free-to-the-people platform, full transparency around our budget and spending is our best opportunity for oversight to keep our city on budget and on track.

B. Transparency to Spot Light Hidden Funds

Billions of dollars in expenditures are omitted from the city's budget. EDC capital items are "on budget" because the city funds them as a contractor. However, because EDC is a non-profit and not a City agency, not all of its revenues and expenditures are transparently included in the city budget, despite the EDC board being appointed by city elected officials. EDC's activities are largely funded from revenues generated by EDC. These "off budget" expenditures are misleading and create difficulties in city oversight. Similarly, HPD and HDC spend hundreds of millions of dollars each year to subsidize the development of affordable housing. The public serves to know where this money is coming from and the dollars must be included in the budget section for each entity.

C. Scope Capital Projects to Prevent Overruns

The capital expenditure process is fundamentally broken, leading to frequent cost overruns and projects that proceed in fits and starts, resulting in projects that are rarely completed on time. This pain point has only grown worse with the introduction of Participatory Budgeting, where members of the community can see firsthand how broken the process is. The cost estimate increases are primarily related to the larger scale items. Smaller things like laptop carts or bus timers are fairly predictable since they are known items scoped in advance.



BENJAMIN J. KALLOS
NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

The primary cause of these cost increases is because the projects are inadequately scoped and many cost estimates are averages without regard to site specific concerns. More time for scoping is needed.

The process in a nutshell:

- (1) an elected official and residents propose a project,
- (2) an agency provides an estimate,
- (3) the elected official, through Participatory Budgeting or through the Council discretionary process, must fully fund and encumber hundreds of thousands or millions of dollars in the **first year**,
- (4) the agency uses internal or external staff to scope the project and often the price increases when experts find new challenges,
- (5) the elected official must allocate additional capital funding in the budget in the **second year**,
- (6) the agency uses internal or external staff to design the project while working with the community, which may include a public hearing with the community board and require approval of the Public Design Commission. The new design may require additional funding,
- (7) the elected official must allocate additional capital funding in the budget in the **third year**,
- (8) the project is put out to bid, with the lowest qualified bidder often exceeding the amount allocated,
- (9) the elected official must allocate additional capital funding in the budget in the **fourth year**,
- (10) the contractor on the job routinely runs long or goes over budget,
- (11) the elected official must allocate additional capital funding in the budget in the **fifth and subsequent years, if necessary** until the project is complete

D. Fiscal Impact Tracking

Though a fiscal impact statement is produced for each piece of legislation prior to a vote, the City should add to Section 33 to introduce an additional layer of fiscal stewardship. At the end of each fiscal year, the Office of Management and Budget and the Council should conduct a review of recently passed and enacted local laws to determine their actual cost and any differences in actual cost and the fiscal impact statements. We should know how much our laws cost and make sure our estimated costs and benefits actually happened.

E. Expand Budget and Performance Oversight Requirements

The Wall Street Journal covered my concerns that the Mayor's Management Report (MMR) was "setting the bar too low" on important issues like public safety, public health, or helping homeless off the streets. The MMR is the annual public report card on City government and is critical to managing and evaluating the City's performance. Unfortunately, according to my analysis, the MMR failed to set performance targets more than half the time, and when it did, 35% of the time targets were set below current performance standards. In other words, if we followed the goals of the report, we would make conditions in our city worse. The New York Post covered an oversight hearing that I chaired on the report noting the city had planned for an increase in homelessness. Thanks to this hearing and the attention brought to the issue, the



BENJAMIN J. KALLOS

NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

Mayor's administration made a commitment to address the situation and work together in upcoming MMRs. To ensure that this and future administrations produce meaningful MMRs and Preliminary Mayor's Management Reports (PMMR), we should add to Section 12(e) that the Council must conduct hearings on the MMR in addition to the existing requirement for PMMR hearings.

XIII. Conclusion

The City Charter affects the lives of everyone living and working in New York City. I view this opportunity as one to restore faith in government. This commission was created to address intractable issues for which half measures have not resulted in a better city. So I urge this commission to be bold. If we present to the voters a plan to empower themselves and their neighbors, I have an unshakeable confidence they will vote yes and the result will be a fairer, better City that works for all.

Craig Seeman
Voices for Shelter Animal
718-456-0072

FOR THE RECORD

**Advocating for a Dept. of Animal Welfare
to implement "No Kill" policies for Animal Care & Control**

Hello, I'm Craig Seeman from Voices for Shelter Animals.

We need a Animal Welfare Dept. because the Dept. of Health has shown no overriding concern for the health of Animals at Animal Care & Control.

In 2016 93% of the animals transferred to New Hope Rescue partners were not healthy. That's a crisis. There's been no health related stats regarding transfers and adoption for 20 months since then, excepting the month after we brought that up at the Council Health Committee hearing with the ACC

Also In 2016, 37% of the animals euthanized, were treatable. This pattern continues without significant change.

The ACC doesn't publish the industry standard Pet Evaluation Matrix which explains which illnesses and behaviors fall into categories of treatable or unhealthy. An Animal Welfare Dept would require that Matrix be made public, evaluate it, make recommendations.

The DOH supposedly does ACC facility inspections. If they were really about animal health compliance than not only would the DOH demand continued health reporting but they'd insist on steps to improve those atrocious conditions.

During the City Council Health Committee hearing when the ACC & DOH were asked about health ISolation facilities they admitted they were inadequate.

Follow up questions asked if the planed expansion into the neighboring garage would make space to improve the ISO facilities. That wasn't the ACC's priority.

The garage expansion, now years in the waiting won't address the health problems. The costs of those problems are handed to the rescues, making them more reluctant to pull.

The DOH contract uses vague language like "reasonable effort" to re-home animals yet doesn't define that effort. An Animal Welfare Dept. would set procedures. And those are concretely defined in No Kill policies

At the most recent ACC Board meeting they admitted they often don't sedate animals that are euthanized. These animals may be fully alert and relatively healthy. They don't have vets on duty. They pointed to state law, saying that only a vet could administer the sedative.

The lack of on duty vets may not be about the cost of hiring. They can't hire enough vets to take the job. No wonder why, what animal loving vet wants to kill animals for kennel cough, and kitty colds. State law isn't an excuse. An Animal Welfare Dept. would require a vet be on duty to make medical end of life decisions.

The DOH also encourages behavior tests which weren't meant for life and death decisions, putting animals on the At Risk for Euthanasia list and limiting access only to New Hope Partners. The DOH allows the ACC to assume dogs and cats not adjusting to shelter life are dangers to society.

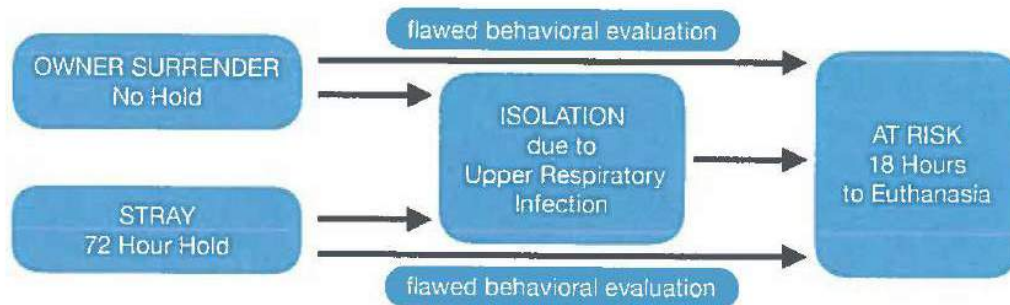
The Journal of Veterinary Behavior published a peer reviewed study that such testing is no better than the flip of a coin. An Animal Welfare Dept. would know that behavior tests are only a snapshot in time and not a reliable indicator of dangerous behavior.

We need an Animal Welfare Dept. that can implement No Kill procedures in the City Charter because it should be a permanent institution.

Voices for Shelter Animals

Marilyn Galfin
helpanimalsnyc@gmail.com
Land: 212-989-8589

Craig Seeman
Craig@Planet3Video.com
718-456-0072



PROBLEMS - NYC ACC

Only 57% of the animals not transferred are adopted.
93% of the animals transferred to partners are not healthy.
37% of the animals killed are treatable.

Hold Periods

Animals can go straight from Hold to At Risk List.
Owner Surrenders have no hold period and can go straight to At Risk for Euthanasia.
Animals may have little or no time for public availability for adoption especially if in Isolation.

Behavioral Testing

*Many otherwise adoptable, rehabilitatable, manageable animals and community cats may be designated New Hope.

*New York Times, July 31, 2017, by Jan Hoffman. "Is This Dog Dangerous? Shelters Struggle With Live-or-Die Tests"

*Journal of Veterinary Behavior, August 2016, Gary J. Patronek, Janis Bradley, "No better than flipping a coin: Reconsidering canine behavior evaluations in animal shelters"

*ASPCA Policy and Position Statements, Position Statement on Shelter Dog Behavior Assessments

At Risk for Euthanasia List

*18 hours is not enough time to find fosters or adopters

New Hope only animals can't be pulled by non New Hope 501c3 rescues

Most animals on the list either have Upper Respiratory Infections or minor fear based Behavior issues.

The public has no way to offer assistance to New Hope partners who may otherwise pull more animals with additional help.

*New York Post, April 23, 2018, by Tamar Lapin. "Red tape is killing pets sent to the city's adoption hub: advocates"

New Hope

Financial and resource burdened as most transfers are not healthy

Partner Agreement requires a Non Disclosure agreement preventing them from offering public critique

Partner Agreement prevents them from disseminating the At Risk List to garner additional donations and foster help for specific animals.

SOLUTIONS - Companion Animal Protection Act (CAPA)

Extend At Risk List Time

Extend to 48 Hours.

Proactively notify Rescues, Owners that surrendered, Good Samaritans that turned in strays.

Allow non New Hope Partner 501c3 Rescues.

Create means for public to offer New Hope foster support for specific animals.

Bifurcate Hold Periods

Bifurcate hold periods so all animals, including owner surrender, are available for rescue, adoption, foster before they can be placed on At Risk List. CAPA has 7 day minimum before being put At Risk.

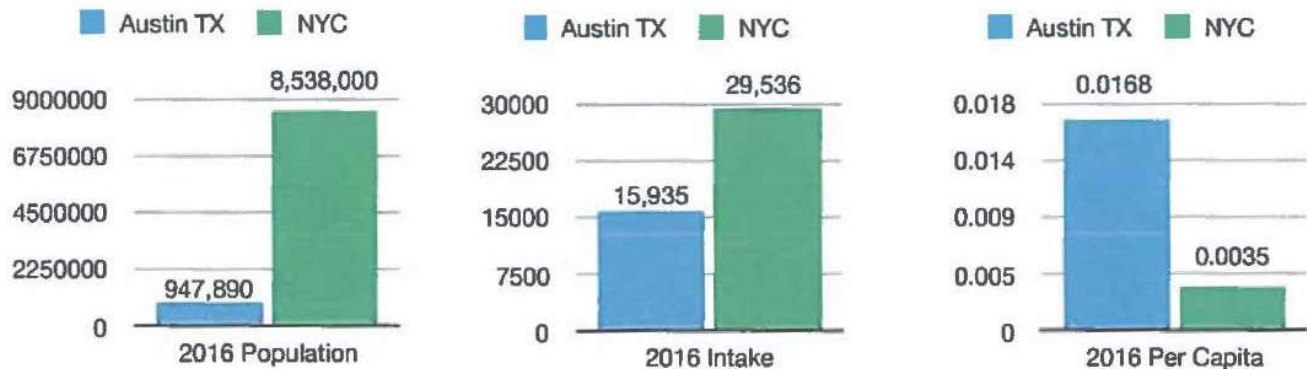
Voices for Shelter Animals

Marilyn Galfin
helpanimalsnyc@gmail.com
 Land: 212-989-8589

Craig Seeman
Craig@Planet3Video.com
 718-456-0072

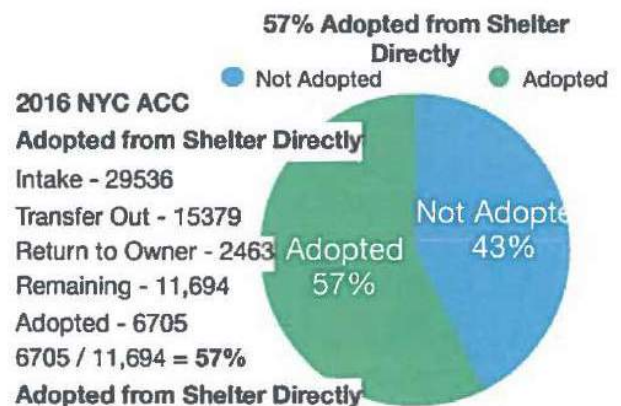
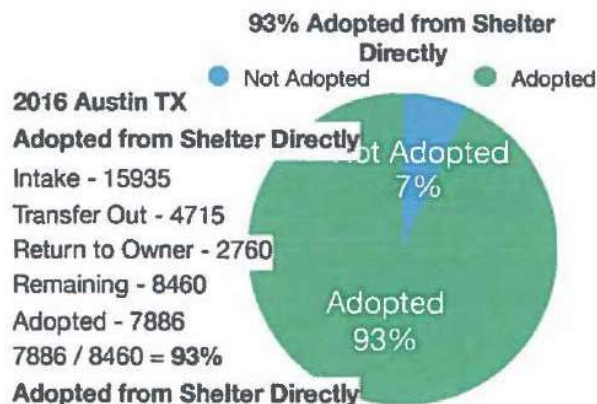
Austin maintains “No Kill” policies despite over 480% greater per capita intake than NYC

Austin TX population is 11% of NYC but has 54% of the Intake of NYC which is over 480% higher per capita intake. Despite the much more severe circumstances they do not kill Healthy, Treatable, Manageable animals.



Austin adopts 93% of animals not transferred to partners NYC ACC adopts only 57%

While both shelters claim Live Release Rates in the 90-95% range, after transfers to partners, Austin maintains a 93% adoption rate of those remaining animals while NYC ACC has only a 57% adoption rate greatly increasing the “euthanasia” risk of the remaining animals. Austin also returns more animals to owners and is less dependent on partner transfers. Many of these animals could be saved by implementing practices and policies in the Companion Animal Protection Act (CAPA)



Voices for Shelter Animals

Marilyn Galfin
helpanimalsnyc@gmail.com
Land: 212-989-8589

Craig Seeman
Craig@Planet3Video.com
718-456-0072

Health problems are rampant at NYC ACC

93% of the of the animals transferred to New Hope Partners are not healthy. Many animals get and spread upper respiratory infections after intake. This unduly burdens the financial, human, material resources of those partners.

2016* NYC ACC

Outgoing Transfers

Healthy - 1066

Treatable - Rehabilitatable - 6917

Treatable - Manageable - 5973

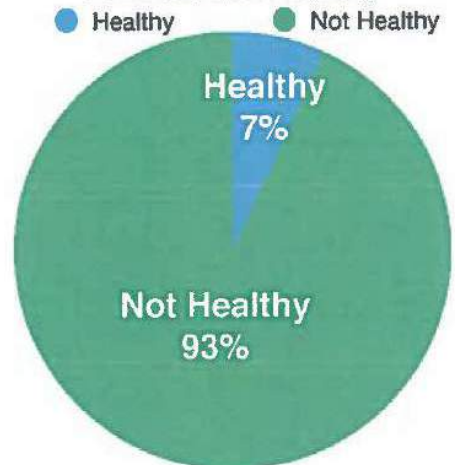
Unhealthy & Untreatable - 1350

$1066 / 15306 = 93\%$

Transfers Not Healthy

*ACC stopped publishing these records in 2017

93% Transfers to New Hope Partners Not Healthy



37% of the animals killed at NYC ACC are Treatable

Under "No Kill" politics implementing by CAPA, these lives would be saved. Additionally a reevaluation of behavioral evaluation may move some untreatable animals to treatable.

2016* NYC ACC

Euthanized

Healthy - 0

Treatable - Rehabilitatable - 166

Treatable - Manageable - 1429

Unhealthy - Untreatable - 2735

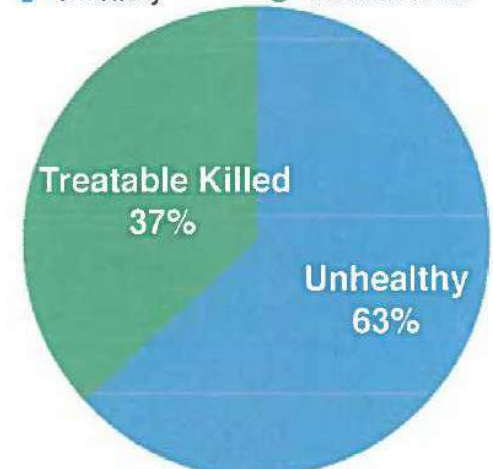
Animals Euthanized - 4330

1595 were treatable

$1595 / 4330 = 37\%$

Animals Killed that could should have been saved

37% Treatable Animals Killed



Voices for Shelter Animals

Marilyn Galfin
helpanimalsnyc@gmail.com
Land: 212-989-8589

Craig Seeman
Craig@Planet3Video.com
718-456-0072

No Kill Defined

from No Kill Advocacy Center 501c3 based in Oakland CA

<https://www.nokilladvocacycenter.org/defining-no-kill.html>

The goal of the No Kill movement is not to reduce killing to some consensus based level such as 10%. It is to end killing for all animals who are not irremediably physically suffering, rigorously defined.

Not to be Killed:

- Healthy Animals
- Community dogs and cats regardless of whether they are social or unsocial with humans
- Orphaned animals, pregnant animals, in utero animals, or animals with newborns
- Animals suffering from or exposed to a treatable contagious illness
- Poorly socialized dogs, shy dogs, or traumatized dogs
- Animals surrendered for "euthanasia" (the animals must be independently evaluated by a veterinarian and determined to be irremediably physically suffering)
- Treatable animals labeled "behavior" or "medical"
- Animals with "behavior" or "medical" impediments even if they have been signed over "for euthanasia"
- Animals based on arbitrary criteria such as color, age, or breed



September 15, 2018

The Hon. Bill de Blasio, Mayor, and
Members of the New York City Council
City Hall
New York, NY 10007

Dear Mayor de Blasio and Members of the City Council,

New York City's Department of Health & Mental Hygiene (Department) is proposing a 30+ year contract with its own subsidiary, Animal Care Centers of NYC (ACC). Although the Department continues to maintain the fiction that ACC is an independent non-profit, it admits it was "established by the City of New York." (<https://a856-cityrecord.nyc.gov/RequestDetail/20180510008>.) Specifically, it was created by the Giuliani administration, has a singular mission of running animal control for the City, operates under city-owned and controlled facilities, and has a governing structure dominated by the City. While ACC was formed as a 501(c)(3) not-for-profit corporation, it operates as a *de facto* government agency; it is controlled by the Mayor and Health Commissioner.

The new 34-year contract is being pushed through with minimal input from the public, despite the fact that it will affect hundreds of thousands of animals and the Department proposes to pay itself over \$1 billion (\$1,487,966,471.00) of the public's money to continue running the pound under current practices. (<https://a856-cityrecord.nyc.gov/RequestDetail/20180622103>.) Copies have not been made available electronically for review and comment and even city council members admit they have not been allowed to see it. If approved, the new contract would maintain archaic policies until 2052.

In addition to these *procedural* shortcomings, to the extent that the new contract follows existing ones, there are *substantive* deficits as well. These include provisions that hamper animal protection, such as putting the leadership and staff of ACC under a "gag" order, preventing them from speaking to the press without prior approval of the Department, limiting who can rescue animals from ACC to those sanctioned by the "Mayor's Alliance" (which is not connected to the Mayor's Office despite its misleading name and not accountable to the taxpayers), and maintaining the power of the Department to reject innovation in the rehabilitation and placement of animals who may have health or behavior impediments.

The Hon. Bill de Blasio, Mayor, and
Members of the New York City Council
September 15, 2018
Page two

When it comes to *protecting* animals, by contrast, the existing contract is notoriously vague, such as only requiring pre-killing sedation “when necessary” (which is undefined) and suggesting that the pound make “reasonable effort to place animals for adoption” which is also undefined and unenforceable.

We propose that any new contract be open to the full light of public scrutiny to give taxpayers and concerned residents a meaningful opportunity to review and comment. We also propose substantive provisions, enclosed in Attachment A, which do not suffer the lack of specificity and enforceability of existing ones. They are proven to save lives. (See, e.g., Muncie Ordinance No 23-17, enclosed as Attachment B.) As prior peer-reviewed studies have shown, they are also cost-effective and even revenue positive. (See, e.g., Hawes, S., *et. al.*, “Legislating Components of a Humane City: The Economic Impacts of the Austin, Texas ‘No Kill’ Resolution (City of Austin Resolution 20091105-040),” University of Denver, Oct. 16, 2017, enclosed as Attachment C.)

Finally, we propose that the contract include annual, or at the very least biennial, independent audits and compliance with the deficits uncovered in those audits. For example, we have been receiving reports of escalating illness, including pneumonia, and that rescue groups pulling sick animals are receiving expired medications, indicating that the shortcomings identified in the 2015 audit by the City Comptroller have not been resolved.

Mayor de Blasio, as the operation of the animal shelter and care of the animals is the people’s business, is paid for by the people, must be accountable to the people, and should reflect the people’s values, taxpayers and community members not only have a right to have their government spend tax money on programs and services whose purpose is to save and enhance the lives of all animals, but they have the right to full and complete disclosure about how their animal shelters operate. The process of enacting a new contract should not be done, as it currently is, without a commitment—both procedurally and substantively—to transparency, public access, humane policies, progressive practices, and maximizing lifesaving.

Very truly yours,

Nathan J. Winograd

Encl-3

Attachment A

DEFINITIONS.

The term 'licensed veterinarian' means a veterinarian licensed to practice veterinary medicine in this State.

The term 'rescue organization' means an organization that is—

- (a) An organization described in section 501(c)(3) of the Internal Revenue Code and exempt from taxation under 501(a) of that Code; and,
- (b) An animal rescue organization, animal adoption organization, or organization formed for the prevention of cruelty to animals.

The term 'irremediable suffering' means an animal who has a poor or grave prognosis for being able to live without severe, unremitting physical pain even with comprehensive, prompt, and necessary veterinary care, as certified in writing by a licensed veterinarian.

The term 'animal shelter' means Animal Care Centers of New York City (ACC).

POLICY PROVISIONS.

As the operation of the animal shelter and care of the animals is the people's business, is paid for by the people, must be accountable to the people, and should reflect the people's values, the animal shelter shall be committed to transparency, public access, legal compliance, humane policies, progressive practices, and maximizing lifesaving.

Taxpayers and community members have a right to have their government spend tax money on programs and services whose purpose is to save and enhance the lives of all animals.

Taxpayers and community members have a right to full and complete disclosure about how their animal shelter operates.

It is the policy of the City that no healthy dog, cat, rabbit, or other animal in the animal shelter shall be killed.

It is the policy of the City that no treatable dog, cat, rabbit, or other animal in the animal shelter shall be killed.

All mandates of the contract shall be construed liberally to meet both the letter and spirit of the goals of transparency, public access, legal compliance, humane policies, progressive practices, and maximizing lifesaving. When there is doubt, the preference will be for maximizing lifesaving.

Every animal at the animal shelter shall receive individual consideration, regardless of how many animals the shelter takes in, or whether such animals are healthy, underaged, elderly, sick, injured, traumatized, or not social with humans.

The animal shelter shall discontinue the use of language such as "euthanasia," "unadoptable," "fractious," "putting them to sleep," and other euphemisms that downplay the gravity of ending life and make the task of killing easier.

The animal shelter shall be open to the public during hours that permit working people and families with children in school to reclaim or adopt animals during non-working and non-school hours.

The animal shelter shall work with rescue organizations and other shelters to the fullest extent to promote the adoption, sterilization, reclamation, and alternative placement of animals and to reduce the rate of killing.

The animal shelter shall provide care and treatment for all animals to ensure their well-being, including prompt and necessary veterinary care, adequate nutrition, shelter, exercise, and socialization.

The animal shelter shall be accountable for and make information publicly available about all the animals in their care.

The people of the City have a right to expect the animal shelter to do everything in its power to promote, protect, and advocate for the lives of animals.

Rescue organizations and other shelters have a right to take into their custody animals who would otherwise be killed by the animal shelter.

HOURS OF OPERATION.

(a) The animal shelter shall be open for adoption, reclaim, access and transfer to other organizations, seven days a week for at least eight hours a day, except as follows:

(1) It may, but is not required to, be open on New Year's Day, Easter, Thanksgiving, Christmas Eve, and Christmas Day.

(2) The animal shelter shall be open for adoption until at least 7 pm seven days a week during the Winter and Fall and 8 pm during the Spring and Summer in order to give working people and families with children in school the ability to visit every day.

HOLDING PERIODS.

(a) No animal shall be euthanized at the animal shelter prior to the expiration of seven full business days from impoundment of the animal, not including the date of impoundment, except as follows:

(1) Subsection (a) does not apply to an animal who is irremediably suffering.

(b) An animal impounded as a stray with identification or whose owner has been identified shall be made available for owner reclamation for a period of four business days, not including the date of impoundment.

(c) An animal impounded as a stray without identification and whose owner has not been identified shall be made available for owner reclamation for a period of three business days, not including the date of impoundment.

(d) At any time, an animal impounded as a stray may be placed in foster care or transferred to a rescue organization or other shelter, subject to the following:

(1) An animal transferred under this subsection remains subject to reclamation by its owner pursuant to Subsection (b) and (c).

(2) Documentation of an animal transferred under this subsection, including a photograph of the animal and relevant information pertaining to the animal's impoundment and transfer, shall be maintained in physical or electronic form, reviewable by the public, at the animal shelter that originally impounded the animal or on their website during the time period relevant under Subsection (b) and (c).

(3) An owner that satisfies the animal shelter's reclaim requirements during the time period relevant under Subsection (b) and (c) is entitled to reclaim the animal even if the animal has been transferred pursuant to Subsection (d) and is no longer physically in the animal shelter's custody. At the owner's discretion, the owner has the right to physically redeem the animal at the animal shelter that originally impounded the animal.

(e) An animal who is impounded upon being surrendered by the animal's owner shall be subject to reclaim by that person, upon having a change of heart, for a period of three business days, not including the date of impoundment, so long as the animal has not been adopted or transferred.

(f) The holding periods mandated by this Section do not apply to an animal who is impounded solely for the purpose of sterilization.

(g) Not less than two business days before the euthanasia of any animal, the animal shelter shall:

(1) Notify or make a reasonable attempt to notify by verifiable written or electronic communication any rescue organization that has previously requested to be notified before animals are euthanized;

(2) Unless there is evidence of neglect or animal cruelty as certified in writing by a licensed veterinarian, notify or make a reasonable attempt to notify by telephone and verifiable written or electronic communication the owner who surrendered the animal and inform that person that the animal is scheduled to be killed;

(3) Notify or make a reasonable attempt to notify by telephone and verifiable written or electronic communication the finder who surrendered the stray animal and inform that person that the animal is scheduled to be killed;

(4) Give those notified under Subsections (g)(1), (2), and (3) possession of the animal to avoid the animal's death if they request it.

(h) No animal shelter may euthanize any animal without making the notification required by Subsections (g)(1), (2), and (3).

ANIMAL CARE.

(a) The animal shelter shall provide all animals during the entirety of their shelter stay with fresh food; fresh water; environmental enrichment to promote their psychological well-being such as socialization, toys and treats, and exercise as needed, but not less than once daily; except as follows:

(1) Dogs exhibiting vicious behavior towards people or adjudged to be dangerous by a court of competent jurisdiction may but are not required to be exercised during the holding period if doing so would put staff at undue risk of injury.

(b) Notwithstanding Subsection (a), the animal shelter shall work with a licensed veterinarian to develop and follow a care protocol for animals with special needs such as, but not limited to, nursing mothers, unweaned animals, sick or injured animals, extremely frightened animals, geriatric animals, or animals needing therapeutic exercise.

(c) During the entirety of their shelter stay, animals shall be provided prompt and necessary cleaning of their cages, kennels, or other living environments no less than two times per day, to ensure environments that are welcoming to the public, hygienic for both the public and animals, and to prevent disease. This cleaning shall be conducted in accordance with a protocol developed in coordination with a licensed veterinarian, and shall require that animals be temporarily removed from their cages, kennels, or other living environments during the process of cleaning if that is necessary to prevent them from being exposed to water from hoses or sprays, cleaning solutions, detergents, solvents, and/or chemicals.

(d) During the entirety of their shelter stay, all animals shall be provided with prompt and necessary veterinary care, sufficient to alleviate any pain caused by disease or injury, to prevent a condition from worsening, and to allow them to leave the shelter in reasonable condition including but not limited to preventative vaccinations, cage rest, fluid therapy, pain management, and/or antibiotics.

IDENTIFYING & RECLAIMING LOST ANIMALS.

(a) The animal shelter shall take appropriate action to ensure that all animals are checked as soon as possible, but no more than 24 hours, after impoundment for all currently available methods of identification, including microchips, identification tags, and licenses.

(b) The animal shelter shall maintain continuously updated lists of animals reported lost and found, and shall regularly, but no less than once daily, check these lists and animals in the shelter for matches, and shall also post a photograph of and information on each stray animal impounded by the shelter on the internet with sufficient detail to allow the animal to be recognized and claimed by its owner.

(c) If a possible owner is identified, the animal shelter shall undertake due diligence to notify the owner or caretaker of the whereabouts of the animal and any procedures available for the lawful recovery of the animal. These efforts shall include, but are not limited to, notifying the possible owner by telephone, mail, and personal service to the last known address.

ADOPTIONS.

(a) The animal shelter shall post a photograph and information on each animal impounded by the shelter on the internet to facilitate adoptions.

(b) The animal shelter shall not ban, bar, limit or otherwise obstruct the adoption or transfer of any animal based on the animal's breed, breed mix, species, age, color, appearance, or size.

LIVE RELEASE RATE.

(a) The "live release rate" or "save rate" shall not fall below 90% in any 12-month period. Said rate shall be calculated with the number of animals who were returned to owners, adopted, transferred to rescue organizations, and impounded and sterilized then released being the numerator and the numerator plus the number of animals who were killed, died, are missing, were lost, and were stolen being the denominator.

(b) Any animal transferred to another facility, another shelter, or rescue organization who is killed by that organization shall not be listed as transferred, a live release, or saved for purposes of determining the live release rate. They shall be listed as killed. The animal shelter shall also follow up regarding animals transferred to other groups through placement to accurately report their final disposition as alive or dead.

KILLING.

(a) The animal shelter shall not kill any animal simply because the holding periods have expired. Before an animal is killed, all of the following conditions must be met:

- (1) There are no empty cages, kennels, or other living environments in the shelter;
- (2) There is no additional room to set up temporary cages, kennels, or living environments in the shelter;
- (3) The animal cannot share a cage or kennel with another animal;
- (4) The shelter has made a plea to foster homes and a foster home is not available;
- (5) The pre-killing notifications have been made and neither a rescue group, the former owner, or the finder is willing to accept the animal;
- (6) The animal cannot be transferred to another shelter with room to house the animal;
- (7) The animal is not a healthy cat who can be sterilized and then released;
- (8) All mandates, programs and services of this contract have been met; and,
- (9) The director of the animal shelter certifies that he or she has no other alternative and the reasons no alternatives exist.

(b) The determination that all conditions of subsection (a) have been met shall be made in writing, signed by the director of the animal shelter, and be made available for free public inspection for no less than three years.

(c) Animals impounded by the animal shelter shall be killed, only when necessary and consistent with the requirements of law and the provisions of this contract, by lethal intravenous injection of sodium pentobarbital, except as follows:

- (1) Intraperitoneal injections may be used only under the direction of a licensed veterinarian, and only when intravenous injection is not possible for infant animals, companion animals other than cats and dogs, or in comatose animals with depressed vascular function.

(2) Intracardiac injections may be used only when intravenous injection is not possible for animals who are completely unconscious or comatose, and then only by a licensed veterinarian.

(d) No animal shall be allowed to witness any other animal being killed or being tranquilized or sedated for the purpose of being killed or to see the bodies of animals which have already been killed.

(e) Animals shall be sedated or tranquilized before being killed to minimize their stress or discomfort, or in the case of vicious animals, to ensure staff safety, except that neuromuscular blocking agents shall not be used.

(f) Following their lethal injection, animals shall be lowered to the surface on which they are being held and shall not be permitted to drop or otherwise collapse without support.

(g) An animal may not be left unattended between the time procedures to kill the animal are commenced and the time death occurs, nor may the animal's body be disposed of until death is verified.

(h) Verification of death shall be confirmed for each animal in all of the following ways:

- (1) By lack of heartbeat, verified by a stethoscope;
- (2) By lack of respiration, verified by observation;
- (3) By pale, bluish gums and tongue, verified by observation; and
- (4) By lack of eye response, verified if lid does not blink when eye is touched and pupil remains dilated when a light is shined on it.

(i) The room in which animals are killed shall be cleaned and regularly disinfected as necessary, but not less than once per day on days the room is used, except the specific area in the room where the procedure is performed shall be cleaned and disinfected between each procedure.

(j) The room in which animals are killed shall have adequate ventilation that prevents the accumulation of odors.

(k) No one other than a licensed veterinarian or a euthanasia technician certified by the state euthanasia certification program shall perform the procedures referenced in this section.

TRANSPARENCY.

(a) Monthly Report.

The animal shelter shall provide to the City Council a monthly report which includes the following information separated by species:

- (1) The number of animals impounded during the previous month and for comparison purposes, the number in this category year-to-date.
- (2) The number of animals who were killed by the animal shelter, at the animal shelter's direction, with the animal shelter's permission, and/or by a representative of the animal shelter during the previous month and for comparison purposes, the number in this category year-to-date.

- (3) The number of animals who died, are missing, were lost, or were stolen while in the direct or constructive custody of the animal shelter during the previous month and for comparison purposes, the number in this category year-to-date.
- (4) The number of animals who were returned to their owners during the previous month and for comparison purposes, the number in this category year-to-date.
- (5) The number of animals who were adopted the previous month and for comparison purposes, the number in this category year-to-date.
- (6) The number of animals who were transferred to other organizations the previous month and for comparison purposes, the number in this category year-to-date.
- (7) The number of animals who were sterilized and then released the previous month and for comparison purposes, the number in this category year-to-date.
- (8) The number of animals who were sent into foster care the previous month and for comparison purposes, the number in this category year-to-date.

The monthly statistical report shall be provided by the 10th day of each subsequent month.

(b) Annual Report.

In addition to a monthly report, the animal shelter shall provide to the City Council an annual report which includes the following information separated by species:

- (1) The number of animals on hand at the start of the previous year.
- (2) The number of animals impounded during the previous year.
- (3) The number of animals who were killed by the animal shelter, at the animal shelter's direction, with the animal shelter's permission, and/or by a representative of the animal shelter during the previous year.
- (4) The number of animals who died, are missing, were lost, or were stolen while in the direct or constructive custody of the animal shelter during the previous year.
- (5) The number of animals who were returned to their owners during the previous year.
- (6) The number of animals who were adopted the previous year.
- (7) The number of animals who were transferred to other organizations during the previous year.
- (8) The number of animals who were sterilized and then released during the previous year.
- (9) The number of animals who were sent into foster care during the previous year.
- (10) The number of animals who were on hand at the end of the year.

The annual statistical report shall be provided by February 1 of the subsequent year.

(c) Any animal transferred to another facility, another shelter, or rescue organization who is killed by that organization shall not be listed as transferred, a live release, or saved for purposes of these reports. They shall be listed as killed. The animal shelter shall follow up regarding animals transferred to other groups through placement to accurately report their final disposition as alive or dead.

(d) Other Information: City Staff & City Officials.

In addition to the monthly and annual statistical reports, the animal shelter shall provide to the City Council, City Staff, and other City Officials any information requested regarding operations of the shelter, including, but not limited to, information about individual animals, groups of animals, policies and procedures, operational matters, expenditures of contract moneys, and other activities. The information shall be provided within 10 days of the request unless both parties agree to an extension.

(e) Other Information: Residents of the State.

The animal shelter shall be subject to the state's Public Records and Freedom of Information laws for purposes of releasing data as if it is a government agency with the following exception: the request for information by a member of the public may be made informally to the animal shelter via email. There shall be no fee charged for information that is available electronically. Any costs for purposes of duplication if the information is not available electronically shall be set at cost. No fee or cost may be charged for employee labor.

RIGHT OF ACCESS.

(a) All rescue organizations, as well as public and private animal shelters, shall have full access during business hours to see, meet, and assess animals in the physical custody of the animal shelter for the purpose of assisting with marketing animals, getting animals reclaimed, helping with placement, to consider the animal for admission into their organization/facility, and to put a pre-killing "hold" on the animal, including animals still under their mandated holding period, regardless of whether the animals are seized, surrendered, or stray except as follows:

(1) Animals being held as evidence for a pending criminal case where the prosecutor has found that doing so might compromise the case for purposes of prosecution of the perpetrator.

(2) Notwithstanding (a)(1), the animal cannot be killed without making the required notice and subsequent right of access pursuant to this contract.

(b) There shall be no liability to either the City or the animal shelter for any injury resulting therefrom and any rescue organization or animal shelter that avails themselves of this opportunity is deemed to have waived liability and assumed all foreseeable and unforeseeable risks of doing so.

(c) Members of the public looking for their missing animals shall have access during business hours to see all animals impounded as strays in the physical and constructive custody of the animal shelter.

RIGHT OF INSPECTION & AUDIT.

(a) The animal shelter shall submit itself and where requested, actively assist, in its inspection and investigation by request of the City Council or any member thereof, City officials, and City staff, or his/her designee. This includes, but is not limited to, financial and operational audits. The requesting City official or agency shall bear the cost of hiring any auditors or inspectors. The animal shelter shall assist the auditors or inspectors without additional cost to the City.

PROHIBITION AGAINST POUND SEIZURE.

(a) No animal shall be sold or transferred, with or without consideration, to any person, hospital, educational, private, or commercial institution, laboratory, or animal dealer, whether or not such dealer is licensed by the United States Department of Agriculture, for purposes of medical or biological teaching, research, study, or experimentation of any kind.

APPLICATION TO RESCUE ORGANIZATIONS & OTHER SHELTERS.

To protect animals through final placement, any rescue organization or animal shelter to whom an animal is transferred must agree to comply with the provisions of the animal protection sections of this contract and report final disposition back to the animal shelter.