

## **Testimony to 2019 NYC Charter Revision Commission On Ranked Choice Voting in Elections**

May 9, 2019

Good evening, Chair Benjamin and members of the 2019 Charter Revision Commission. My name is Tom Speaker, and I am a Policy Analyst at Reinvent Albany. Reinvent Albany is a watchdog organization that advocates for open and accountable government in New York.

Reinvent Albany urges the Commission to propose a robust Ranked Choice Voting process in New York City. One state and eleven cities, including San Francisco and Minneapolis, already have Ranked Choice Voting, and it is proven and effective. New York City voters should have the same opportunity to have their preferences known.

We believe a robust Ranked Choice Voting process will:

- Apply RCV to all offices.
- Apply RCV to all elections.
- Limit the number of rankings on the ballot to three.
- Implement an instant runoff rather than a hybrid version of RCV.

### **RCV means a more representative democracy**

Reinvent Albany supports RCV for many reasons: RCV will save voters millions of dollars by sparing them the cost of a runoff election. It may reduce polarization by encouraging candidates to run more positive campaigns. We believe that RCV's greatest benefit is that it creates a democracy in which more voters have a say in who becomes their elected representative.

Ideally, in a democracy, an elected official represents the will of the maximum possible number of individuals in his or her constituency. But under our current voting model, a small plurality is empowered to select a candidate. We've seen this in numerous cases in New York City: In the 2013 primaries, out of 51 Democratic races with 20 open seats,

eight candidates won their primaries with less than 40% of their vote.<sup>1</sup> In the 2017 Democratic primaries, four out of 10 open seats were won by candidates with less than 40% of the vote.<sup>2</sup> In those races, the winning candidate was not the first choice of more than 60% of voters. If those 60% of voters were allowed to state their second or third choice, the winning candidate would better reflect the wishes of more of the electorate and voters will feel more included in an election's final outcome. Implementing RCV is particularly important given that 35 City Council seats will be open in 2021. As an increasing number of citizens are running for office, it is likely that many Council races will be multi-candidate.<sup>3</sup>

### **Apply RCV to all offices**

Reinvent Albany believes Ranked Choice Voting should be applied to every city office: City Council races, Borough President races, Public Advocate, Comptroller, and Mayor. Some have proposed only applying RCV to citywide races, as this would help the city avoid the downsides of runoff elections, which cost the city millions and tend to have much lower turnout than in general elections. RCV is certainly relevant to citywides, but it's arguably even more relevant to local primaries: In the 2013 elections cited earlier, 11 of the Democratic races had 5 or more candidates. This suggests that Ranked Choice Voting is just as applicable, if not more so, to Council and Borough President races.

### **Apply RCV to all elections**

Reinvent Albany also supports implementing Ranked Choice Voting across all elections. Though general elections tend to feature smaller pools of candidates, the benefits of RCV for primary elections also apply to general elections. For example, party nominees in a general election will be encouraged to reach out beyond their party to appeal more broadly to voters. Limiting RCV to special and primary elections also appears to reinforce a two-party system – voters are often reluctant to support a third party for fear of spoiling the election, thus are more likely under the current system to vote for a candidate from the two major parties.

Some have raised concerns about fusion voting and the general election. We believe the City clearly has the authority to create a ballot which conforms with its legal right to

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<sup>1</sup> [http://www.nycclfb.info/PDF/per/2013\\_PER/2013\\_PER.pdf](http://www.nycclfb.info/PDF/per/2013_PER/2013_PER.pdf)

<sup>2</sup> <https://cityandstateny.com/articles/politics/campaigns-and-elections/new-york-city-2017-primary-election-results.html>

<sup>3</sup> [https://www.washingtonpost.com/news/monkey-cage/wp/2018/10/17/in-the-2018-midterms-many-more-people-are-running-and-far-more-seats-are-contested-than-weve-seen-for-a-generation/?utm\\_term=.8167aad8e3c](https://www.washingtonpost.com/news/monkey-cage/wp/2018/10/17/in-the-2018-midterms-many-more-people-are-running-and-far-more-seats-are-contested-than-weve-seen-for-a-generation/?utm_term=.8167aad8e3c)

establish the mode of selection of its officers under the Municipal Home Rule Law. The City has designed ballots for nonpartisan special elections, and it can design ballots that accommodate Ranked Choice Voting and fusion voting. We have seen no evidence presented that forbids the City from designing ballots and do not believe this is a valid excuse for opposing the adoption of RCV.

Finally, limiting RCV to specials and primaries would be counterproductive. Asking voters to use different voting systems for different offices and elections fosters confusion.

### **Limit the number of rankings**

Ranked Choice Voting will be a significant change for New York City, and to ensure the new ballot process does not overwhelm voters, the Charter Commission should allow voters to rank a maximum of three candidates.

One consistent theme in RCV ballot design research is that new RCV voters favor simplicity. A 2017 study by the Center of Civic Design for FairVote and the Ranked Choice Voting Center gave voters the option of using a Rank 3 system, a Rank 6 system, a grid system, or hand-written ballots. Among the optical-scan ballots, voters overwhelmingly preferred to rank three.<sup>4</sup> More recent research from the Center suggests voters are open to ranking 5 to 8 candidates.<sup>5</sup> Reinvent Albany believes in the early going, it is better to be on the safe side, and limit the number of choices to three. In future elections, the number could be raised, but keeping the system simple in its initial stages will help ensure its future success.

We strongly oppose the use of a “grid” ranking system, which voters in studies have consistently found frustrating. In another 2017 Center for Civic Design study, 63% found a grid system the hardest to use.<sup>6</sup>

### **Redistribute votes one-by-one**

In our view, it would be better to implement an RCV system that eliminates one candidate each round and assigns their votes to the next-ranked candidate on each ballot. We believe this is better than a hybrid system that eliminates all but the top two after the first round of votes are tabulated, then has those two candidates receive the remaining ranked votes. This tally may be easier for the public to understand, but such a system may undercut the benefits of traditional RCV, which still allows for candidates to

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<sup>4</sup> <https://drive.google.com/file/d/0B3K2g6lIQMWsYkEzSkgTWHBQVDg/view>

<sup>5</sup> <https://civicdesign.org/wp-content/uploads/2017/07/Introducing-RCV-Ballots-18-0803-FNAL.pdf>

<sup>6</sup> [https://civicdesign.org/wp-content/uploads/2017/07/RCV-Denver-Research-Report\\_18-0104-FINAL.pdf](https://civicdesign.org/wp-content/uploads/2017/07/RCV-Denver-Research-Report_18-0104-FINAL.pdf)

rise from third to first place after several rounds. Candidates could also campaign differently if they simply wanted to finish first or second, rather than be ranked the highest on all ballots.

We urge the Commission to be bold in its proposals and create a Ranked Choice Voting system that applies to all elections and offices. The 2010 and 2018 charter revision commissions reviewed the idea and did not act. One of the aims of the Charter Revision Commission is to build a city that allows for more New Yorkers to have a say in the decisions that impact their lives the most, and Ranked Choice Voting is one of the best ways of achieving this goal.

We thank you for your time, and welcome any questions you may have.



**Testimony to 2019 Charter Revision Commission, May 9, 2019**  
**By Paul Epstein, Northern Manhattan Community Land Trust**  
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**Bio/Qualifications:** Paul Epstein's 40+ years' experience include working for 2 NYC mayor's offices and the U.S. Dept. of Housing & Urban Development, and being a consultant to governments at all levels, nonprofits, community collaborations, and the United Nations in projects across the U.S. and abroad. I have an engineering degree from the Massachusetts Institute of Technology and have taught graduate public management courses at NYU, the University of Hartford, and Baruch College. I am the author or lead author of three books: *Using Performance Measurement in Local Government* (1984 & 1988), *Auditor Roles in Government Performance Measurement* (2004), and *Results That Matter: Improving Communities by Engaging Citizens, Measuring Results, and Getting Things Done* (2006).

**Strengthen Staff Recommendations on ULURP to Include Formal Consideration of Community**

**Alternatives.** I am pleased that the Preliminary Staff Report attempts to address flaws in community engagement in land use that I and others raised in earlier testimony. However, the recommendation for "ULURP Pre-Certification ..." is too weak. It may suffice for private developments in which the City administration takes no interest. But for projects led or supported by the City, it is wholly inadequate. It would do nothing to fix the way the City rigs the system against community alternatives. For example, in a rezoning, a community board or borough president may want to add limits in one part of a neighborhood to balance increased development proposed nearby. In our separate September testimonies, both Borough President Brewer and I used examples of store size restrictions to help preserve locally-owned small businesses, consistent with the City Council's excellent "Planning for Retail Diversity" report. Another example could be tailored zoning limits to match as-built conditions of a few buildings to maintain neighborhood character while many other sites are redeveloped. If the City does not want such community-proposed limits, no amount of added pre-certification time will help. Once the proposed action is certified without those alternatives they cannot be considered by CPC or City Council in their land use decisions as they will be ruled "out of scope."

To give communities and borough presidents a little more leverage in land use, I propose that their alternatives, whether full-fledged plans or limited changes to the proposed action, also go to DCP for limited review and, as long as DCP finds them legal, go forward in ULURP along with the certified proposal as "Qualified Alternative Options." Then, no parts of those alternatives would be considered "out of scope." The CPC or City Council may choose any elements of those alternatives to modify the proposed action. In earlier testimony, I asked that alternatives that get at least 200 signatures from residents be included. But if the Commission feels that would not work, I will accept that only alternatives proposed by a community board or borough president be included. To enable a community board to hold meetings and vote on alternatives, somewhat more than 30 days would probably be needed before certification—perhaps 45 days would do. This may not add more time to the overall planning process, as in most cases DCP is already reviewing projects before certification. Finally, for projects with a "positive declaration," all "Qualified Alternative Options" must be considered in the EIS, at least in the "Alternatives" section of the Final EIS if not earlier. So, I urge you to please give communities and borough presidents more leverage in land use by adding formal consideration of their alternatives to ULURP.

***Please also see my additional commentary, on the next page, that is not included in my spoken testimony.***

### **Additional Commentary on this Proposal (Not Included in My Spoken Testimony):**

When considering how my proposed pre-certification activities would work with the rest of ULURP, it would, essentially, give community boards and borough presidents two bites at the ULURP apple for each proposed action. *That's a good thing.* If a community board (CB) or borough president (BP) has developed alternatives in the pre-certification period that have become "Qualified Alternative Options," then by the time of CB and BP public hearings, community members will have before them a broader range of possibilities and their testimonies can address the options as well as the proposed action.

There's nothing to stop a community board or borough president from adding more alternative options in their formal ULURP recommendations with regard to the proposed action. But they would know, in the post-certification phase, that any options that are less restrictive than both current conditions and the proposed action will be "out of scope." For alternative options recommended in the post-certification phase, only options that are no more restrictive than either current conditions or the proposed action can be considered by the CPC and City Council. Also, it is entirely possible that, after hearing from the public in their hearings, a community board or borough president will change their mind and recommend against some of their own Qualified Alternative Options.

All in all, adding a pre-certification period that provides community boards and borough presidents opportunities to propose changes that can become "Qualified Alternative Options" will improve ULURP in two ways:

- It will make it harder for City agencies to rig the system against the possibility of reasonable changes being adopted that may add limits desired by the community but that are not in proposed actions.
- It increases public awareness of options a community board and borough president are considering by the time of the public hearings, enabling community members to participate in a more informed and meaningful way.

This proposed charter revision does not change the "advisory role" of community boards and borough presidents in ULURP. CPC and the City Council can reject or ignore any or all "Qualified Alternative Options" and any other recommendations when making their land use decisions. But this proposed revision strengthens the role of community boards and borough presidents by keeping a broader range of options allowable as ULURP proceeds into its later stages after they submit their formal recommendations.

**Testimony of Edward Rosenfeld is Support of Three Revisions to  
the NYC Charter**

- **Implement Ranked Choice Voting**
- **Repeal Term Limits**
- **Appoint a Deputy Mayor for Small Business and M/WBE  
Businesses**

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**May 9, 2019**

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My name is Edward Rosenfeld. I am a partner in Rosenfeld Media, a small, 8 person company that works on an international scale publishing high quality books, producing corporate conferences and doing corporate training for people in the user experience design world. I have had a long business career, including 15 years as 2<sup>nd</sup> generation CEO of a furniture rental business that we sold to Warren Buffet's Berkshire Hathaway Corporation, 15 years as a growth and succession consultant to family owned businesses and six years with a NYC non-profit consulting firm focused on small NYC manufacturing businesses. I am also a serial entrepreneur, having owned and operated both web based and bricks and mortar businesses.



I was born in the Bronx and have lived in NYC for a significant majority of my life. I care about the making living in NYC a better place for all our residents through a greater level of democratic participation and an improvement in support for NYC small businesses. I am testifying in support of 3 proposals today.

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### **1. In support of Ranked Choice Voting**

It is only this year that voter enfranchisement in New York State has become a priority after the dismal record of years of arcane candidacy rules, multiple primary dates and other impediments to democratic participation in the electoral process by the citizens of New York City and State. We need more democracy and participation in our political process. Voter apathy allows special and monied interests to corrupt government and public policy. New York City can enhance the reform effort by instituting ranked choice voting, following the example of Maine and other jurisdictions. Ranked Choice Voting(RCV) will help increase voter participation which is essential to a healthy democracy where the people decide what is in the public interest, not monied interests working in the shadows. RCV will also will encourage more candidates to



run thereby assuring a diversity of ideas and choice. A number of benefits of Ranked Choice Voting are as follows:

- Ranked Choice Voting is needed for all elected officials, not just citywide elected offices. City Council and Borough President elections are in dire need of reform. Since 2009, two-thirds of multi-candidate primaries for City Council seats were won without majority support. This is important because, in our city, the winner of the primary is very likely the winner of the general election.
- Encouraging less-known candidates to run will add to the diversity of voices and ideas in the Democratic process. Incumbents or poll leaders tend to play it safe by advocating ideas that start out as minority or unpublicized positions so as not raise controversial issues that could alienate their perceived constituencies or funders. Many ideas that are now in or entering the mainstream started out as controversial or fringe concepts and having candidates that openly advocate for them will increase public awareness and debate. These types of ideas have included gay marriage, mass incarceration reform, closing Riker's Island, raising the minimum wage to

\$15 and more, the Green New Deal and Medicare for all.

More candidates mean more ideas and the democratic airing and debate of them.

➤ Ranked choice will motivate more non-voters to vote as the public airing of new ideas and excitement around the electoral process become the norm. Also voters will understand that their vote and every vote counts.

➤ Ranked choice gives the voter the ability to vote their conscience without wasting their vote and giving a less popular candidate the plurality over a consensus candidate.

Clearly Ranked Choice Voting will improve the democratic process and voter participation in New York City, a worthy goal for a city that strives to be the progressive leader on America.

## **2. In Support of Striking Term Limits from the New York City Charter.**

There is a common misconception that term limits are the solution to a corrupt and anti-democratic election process. If voters cannot get their voices heard or have their votes count towards the chance of electing a candidate who is in favor of representing the public

interest rather than special interests than why not throw the bums out by term limits rather than by voting them out? The reforms recently enacted at the state level, NYC public campaign financing and, hopefully, ranked choice voting of all elected officials will go a long way to advancing democracy and the ability for voters to have a meaningful ability to hold their representatives accountable and have the time and transparency to know who their representatives are and to hold them accountable.

Term limits in the NYC Charter are the fruit of a past monied campaign by wealthy activists Ronald Lauder and Richard Parsons. Term limits purport to increase democracy by limiting the Mayor, City Council Members, Borough Presidents and the Public Advocate to two terms, thereby making way for new candidates. The real effect is, however, to churn government and guarantee that first term public servants are inexperienced and that second term public servants are distracted by their focus on the next campaign for another office or trolling for a private sector position. Such churn puts government and the people's representatives at a disadvantage to the private sector who are constrained by no such limits. Private sector actors thereby have an ability to plan

long term, develop alliances and learn from their experience to wage effective lobbying, public relations and influence campaigns that further private interests that may be contrary to the public interest. An obvious case in point on how second terms have distracted leadership is that Mayor de Blasio, who had an effective, if controversial, first term, has left many important appointee positions in City government unfilled while he explores a presidential bid.

The NYC Charter Revision process should put the issue of term limits to a vote and also provide information on the pros and cons of term limits to educate the electorate. An educated electorate can have a meaningful and informed vote that one would hope is not overwhelmed by a new public relations campaign by monied interests that supports term limits retention. Term limits are antithetical to a electoral system that has been reformed to encourage transparency, accountability, access and voter participation.

- 3. In support of directing the Charter Revision Staff study appointing a Deputy Mayor or other individual as a direct**



**report to the Mayor to advocate for small business and M/WBE programs.**

The Department of Small Business Services (SBS) has a crucial role of supporting both (1) economic development through small business growth and (2) is tasked with a social justice role in promoting M/WBE programs. Balancing economic development with social justice is in the interest of the people of NYC. To assure the goal of effective M/WBE programs City Charter Revision Staff recommends that consideration be given to the appointment of a Deputy Mayor or other official for the M/WBE programs that directly reports to the Mayor, whereas SBS does not. Staff should also explore the struggles of small business owners and entrepreneurs face in starting and succeeding in business today and include advocating for small business as an additional role of the new Deputy Mayor or other official with direct Mayoral reporting status.

The rate of new business formation, which start as small business, is in crisis and has declined from 1978 to 2012 by 50% among persons of prime business formation age. (see: Washington Post February 12, 2015. [https://www.washingtonpost.com/news/on-small-business/wp/2015/02/12/the-decline-of-american-entrepreneurship-in-five-charts/?utm\\_term=.ae644eb3d75f](https://www.washingtonpost.com/news/on-small-business/wp/2015/02/12/the-decline-of-american-entrepreneurship-in-five-charts/?utm_term=.ae644eb3d75f)). Many factors are behind this decline. Young people are saddled with student debt, which nationally

has ballooned from \$241 billion to \$1.4 trillion from 2003 to 2018, and crowds out new business investment(see: Forbes February 25, 2019. <https://www.forbes.com/sites/zackfriedman/2019/02/25/student-loan-debt-statistics-2019/#5ceaaf84133f>). Large corporations have through mergers and monopolistic market controls have crowded out small rivals and startups (See NYT May 9, 2019 for example. <https://www.nytimes.com/2019/05/09/opinion/sunday/chris-hughes-facebook-zuckerberg.html>).

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The cost of health insurance has skyrocketed, making the cost of competing for employees prohibitive, not to mention affording it for the family of the small entrepreneur. Developers and landlords build for the large user and combine existing retail and office space into larger assemblages, crowding out the small businessperson. It has become just too expensive and risky to be in business for yourself.

Many of these problems are of national scope and beyond the reach of city government. Nevertheless, it is important for the city to develop countervailing policies as much as feasible. A Deputy Mayor would not only have the ear of the Mayor and resources to study and develop policy solutions, (s)he could also work with city Commissioners to cut across departments as an advocate and in a coordination role.

Areas for the Deputy Mayor to investigate and/or advocate could include:

1. Zoning laws that mandate a certain percentage of smaller, affordable space be created in new construction, similar to mandating affordable housing in residential construction. My company recently moved from Brooklyn coworking space to the Financial District. It was very difficult just to find a broker willing to invest time in finding a small 1000 square foot space and then the choices were few and expensive, with effective rents after the loss factors of as much as \$75 to \$100 per square foot.
2. A small business lease "bill of rights" that would build in basic protections without hampering development. A standard lease form would go a long way in reducing the legal costs of renting space and level the playing field for tenants with little negotiating leverage or skill. While we retained an attorney to review our lease, we found that the investment in legal advice was almost not worth it since the landlords we negotiated with basically have a "take it or leave it" attitude to small tenants.
3. A direct subsidy to both the small business owner and their employees to reduce the amount of deductible and copay that are paid in an illness and a subsidy for a period where COBRA is paid for both the unemployed owner as well as employee in the case of business failure. The



fear of losing insurance and the cost of illness is high on the mind of every sole proprietor and small employer. Rather than starting a business many would be entrepreneurs play it safe and forgo the opportunity of being their own boss and the promise of upward mobility (see OECD 2018 for more info <https://www.oecd.org/unitedstates/social-mobility-2018-USA-EN.pdf>).

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4. A collateral fund that protects a percentage of SBA borrowers' personal assets in part in case of a default so that personal bankruptcy is not the sure result of a business failure. Shifting some risk off the entrepreneur would give more confidence to start new ventures.
5. Investigate and reform existing training, and economic development tax credits to assure they are targeted to smaller businesses and make a direct impact on the cost of doing business including employment. Many current programs have been in place a long time, are not efficient in delivering benefits and cost too much to claim and administer. I recall from my days as a consultant the example of a complex IDA loan that made a small immigrant manufacturer suffer buyers' remorse because of the expense to administer it.
6. Study what skills are lacking in the workforce and advocate for public schools that produce employable



graduates including craft, writing and technical skills. We recently hired an entry level employee and had to review almost 200 resumes to find one qualified prospect. Many of our rejects simply could not write a cogent email or cover letter. My manufacturing clients biggest complaint was the lack of skilled workers in the employment pool.

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7. Educate the business community as to why reasonable regulations provide a level playing field where employees can be treated fairly, and the environment protected, rather than being forced into a "race to the bottom" with competitors. We provide our employees with health insurance no later than 30 days after hire. While we have the means of doing so many businesses do not have that same luxury when they are in direct competition with, say, the dry cleaner across the street.

Small business was at one time the vehicle to the American dream for both immigrants like my grandfather who began the only tool manufacturing firm left in the Bronx and my father, who is the son of an immigrant house painter. I have had the good fortune to make starting and working for small businesses a successful career and I have a long perspective on how much tougher it is today than it was for my father's generation. NYC could make reviving entrepreneurship a city goal as an

economic driver that counters the trend to economic concentration in large corporations. We could keep the money here in our communities and tax coffers and foster the social and economic diversity and stability that comes from locally based businesses. All small businesses are worthy of assistance, not just micro businesses or immigrant owned businesses. Reforming the system of tax breaks that benefit large corporations like Amazon, who do not pay taxes, would free up as of right funds for small businesses, who do pay taxes. A Deputy Mayor or other official reporting directly to the Mayor with the goal of fostering the health and growth of small business would have a large positive impact for all New Yorkers.

In conclusion, more democratic governance and more small business opportunity will promote civic involvement and economic development for the many over the few in New York City. Please consider putting to a vote the changes described of (1) Implementing city-wide ranked choice voting, (2) repealing term limits and (3) appointing a Deputy Mayor or city official with direct reporting to the Mayor who is tasked with the role of promoting economic development through small business growth.

Testimony to the 2019 Commission on Charter Reform

Emily Goldstein, Association for Neighborhood & Housing Development

May 9<sup>th</sup>, 2019

Good evening. My name is Emily Goldstein and I am the Director of Organizing and Advocacy at the Association for Neighborhood and Housing Development (ANHD). ANHD's mission is to advance equitable, flourishing neighborhoods for all New Yorkers. We are a coalition of 100 community-based affordable housing and equitable economic development organizations in New York City, and we use organizing, policy, advocacy, and capacity-building to advance our mission.

ANHD is also a member of the Thriving Communities Coalition, made up of grassroots organizing, advocacy, policy, and legal services groups who work at the neighborhood and citywide level, and who are committed to pursuing reforms to the City Charter that will advance the following principles:

- Fair distribution of resources and development
- Enforceable commitments – No more empty promises
- Integration without displacement
- Transparency and accountability
- Real community power and ownership

In reviewing the preliminary staff report, ANHD was disappointed to see that several recommendations we believe are necessary to address problems within the existing ULURP process were ignored. Specifically, we still believe that there ought to be:

- A requirement for a regular and public process to make changes to the CEQR Technical Manual.

- A requirement for a detailed analysis of direct and indirect residential displacement in every EIS
- Require an enforceable mitigation plan following an EIS

However, we believe the preliminary staff report's recommendations regarding comprehensive planning are promising. We specifically appreciate and endorse the following ideas:

- Coordination of the City's various needs statements, policy statements, agency plans, land use plans, and spending plans, and to take stock of indicators reports when planning.
- Inclusion of statements of need as documents that should impact planning and budgeting.
- Alignment of planning and budgeting processes.
- Disclosure of future land use and development plans for communities.
- Indicators measuring progress over time.

However, we strongly believe that in its present form, the recommended version of Comprehensive Planning will not accomplish the real changes our city needs.

A meaningful comprehensive planning cycle must include the elements below, which must be expressly required in the charter:

1. A single clear, coherent plan
2. Equity principles
3. Citywide & localized analysis
4. Balance citywide and local needs
5. Equitable Distribution of Resources and Future Development
6. Coordinate with Capital Budget
7. Create a future land use map
8. Incentivize Alignment with the Plan

The charter must spell out clear goals of reducing neighborhood-based, racial, and socio-economic inequality that comprehensive planning is intended to address - without clear goals, it is impossible to measure progress.

It is crucial that any process of identifying needs separate out assessment of existing residents' needs from projected needs of future residents. Without this clarity, less powerful communities will continue to risk having their existing needs



met only in exchange for future growth or in relation to planning for future populations.

And the charter must make clear that the public and stakeholders not only have an opportunity to weigh in, but that people with a wide range of perspectives and experiences have seats at the decision-making table of this process. Too many communities have participated in too many processes that encourage but then ignore their public input.

Whether it is called a "planning cycle," a "comprehensive planning process" or a "master plan," the 8 elements listed above are indispensable to citywide planning that meets the demands of today. Working together with community groups, planning organizations, and elected officials, we have agreed on these 8 features that we think are essential to any comprehensive planning cycle. Without these features, a comprehensive citywide planning cycle will not have enough power or coherence to enact real change and remedy the frustrations New Yorkers have with the current system, which has produced decades of inequity, unfairness, and inefficiency.

We urge the Commission to take full advantage of the rare and necessary charge you were given to fully and deeply re-examine the City's charter and make the necessary changes to serve the needs of a New York that is radically different from the one the designers of the 1989 charter lived in.



## **UNITED NEIGHBORHOOD HOUSES**

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### **Testimony of United Neighborhood Houses Before the New York City 2019 Charter Revision Commission**

**Commissioner Gali Benjamin, Chair**

**Presented by J.T. Falcone, Policy Analyst  
May 9, 2019**

Thank you Chair Benjamin and members of the Charter Revision Commission for the opportunity to testify today. My name is J.T. Falcone, and I am a policy analyst at United Neighborhood Houses (UNH). UNH is a policy and social change organization representing 42 neighborhood settlement houses that reach 765,000 New Yorkers from all walks of life.

Now in our 100th year, UNH is stewarding a new era for New York's settlement house movement. We mobilize our members and their communities to advocate for good public policies and promote strong organizations and practices that keep neighborhoods resilient and thriving for all New Yorkers.

UNH leads advocacy and partners with our members on a broad range of issues including civic and community engagement, neighborhood affordability, healthy aging, early childhood education, adult literacy, and youth development. We also provide customized professional development and peer learning to build the skills and leadership capabilities of settlement house staff at all levels.

#### **Neighborhood Affordability**

For over a century, UNH's member settlement houses have strengthened communities across New York, offering a wide variety of programming for New Yorkers of all ages and backgrounds and leading social reform movements. Settlement house workers fight to ensure that all community members have access to opportunity by promoting equitable labor and housing policies and holding those in power accountable.

UNH and our member settlement houses are increasingly concerned with New York City's affordability crisis and a sense that the City is reaching a tipping point. Communities are kept out of the decision-making process and the Universal Land Use Review Procedure (ULURP) has failed to promote the interests of low- and moderate-income New Yorkers. Instead, inequitable land use decisions put communities at risk.

#### **Charter Revision Proposals**

UNH was disappointed in the Charter Revision Commission's decision to walk away from addressing land use and procurement reforms such as implementing ULURP for New York City Housing Authority



(NYCHA) land dispositions and contracting reforms for the City's human services sector that delivers vital services for all New Yorkers. Unfortunately, this Commission has missed an important opportunity to make positive, long-lasting changes at a time when they are desperately needed.

Of the proposals put forth by UNH and our fellow advocates, comprehensive planning is the sole issue that remains under consideration by the Charter Revision Commission, but – as written in the staff report released last month – the recommendations put forth do not go far enough. I am here today to urge the Commission to put a meaningful comprehensive planning proposal on the ballot in November.

### **Comprehensive Planning**

Along with fellow member organizations of the Thriving Community Coalition, UNH is concerned that the staff report outlines only modest changes to the City's land use processes, when what is needed is real reform to empower disenfranchised communities and fight deeply entrenched racial and socio-economic inequality. While the alignment of existing planning mechanisms and the creation of a "planning cycle" would streamline the process, it would not affect the underlying mechanisms themselves and would therefore do little to disrupt a status quo that has seen astronomical increases in rents, continued divestment in low-income communities of color, and low-density preference shown for wealthy white communities.

Because of the sheer number of complicated mechanisms involved in the City's existing planning process (that staff report identifies 12 "plans or similar documents that could, in staff's view, be considered part of a 'strategic' or 'comprehensive' plan"), it is easy to be overwhelmed and overlook the fact that all this planning is currently being done piecemeal. As the staff report shows, the charter asks only that our elected representatives who are creating and operationalizing these various plans "consider" "consult" or "reference" each other, and many of these plans require no meaningful community input whatsoever. This process allows too much to slip through the cracks. Despite the fact that the staff report also recommends amending these processes to give the public and other stakeholders an opportunity to "meaningfully weigh in on what the plans address and how," your average New Yorker would need an advanced degree to meaningfully and proactively engage with the myriad proposals currently laid out in the charter, and even the most knowledgeable New Yorkers likely lack the time to engage with so many concurrent processes.

One hundred years ago, settlement houses across the City came together to found United Neighborhood Houses out of recognition that "neighborhood workers" who were deeply committed to small geographic regions of this City required a body where they could come and compare notes in order to ensure that common issues and broader ideas were not missed or lost. Because of this legacy, UNH is clear on the importance of communities acting together towards something that is bigger than its sum of parts. Despite 12 different planning tools, there is no process by which we comprehensively assess our collective, City-wide needs and aspirations, set goals and priorities based on those needs and aspirations, develop strategies to meet those goals and priorities, and then invest in those strategies.

While the mechanisms of a comprehensive plan might be complicated, the concept is not. A comprehensive plan should be a road map for growth and priorities for New York City that exists outside of any one particular administration. While the staff recommendations for inclusion of short-term,

intermediate, and long-term issues got the timing right, I am here to urge the Commission to get the issues in question right, too. In developing the plan, as a City, we should put our cards on the table and clearly lay out the resources that are and will be available so they can be allocated fairly while acknowledging and correcting for historic divestment from communities-of-color and the racist policies that are woven into our City's fabric, from who has been asked to live next to and underneath noxious highways to which communities have enough seats in their classrooms.

Critically, once we develop a plan that accomplishes these goals, alignment with it should be incentivized. Not only would this ensure that major development projects are in alignment with established goals and principals that have been set collectively, but it would also ensure that we are approaching development in this City with consistency and predictability.

Comprehensive planning for communities is necessary to end policies that contribute to widening inequality, segregation, and displacement.

Along with our partners, UNH calls for the Commission to ensure that the final version of comprehensive planning on the ballot in November is based on the following elements:

- **A single clear, coherent plan:** Aligning what's already required in the charter is a start, but it's not enough. The charter must require the creation of a citywide comprehensive plan, which can guide future land use, budgeting and policy decisions.
- **Equity principles:** The process and the plan itself must be rooted in shared principles of equity; inclusiveness; sustainability and resilience; transparency; and accountability. The principles should inform articulated city-wide goals, linked to clear indicators to measure progress and success over time. Meeting the greatest needs, reducing neighborhood-based, racial, and socio-economic inequality, fostering integration without displacement, and increasing access to opportunity should be clearly stated as goals of comprehensive planning.
- **Citywide & localized analysis:** The City must perform data-driven, top-down analyses of citywide infrastructure and service needs, as well as displacement risk. These analyses must result in a plan that transparently balances neighborhood and city-wide needs.
- **Balance citywide and local needs through bottom-up community planning:** The process must entail a robust community-based planning process that gives under-resourced communities and underrepresented stakeholders a meaningful voice in the planning process and subsequent land use and development decisions. The plan should transparently balance community priorities with citywide needs in alignment with its principles and goals.
- **Equitable Distribution of Resources and Future Development:** The plan should set concrete, measurable, and equitable neighborhood targets for growth, including affordable housing, essential City services and facilities, and critical investments, so that all neighborhoods do their part and receive their piece.
- **Coordinate with Capital Budget:** The community investments identified in the plan should be included in the 10-year capital strategy to ensure the City allocates needed resources and capital investment to communities through each annual expense and capital budget process, consistent with the plan.
- **Create a future land use map:** The City should create a future land use map to guide growth and development that will engender the citywide and local goals of the comprehensive plan.



- **Incentivize Alignment with the Plan:** The City should enact mechanisms to incentivize plan-aligned growth and discourage land use actions that do not comply with the plan. This includes allowing plan-aligned developments to bypass ULURP, and those that do not align to be subject to ULURP. Private and public applications that align with the plan and land use map should only be required to complete an abbreviated, supplementary Environmental Assessment Statement (EAS) or technical memo, saving the applicants significant time and resources. All land use applications should require a rationale for pursuing the project. Applications that are not aligned with the plan would be subject to the current ULURP process. If non-aligned applications seek approval through ULURP, the Commission and local Council Members should be required to publish their rationale for wanting to modify the comprehensive plan.

Any comprehensive planning cycle needs a real regulatory framework that can give teeth to the needs and opportunities the plan identifies. These eight elements aim to create that very framework.

## **Conclusion**

In order for New York City to remain affordable, equitable, and fair for all New Yorkers, we must take action now. Since the last major revision to the Charter in 1989, New York City has changed dramatically. In the last decade alone, rents have risen at twice the pace of wages, and today more than half of the renters in New York City are rent burdened, or paying more than 30% of their income towards housing expenses. With so many New Yorkers at risk of displacement, and with so few affordable places left in this City to go, we must make bold decisions with real urgency.

By strengthening the land use process, which has a direct impact on the affordability of neighborhoods, the Charter Revision Commission has an opportunity to enact meaningful reforms that help to ensure that New York City remains affordable, equitable, and fair for all New Yorkers. Please take that opportunity.

Thank you for the chance to testify. For questions, I can be contacted at (917) 484-9322 or at [jfalcone@unhny.org](mailto:jfalcone@unhny.org).



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**New York City**

**Answering Ranked Choice Voting Concerns**

# RANKED CHOICE VOTING

1 2 3 4

SNICKERS

1 2 3 4

M&M'S

1 2 3 4

SKITTLES

1 2 3 4

STARBURST

1 2 3 4



# Introduction

The data is in on how ranked choice voting performs in practice, and the patterns are clear. In the twelve cities and one state that have held RCV elections, voters turn out to vote at high rates and rank their choices correctly and with confidence. In every RCV jurisdiction polled, voters prefer the system, find it easy to use, and say they want it expanded.

RCV is a tried and true system that voters love. Of course, any change should invite questions. But these questions have answers. For that reason, we have prepared succinct explanations to show that the concerns raised before the New York City Charter Commission do not undermine the benefits RCV provides for voters, for candidates, and for our democracy. This document provides information responsive to the following questions:

- **Are voters disenfranchised by “exhausted” ballots?**  
*No. The number of exhausted ballots is insignificant compared to the drop in turnout in traditional runoff elections. Ballot exhaustion is especially uncommon when voters can rank a reasonable number of candidates (5+).*
- **What happened in San Francisco’s 2010 District 10 Board of Supervisors race?**  
*In an unusual race (a virtual five-way tie in the first round), RCV performed well under circumstances would have been difficult for a traditional runoff system.*
- **Can candidates win with second (or third) choices alone?**  
*No. A candidate must attract a strong base of first-choice support to win. In 86% of multi-round elections, the candidate who led in the first round won. In all but one race on record, one of the top two candidates in the first round won.*
- **Will RCV result in unintended consequences?**  
*No. We have a long history of RCV elections to look to, and that history demonstrates that the system works as expected.*
- **Is RCV bad for racial minority voting groups?**  
*No. Research shows women and candidates of color winning at higher rates after adoption of RCV.*



# Santa Fe, New Mexico

For a realistic look at what to expect when adopting RCV, consider the experience of Santa Fe (NM), a city that is nearly 50% Latinx. After using RCV for the first time in March 2018, its staff report concluded as follows:

**"In a little more than two months, city [staff] implemented a ranked choice voting election and education effort - a first not only in Santa Fe, but in New Mexico - that resulted in clear and transparent outcomes, markedly high turnout, and little-to-no issues across two early voting centers and twelve Election Day sites."**



## Very few ballots become “exhausted” under RCV, especially compared to the analogous drop in turnout under New York City’s primary runoff elections.

Under RCV, voters are not forced to rank every candidate. If a voter does not rank either of the two finalists in an RCV contest, their ballot will be inactive in that final round, which some refer to as “ballot exhaustion.”


In most RCV races today, the number of such inactive ballots overall is very low. For instance, Santa Fe and Maine both implemented RCV for the first time in 2018. In Santa Fe’s mayoral contest with five candidates, only 4% of the 20,630 ballots in the contest were inactive in the final round. In Maine’s Democratic gubernatorial primary election with eight candidates, only 7% of 125,391 such ballots were inactive in the final round. In Maine’s second congressional district general election with four candidates, only 3% of 290,059 such ballots were inactive in the final round.



**Q: Are voters  
disenfranchised by  
“exhausted” ballots?**

A voter not ranking the finalists in an RCV contest is analogous to a voter not participating in the final round of a primary runoff election. As the preliminary staff report noted, three recent primary runoffs in New York City experienced turnout drops of 61%, 35% and 36%. In other words, the drop in runoff turnout, which is analogous to ballot exhaustion, is about 10 times worse under New York City’s current system compared to RCV.





**Q: Are voters disenfranchised by "exhausted" ballots?**  
(continued)

**Very few ballots become "exhausted" under RCV, especially compared to the analogous drop in turnout under New York City's primary runoff elections.**

(Continued)

To minimize ballot exhaustion, we recommend that New York City adopts ballots that permit voters to rank more than three candidates. In the Santa Fe and Maine elections cited above, voters were permitted to rank every candidate. The example cited in the preliminary staff report with a high rate of exhausted ballots, which is discussed more fully on the next page, limited voters to only three rankings, even though there were 21 candidates on the ballot. We do not recommend restricting voters to fewer than five or six rankings, and only then if necessary to ensure a well-laid out ballot.

The preliminary staff report also mentioned the possibility of holding a second runoff election if a candidate wins with fewer than 40% of the total ballots cast in the RCV election (a "hybrid RCV-runoff system"). We want to share a cautionary note about this model: While having some theoretical merits, the model would still require a second election likely to result in reduced voter participation. However, with five or more rankings, such a runoff is unlikely to ever occur. In jurisdictions that do not limit voters to only three rankings, this has never occurred, so far as we have identified. Of 165 RCV elections that have taken place in the California Bay Area (limited to three rankings), only three elections (about 1.8% of elections) were won by a candidate who earned less than 40% of the total ballots cast.

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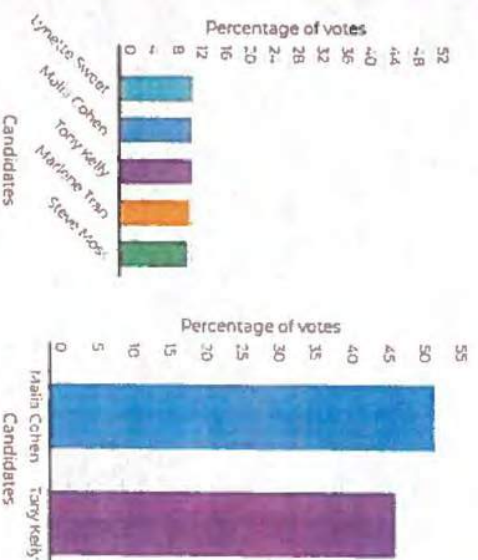
**Q: What happened in San Francisco's 2010 District 10 Board of Supervisors race?**

**RCV performed well under extremely unusual circumstances that would have challenged any system of elections.**

This contest attracted a large number of serious contenders for an open seat, and (due to a since-corrected quirk of San Francisco's public financing system unrelated to RCV) also attracted a large number of low-profile candidates. Altogether, there were 21 candidates on the ballot, with about 60% of the first-round vote divided nearly evenly among the top five. Due to outdated voting technology used in San Francisco at the time, voters were limited to three rankings (this would not be the case in New York City). The winner of the contest, Malia Cohen, narrowly placed third in the first round, but earned enough back-up support to win the final round. This is the only RCV election on record in which a candidate started out in third and won the election.

## SF Board of Supervisors District 10, 2010

1st Round (left chart) and Final Round (right chart)



Candidates with less than 10% not included.

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**Q: What happened in  
San Francisco's 2010  
District 10 Board of  
Supervisors race?**  
(continued)

**RCV performed well under extremely  
unusual circumstances that would have  
challenged any system of elections.**

(Continued)


These extremely unusual circumstances would have challenged any system of conducting an election. However, RCV performed well.

The number of "exhausted ballots" was higher in this contest than in any other on record, with 57% of ballots exhausted. That is better than what could be anticipated from similar runoff elections, however. As noted in the preliminary staff report, there was a 61% drop in turnout in the 2013 public advocate Democratic primary runoff election. In fact, the most recent runoff elections in San Francisco's Board of Supervisors District 10 (prior to RCV) had a more than 70% drop in turnout for the second round.

Had the race been conducted with a runoff election, Malia Cohen would have been excluded from the runoff, having come in third in the first round. Cohen, an African-American woman, has since gone on to win higher office in California, and presently serves as chair of the California Board of Equalization, representing the 2nd District, which includes 23 counties and nearly 10 million residents.

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**Q: Can candidates win under RCV with second choices alone?**

**Candidates must attract a strong base of support to win under RCV and can't win under RCV with second choices alone.**

Under RCV, every voter has one vote. In the first round, it counts for the voter's top choice. If no candidate earns a majority of those votes, the candidate with the fewest first choices is eliminated. Consequently, if a candidate has few (or no) first choices, that candidate cannot win. To win, a candidate must earn a majority of the votes after the round-by-round count. There is no secret trick to accomplish this. Rather, the candidate must run a strong campaign that resonates with as many voters as possible. RCV cannot elect anyone who could not win under current rules.

In practice, about 86% of elections held with RCV that require multiple rounds of counting are won by the candidate who leads in the first round. The remaining 14% are almost always won by the candidate who placed second in the first round. In only one contest - the San Francisco race mentioned previously - did a candidate place third in the first round and go on to win the election.





Q: Will RCV result in unintended consequences?

**There is a long history of RCV in use that demonstrates that RCV works as intended.**

There are 12 cities and one state using RCV today, and another seven local jurisdictions implementing RCV for the first time in their next elections (the full list is available at [www.fairvote.org/rcv](http://www.fairvote.org/rcv)). San Francisco has used RCV in every election since 2004. The benefits of RCV are not theoretical - they are demonstrated by a wealth of actual experience.

Every poll of a jurisdiction with RCV conducted has found majority support for the system. In 2013 and 2014, the Rutgers-Eagleton Poll, with Professor Caroline Tolbert (University of Iowa) and Professor Todd Donovan (Western Washington University) conducted independent opinion polls on voter experiences in local campaigns and elections. Over 2,500 likely voters were surveyed in seven cities with ranked choice voting. A majority of voters in cities with RCV supported the use of RCV in local elections.

When Santa Fe, New Mexico used RCV to elect its mayor and city council for the first time on March 6, 2018, an exit poll of over 20,600 voters showed 70.7% said they support the use of RCV in future city elections, and a majority would favor using the system statewide. In November, 2018, when Maine used RCV in its federal congressional general elections for the first time, an exit poll found that 60.9% of voters said that they would either keep RCV or expand its use to more contests. A majority (53.4%) favored expansion.

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**Q: Will RCV result in unintended consequences?**  
(continued)

## The few repeals of RCV are not evidence of “buyer’s remorse”


We are unaware of any polling conducted in a United States jurisdiction that uses RCV that found a majority of voters unsatisfied with it. However, there were repeals in four of the 25 local cities and counties that adopted RCV in the last 50 years. Most repeals occurred in jurisdictions with rocky implementations due to older voting equipment (which will not be the case in New York City) or issues not specific to RCV:

- Ann Arbor (MI) repealed RCV after the system led to the election of its first African-American mayor in 1975;
- Pierce County (WA) repealed RCV in 2009 after federal courts upheld the top two system, which became the default system in all Washington elections;
- Aspen (CO) repealed RCV in 2010 after election administration difficulties related to an independent contractor led to an expensive lawsuit; and
- Burlington (VT) repealed RCV in 2010 as a referendum on its mayor who was caught up in a post-election scandal, and who was the only person who had ever won election under the system.

Since 2010, no jurisdiction has repealed RCV. Instead, voters have sought to expand RCV. For example, Santa Fe (NM) used RCV in 2018, and now the state’s second largest city, Las Cruces, voted unanimously to use RCV this November.

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**Q: Is RCV bad for racial minority voting blocs?**

## **Research shows that women and candidates of color have won at higher rates due to the adoption of RCV**

As the preliminary staff report observes: "[I]n four California cities, RCV did not have a negative impact on the candidacy rates for woman and people of color and instead *increased* the probability that candidates in these groups would win elections, compared to plurality elections." This finding which has been buttressed by a peer-reviewed study published in the August, 2018 edition of *Electoral Studies* (available at <https://www.sciencedirect.com/science/article/pii/S0261379417304006>).

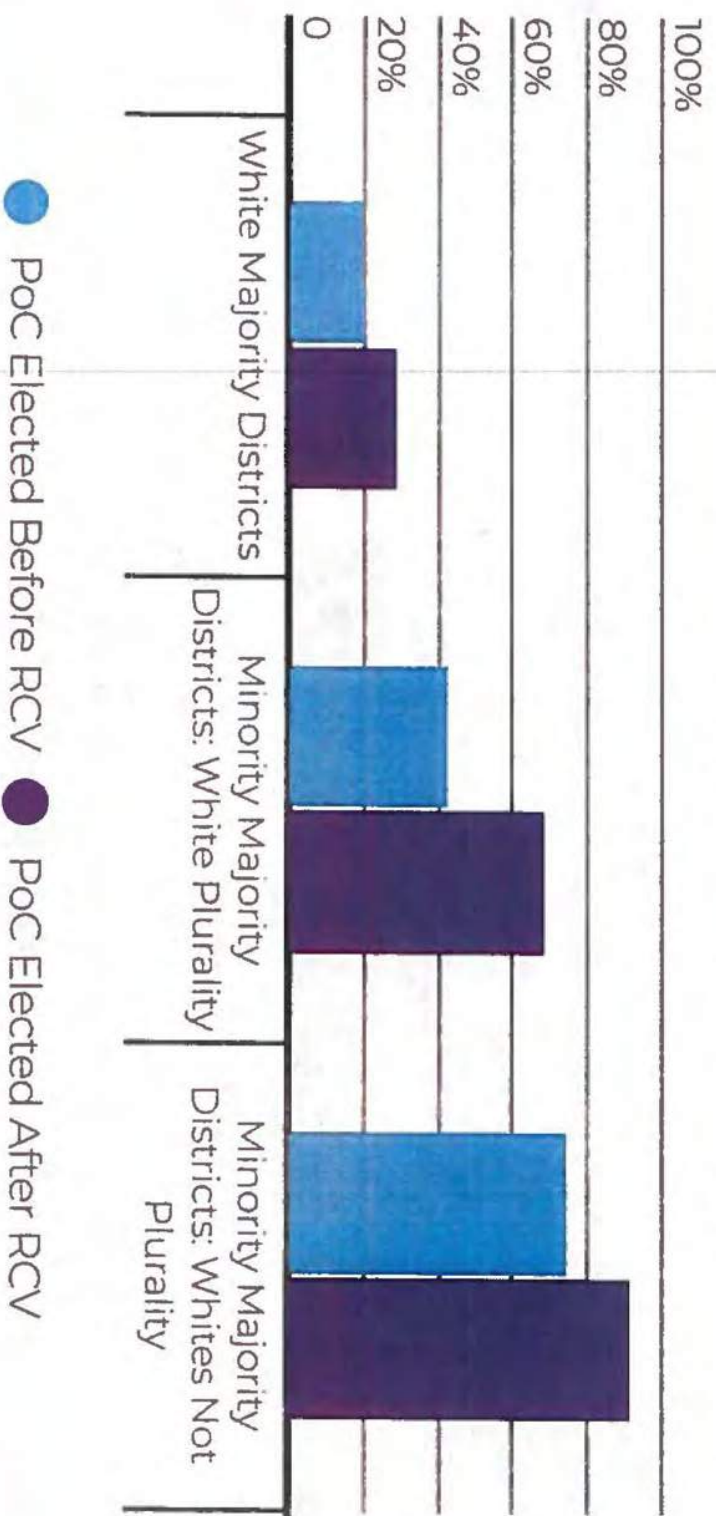
FairVote's own research into election rates of communities of color in the California Bay Area demonstrates that the greatest increases in such election rates occur in the most diverse districts - those where multiple racial minority groups collectively make up a majority of the district but where the largest single racial group is white voters.

Under RCV in the California Bay Area, representation of people of color has increased in majority-minority districts by 17 percentage points, in white majority districts by nine percentage points, and in white plurality districts with no single majority ethnic group by 24 percentage points (see graph on following page). This provides indirect evidence that communities of color are effectively using rankings to avoid vote splits that would otherwise undermine their ability to elect a candidate of choice.

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## Representation of People of Color in Bay Area RCV Elections By District Type



## **Research shows that voters from communities of color understand RCV ballots as well as white voters**

**Q: Is RCV bad for racial minority voting blocs?**  
(continued)

During testimony, speculative claims were raised about voter comprehension of RCV disproportionately hurting communities of color. A new peer-reviewed study published in Social Science Quarterly tested this proposition by surveying voter understanding of voting instructions and voting systems in jurisdictions with and without RCV immediately after the November 2014 elections, and it did not find evidence of race or ethnic bias in understanding. That paper is available at: <https://onlinelibrary.wiley.com/doi/full/10.1111/ssqu.12651>.



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## **RPA Response to the Preliminary Staff Report**

**Maulin Mehta, AICP**

*Prepared for the 2019 Charter Reform Commission Hearing on the Preliminary Staff Report  
May 9, 2019*

Good evening commissioners and thank you for the opportunity to respond to the preliminary staff report. My name is Maulin Mehta, and I am a Senior Associate at Regional Plan Association. RPA is also a member of the Thriving Communities Coalition.

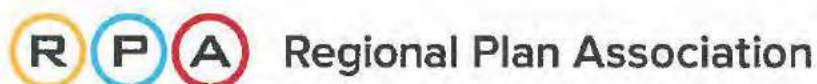
We are glad the preliminary report took the step in calling for coordination amongst the dozen planning processes currently in the Charter. However, we share our partners' frustration that, given this once in a generation opportunity, bolder steps are not being taken.

The eight key elements that members of the coalition and progressive caucus have discussed should be a guiding framework for developing a more robust planning process. We should not take for granted that we have progressive momentum in our City. As we've stated before, defining a values-driven approach in the charter would help put equity upfront in the planning process regardless of the administration in charge.

I'll focus the rest of my testimony specifically on the idea of an equity index that we've been thinking about more in-depth at RPA, which speaks to the data-driven needs assessment process of comprehensive planning we've discussed in previous submissions to the commission.

An equity index that evaluates infrastructure, services, economic conditions, and growth opportunities across New York City neighborhoods should be tied to the planning process and used in a way to prioritize investment. Such an index could be used to place neighborhoods on a spectrum looking at the comprehensive nature of what makes communities thrive and assets that need to be protected: things like diversity, sustainability, community centers, parks, transit access, jobs and schools. Development of the index could also include a community engagement process to evaluate more nuanced measures such as social networks.

This index could in turn be used to identify areas for city initiatives to improve access to opportunity – those that have the capacity to absorb new growth, areas for which transit expansion should be a priority, more holistic investment in protecting against climate change. Areas with a lower score would indicate another type of prioritization – one that would push investments in foundational areas to meet the existing needs of those



communities that have been historically underserved or those that are at a high risk of displacement.

Each indicator used in developing the index would also have further scrutiny to make sure they are capturing something more than a binary yes/no attribute. For example, access to transit would not just be about station proximity, but also look at things like service levels, ADA accessibility and capital needs.

Cities across the country are using this type of an index to guide their comprehensive planning process. In Denver for example, the neighborhood equity index helps them quantify equity in City policies, plans, and projects, and was most recently used in the development of their 2040 comprehensive plan. It is also being used in their 10-year bond program to target investment in communities with the highest level of inequality.

An example that I've cited before here in New York is the Parks Department's Community Parks Initiative. This program has used a type of equity assessment to target capital investment in parks within communities that have been historically neglected.

We are doing better than many municipalities in moving progressive policies forward. However, we cannot take for granted this momentum. A comprehensive planning process guided by sound analysis and equity principles only works if our City's constitution requires it to be undertaken and provides mechanisms for enforcement and budgeting.

Thank you for your time and as always we stand ready to be a resource as you develop the final report.



**Maulin Mehta, AICP**

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Regional Plan Association

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Below you will find the guiding principles and comprehensive planning elements we think are necessary to ensure a robust process that should be established within the charter. We will also be submitting more detailed ideas digitally by May 14<sup>th</sup>.

**Principles to be lifted up in the charter:**

- Fair distribution of resources and development
- Enforceable commitments
- Integration without displacement
- Transparency and accountability
- Real community power and ownership

**Elements of successful comprehensive planning:**

1. A single clear, coherent plan
2. Equity principles
3. Citywide & localized analysis
4. Balance of citywide and local needs
5. Equitable distribution of resources and future development
6. Coordinate with capital budget
7. Create a future land use map
8. Incentivize alignment with the plan

**CHPC Testimony on 2019 Charter Revision Staff Report  
May 9<sup>th</sup>, 2019**

**Good evening Chair Benjamin and Commissioners:**

Thank you for allowing me to testify today. My name is Jessica Katz and I am the Executive Director of the Citizens Housing and Planning Council. CHPC has followed this process carefully and commends the incredibly diligent work of the Commission and its staff. Your work as a Commission has been deeply impressive, especially to the true ULURP nerds among us.

A city as huge and diverse as New York requires decision-driven land use and planning processes that balance local and citywide needs. We also need a process that is robust, transparent, and predictable. There is no process where all parties will be happy, but we can do better to ensure that all parties are heard. But I also want to point out that it is impossible to legislate consensus, and that even small changes to this process could disrupt the delicate balance ULURP was created to achieve.

You've heard a lot of concerns about ULURP. Communities want more information, sooner, on projects in their neighborhoods, and more time to meaningfully influence them. Any changes should directly address those concerns by advancing transparency and meaningful community engagement.

CHPC is in full support of requiring Community Boards be notified of ULURP applications prior to their certification. Building discourse and trust early on is beneficial for both applicants and communities. Local stakeholders will have more time to prepare for ULURP to begin.

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Tracy Sullivan  
Robin Thomson  
David Walsh  
Adam Weinstein  
Alan H. Wiener  
Mark A. Willis  
Emily Yousouf  
Howard Alan Zipser  
Emeriti  
Frances Magee  
Peter Salins



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However, duplicating a ULURP comment period will only add opacity, confusion, and conflict. Certification precedes ULURP so that applications reach technical compliance before undergoing public review. A community that spends time and energy commenting on an uncertified application will only encounter more frustration if it is then significantly revised to satisfy DCP feedback, especially if changes conflict with community wishes. And since residents will have only very little time to engage and participate before comments begin, the pool of voices contributing to the process will become narrower and more exclusive.

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Pre-certification is different for every project. It needs to remain fluid so that the subsequent ULURP itself is clear and transparent.

In this spirit, we support an extension of the Community Board comment period from 60 to 75 days throughout the entire calendar year. Coupled with early notification, the extension will give Community Boards more time to host multiple meetings or hearings, diversifying who gets to participate and how.

How to participate- this is the critical question. The current process means that the primary form of participation is to testify at a hearing. This puts parties in opposition, instead of encouraging them to better understand one another's wishes and constraints, ask questions, and strive for consensus. Hearings can be long, crowded, and intimidating; they amplify only the voices of those with the time and temperament to testify. Additional meetings set aside for information and discussion would engage a wider range of residents: those who want to weigh in but not to testify and those who need

more information to form an opinion. They would also give evening workers and people with childcare needs more opportunities to learn about projects in their neighborhood.

CHPC is optimistic that these changes will help capture more community voices and amplify their role in land use decisions. It is our hope that outside the charter reform process, we can experiment with ways to help capture the voices and needs of those not well served by our current system, including homeless New Yorkers and the future residents of proposed housing developments. It is our responsibility to ensure a process where those needs are kept in sight.

On that note, I'd like to commend and thank the staff for focusing on proposals that clarify, streamline, and synchronize existing plans. It is only with a clear understanding of where the gaps in our current plans are that we can begin to fill them.

Our planning documents should identify local and citywide needs, goals, and priorities, along with strategies to address them on a cohesive timeline. They should set out the data and context necessary to frame and assess how individual policies, programs, and land use decisions will collectively advance our overarching vision for the city.

CHPC is happy to support the Commission and its staff in the exploration of such solutions. Thank you for your time.



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### Charter Revision Commission Testimony

May 9, 2019

The best part of democracy is that there is always room for improvement.

When I testified to this commission on September 27, 2018, the previous Charter Revision Commission had just approved ballot language that included in part proposals I had put forth on campaign finance reform, as well as urban planners and term limits for community boards. At the time, we had no way of knowing the results to come: the adoption of all three ballot questions, with campaign finance reform receiving the most support, an overwhelming 80%, with 1.1 million voters in favor, almost as many as voted for Mayor on the Democrat and Republican lines combined. I commend this Charter Revision Commission for respecting the will of the voters by not revisiting the issue areas covered by the previous ballot questions and focusing on amendments to the Charter that can only be accomplished through a vote of the people.

At last September's hearing, I proposed 72 recommendations for amendments to the Charter for this Commission's consideration. The City Council included 16 of those recommendations in our Report to the 2019 New York City Charter Revision Commission this past January. Now this Commission has identified 9 of my recommendations in whole or in part for further discussion in its Preliminary Staff Report. I will be submitting only 15 recommendations across 5 categories of conflicts of interests, city budget, land use, elections and redistricting, and empowering the offices of the Public Advocate and Borough President.

Americans are losing faith in government with concerns of corruption emanating from conflicts of interest at every level. Elected officials and agency heads should bring a career of expertise into government and return to their careers once their public service is complete. That is why I support the staff report's recommendation of extending the lobbying ban in New York City from a laughably short one year, and once again call for a lifetime ban on lobbying.

Conflicts of interest are a particular problem for the city's attorney, the Corporation Counsel, who can frequently find themselves caught between the checks and balances of a city government that is their client. I support the staff report recommendation for advice and consent for this important position along with notifications of conflicts, but would go further to require renewals every 2 years and dedicated funding for outside counsel that won't come out of an elected official or independent agency's budget.



Since the staff report is considering widening advice and consent, the Commission should also consider expansion to all agency heads or at least over the the Police (NYPD), Department of Buildings (DOB), Department of Sanitation (DSNY), Parks and Recreation (DPR), Department of Homeless Services (DHS), Administration for Children's Services (ACS), Housing Preservation and Development (HPD), and Department of Citywide Administrative Services (DCAS).

I support Ranked Choice Voting as proposed by the staff report. In particular a top 5 system as proposed by Common Cause New York and implemented for citywide elections that currently require a 40% threshold or run-off, preventing costly runoff elections.

Communities must have a stronger voice in the Land Use process when it counts, not when it's a done deal, put forth for an up or down vote. That's why I proposed and support the staff report in beginning public engagement at the Community Board as soon as anyone files a pre-application at City Planning, Landmarks, HPD, BSA, and DOB.

As this Commission tackles comprehensive planning please consider providing dedicated funding for a Community Board, Council Member, or Borough President initiated rezoning complete with education, organizing, legal, and environmental experts to complete required environmental studies and applications. Along the same lines a 197(a) plan should be the start of the rezoning process, not the end.

When managing a \$92.2 billion budget, taxpayers should be able to know where every penny is being spent. As I testified before and the staff report recommends this Commission must specify objective criteria for Units of Appropriations and empower the Council to subdivide them if the Mayor wont. We must also ensure that spending goes to communities that are reflective of our city's diversity. The Charter must be amended to ensure diversity in procurement by mandating that those getting city money include potential or selected MWBEs prior to award.

With money comes power. As I testified before and the staff report concurs, elected officials and independent agencies must be free of the budgetary control of one another to truly have a system of checks and balances. The Commission must codify equal budgets for all Council Members and eliminate lusus in the Charter itself to protect their independence from the Speaker. The CCRB should be a percentage of the NYPD, Board of Corrections of the Department of Corrections. The Comptroller should be able to set their own budget. The Public Advocate should get at least 50 cents per resident and COIB a \$10 per city employee. Each Borough President should have a guaranteed budget with separate funding for heir Charter mandated Topographical Bureau, Budget Office, and Borough Planning Office. These mandated offices should be tied to a percentage of their relevant counterpart in the City budget as modified up by borough activity.





Together the Public Advocate and Borough Presidents remain as an additional check in government who should be further empowered in the delivery of city services, holding public hearings, obtaining document and records, and recommending capital projects. The Commission must give the Public Advocate and Borough President's power to ask questions under oath whether at public hearings and contracts hearings as well as compel appearances and providing documents for the foregoing as well as at borough service cabinet. As the new Chair of the Contracts Committee in the City Council I am excited for the prospect of collaborating with Borough Presidents using their Contracts powers. Further, all elected officials should have an expanded right to visit any city facility.

**Conflict of Interest:**

1. Post-Employment Appearance Restrictions
2. Corporation Counsel <sup>New</sup>
3. Appointment: Corporation Counsel
4. Appointment: Agency Leaders

**City Budget:**

5. Independent or Guaranteed Budgets
6. Units of Appropriation
7. Diversity in Procurement <sup>New</sup>

**Borough President & Public Advocate:**

8. Borough Service Cabinets <sup>New</sup>
9. Public Hearings <sup>New</sup>
10. Obtaining Documents and Records
11. Capital Project Recommendations

**Land Use:**

12. ULURP Pre-Certification Notice and Comment
13. Planning

**Elections and Redistricting:**

14. Ranked Choice Voting <sup>New</sup>
15. Timing of Redistricting



## CONFLICTS OF INTEREST

### 1. Conflicts of Interest: Post-Employment Appearance Restrictions

Last September, in recommendation 24 of my testimony, “Lifetime Ban on Lobbying,” I proposed that this Commission add to Chapter 68 § 2604(d) of the Charter a lifetime ban on lobbying for elected officials and agency heads. I cited Senator Elizabeth Warren’s (D-MA) declaration that there is a “crisis of faith in government,” which prompted the introduction of federal legislation imposing a lifetime ban on lobbying for the president, members of Congress, Cabinet secretaries, and judges. As Senator Warren explained, “our national crisis of faith in government boils down to this simple fact: People don’t trust their government to do the 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.”

The current law only bans former officials from appearing before the City agency that employed them for one year following the end of their service. In contrast, New York State Public Officers Law § 73(8)(a)(i) prohibits state officers and employees from appearing or practicing before their former agency and from being compensated in relation to matters before their former agency for two years.

A lifetime ban would support the notion of a citizen legislature and government of people who do public service and return to their careers, not get rich as a lobbyist for special interests. Our country has been trying to guard against the influence of special interests the modern equivalent of “factions” since our founding. In the tenth entry of the *Federalist Papers*, James Madison warned of the danger posed by factions, “a number of citizens, whether amounting to a minority or majority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community.” In *Federalist #10*, he outlined the ways in which the Constitution then under consideration intended to prevent these factions from gaining tyrannical control. While Madison feared that the enlightened statesman would be susceptible to corruption, the professionalization of political influence has enlarged this threat in the modern day. The founders were affluent landowners who temporarily left their interests to serve in government. They likely could not have imagined the fortunes to be made in lobbying today. Arguably, the founders would have find this financial opportunity abhorrent.

This Charter Revision’s Staff Report states, “[p]ost-employment appearance bans exist because there is a perception that lobbying by former government officials may result in undue influence, particularly when the former government official was an elected or high-ranking official. These individuals had significant power while in office and may thus have significant influence as lobbyists.” A lifetime ban is the only way to eliminate the perceived (and perhaps real) impropriety of an elected official using the powers of their office to benefit lobbyists with the understanding that they would one day cash in themselves.





If this Commission believes that a lifetime ban is too harsh, then it should consider a lobbying ban for elected officials and agency heads of four years (or at least half the length of the elected offices' limits). This would guarantee that all or at least some of the relationships the elected official or agency head might seek to monetize would no longer be in government, reducing their power and perhaps reducing the incentive for the public servant to leave government for a career as a lobbyist.

## 2. Conflicts of Interest: Corporation Counsel

The Staff Report raised the important issue that the Corporation Counsel is meant to be the "attorney and counsel" for the entire City, including all its elected officials and executive agencies — a topic I had not covered in my testimony last year. As the Staff Report points out, while the Corporation Counsel must answer to all elected officials and executive agencies, the Mayor is solely responsible for the Corporation Counsel's appointment and removal. Such a structure is problematic and creates the potential for inherent bias. The Corporation Counsel must be independent to operate free from the interests of any particular elected official, including the Mayor, so that it can effectively defend the interests of the City overall. In her testimony to this commission, Manhattan Borough President Gale Brewer testified to this commission that "the capacity of the Law Department to provide unbiased, independent guidance to members of city government is compromised when its leadership, the Corporation Counsel, is appointed by a single person." The Charter must be amended to define what constitutes a conflict of interest between City entities. This Commission should set the floor for what constitutes a conflict of interest and allow Corporate Counsel to promulgate rules to add further protections.

The Staff Report recommended that the Corporation Counsel to notify opposing entities of whether or not it has found a conflict of interest in its responsibility to the parties of a suit. I support this recommendation, although this notice requirement should be covered by the New York State Bar Association's New York Rules of Professional Conduct as adopted by the New York State Unified Court System Part 1200 Rule 1.7 "Conflict of Interest: Current Clients," which states, "a lawyer shall not represent a client if a reasonable lawyer would conclude that ... the representation will involve the lawyer in representing differing interests." The exception is allowed in four instances (1) the attorney believes they can competently and diligently represent the client, (2) that the representation is not prohibited by law, (3) clients are not asserting claims against one another, and (4) "each affected client gives informed consent, confirmed in writing."

Currently officials and agencies are allowed to employ outside counsel in instances where Corporation Counsel cannot represent them due to a conflict of interest. When Corporation Counsel identifies a conflict between entities if it does not do so already it should be required to notify said entities when it authorizes the use of outside counsel. Corporation Counsel should be required by the Charter to either agree that they will represent or acknowledge a conflict and provide a notice granting a right to outside Counsel.



When the Mayor or another agency seeks representation of the Corporate Counsel, it does not come out of their budget. In fact payouts for Judgments and Claims cost the city a whopping one billion dollars per year, which is paid out of the city's general fund, not the offending agency's budget. The Charter should be amended to ensure that payments to outside counsel come from an independent unrestricted fund when it involves another elected official or agency meant to be independent.

### **3. Corporation Counsel: Appointment**

This Commission seeks feedback concerning the appointment structure for Corporation Counsel, including whether the Council should have the power of advice and consent and whether there should be a set term for the position. Thank you for pursuing this recommendation, which was part of recommendation 38 in my testimony and included on page 3 of the Council's Report. This Commission should amend the Charter to require City Council's advice and consent for the Corporation Counsel.

Further, the Corporation Counsel's term should be 2 years. This term should be renewable and subject to the Council's advice and consent so that their performance may be periodically reevaluated. As noted on Page 3 of the Council's report, in case of Corporation Counsel's resignation or premature vacancy for other reasons, a replacement could be appointed, also subject to the Council's advice and consent, to complete the remainder of the term. At the expiration of the 2-year term, the Corporation Counsel should be subject to the advice and consent process if the Mayor chose to reappoint.

### **4. Appointment: Agency Leaders**

As the Charter Commission considers expanding the City Council's power of advice and consent for the appointment of Corporation Counsel additional agency leaders should be considered.

§ 31 of the Charter already gives the power of advice and consent to the Council for the following positions:

- 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.





This Commission should amend § 31 of the Charter to grant the City Council the power of advice and consent on the appointment to all agency lead positions, or at least to the following positions at agencies that are often at the center of controversies with a direct impact on New York City residents:

- Police (NYPD),
- Department of Buildings (DOB),
- Department of Sanitation (DSNY),
- Parks and Recreation (DPR),
- Department of Homeless Services (DHS),
- Administration for Children's Services (ACS),
- Housing Preservation and Development (HPD), and
- Department of Citywide Administrative Services (DCAS).

As I highlighted in recommendation 38, Chairs, Chiefs, Commissioners and Board Members currently only answer to the Mayor, often ignoring and even refusing to answer questions posed by the City Council or even the press. Requiring these appointees to come before the Council for initial advice and consent would be an important screening tool, and bringing agency heads back in front of the Council every two years would make them more responsive to the Council following their appointment.

## CITY BUDGET

### 5. City Budget: Independent or Guaranteed Budgets

Our system of checks and balances empowers the Mayor subject to approval from the Council to set budgets for other elected officials and most all the agencies. I am glad that the Staff report identified independent budgeting as an area of focus for this Charter Revision including “, for example, independently elected officials (the Public Advocate, the Comptroller, and the Borough Presidents), the Conflicts of Interest Board, the Department of Investigation, the Board of Correction, and CCRB,” which expanded upon recommendation 26 from my testimony to include the Board of Correction and CCRB. This issue was also highlighted the Council's Report, starting on page 8. However, the staff omitted from its list Council Members who must be included. Council Members are also independently elected and can face retaliation from their Speaker that may not only harm them, but their districts through the loss of discretionary funding.

Certain budgets should be tied to a minimum percentage of the agency that they oversee. The CCRB should be tied to at least 1% if not more of the NYPD. Similarly the Board of Correction should be tied to a percentage of the Department of Correction.



Certain budget should set by the independent body, like the Campaign Finance Board and the City Council. However, all Council Members with the exception of the Speaker and Minority Leader should have equal salaries, budgets for their offices and discretionary funding allocations. Any deviation for budget for offices or discretionary funding allocations should be the result of a transparent objective formula such as a modifier for high poverty or a need for multiple offices due to spanning two land masses or boroughs. The Council's budget should be no smaller than that of the Comptroller's.

Certain offices such as the Public Advocate and Conflict of Interest Board responsible for serving specific constituencies could have a dollar amount per constituent indexed to inflation. The Public Advocate serves 8.6 million constituents throughout the five borough, and at 50 cents per resident, that would bring the budget from \$3.8 million to \$4.3 million and protect the office from retaliation from the Mayor or the Council. The Conflict of Interest Board is an independent agency tasked with training, interpreting, advising, disclosure and enforcing Conflicts of Interest Law under Chapter 68 of the Charter. To that end, they are responsible for some 325,000 city employees, with a cost allocation of \$10 per employee, their budget would see an increase from \$2.33 million to \$3.25 million after years of stagnation.

This Commission should also amend the Charter to provide guaranteed budget set-asides for Borough Presidents. For example \$3 per resident would yield \$25 million to split roughly equally among the five boroughs with modifiers for higher populations not to exceed a standard deviation. Additionally, the Charter mandates that the Borough President maintain certain offices and positions which must also be explicitly funded. These mandated offices should have designated funding tied to a percentage of their relevant counterpart in the City budget as modified up by borough activity. These offices established in the Charter include:

- **Topographical Bureau** — §82(3) requires the Borough President to maintain a Topographical Bureau and appoint the director will also serve as construction coordinator and consulting engineer and monitor capital projects in the borough and shall be available to serve as an expeditor on construction projects in the borough and provide technical assistance with respect to construction projects. This could be tied to the budget for the Department of Buildings modified up to reflect construction.
- **Budget Office** — §82(7) requires the Borough President to establish and maintain a budget office for the borough to assist the borough president in the preparation of budget proposals, review and analysis of proposed budgets, departmental estimates, budget modifications and other fiscal matters under the jurisdiction of the president of the borough. Similar to the Independent Budget Office, this budget could be tied to a percentage of OMB budget as modified to reflect spending in the borough.
- **Planning Office for the Borough** — §82(9) requires the Borough President to establish and maintain a planning office for the borough to assist the borough president in planning for the growth, improvement and development of the borough and performing such other planning functions as are assigned to the borough president by this charter or other law. Funding for this office could be tied to a percentage of the Department of City Planning





## 6. City Budget: Units of Appropriation

New Yorkers deserve a budget that anyone can review with a transparent presentation of budgeted amounts, actual spending, and planned spending for the future. This Commission must create a mechanism to provide an independent and transparent budget. Further, 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 a requirement to post the budget online. Doing so has already empowered residents to find a \$791 million error in the budget. However, the city's budget still remains too opaque for residents to see how many is really spent. Thank you for pursuing budget transparency and independence, which was included in recommendation 67 of my testimony and echoed on pages 14 and 15 of the Council's Report.

In addressing units of appropriation (UA), the Charter §100(a) only requires a breakdown of units of appropriation for "personal services" (staff salaries) and "other than personal services" (everything else). However, §100(c) goes further by requiring "[e]ach proposed unit of appropriation shall represent the amount requested ... for a particular program, purpose, activity or institution." Additionally Charter §100(d) requires "a statement of the programmatic objectives of the program, purpose, activity or institution involved."

Unfortunately, most agencies simply list the two codes of "personal service" or "PS" and "other than personal service" or "OTPS." When \$791 million was misappropriated or mislabeled, the problem was the money was allocated in a lump sum, which was incorrectly allocated to the wrong division within the agency. Although the budget was viewable to the public, because there were no line items under the lump sum, it was unclear what the money was intended for.

As noted in the Staff Report on page 59, neither the Charter nor court cases provide any concrete definition of, "a particular program, purpose, activity or institution," which is meant to determine the limitation on the structure and size of Units of Appropriation. This Commission has the opportunity to fix this ambiguity to reflect the intent of the 1989 Charter Revision Commission.

A plain reading of the 1989 Charter Revision Report shows the drafters of this provision meant to impose a limitation on the structure and size of a Units of Appropriation. Principally, the Units of Appropriation must be targeted for a specific purpose, clearly defined and for the benefit of a particular institution. This interpretation would prevent the Mayor from granting a Units of Appropriation to a particular agency without clearly defining the purpose of the Units of Appropriation. However, as demonstrated in the Staff Report on page 59, this is not the current practice.

I support the Commission staff's recommendation to provide the City Council with oversight over Units of Appropriations beyond the powers granted in Charter §§ 247(b) and 254(a), which provide for "recommendations for any changes in the unit of appropriation structure which the council deems appropriate." The Council should have the ability to require the Mayor to provide transparency as to the purpose for the Units of Appropriation, the particular program the Units of Appropriation is provided for, and the activity or institution being granted the Units of



Appropriation, outside the regular discussions around funding during the budget process. The Commission could set objective standards to separate Units of Appropriations such as for each Deputy or Borough Commissioner within an agency and those that they supervise. Where the Mayor fails to include adequate Units of Appropriation, the City Council could be empowered to subdivide Units of Appropriations to fulfill the Charter mandate, with the Mayor then required to reallocate funding as necessary between Units of Appropriation in budget modifications to provide ongoing transparency. I would also support the staff recommendation for the setting of the minimum Units of Appropriation ahead of the budget provided it was coupled with a currently missing oversight for the Mayor's Management Report.

Lastly, this information should be available in a machine-readable format, *prior* to the beginning of the Council's preliminary budget hearings, executive budget, and each subsequent budget modification.

## 7. Diversity in Procurement

For the past six years, this city has struggled to achieve diversity in procurement. The Mayor has attempted to fix this deficiency through the creation and appointment of a citywide MWBE director. However, as stated on page 73 of the Staff Report, there is no legal requirement that this position continue to exist going forward.

I support this Commission's recommendation to amend the Charter to mandate that the OMWBE exists going forward. As Chair of the Land Use Subcommittee on Planning, Concessions, and Dispositions, I asked every developer at receiving subsidies at every hearing whether or not they were using MWBE certified contractors and meeting their certification. On rare occasion, a developer would come prepared with their MWBE information, or they themselves were an MWBE and it was clear that they valued this priority. I was disappointed to find, however, that more often than not, the developer would only promise to follow MWBE guidelines on a project, most likely honored in the breach. The way to solve this is to require, as a part of the procurement process, that any time the city is involved where MWBE requirements are triggered, the action cannot be approved until the MWBE threshold is met through the identification of a restricted pool of potential or selected MWBEs as part of the project.





## **BOROUGH PRESIDENT & PUBLIC ADVOCATE**

### **8. Borough Presidents: Borough Service Cabinets**

The Borough President's power to obtain information and force agencies to meaningfully engage borough issues needs to be strengthened. Particularly, borough-level officials and divisions of agencies should be responsive to the Borough Presidents. Recommendation 38 of my testimony touched on this need in part by recommending the Charter require select agencies' Borough Commissioners to work through Borough Service Cabinets to ensure quality service delivery.

The Borough Service Cabinet should include city agencies engaged in direct service to residents with an impact on quality of life, including:

- Police department (NYPD),
- Department of Transportation (DOT),
- Parks and Recreation (DPR),
- Department of Sanitation (DSNY),
- Department of Homeless Services (DHS),
- Department of Buildings (DOB), and
- Housing Preservation and Development (HPD).

To the extent state law does not preempt the City from requiring them to participate in Borough Service Cabinets, the Commission should also compel:

- New York City Transit (NYCT),
- Department of Education (DOE),
- School Construction Authority, and
- New York City Housing Authority.

As issues arise and needs change, the Borough President must have the ability to compel agency attendance and reports at the Borough Service Cabinet.

Further, in order to force agencies to meaningfully engage with the Borough Service Cabinet, I must reiterate recommendations 38 and 39: Borough Boards must have advice and consent on Borough Commissioners and the ability to terminate those Borough Commissioners for cause or at least subject them to a requirement of advice and consent every two years.



## 9. Borough President: Public Hearings

Public hearings of the Borough President are addressed in the Staff Report on page 37, where it is noted that no one can be required to attend, provide testimony, or answer questions, with the “quasi-exception to this is in the realm of contracts.”

The Commission was right to identify the power of the Borough Presidents to evaluate and monitor contract performance.

In particular, Charter §333(b) allows for Borough Presidents to recommend appropriate action to the agency head if there is reason to believe non-performance or lack of compliance in a contract for delivery of service to a specific borough. Once a recommendation is received by an agency head, they must reply within ten days with the proposed corrective action, if any, to remedy the deficient service delivery. If the Borough President is not satisfied with the proposed actions, then they may call a hearing in the borough of a contract performance panel consisting of the Public Advocate, Comptroller, Mayor, or their designees. The affected agency head or their designee do not necessarily appear but may be compelled to appear and deliver testimony at the hearing. The panel must deliver a recommendation within 30 days to the Borough President, the agency, and contractor. The agency in turn responds within 30 days to the panel and Borough President “indicating which of the panel's recommendations shall be acted upon and what, if any, alternative action will be taken.” In sum, the whole process involves a lot of correspondence, possible compliance through public shaming, but nothing binding.

I was excited to see the Staff include this provision in the Staff Report, but disappointed that it was not tied to any recommendations. As the newly appointed Chair of the City Council Committee on Contracts, I intend to collaborate with the five Borough Presidents to use this power to improve the contracted delivery of services.

As pointed out in the report, neither the agency nor the contractor is required to appear. The Commission must give the Borough President power to compel both to appear and provide any documentation or proofs requested by the Borough President, with an opportunity provided to the Borough President to ask questions of the agency and the contractor under oath. In addition, the Panel's determinations are currently non-binding, only requiring a response from the agency in question. Should a Borough President take such extraordinary measures this process must be binding by providing the Borough President with the power to put forth the initial recommended action of “terminated for noncompliance, modified, not renewed, modified at the time of renewal, or that the existing terms of the contract should be enforced,” followed by a binding vote of the panel in favor, against or either with modifications.

Generally, for all public hearings, the Commission should give the Borough President the power to require agency heads to attend, provide testimony, document, and answer questions under oath.





## 10. Obtaining Documents and Records: Public Advocate and Borough Presidents

Borough Presidents must currently use the Freedom of Information Law (FOIL) to access public records. However, this power should be expanded to include both subpoena power over individuals as well as documents, records, or other information relating to matters within the Borough President's jurisdiction. The Charter could allow for the Council, Public Advocate, Comptroller, or Mayor to seek a judicial order of relief if the subpoena power is abused. Further, I agree with this Commission's assertion that Borough Presidents should have the power to receive documents and records from agencies relating to matters such as budget and land use within their respective borough.

As I stated in my September 2018 testimony, under recommendation 40, Borough Presidents must also have an expanded right of visitation. Under Charter Chapter 25 § 627, only Council Members are 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 Members 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.

## 11. Borough Presidents: Capital Project Recommendations

The Staff Report explained on page 36 that the Borough Presidents' limited powers include making non-binding recommendations for capital projects. I argued in recommendation 41 of my testimony that there is a need for expanded powers regarding capital projects.

The City Charter allots five percent of the capital budget and five 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, and propose amendments to Executive Expense and Capital Budgets subject to a City Council vote.



## LAND USE

### 12. Land Use: ULURP Pre-Certification Notice and Comment

The current ULURP process provides insufficient opportunity for community engagement. I highlighted this in [recommendation 50](#) from my September 2018 testimony and it is discussed on page 29 of the [Council Report](#). 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.

Currently, once a Community Board receives an application that DCP has certified as complete, it has 60 days to (1) notify the public of the application in a manner specified by CPC rules; (2) hold a public hearing on the application; and (3) submit written recommendations to CPC and the affected Borough President. The [2010 Council Report](#) called for an initial community board hearing within 30 days of the filing of pre-application documents with the Department of City Planning. This 30 day period of pre-certification would increase opportunities for public engagement and revision of applications while there is greater opportunity for flexibility than during the actual ULURP process.

Currently, Community Boards are called upon to learn about a project, ask questions about the project, and vote on the project on the same night. This Commission can fix this broken process. Just like the City Council usually hears on an issue and votes after it has time to get questions answers and negotiate a better outcome prior to a vote so should Community Boards be empowered to hold hearings prior to a vote.

Additionally, the Commission must go further and require community notice and public hearings as soon as a city agency 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 during pre-application.
- 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 city council.
- Landmarks Preservation Commission – the commission should advise the Community Board of whether it would initiate a study and how long it would take.
- Department of Buildings – applicants for demolition of more than one multi-family dwelling or new construction of more than 10 units would be required to appear before the community board and could be called up by the borough president or city council.





### 13. Land Use: Planning

New York City needs a comprehensive plan to help create synergy and coordination between existing planning documents, ensure that plans address anticipated future challenges with specific indicators for measuring progress over time. I applaud this Commission for highlighting and recognizing the various planning documents needed to exhaustively review all relevant planning tools and the problem that many of them do not relate to each other. I support adding the indicators as recommended. I addressed some of these in my September 2018 testimony with recommendations [42](#) and [43](#).

The Charter mandates the funding of EIS for [197\(a\)](#) this should be expanded by this Commission to include funding for EAS and EIS for any community board, council member or borough president initiated zoning text amendment or rezoning.

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 required by the Charter to render decisions on ULURPs and other land use items, the Borough President's input on these matters is merely advisory. Without binding powers, the office cannot live up to its designs, and the voters are being denied real representation at the borough level. Similarly, Community Boards do not have binding authority, and are thus denied the ability to truly represent their neighborhoods. Community boards, jointly with their borough president 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, 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.

While some might argue that providing such a veto could stop future progress, it would have the opposite effect of forcing applicants for a rezoning to the table to negotiate with the Community Board and Borough President in the same way as they currently negotiate with the Council Member who has a vote.

This Commission must provide Borough Presidents and Community Boards with these vital powers to take proactive planning steps and have an actual vote at the table to ensure better community and citywide planning.



## ELECTIONS AND REDISTRICTING

### 14. Elections and Redistricting: Ranked Choice Voting

I support the Staff Report recommendations for Ranked Choice Voting (RCV). Maine and 11 localities in the United States, with five other jurisdictions planning implementation of Ranked Choice Voting before 2021. Ranked Choice Voting was formerly used in New York City until 1936; it is now time to bring this system back.

Charter should be amended to allow for Ranked Choice Voting. I support Common Cause New York's recommendation allowing for voters to choose the top 5 candidates (if available) in order to limit ballot exhaustion. I support staff recommendations that Ranked Choice Voting be implemented for citywide elections that currently require a 40% threshold or run-off. This will prevent costly runoff elections.

### 15. Elections and Redistricting: Timing of Redistricting

Last year, I suggested that this Commission could remove the post-census half term for City Council Members by completing the redistricting process in two months prior to June petitioning. Recent action by the State Legislature has finally consolidated the primaries for Federal, State, and City office into one June election, and moving the petitioning period up to February. Considering that redistricting data will not be delivered from the U.S. Census until March 31, 2021, my original recommendation is no longer feasible. However, given the State Legislature's precedence of moving the primary date, this Commission should still include a clause that if the municipal election is slated once again to occur in September then the redistricting would be mandated for completion in time for petitioning with a full four-year term to follow.

Along with the above provision, I support the Staff recommendation of shifting the redistricting process by three months earlier. This adjustment is necessary in response to the State's recent change to the Election Law in order to provide potential candidates the same amount of notice that they have had in past elections concerning the boundaries of their districts.

Not to be overlooked, § 22 of the Charter allows the City Council to increase its membership from 51 without limit. This Commission should repeal § 22 and remove the city council's ability to add or subsequently reduce the number of council members at will.



My name is Gloria Mattera. I am currently co-chair of the Green Party of New York, a lifelong Brooklyn resident and a former Green Party candidate - twice for ~~both~~ City Council in 2001 & 2003, (both times against Bill deBlasio –placing second in 2003) then Brooklyn Borough President and Lt. Gov.

I want to thank the Commission for including Ranked Choice Voting as a potential charter revision and for holding hearings in all 5 boroughs.

The Green Party supports Ranked Choice Voting for all general elections. RCV along with other more substantive electoral reforms have been an anchor in the Green Party platform since our formation. We have a strong history of advocating for and campaigning on democratizing elections including RCV, proportional representation, full public financing and equal access to the media and the debates.

From the Federal to the local level, every aspect of elections - ballot access, campaign contributions, media attention, have favored the two corporate parties - Democrat and Republican. Instituting Ranked Choice Voting for only primaries and special elections just perpetuates that advantage. Smaller party and independent candidates and those who choose to vote for them deserve equal electoral opportunity.

We know from previous testimony, surveys and probably your own research that Ranked Choice Voting results in more diversity of candidates, more choices for voters, and increased voter turnout. It is well liked and working in the cities and states that are using RCV. What possible reason could there be for limiting a voting method that adds more diverse candidate voices and offers more voter choices in all general elections?

To end with my own experiences campaigning as a Green Party candidate who was also well known as a community organizer and Green Party leader. From potential voters

" I like what you and the Green Party stand for but I don't want to waste my vote"

" I want to vote for you but what happens if the candidate I dislike the most wins"?

From some elected officials, Democratic clubs and community leaders:

"We need you in office - you should run as a Democrat so you can win"

"In this city the primary determines the winner so independent and smaller party candidates do not have a chance"

There is a lot of jingoism about the U.S. being the most democratic nation but there is also a history of voter suppression, voter disenfranchisement, voter apathy and vote tampering. The right to vote is often equated with democracy but it is not really democratic when voters' choices are limited from the start because of a winner take all system that declares a winner without a majority of the vote in a low turnout election.

I strongly urge the Commission to recommend all general elections in New York City be conducted by Ranked Choice Voting.

Gloria Mattera, Brooklyn New York

gmattera@gmail.com

New York City Charter Commission 2019

Testimony of Richard Barr 5/9/19

Good evening and thank you for taking my testimony. My name is Richard Barr. I live in Manhattan and have, over the years, worked for two City agencies, one State agency, and have also been an advocate for tenants, campaign finance reform, public education and other issues. I have always followed City and State affairs carefully. What I will mention, in some cases, are issues which could fit into your Charter revision proposals. Whichever issues I mention that don't belong there I would appreciate if you would forward on to the appropriate areas of the City Council for consideration in other committee processes.

In the area of land use, zoning, planning, I think that there is too much power in the hands of the Mayor and Mayoral-appointed agencies which don't allow other points of view (the Council, Comptroller, Public Advocate, Borough Presidents) to have enough say in the process. In the last 2 Mayoral administrations, large-scale neighborhood re-zonings were pushed through without giving the points of view of community and other interests much say. The fact that just the local Councilmember theoretically has a lot of say on whether these proposals go forward is faulty governance, in my view.

The Mayor should not be the only one in government to whom the Department of Buildings, the Board of Standards and Appeals, the City Planning Commission, the HPD answer for their decisions. We have seen recent instances where decisions of these agencies have been opposed by local and borough-wide elected officials and their constituents, and yet those oppositions have been ignored by those agencies because they only answer to the Mayor. When public hearings of these agencies are held, they are often in a tiny room on Reade St. too small for most of the public who show up to even enter.

I think "as of right" designations should be eliminated and building projects should always be more carefully regulated. I think sale of "air rights" should be eliminated. No one should be allowed to sell the air, and certainly not-for-profit entities which don't pay real estate taxes should not be allowed to sell off air rights for \$50 million dollars, with we the people having to then live with enormously high buildings uninhabited by foreigner purchasers laundering their money and not paying real estate taxes.

I think the Public Advocate, to make the office more impactful, should have a larger budget, not determined by the Mayor, and should have subpoena power and have standing to sue.

I think the Campaign Finance Board should allow primary and general election candidates to participate in public TV debates based solely on collecting enough petition signatures, and not require them to raise enough money as well. The public should be able to hear other ideas even if the candidate is not likely to end up the winner.

I think that the Department of Education ought to be moved back to at least partial decentralization, with the local school districts regaining at least limited self-governance and decision-making ability. And the current iteration of the Panel for Educational Policy ought to have voting members appointed by the Council, the Public Advocate, the Comptroller, and School Parents, with the Mayor not controlling the majority of the voting members.

I think we need more home rule – over taxation, our rent laws, our public education system, for example, and not have so much set by Albany. Thanks again for listening.





**BOARD OF CORRECTION**  
**CITY OF NEW YORK**  
1 CENTRE STREET, RM 2213  
NEW YORK, NY 10007  
212 669-7900 (Office)

Derrick D. Cephas, Chair  
Stanley Richards, Vice-Chair  
Robert L. Cohen, M.D.  
Hon. Bryanne Hamill  
Jennifer Jones Austin  
James Perrino  
Michael J. Regan  
Steven M. Safyer, M.D.  
Jacqueline Sherman

Martha W. King  
*Executive Director*

Statement before the 2019 Charter Revision Commission  
Gail Benjamin, Chair

May 9, 2019

By Stanley Richards (Vice Chair), Robert Cohen (Board Member),  
Martha King (Executive Director)  
New York City Board of Correction

**Stanley Richards:**

Good Evening Chair Benjamin and Charter Revision Commissioners. My name is Stanley Richards, and I am the Vice-Chair of the New York City Board of Correction, the independent oversight agency for the City's jails. The City Council appointed me to the Board in 2015. I am also the Executive Vice President of the Fortune Society, a New York City-based non-profit that supports successful reentry from jail and prison and promotes alternatives to incarceration. I also serve on the Mayor's Justice Implementation Task Force, advising on the plan to close Rikers Island.

In November 1975, the Board's recommendations to the Charter Revision Commission were adopted when the electorate approved revisions that strengthened the Board, providing regulatory authority; subpoena power; Board Member appointments by the City Council, Mayor, and Judiciary; and our own staff. Today, we support an additional and equally important Charter amendment: an independent budget for the Board.

We are a nine-person board that regulates, monitors, and inspects the correctional facilities of New York City. The NYC Charter<sup>1</sup> gives the Board broad powers and duties to: (1) establish and ensure compliance with minimum standards "for the care, custody, correction, treatment, supervision, and discipline" of all people held under the jurisdiction of the Department of Correction ("DOC")<sup>2</sup>; (2) investigate serious incidents, such as deaths of people in custody; (3) review grievances from incarcerated people and staff; (4) evaluate DOC's performance; and (5) make recommendations

<sup>1</sup> Charter § 626 sets forth BOC's powers and duties.

<sup>2</sup> The Board's Minimum Standards regulating the conditions of confinement and correctional health and mental health care in the City's jails are codified in Title 40 of the Rules of the City of New York. *See* 40 RCNY § 1-01, et seq. (Chapter 1: Correctional Facilities); § 2-01, et seq. (Chapter 2: Mental Health Minimum Standards); § 3-01, et seq. (Chapter 3: Health Care Minimum Standards); and § 5-01, et seq. (Chapter 5: Elimination of Sexual Abuse and Sexual Harassment in Correctional Facilities).

on areas of key correctional planning. This proposed Charter change would safeguard the Board's independence and provide stable resources so that we can effectively meet these broad mandates.

Since its first members were appointed in 1957, the Board has played a leading role in major reforms to the City's jails, such as the creation of specialized mental health units and a suicide prevention program and the elimination of solitary confinement for young people. While the current Council and Administration have supported the Board's mission, an independent budget is necessary to ensure adequate oversight during periods of political change. Given the Board's role as the independent monitor of the City's jails, its rules, investigations, and public reports may be perceived as unfavorable and controversial, making it a target for political retaliation. For instance, in 1994, Mayor Giuliani attempted to eliminate the Board's entire budget. Although the Council refused to accept the plan, BOC staff was reduced by 50 percent. Further, during the Bloomberg administration, the Board saw harmful budget cuts that threatened to compromise the Board's ability to meet its mandate and to maintain independence.

Therefore, we ask that you propose a charter amendment to provide the Board an independent budget that ties ours directly to the budget of the agency we monitor and oversee. This amendment would reflect best practice for independent oversight of law enforcement, preserve our independence, protect against retaliation, and ensure proportionate resources in the long term.

From our experience monitoring the jails for decades, we know that regardless of the future location of NYC jails, they will still need strong and independent oversight. An independent budget would strengthen the Board to effectively serve in this critical role for years to come.

**Robert Cohen:**

Good Evening Chair Benjamin and Charter Revision Commissioners. My name is Bobby Cohen, and I am a Member of the Board of Correction. The City Council appointed me to the Board in April 2009. I was the Director of the Montefiore Rikers Island Health Services from 1982 to 1986, and I have served as a federal court appointed expert and monitor overseeing health care for prisoners in five states.

New York City's Board of Correction is a nationally unique and extremely valuable jail oversight entity. We must do all we can to protect and strengthen this resource for all New Yorkers, policymakers, people in custody, and jail staff. An independent budget for the Board will insulate the City's correctional oversight from changing political winds and secure adequate staff and resources.<sup>3</sup>

The criminal justice system is in a remarkable moment of change in which stakeholders and policymakers recognize the urgent need to decrease the jail population, improve workplace safety, and minimize the significant mental, physical, and community harms of incarceration. The success of these efforts is contingent upon independent and consistent public monitoring and oversight by

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<sup>3</sup> BOC should also be afforded budget protection allowing it to submit its annual budget estimate directly into the Mayor's Executive Budget without revision, similar to the Campaign Finance Board. See Charter § 1052(15)(b)(3) (requiring the Campaign Finance Board annually submit to the Mayor its financial needs and requiring the Mayor, "include such estimates in the executive budget without revision, but with such recommendations as the mayor may deem proper.")



the Board. We know from our experience in New York City and this country knows from its history of mass incarceration, that jails are generally dangerous places that do not uphold the community's standards for the treatment of human beings and disproportionately detain people of color. The Board must document and report on conditions inside of jails where the public and reporters are generally not welcome – and to engage stakeholders in improving those conditions for people in custody and staff.

When the current Council and Administration are gone, current federal consent decrees have been terminated, and this moment of criminal justice reform has passed, the Board's Minimum Standards and its independent oversight on behalf of New Yorkers will remain as the frontline defense of the vision for safer, fairer, smaller, and more humane jails.

An independent budget for the Board is identical to the budgetary provisions of at least ten oversight agencies throughout the country<sup>4</sup> and has been recommended by multiple blue-ribbon panels on law enforcement oversight, including the American Bar Association<sup>5</sup> and the Chicago Police Accountability Task Force.<sup>6</sup>

The Charter Revision Commission staff's impressive preliminary report recognizes the need for this type of budget protection for "those oversight bodies that find themselves on the short end of David-and-Goliath relationships with the entities they are meant to check" and identifies the Board of Correction as one of those bodies. We concur that the Board is certainly in that position, and we ask the Commission to recommend an independent budget to support strong independent jail oversight.

We also support this type of budget protection for our law enforcement oversight colleagues such as the Civilian Complaint Review Board and the Inspector General for the NYPD.

**Martha King:**

Good Evening Chair Benjamin and Charter Revision Commissioners. My name is Martha King, and I am the Executive Director of the Board of Correction.

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<sup>4</sup> See NYC Charter § 259(b) (allotting 10% of the Mayor's Office of Management and Budget to the Independent Budget Office (IBO)); NYS Edu. Law § 2590-u(2) (further increasing IBO's budget by 2.5%); Chicago MCC § 2-78 (designating 1% of the Chicago Police Department's budget to the Civilian Office of Police Accountability); Chicago MCC § 2-56-010 (designating 0.14% of the total funds appropriated by Chicago's City Council to the Office of Inspector General); New Orleans Home Rule Charter § 9-401(3) (allotting 0.75% of the General Fund operating budget to both OIG and the Ethics Review Board); Calif. Gov't Code § 83122 (appropriating an annual increase of one million dollars to the Fair Political Practices Commission's fixed budget, adjusted for cost-of-living changes); and Phil. Home Rule Charter § 2-300(4)(e) (securing a minimum budget for the Philadelphia Board of Ethics' first two years of operation and authorizing the Board to sue if it fails to receive adequate funding in subsequent years); City of Miami, Florida Charter and Code, Sec. 11.5-35 (requires that its Civilian Investigative Panel "be operated on an annual budget that shall be no less than one percent of the approved regular salaries and wages line item of the city's police department general fund budget."

<sup>5</sup> Am. Bar Ass'n, *Report on Key Requirements for the Effective Monitoring of Correctional and Detention Facilities* (2008) (affirming the need for fixed budget allocations to protect the independence of correctional monitoring). [https://www.americanbar.org/content/dam/aba/publishing/criminal\\_justice\\_section\\_newsletter/crimjust\\_policy\\_am08104b\\_authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/publishing/criminal_justice_section_newsletter/crimjust_policy_am08104b_authcheckdam.pdf).

<sup>6</sup> Police Accountability Task Force, *Recommendations for Reform: Restoring Trust between the Chicago Police and the Communities They Serve* (April 2016) [https://chicagopatf.org/wp-content/uploads/2016/04/PATF\\_Final\\_Report\\_4\\_13\\_16-1.pdf](https://chicagopatf.org/wp-content/uploads/2016/04/PATF_Final_Report_4_13_16-1.pdf).

Four years ago, the Board had 16 staff and a budget of \$1.6 million. Since 2015, with increased support from the Council and Administration, the Board's budget grew from .1% to .2% of the Department of Correction's budget, and our staff more than doubled in a short time. With this increase, we have shown that more resources dramatically increase the Board's impact on jail safety and fairness and more humane conditions.

The Board developed and passed its first new chapter of Minimum Standards in 25 years in 2015, intended to eliminate sexual abuse of people in custody inside the City's jails. The Board also passed nationally unique rules, which prohibit the placement of young people in solitary confinement and limit solitary confinement for adults to no more than 30 days. Before these rules, New York City had one of the highest rates of segregation in the country, a practice that we know to be dangerous and ineffective. The Board's regulations led to an 80% drop in the segregated population.

With adequate and proportional resources, the Board is able to meet more of its mandates. For example, we produced double the number of studies in 2018 as the Board produced in 2014 and 2015 combined. These public reports evaluated DOC operations in areas such as visits, lockdowns, health care, injuries, grievances, and investigations. Evaluating operations and outcomes in the jails, increasing transparency, and sharing data are crucial to the Board's mission and to compliance with Board Standards. We also worked with DOC to develop public reports to track performance. In 2018, DOC released 60 reports required by the Board on issues critical to New Yorkers such as young adults, segregation, restrictive housing, and programming. The Board's requirements also led to the first public audits of jail conditions in New York City.

The Board increased its investigations into individual restrictions by 200% in the last four years. If the Department of Correction limits a person in custody's access to any of eight key programs – including visits, law library, and religious services – then that person can appeal the restriction directly to the Board. In 2018, we investigated and responded to approximately 400 appeals, including the Board's first appeals regarding limitations on the practice of religion. The Board's role as an independent and neutral arbiter on appeals is a national model for jurisdictions that are trying to improve their jail grievance systems.

These are just some of the initiatives we have been able to develop in recent years because the City increased funding to the Board. However, our capacity and impact are still severely limited by the size of our budget relative to the Department of Correction. This year the Department has over 12,000 staff members and a budget over \$1.4 billion. We are operating at less than a quarter of one percent of that budget. We are also limited by 40 years of drastic budget fluctuations and a continued lack of stability necessary to plan for the future. The Charter Revision Commission and the City's voters can address this and truly empower the Board as the public's eyes and ears on Rikers Island and in future borough jails.

We thank you for your critical work and your consideration of our proposal.



**LAND USE TESTIMONY OF SAVE CENTRAL PARK NYC, by Ellen Martin**

**Charter Revision Commission, Manhattan Borough Hearing, May 9, 2019**

Good evening. My name is Ellen Martin. I'm here to testify on behalf of Save Central Park NYC about the land use aspects of the Preliminary Staff Report.

We have three comments on the preliminary report. All of them are informed by our experience over the past 3 years raising concerns about the impact on the public caused by the proliferation of supertowers around Central Park. That experience first opened our eyes to the fact that, in many different ways, community members and their community boards lack adequate input into decisions regarding local land use and development.

Addressing the preliminary report and the ULURP process, the staff has noted that actual practice supplements written procedure. Thus, in practice, there is a pre-certification process during which City Planning and developers often discuss draft ULURP applications privately for a year, or even multiple years. The staff notes that the extensiveness of this process has caused some Community Boards ("CBs") to comment that City Planning and the developer seem to have reached agreement on plan content before plans have even been made available to the CB board for comment.

Given pre-certification practice between City Planning and the developer, it is essential that the CB, as the representative of the community impacted by a local land use decision, be meaningfully involved in the ULURP process before certification. The CB should receive full disclosure of the information it needs for its analysis and comments and be given adequate time and opportunity to present its views.

Second, the preliminary report notes that even when the ULURP application is eventually published, there is often insufficient time for appropriate input by the community board.

We urge the Commission to ensure that the timeline is adjusted so as to provide the CB with sufficient time to provide their input, taking into account not only summer schedules but also other calendaring issues that (PLEASE TURN OVER)

the preliminary report has identified, which serve to limit the time practically available for CBs to give their input. We ask that CBs be consulted on the appropriate timeline.

Third, the preliminary report recommends that the Charter be amended to establish a process for ensuring that the public and other stakeholders have a meaningful opportunity to weigh in on what the many different plans and similar documents that could be considered part of a “strategic” or “comprehensive” plan address and how.

We strongly support there being greater community input into local land use decisions through the CBs but stress (1) that there is no appropriate one-size-fits-all approach to land use in a City as huge and diverse as ours and (2) that none of the 12 existing plans identified in the report provides for CBs to have adequate input as to land use planning for their specific district. It is appropriate for the City to be setting a strategic vision and be creating certain goals for the CBs. We respectfully submit, however, that how the goals are met should be left to the communities to decide, through their respective Boards.

We thank the Commissioners and staff for all the hard work they have put into their study of Charter Revisions.





## **RE: RANKED CHOICE VOTING**

### **Statement Submitted to the NYC Charter Revision Commission 2019**

The undersigned are nine executives with over 350 years of diverse business experience. We have come together with the explicitly non-partisan goal of improving the way our governments address issues by improving the way our officials are elected.

Our organization, described at [www.ReformElectionsNow.org](http://www.ReformElectionsNow.org), was originally formed by senior alumni of the Harvard Business School. It is now growing its membership from the broader business community nationwide. We believe our viewpoints are shared by many other senior executives in the business establishment of New York City.

We have met with leaders of several election reform organizations and researched the literature. We have sought to understand how election methodology can encourage candidates to appeal to a wider set of voters' viewpoints and, ultimately, produce more cooperative and constructive action in our governments.

We firmly believe that electing public officials with the broadest public support, including effective representation of minorities, is best done with Ranked Choice Voting (RCV), as it adds information on voter preferences that is missing in plurality-winner elections.

We have learned that RCV eliminates "spoilers," raises voter turnout, reduces negative campaigning, and discourages candidates from ideological extremes. We understand the issues of ballot exhaustion, complexity and the need for clear voter education at the polls; but we judge that RCV's consistent positives far outweigh its rare problems. We believe that use of RCV in elections will improve the functioning of our governments at all levels, discourage partisanship, and spur constructive action by our elected officials.

**We wholeheartedly endorse the adoption of Ranked Choice Voting by New York City, with strong voter education and other details as decided by the Council.**

Sol Erdman, President,  
Center for Collaborative Democracy

Anselm Fusco, Former Senior VP, Investments  
Madison Marquette

Herb Kaplan, Former business executive; current  
trustee of Hyde Leadership Charter School

Lucy Kennedy, Former VP,  
Metropolitan Life Insurance Company

Michael Otten, Former IBM executive and  
current trustee of Green Chimneys School

Ronald K Randall, Former VP-Business  
Development, Automatic Data Processing

William C. Rosser, Former Research VP,  
Gartner Group

Peter Siris, Former financial executive and  
columnist for the N.Y. Daily News

Robin Weaver, President,  
Women's National Republican Club



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GreenMap.org  
Think Global, Map Local!

May 9, 2019

To members of the 2019 NYC Charter Revision Commission

Nature and climate change cannot be overlooked in the work of this Commission. A resolution for a Lower East Side Community Tree Canopy was passed by Manhattan CB3 in February – this includes both the planting of street trees and support to extend the existing stewardship program. There are tremendous benefits to this work, both in terms of building social resiliency and eco system services (NYC's Street Tree Map includes the annual return from each tree (as seen at tree-map.nycgovparks.org, together they provide us with \$109 million each year!). GREAT ROI

We need more trees throughout the city, particularly native trees that provide pollinators, birds and other wildlife. Prioritizing trees will lead to more citizen engagement, especially in vulnerable coastal neighborhoods.

Sincerely,

Wendy Brawer, Director, Green Map System

PS Find the resolution below at [GreenMap.org/blog/green-map-nyc-updates](http://GreenMap.org/blog/green-map-nyc-updates)



THE CITY OF NEW YORK  
MANHATTAN COMMUNITY BOARD 3  
59 East 4th Street - New York, NY 10003  
Phone (212) 533-3300  
[www.cb3manhattan.org](http://www.cb3manhattan.org) - [info@cb3manhattan.org](mailto:info@cb3manhattan.org)

Alysha Lewis-Coleman, Board Chair

Susan Stetler, District Manager

William T. Castro, Manhattan Borough Commissioner  
New York City Department of Parks & Recreation  
Aronson West  
24 West 61st Street, 5th Floor  
New York, NY 10023

Dear Commissioner Castro,

At its February 2019 monthly meeting, Community Board 3 passed the following resolution:

**TITLE: To Support the Proposed LES Community Tree Canopy Initiative and Urge the Department of Parks and Recreation to Work with Community Organizations to Spearhead the Program**

Whereas, Community Board 3 has many empty tree pits and a general lack of healthy trees and green space which impacts the air quality, heat island effect and the livability of the community; and

Whereas, local residents suffer from asthma and other illnesses due in part to particulates and other pollutants from vehicles, buildings, power plants; and

Whereas, there is a pending City plan for the multi-year closing of the East River Park, CB3's largest park, and

Whereas, NASA recently confirmed that global climate change has resulted in the last five years being the hottest years since record keeping began; and

Whereas, there is general acknowledgment that one of the best ways to combat serious climate change impacts is with street trees that mitigate temperature extremes, energy usage and vehicle generated carbon emissions; and

Whereas, there are few other investments that return so much of value to society than street trees; and

Whereas, the Department of Parks and Recreation to work in collaboration with civic and community groups, to plant hundreds of trees and smaller native shrubs and plants that will create a green canopy that strengthens resilience and capacity, sequesters storm water and carbon while pumping out oxygen and cooler air; and

Whereas, we encourage the Department of Parks and Recreation, by selecting trees that are less likely to induce severe allergies to the substantial portion of the population, and are resilient and adaptable to changing harsh climate conditions and by selecting trees that also support insects that pollinate plant life, that are food indigenous to birds and help decompose plant detritus; and

Whereas, tree pit guards would include enriching infertile areas, tree pit guards to protect new tree and bioswales for increased storm water reclamation and rain absorption; and

Whereas, given the lessons learned with "million trees" plantings, the Department of Parks and Recreation could build into contractor agreements legally binding maintenance requirements to water and care for the trees for a full two-year period;

Therefore be it resolved, that CB3 supports the concept of the LES Community Canopy and urges the Department of Parks and Recreation to spearhead the immediate engagement with the network of stewardship organizations and proponents, to survey existing trees and tree pits and widening other spaces where an expanded variety of species can be planted, and implement an accelerated planting and caring program for street trees throughout CB3, prioritizing the most tree canopy deficient areas and developing an inclusive, engaged process for involving residents, experts and staff.

Please contact the community board office with any questions.

Sincerely,

Alysha Lewis-Coleman, Chair  
Community Board 3

Trevor Holland, Chair  
Parks, Recreation, Waterfront,  
& Resiliency Committee

cc: Steve Simon, Department of Parks and Recreation  
Elizabeth Martinez, Department of Parks and Recreation  
Office of Councilmember Carlos Rivera  
Office of Councilmember Margaret Chin  
Office of Manhattan Borough President Gale Brewer  
Office of NYS Assemblymember Yuh-Line Niou  
Office of NYS Assemblymember Harvey Epstein  
Office of NYS Assemblymember Deborah Glick  
Office of NYS Senator Brian Kavanagh  
Office of NYS Senator Richard Hovavman



**Public Testimony****May 9, 2019****New York City Council, Charter Revision Commission Hearing on Land Use  
Re: Equitable engagement in land use decision-making****Submitted by Roland Lewis, President and CEO  
Waterfront Alliance**

Thank you for the opportunity to speak with you today. My name is Sarah Dougherty, and I am the Program Associate at the Waterfront Alliance.

The Waterfront Alliance is a non-profit civic organization and coalition of more than 1,000 community and recreational groups, educational institutions, businesses, and other stakeholders. Our mission is to inspire and effect resilient, revitalized and accessible coastlines for all communities.

As an alliance of organizations ranging from small kayaking organizations like the Sebago Canoe Club on Jamaica Bay, to international shipping organizations like the Sandy Hook Pilots Association of New York, the Waterfront Alliance serves as a convener and platform for the collective voices who have a stake in our region's waterfronts. These voices may not always agree, but the diversity of perspectives has resulted in a more robust, shared harbor for people to live, swim, work, and play.

Still, our shared harbor is at risk. New York City's waterfront have always been dynamic places, shaped by changing industries, communities, and habitats. But these challenges are becoming increasingly complex. Climate change is increasing the frequency, duration, and intensity of coastal storms. At the same time, the City (and region) is growing, and balancing the insatiable demand for waterfront housing and amenities with fears and apprehensions about gentrification, displacement, and the loss of working waterfront jobs and opportunities. These land use complexities require a framework which is both versatile and comprehensive, and can be used to balance the many, often conflicting, needs and priorities for local waterfronts.

Over the past several months, the Waterfront Alliance has been meeting with the 43 waterfront community boards across New York City to learn about the waterfront issues that matter most to them. As part of this campaign, we have been introducing our Waterfront Edge Design Guidelines (WEDG®) program, a framework for balancing waterfront priorities, while maximizing resilience, ecology, and access. Community boards in all five Boroughs have now taken the "WEDG Pledge" by adopting resolutions which





promote WEDG principles of resilience, ecology, and access in new waterfront projects. Through this WEDG Pledge campaign, we've been overwhelmed and inspired by the demand for a local decision-making and advocacy tool like WEDG. Twenty six community boards have pledged so far, including those from the Brooklyn Borough Board which took the Pledge earlier this year.

This demand is particularly strong in community boards like Manhattan CB 12 and Brooklyn CB 7, which seek tools like WEDG to provide a common language for their priorities amidst rezoning processes. In Sunset Park, we heard that the community board was also drawn to WEDG because of its standards and best practices for engaging the community, and its promotion of water-dependent uses and working waterfronts. We also heard firm demands for higher citywide resiliency standards, from Manhattan CB 1, to Queens CB 7, to Brooklyn CB 10. Still in other communities, and largely in the Bronx, we heard from people who had never been to their waterfronts because of the lack of upland access and inability for people to safely get to the water.

Of the many things we have learned from community boards, one the strongest themes was the need for more equitable and robust community engagement in waterfront decision-making. This desire is shared across the wealthiest communities to the most underserved. The need for more accountability, transparency, and equity in the community engagement process is also echoed by a task force of over two hundred community activists and civic organizations the Waterfront Alliance is convening to promote better waterfront access in New York City.

Based on the Waterfront Alliance's experience leading the WEDG Pledge campaign, and recommendations we have been gathering from our Access for All Task Force, we propose the following changes to the City Charter:

1. **Creating a pre-ULURP engagement process to improve transparency and accountability.** We agree with the many organizations who have proposed this change and would add that community engagement metrics must be set for responsible parties: the city and/or private developers. These metrics should fall into two categories. First, there should be requirements for who private applicants and the city engages in the pre-ULURP process. A demographic analysis of the existing community district should inform the outreach approach. This analysis should focus on the impacts of the project on marginalized communities beyond EIS requirements, ensuring that race, ethnicity, and income are all considered in the design of the outreach strategies. There should also be minimum requirements for how many people are engaged,

particularly within lower-income and marginalized groups, to ensure diverse and equitable participation.

This analysis should directly inform the next category of requirements, which concerns how the city and private applicants engage with the community. Minimum requirements should include language accessibility for all languages spoken within the community district and providing multiple channels of communication and information to meet working class families where they are, rather than holding day-time meetings while people are at work.

Lastly, responsible parties should provide a standardized, public report with concept designs and an explanation of how the community influenced the design of the project to the community board before the ULURP application is submitted. This report should be public and shared widely for the community to understand how their input was used to guide everything from granular design decisions, to affordable rents, to larger-scale land use decisions. The public should have an opportunity to respond to this report before the application is finalized, so that more granular design and programmatic elements are incorporated into the design. If the responsible parties fail to incorporate these diverse perspectives, their application should not be approved.

2. **Equipping community boards and responsible parties with additional resources for better engagement, and technical decision making.** The Regional Plan Association has proposed establishing an independent body to carry out robust community engagement and transparent data gathering for community boards' district needs assessments. This need for better transparency and resources applies to community board processes beyond its district needs assessment, to committee-level decision-making, resolution implementation, and community engagement. The Waterfront Alliance proposes that waterfront community boards receive at least an annual training through the Borough Presidents' Offices to understand WEDG basic principles and use WEDG as a framework for making smarter coastal resiliency and design decisions for waterfront projects.

We also propose earmarked funding for community boards to work with WEDG professionals to assess and inform new waterfront projects which come before the board. The use of WEDG as a neutral, third-party framework to balance different priorities and illustrate best practices for waterfront design would help elevate community board (and therefore community) engagement in waterfront land use decision-making.



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Lastly, the Waterfront Alliance reiterates its support of proposed Office of the Waterfront (Int 0982-2018) legislation. The Waterfront Management Advisory Board is an important entity to inform the Comprehensive Waterfront Plan, a process which is currently underway for the next 10-year plan. Many recommendations across different sectors will be put forth. The implementation of these recommendations, and how they are handled among many different agencies, is an important question. There is no one coordinating body ensuring that competing considerations are discussed under one tent and that can ensure recommendations can move forward efficiently.

We hope that the City Charter Revision Commission will consider how these recommendations address the nuances of waterfront land use within the larger conversation and can serve to make these processes more equitable and just overall.

J.G. Collins

As published in Crain's NY Business. (I cannot attend tonight).

Charter revision should give city's watchdog some teeth

Jumaane Williams' election as public advocate came at an opportune time. He's up for election to a full term in November, and a citywide referendum on charter reform will be on the same ballot. Williams should use that time to work with his fellow Democrats in Albany and the City Council to pursue a more robust role for his office.

Williams is uniquely positioned to empower his office with authority his predecessors only pretended to have. November's charter referendum can be a defining moment in the reform of city government.

First, he should work in Albany to pursue subpoena power and to codify the public advocate's authority to sue the New York City bureaucracy under Article 78, which appeals the decisions of city agencies in the courts, and by other means.

While Williams' predecessor, Letitia James, brought multiple lawsuits against city agencies, and announced them with great fanfare to the media, they were almost all later quietly dismissed for lack of standing. A law change would empower the office to represent everyday New Yorkers who have been aggrieved by nonresponsive, ineffective or corrupt city agencies to truly allow the public advocate to "advocate" for his or her constituents.

Second, Williams should encourage the Charter Revision Commission to have both the Department of Investigation and the Independent Budget Office report to the public advocate. Right now, both offices are now inherently conflicted because of how they are appointed.

We saw this inherent conflict for the Department of Investigation in November when Mayor Bill de Blasio fired the department's chief, Mark Peters. Peters said he was fired because he was investigating matters that "could implicate the mayor and/or senior appointees in certain agencies." A true investigator should be independent of the mayor, under the auspices of the public advocate, to avoid the conflict of an investigator probing entities his boss controls.

The director of the Independent Budget Office is similarly beholden to those he or she might have to critique or challenge. The charter says the IBO exists "to assist the comptroller ... the council, the borough presidents, and the community boards... in the discharge of their responsibilities." But the IBO director is appointed by a committee of the comptroller, the public advocate, a borough president and a council member. So three of the four governmental entities that appoint the IBO chief are from the very government entities the IBO might find cause to critique.

Finally, Williams should work with the council to make the public advocate's office a central, professional resource for the city's 62 community boards. A small staff of city planners, attorneys and budget analysts, including student interns, could assist the boards in voicing the

views of communities before the Department of City Planning, the City Council, the state Liquor Authority and other agencies the boards advise.

Like his opponents, Williams made unrealistic and even grandiose promises in his campaign. There's no way he will be able to "fix the subways," "enact single-payer health care" and "overhaul our criminal justice system" with the minor authority of the public advocate. At best, he can only use the office as a bully pulpit for those causes.

But if he devotes his time to empowering the office, he can achieve the promise he and others made to "hold politicians and city agencies accountable" and "expose government corruption."

And he can swap out the OPA's "bully pulpit" of advocacy for a bullwhip of accountability.

J.G. Collins is the managing director of The Stuyvesant Square Consultancy, a business advisory, economic, and political consulting firm. He has served on a New York City community board for more than 20 years.



John Shapiro

*By way of introduction: For 25 years I was a principle of Phillips Preiss Shapiro Associates, where my citywide work included the waterfront zoning study and the city's open space and park policy plan (both for Mayor Koch), as well as loads of local work for City agencies and community groups in every borough. One of these won the nation's top planning award in connection with a participatory planning methodology, and remains in use, nationally, by the Local Initiatives Support Corporation. Outside of NYC, I was a consultant preparing the master plans for (among other places) Newark, Stamford, Washington DC, and Yonkers; in addition to policy white papers for the Philadelphia master plan. I have frequently worked with the Regional Plan Association, and have prepared regional plans for Central Connecticut, Southeast Connecticut, and the Harlem Valley, Upstate. More recently, I was the lead facilitator / mediator for both the SPURA / Essex Crossing (during Mayor Bloomberg) and the East Midtown up-zoning (during Mayor de Blasio). I was a president of the local chapter of the American Planning Association for two years, and for eight years the Chair of Pratt Institute's Graduate Center for Planning and the Environment—where I am now a full-time professor.*

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With regard to a Comprehensive Plan (and planning), the present Charter proposal retains unbridled Mayoral control of planning, and is unacceptable in my view. The plan is not without merit. It responds to the fact that New York City (NYC) is, by its sheer size and complexity, incapable of planning in exactly the same way as the rest of urban America; and the amalgamation of agency and other reports would lead to cross-checking plans for inconsistencies.

However, the loophole would be to resort to ever shorter-and-shorter reports composed of mom-and-apple-pie propositions that wash over disagreements in policy or action to maintain maximum independence for the agencies and is tolerated because it also affords maximum flexibility for the Mayor. The current proposal does not respond to the wish for more participatory and a moderation of top-down, planning-related decision making about the future of the city and its neighborhoods. Further, if the Comprehensive Plan ("Comp Plan") is the singular product of the mayor then in office, it lasts only so long as that mayor serves in office. That's not long-range planning.

**The simple answer is to have the Mayor (the Department of City Planning (DCP) / Office of Long Range Planning) prepare the Comp Plan, subject to the approval of the City Planning Commission (CPC) and then the City Council.** This is how it is normally done in the United States: executive preparation followed by legislative adoption. The only way for the Mayor to forestall potential City Council grandstanding is to arrive at a politically articulate and popular plan, leading to participatory methods at least on the citywide level. Differences between the Mayor's draft and the City Council could be subject to a reconciliation methodology. Over time, the plans would get better, though they might (sadly again) instead devolve into mom-and-apple-pie statements.

... So, we need to go further.

**I urge making 197a plans official addenda (not advisory) to the Comp Plan, provided they are approved ultimately by the City Council, and subject to the veto of the Mayor, in which case there is a reconciliation process.** Will this result in parochialism? Not if the Comp Plan indicates fair share for NIMBYs, affordable housing, allocation of parks, etc. Will the Mayor (or CPC, which the Mayor effectively controls) gut the 197a plan? Not without risk of alienating Council Members, or being embarrassed in the

reconciliation phase. Will the Mayor still create a fuzzy mom-and-apple-pie Comp Plan? Not likely, because the broader the Comp Plan, the more divergent the 197a plans will be, to the chagrin of the Mayor; the more articulated the Comp Plan is, the more likely that Citywide policies and priorities will be realized.

**This “cross-acceptance” method of comp planning would be best achieved in concert with the following:**

- (1) Long range capital budget planning is returned to a combined DCP / Office of Long Range Planning.
- (2) Community Board (CB) staffs are enhanced; CB members are appointed by a wider range of officials to assure more diversity; and CB members must comply with annual continuing ed standards.
- (3) The Mayor does not make the majority of appointments to the CPC.
- (4) The City Council abandons the custom of member privilege for the central Comp Plan document.
- (5) The environmental review process (CEQR) is revised to ease the adoption of Comp Plan / 197a plans. (Revised rules for Generic Environmental Impact Statements (GEISs) can provide the solution, I think.)
- (6) The reconciliation entity is designed to be comprised of people without obligation to the appointers, e.g., only people who are mutually agreed upon by multiple appointers.
- (7) The “fair share” rules for the allocation of amenities like parks consider redressing (a) accumulated City disinvestment and (b) environmental justice; plus, the fair share rules for development fully considers the risk of secondary displacement, with countermeasures.

**The Mayor’s DCP / CPC would function mainly as a regional planning entity with more authority than usual; CBs would function as typical municipal planning boards with less authority than usual; the shared authority of the Mayor and City Council, with the reconciliation methodology, generally assures transparency, accountability, and reasonableness.**

After all: Our population exceeds that of Ireland, and our demographics, densities and uses run the wildest gamut imaginable—so central authority is needed for us to be successful at the metropolitan level. Yet with that variety, and because every Community District (CD) has the population and dimensions of a typical U.S. city—there is no excuse that there is neither reason nor the human and financial resources at the local level to have meaningful local planning. The answer is a mediated balance between long-range metropolitan priorities and local needs and preferences. This can be achieved through cross-acceptance governance for planning, like (though of course not necessarily) the one I posit here.

**The intent is to line up the incentives to improve planning with Mayoral leadership, legislative oversight, and meaningful bottom-up participation—as well as with more transparency and accountability.** I have been in the field for 40+ years, and have heard the same complaints about ornery CBs, the non-responsive DCP, the too-generic (yet overly complex) Zoning Resolution, the absence of a Comp Plan or vision, etc... irrespective of who was mayor. So, the issue is not the politics or the compelling issues of the day (e.g., attracting investment in the ‘80s; controlling growth in the 2010s), but how incentives line up whatever the politics and issue. Every Charter Review represents an almost-once-in-a-lifetime opportunity to get things right *from multiple perspectives*—never perfect, but surely better.

**THE NEW YORK  
LANDMARKS  
CONSERVANCY**

May 9, 2019

STATEMENT OF THE NEW YORK LANDMARKS CONSERVANCY BEFORE THE NEW YORK CITY  
CHARTER REVISION COMMISSION 2019

The Landmarks Conservancy is a 46-year old organization dedicated to preserving, revitalizing, and reusing New York's architectural resources. We thank the Charter Revision Commissioners and staff for listening to the public through this series of long hearings and their dedication to improving New York. These comments are in response to the staff report and recommendations.

On issues related to the Landmarks Commission, we are surprised to see that the only recommendation regards a stipend for Commissioners, which we supported, but which staff finds out of the purview of Charter Revision. We testified in support of several other improvements, both at an open hearing and at an expert forum, which did not even get in the report. We still believe that there should be a requirement for a preservationist on the Landmarks Preservation Commission. To answer concerns raised at previous hearings, it's not a given that this would trigger a conflict of interest.

We believe that it is urgent that the LPC re-establish authority over City-owned landmarks and scenic landmarks. Buildings such as the Erasmus Hall Academy, Olmsted House, and Seaview Hospital, which have faced severe neglect, would have all benefitted from this oversight.

On planning, we were glad to read that the Commission acknowledges the public's disillusionment with the planning process. The comments in previous hearings did show that there are different definitions of comprehensive planning, but they all point to a lack of community participation and predictability for residents.

The staff report makes some recommendations that we support, but they fall short in creating meaningful change. The ULURP process will benefit from a formal pre-certification period for Community Boards and Borough Presidents to review and comment on zoning applications, and an extension for the Community Board review period in ULURP, when it falls in the summer. But planning needs to be about more than tweaking ULURP. It needs to address community needs and resources, create predictability in land use, and measure impacts. We hope that this Commission will look toward these goals when it sets its final ballot questions.

Thank you for the opportunity to express the Conservancy's views.





**Testimony to the 2019 New York City Council Charter Revision Committee  
Submitted by the Supportive Housing Network of New York  
May 9, 2019**

The Supportive Housing Network of New York is grateful for the opportunity to submit testimony to this Charter Revision Commission on Land Use, and specifically on the Uniform Land Use Review Procedure (ULURP) and comprehensive planning.

The Supportive Housing Network of New York is a membership organization representing over 200 nonprofit developers and operators of supportive housing statewide. Supportive housing is permanent affordable housing with embedded social services for vulnerable individuals and families, people who are homeless and living with disabilities and/or other barriers to maintaining stable housing. Thousands of New Yorkers who live with mental illness, substance use disorders, chronic health conditions, traumatic histories and/or system involvement rely on supportive housing. At the same time, thousands more languish in shelter or on the street until more units become available. We are extremely grateful for NYC 15/15, the City's commitment to create 15,000 new units of supportive housing over 15 years. Moreover, we were thrilled when the City Council requested that the administration accelerate implementation of the plan by fast-tracking development from 500 to 700 units per year. Our members are now working hard to live up to this accelerated commitment and produce more of this desperately needed housing.

**Land Use Review Processes**

In order to develop new supportive housing, our developers must start by finding and/or purchasing a site. Then, in many cases – because the property is City-owned, needs spot rezoning, or requires a special permit – our members must go through lengthy environmental review and ULURP before they can start on the financing and construction of a project. These processes add one to two years to the timeline to create more homes for the most vulnerable New Yorkers. This delay hinders our collective ability to address the homelessness and housing crises and lower the homeless census.

Our members work hard to gain communities' trust. Including communities in planning is important and adds value to the development process; our members enter ULURP willing to engage with and listen to neighborhood stakeholders. We understand the desire for a more robust community feedback period, but we are cautious of any proposals to lengthen the formal ULURP timeline. A lengthened timeline will harm our ability to meet the accelerated supportive housing production target of 700 units per year. A significant portion of the supportive housing projects currently in the pipeline will be going through ULURP, so these projects would all be greatly affected and progress would slow. The City Council, the Mayoral Administration, and general public are all extremely concerned about homelessness; we must ensure that we do not jeopardize progress towards ending the homelessness crisis by hampering nonprofit developers' ability to develop new housing.

Both expert testimony and the Commission's Preliminary Staff Report advised that ULURP be left largely unchanged, with the exception of pre-certification review. We caution against adding a formal comment period in the pre-certification step. This added time would lead to community frustration, if feedback was not fully incorporated, or to confusion when a project returns to the community board for review with significant alterations made since the initial pre-certification comment period.



The Network asserts that the most helpful adjustment to pre-certification would be a set time limit for agency review. Pre-certification review is currently an indeterminate amount of time and our developers are left in limbo for months awaiting final Department of City Planning approval to certify. A time limit would ensure projects move into ULURP more efficiently. Additional agency capacity may be necessary to meet a mandated timeline; nevertheless, we feel that restricting the time for agency review is essential. Moreover, we believe there should be an expedited system for 100% affordable housing projects that would allow them essentially to move to the “front of the line” or have a separate line entirely when undergoing pre-certification. Formalizing the prioritization of affordable housing for pre-certification review in the charter would send a strong statement and ensure the policy stands the test of time.

### **Community Engagement**

The ULURP stage intended to capture the views of the community is the community board review period. Unfortunately, the participants in this stage too often are not truly reflective of the entire community. Anyone affected by a project yet absent from the community board hearing is excluded from consideration, including people who are homeless, future residents of the project in question, and evening workers, among others. We must ensure the voices of historically marginalized groups, including people living with disabilities and with experience of homelessness are included in these conversations.

The Commission should consider how to incorporate true community engagement into the already existent 60-day community review window. The Community Board may not be the best option. Publicly hosted meetings by DCP could be a better alternative, or even smaller focus groups convened by DCP that strategically target the marginalized populations mentioned previously. Additionally, the City should consider testimony both from local residents and groups and from citywide subject matter experts during land use hearings. The City Charter Revision Commission itself has used this approach to great success.

The Network supports efforts to encourage more tracking, accountability, and community participation in land use processes, while ensuring the expeditious production of supportive and affordable housing is maintained. We look forward to working with Commission and the City toward that goal. Thank you for the opportunity to testify.