

**FINAL REPORT  
OF THE  
2010 NEW YORK CITY  
CHARTER REVISION COMMISSION**

August 23, 2010

New York City Charter Revision Commission  
2 Lafayette Street, 14<sup>th</sup> Floor  
New York, N.Y. 10007

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## EXECUTIVE SUMMARY

The 2010 Charter Revision Commission was appointed by Mayor Michael R. Bloomberg in March 2010. Dr. Matthew Goldstein, Chancellor of the City University of New York (CUNY) was appointed chair of the Commission, which consists of 14 other distinguished New Yorkers. The first act of the Commission was to hold five public hearings in the City's five boroughs and to conduct an analysis of the public testimony. Based on this analysis, the commissioners resolved to further explore five broad areas: term limits, voter participation, public integrity, government structure, and land use. The Commission subsequently held five issue forums at which it heard presentations by experts and additional testimony by the public.

At the direction of the Chair, the staff then prepared a Preliminary Report containing recommendations for the Commission's consideration. The Commission solicited public comments on these recommendations at a final round of hearings, again held in each of the boroughs.

On August 11, the Commission met and resolved to place the proposals described below on the November ballot.

### **Term Limits**

Under existing charter provisions, as amended by a local law enacted in 2008, elected city officials may serve up to three consecutive full terms. Previously, a law enacted by voter initiative in 1993 had established a limit of two full terms for elected officials. In order to allow the electorate to choose between a two-term and a three-term limit, the Commission determined to place a proposal on the ballot that would allow voters to restore the original two-term limit. Additionally, the proposal would prohibit the City Council from altering the term limit applicable to persons holding elective office at the time the Council acts; and provide that the proposed two-term limit would apply to officials first elected to office on or after November 2, 2010.

### **Require the Disclosure of Independent Campaign Expenditures**

In recent years, independent expenditures by individuals or entities not working in tandem with declared candidates have become an increasingly significant part of election-related spending in New York City. To provide the public with more information about these expenditures and enhance the extensive disclosure already required of persons or entities that expend or contribute monies in conjunction with identified candidates for city office, the Commission proposes to require disclosure of expenditures by persons or entities who are acting independently of candidates. (This proposal involves disclosure only and does not set new contribution and expenditure limits for candidates.) The Commission's proposal will require reporting from all individuals and entities making independent expenditures of \$1,000 or more to support or oppose a municipal candidate or referendum; require entities making independent expenditures of \$5,000 or more in support of or in opposition to a candidate in the 12 months preceding a city election to disclose the identity of any entity that contributed to the entity reporting the expenditure and any individual who contributed \$1,000 or more to the entity reporting the expenditure in the 12 months preceding the covered election; and require all literature, advertising, and other communications that support or oppose a candidate for city office, and are paid for by an individual or entity making independent expenditures in the amount of \$1,000 or more, to identify the source of its funding.

### **Reducing Signature Requirements for Petitions**

In order to expand ballot access, the Commission has proposed a measure to enable candidates for city elections to get onto the ballot with a reduced number of petition signatures. The proposal reduces from 7,500 to 3,750 the number of signatures necessary to gain access to a party primary for the Mayor, Comptroller, and Public Advocate; reduces from 4,000 to 2,000 the number of signatures necessary to gain access to a party primary for Borough Presidents; and reduces from 900 to 450 the number of signatures necessary for Council members to gain access to either the party primary or the general election ballot for independent candidates.

### **Reconstituting the Voter Assistance Commission within the Campaign Finance Board and Changing the Terms of Campaign Finance Board Members**

The Commission is proposing to move the Voter Assistance Commission (VAC), presently a freestanding body, into the Campaign Finance Board (CFB); restructure its membership; rename it the “Voter Assistance Advisory Committee” (VAAC); and redefine certain functions and responsibilities of both entities. CFB has a well-established operating framework which can enhance VAC’s impact. VAC already works with CFB in producing the Voter Guide and the Video Voter Guide. Under the proposal, CFB would select the voter assistance coordinator and, with the advice and assistance of the coordinator and VAAC, be responsible for carrying out the voter assistance functions currently listed in the Charter. The proposal will also move the commencement date for new CFB members from April 1 to December 1.

### **Amendments to Chapter 68, Conflicts of Interest Law**

The Commission proposes amending the Charter to strengthen the City’s conflicts of interest law. Specifically, the Commission proposes to establish mandatory training for city public servants and to increase penalties for violation of that law. Concerning training, the Commission proposes to mandate that all city public servants be trained in the City’s conflicts of interest law within 60 days of the commencement of public service and periodically thereafter. Agencies would be required to develop plans for providing training in consultation with the Conflicts of Interest Board. The training may be provided in person or online. Concerning penalties, the Commission recommends that fines for a single conflicts of interest law violation be raised from a maximum of \$10,000 to a maximum of \$25,000. The current fine schedule has not been updated or adjusted for inflation since 1988. The Commission further proposes to authorize disgorgement of gains obtained as a result of any conflicts of interest law violation.

### **Consolidating Administrative Tribunals**

Adjudication of administrative violations currently take place at more than a dozen separate tribunals operated under different procedures and with differently qualified administrative law judges. This proposal provides for administrative consolidation of tribunals to streamline operations and create procedural norms. Many adjudicatory hearings are now held in-

house at the regulating agency, and have for that reason sometimes been perceived as lacking impartiality. This proposal arose out of a 2005 Charter proposal to set a code of conduct for administrative law judges mirroring the rules applicable to state court judges. The proposal would authorize the Mayor, by executive order, to transfer adjudicatory functions of various tribunals to a single tribunal or agency; authorize the Mayor to convene a committee to evaluate and make recommendations regarding consolidation; authorize the Office of Administrative Trials and Hearings to handle the appointment of administrative law judges; and require a public hearing with notice before the Mayor's orders and directives go into effect. Finally, the Commission proposes to enhance the adjudicatory functions of the Department of Consumer Affairs by authorizing the Department to hold impartial hearings for violations of the laws that Department enforces. Currently violations of all consumer protection laws not related to licensed entities are adjudicated in State Court.

### **Reviewing Reporting Requirements and Advisory Bodies**

The Commission is proposing a mechanism to review the more than 175 required reports and advisory bodies established in the Charter, the Administrative Code and other local laws to determine if such reports and advisory bodies currently serve a useful purpose. The proposal establishes a Report and Advisory Board Review Commission chaired by the Mayor's Director of Operations and composed of the City Council Speaker and two other Council members chosen by the Speaker, the Corporation Counsel, the Director of the Office of Management and Budget and the Commissioner of the Department of Information Technology and Telecommunications. The proposal also requires the Report and Advisory Board Review Commission to notify and consider input from the groups and organizations subject to or affected by these reports or advisory bodies before deciding to retain, waive in whole or in part, or dissolve a reporting requirement or an advisory body, subject to review by the Council and the Mayor. The new legislation would establish factors for the Report and Advisory Board Review Commission to consider when reviewing a reporting requirement or advisory body. The proposal also imposes a three-year waiting period before the Commission may review a new reporting requirement; and does not affect the power of the Council to repeal, limit, extend, or enhance a reporting requirement or advisory body.

## **Fair Share**

The City’s Fair Share law was established with the goal of equitably distributing the burdens and benefits of city facilities among local communities. In order to give more transparency to “fair share” decisions, the Commission proposes to amend Section 204(d) of the Charter to require that the map and explanatory text published by the Department of City Planning also include the locations of transportation and waste management facilities operated by or for public entities, or by private entities providing comparable services.

## **Issues for Future Consideration**

In addition to the questions the Commission is placing on the ballot, the Commission has seriously considered other issues relating to election reform, public integrity and government structures and is recommending that they be further studied. The Commission considered proposing a change to a non-partisan system for city elections, but decided it needed further consideration. The Commission also studied the idea of instituting instant runoff voting for party primaries for citywide offices, but determined that such a sweeping change needed further analysis. The Commission further researched methods to increase voter turnout, and recommends that the State Legislature consider Election Day registration and early or mail-in voting. Public integrity issues examined by the Commission included COIB structure and powers. Government structure was discussed in detail by the Commission, and while the Commission has concluded that it is unprepared to make changes to the balance of powers at this time, it has highlighted important issues for future consideration, including the role of the Public Advocate, City Council practices, regulation of lobbyists, the powers of borough presidents and community boards, guaranteed budgets and the scope of “units of appropriation.” Similarly, the Commission left to the future amendments to land use processes because these implicate changes in the balance of powers between local and central decision-makers. Lastly, the Commission recommended that future commissions or the City Council consider measures to streamline the charter.

## ABOUT THE COMMISSION

The Mayor charged the 2010 Charter Revision Commission, established on March 3, 2010, with reviewing the entire Charter in order to propose amendments that would increase the efficiency and effectiveness of government. In addition, he requested that the Commission consider presenting the issue of term limits to the voters. The Mayor also charged the Commission with conducting an extensive outreach program to encourage broad and diverse public participation and seeks ideas and opinions from a wide variety of civic and community leaders.

### **The Commissioners**

*Matthew Goldstein, Chair*, is Chancellor of the City University of New York (CUNY). He has served as President of Adelphi University, President of Baruch College, President of the Research Foundation of CUNY, and as Acting Vice Chancellor for Academic Affairs of CUNY. He earned his doctorate from the University of Connecticut in mathematical statistics and a bachelor's degree in statistics and mathematics from the City College of The City University of New York. He lives in Manhattan.

*John H. Banks, Vice-Chair*, has been the Vice-President for Government Relations at Consolidated Edison since 2002. He was named director of Government Relations at Consolidated Edison in 1999 and became City Council Chief of Staff in 2000. He is a member of the Metropolitan Transportation Authority (MTA) board and lives in Brooklyn.

*Angela Mariana Freyre, Secretary*, is Senior Vice-President and Deputy General Counsel of The Nielsen Company. She serves as a member of the City's Conflicts of Interest Board and as a commissioner on the Latin Media and Entertainment Commission. She is a former partner at the international firm Coudert Brothers. She lives in Manhattan.

*Anthony Perez Cassino* is an attorney at the firm of Milbank, Tweed, Hadley & McCloy, where he oversees pro bono activities. He has served as the Director of Pro Bono Services for the

New York State Bar Association and as an Aide and Counsel to Assemblyman Jeffrey Dinowitz. He is also a community leader and former City Council candidate who served as Chairman of Bronx Community Board No. 8 from 2004-2008. Mr. Cassino also served as Board Chairman of the Riverdale Nursery School and Family Center and is the founder of two organizations: the Coalition of Riverdale/Kingsbridge Schools and the Northwest Bronx Democratic Alliance. He lives in the Bronx.

*Betty Y. Chen* is a Vice-President for Planning, Design and Preservation at the Trust for Governors Island and a member of the City Planning Commission. Ms. Chen has worked for the Lower Manhattan Development Corporation, where she was responsible for the development of the World Trade Center Master Plan. She was also a former project architect with the New York firm Tod Williams, Billie Tsien Architects. She lives in Manhattan.

*David Chen* is the Executive Director of the Chinese-American Planning Council, Inc. and the founding Chairman of the Board of Directors of the Chung Pak Local Development Corporation. He is also a member of the board of the Chinatown Partnership Local Development Corporation and served as a Commissioner on the 2004-2005 Charter Revision Commission. He lives in Brooklyn.

*Hope Cohen* is Associate Director of the Regional Plan Association's Center for Urban Innovation. Previously, she was Deputy Director of the Manhattan Institute's Center for Rethinking Development, where she focused principally on issues of urban environment and infrastructure. Ms. Cohen has also served at MTA New York City Transit. She also served as Board Chairperson of Manhattan's Community Board No. 7 and as Co-Chairperson of that Board's Land Use Committee. She lives in Manhattan.

*Anthony Crowell* is Counselor to the Mayor. He currently serves as Board Chair of the Brooklyn Public Library and is an adjunct professor of state and local government law at Brooklyn Law School and New York Law School. Mr. Crowell served as a Commissioner on the 2004-2005 Charter Revision Commission; Chief Counsel to the 2003 Charter Revision Commission; Co-Executive Director to the 2002 Charter Revision Commission; General Counsel

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to the 2001 Charter Revision Commission; and counsel to the 1999 Charter Revision Commission. He has also served as Assistant Corporation Counsel. Before joining the City, he managed government affairs and policy at the International City/County Management Association in Washington, D.C. He lives in Brooklyn.

*Stephen J. Fiala* is Richmond County Clerk and Commissioner of Jurors and a former City Council member. Mr. Fiala has also served as a Commissioner on the 2004-2005 Charter Revision Commission. He lives in Staten Island.

*Ernest Hart* currently serves as Associate Dean at Columbia University Medical Center and Chair of the Civilian Complaint Review Board. He also serves on the Committee on Character and Fitness of the Supreme Court Appellate Division, First Department, and on the Queens Borough Public Library Board of Trustees. Previously, Mr. Hart was Chief of Staff and Counsel to Deputy Mayor Dennis Walcott, the Chair of the New York City Equal Employment Practices Commission, and a member of the New York City Board of Collective Bargaining. He has also been an adjunct professor of law at New York Law School. He lives in Queens.

*Rev. Joseph M. McShane, S.J.* is President of Fordham University, where he had previously served as dean of Fordham College at Rose Hill, Professor of Theology and a member of the Board of Trustees. Father McShane has also served as President of the University of Scranton in Pennsylvania. In June 2008, he was appointed to the Commission on Metropolitan Transportation Authority Financing by New York Governor David A. Paterson. He lives in the Bronx.

*Kenneth M. Moltner* is currently counsel in the litigation department of Bressler, Amery & Ross, P.C. He is an adjunct professor in the School of Continuing Education at New York University and Hunter College and has presented Continuing Legal Education lectures at the New York City Bar Association and the New York County Lawyers' Association. He was formerly Chair of Community Board No. 8 in Manhattan and has been active in the movement for term limits. He lives in Manhattan.

*Katheryn Patterson* is Vice-Chair of the Board of Trustees of the Juilliard School, a trustee of the American Museum of Natural History and Chair of the Planetarium Authority, and Director Emeritus of the Board of Directors of Greenwich House. She has also served as a member of the Board of Trustees of the Trinity School, the Campaign Finance Board and the 2003 Charter Revision Commission. She is a former partner at the international firm Coudert Brothers. She lives in Manhattan.

*Carlo Scissura* is Chief of Staff to Brooklyn Borough President Marty Markowitz. Previously, he was an attorney in full-time private practice and worked in both the New York State Senate and Assembly. He has served as a member of Brooklyn Community Board 11, Vice-President of Brooklyn Community School Board 20, and President of Brooklyn's Community Education Council for District 20. He lives in Brooklyn.

*Bishop Mitchell G. Taylor* is Senior Pastor of Center of Hope International, a non-denominational church located near the Queensbridge Houses. In addition to his work as a pastor, Bishop Taylor is CEO of the East River Development Alliance (ERDA), a not-for-profit organization he founded in 2004 to expand economic opportunity for public housing residents. Bishop Taylor was appointed to the Civilian Complaint Review Board in 2009. He lives in Queens.

### **The Commission Staff**

*Lorna B. Goodman* is Executive Director of the Commission. She served for the past eight years as Nassau County Attorney, where, as chief legal officer of the County she supervised a team of more than 100 lawyers, reduced judgments and settlements by over 50% and reduced reliance on outside counsel by bringing virtually all legal work “in-house.” From 1976 to 2001, she worked at the New York City Law Department where she started and led the Affirmative Litigation Division, served on the Executive Staff, and received the Corporation Counsel’s Award for Distinguished Legal Service. She holds degrees from Vassar College and Hofstra Law School.

*Ruth Markovitz* is Deputy Executive Director of the Commission. For the past seven years she was at the Nassau County Attorney's office, first as a bureau chief and, since 2006, as First Deputy County Attorney. Prior to that she was Deputy General Counsel at the New York City Department of Mental Health and before that served in the Legal Counsel Division of the New York City Law Department. Ms. Markovitz did graduate work in sociology at the University of California at Berkeley and has taught sociology at Queens College, State University at Stony Brook and Montclair State College. Ms. Markovitz graduated from Brandeis University and has a law degree from Columbia University.

*Frederick P. Schaffer* is General Counsel of the Commission. He is General Counsel and Senior Vice Chancellor for Legal Affairs of The City University of New York. He also serves as General Counsel to the CUNY Construction Fund. He was a litigation partner in the law firm of Schulte Roth & Zabel LLP and served as Counsel to Mayor Koch, Chief of Litigation in the New York City Law Department, Assistant U.S. Attorney in Manhattan and as Associate Professor at the Benjamin N. Cardozo School of Law. He has degrees from Harvard and Harvard Law School, where he was an editor of the Harvard Law Review. He clerked for the Honorable Francis L. Van Dusen, Circuit Judge on the U.S. Court of Appeals for the Third Circuit.

*Joseph P. Viteritti* is Research Director of the Commission. He is currently the Blanche D. Blank Professor of Public Policy at Hunter College (CUNY), where he is Chair of the Department of Urban Affairs & Planning and Director of the Public Policy Program at Roosevelt House. He previously served as an advisor to the New York City Charter Revision Commission (1987-1988), Executive Director of the New York State Charter Commission for Staten Island (1991-1996), advisor to the Districting Commission for the City Council (1991), and Executive Director of the Commission on School Governance (2007-2008). He has taught at Princeton, NYU, Harvard, and SUNY, Albany. He has just published his tenth book.

*Matthew Gorton* is Director of Communications of the Commission. He has served in a number of New York City government posts in the Office of the Mayor. Mr. Gorton has acted as the Press Secretary and Legislative Representative of the Office of State Legislative Affairs, as a Legislative Representative in the Office of City Legislative Affairs and as Queens Borough

Director of the Mayor’s Community Affairs Unit. Mr. Gorton was an aide to a NYC councilman in Brooklyn, and was an Assistant Director of Community Service of the Loyola Blakefield School in Maryland. He has a B.B.A. and an M.B.A. from Loyola University.

*Jeffrey D. Friedlander*, Special Advisor to the Commission is the First Assistant Corporation Counsel of the City of New York. He is a specialist in municipal law and writes a bi-monthly column in the New York Law Journal about the subject. Mr. Friedlander has played a significant role in many issues during his tenure at the Law Department including the expansion of the Landmarks Preservation Law, the City’s anti-apartheid initiative, the drafting of the “Gay Rights Bill” and the establishment of the New York City Campaign Finance Law. Mr. Friedlander holds degrees from Hunter College and New York University Law School.

*Jay Hershenson* is Senior Vice Chancellor for University Relations at CUNY and Senior Advisor to the Commission on Communication. Since 1984 Mr. Hershenson has worked in senior administrative positions at CUNY and is currently Secretary of the Board of Trustees of The City University of New York. His portfolio includes the development and implementation of CUNY’s external relations programs, including governmental, media and community relations, marketing, communications and CUNY-TV. He received an M.A. in Urban Studies and a B.A. in Communications, Arts and Sciences and University Administration from Queens College.

*Nana A. Akowuah* is a Senior Research Assistant to the Commission. She has worked since 2006 in a number of roles at the NYC Department of Small Business Services, most recently as Agency Account Manager. Ms. Akowuah was a New York City Urban Fellow in the 2006-2007 class of fellows. She holds a B.A. from Yale University.

*David Fields*, Parliamentarian for the Commission, is University Dean/Special Counsel to the Chancellor of CUNY. He is currently a member of the CUNY law school faculty where he previously served as Associate Dean for Administration and Finance. He has been a parliamentarian for over 35 years working for such organizations as the Queens College Academic Senate, the National Student Association, the CUNY Research Foundation, the CUNY

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Student Senate and the New York Public Interest Research Group. He has undergraduate and master's degrees from Queens College and a law degree from St. John's University Law School.

*Lisa F. Grumet* serves as Senior Counsel to the Commission. She is a Senior Counsel in the Legal Counsel Division at the New York City Law Department. Since graduating from Yale Law School in 1995, she has also worked as a Pro Se Law Clerk for the Second Circuit Court of Appeals, and taught as an adjunct at both Columbia and Fordham Law Schools. Ms. Grumet has an undergraduate degree from Amherst College.

*Ashley Goodale* is part-time Senior Counsel to the Commission. Ms. Goodale graduated from Yale University and from New York University Law School. She worked as an associate at the law firm Dewey Ballentine prior to joining the Division of Legal Counsel at the New York City Law Department. Ms. Goodale was a staff member of the 2001 Charter Revision Commission.

*Lisa Opal-Jones* is Director of Administration for the Commission. Prior to this she was Executive Assistant to the Commissioner of the New York City Department of Finance. She has also worked in the office of the Mayor and at the New York City Department of Buildings. Ms. Jones has a degree from The City College of New York, and is certified in Labor Relations Management and Human Resources by Cornell University.

*Myles Kuwahara* is Senior Counsel to the Commission. Mr. Kuwahara is a graduate of Pomona College and Yale Law School. He clerked for the Honorable James L. Oakes of the Second Circuit Court of Appeals. He worked for the New York City Law Department in the Affirmative Litigation Division and for the Nassau County Attorney's Office in the Legal Counsel Bureau.

*John Low-Beer* is a Senior Assistant Corporation Counsel serving as Senior Counsel to the Commission. Mr. Low-Beer was an assistant professor of sociology at Yale University and an associate professor at York College, CUNY, before attending Yale Law School. He clerked for the Honorable Leonard Garth on the Third Circuit Court of Appeals. He has worked in the

private sector and is presently at the Corporation Counsel’s Office in the Affirmative Litigation Division. Mr. Low-Beer has an undergraduate degree from Brown University, a J.D. from Yale Law School and a Ph.D from Harvard.

*Joan Margiotta* is part-time Senior Counsel to the Commission. She worked at the New York City Law Department as both a litigator and legal advisor. Ms. Margiotta has degrees from Stanford and Harvard Law School. Ms. Margiotta clerked for the Honorable Naomi Rice Buchwald, District Judge in the Southern District of New York.

*Ryan Merola* is a Senior Research Assistant to the Commission. Previously, he served as an Intelligence Research Specialist at the NYPD Counterterrorism Bureau and a Special Assistant to Congressman Edolphus Towns (NY-10). He graduated from the Macaulay Honors College at Brooklyn College, during which time he was honored as a Harry S. Truman Scholar and awarded a New York City Urban Fellowship. This fall, he will begin graduate work in terrorism studies on a George J. Mitchell Scholarship at Queens University Belfast in Northern Ireland.

*The New York City Law Department*, under the leadership of Michael Cardozo, has served throughout as counsel to the Commission. In addition to senior advisor Jeffrey Friedlander, the work of Spencer Fisher and Stephen Louis with the assistance of Michael Pastor and Evan Hochberg has helped put the Commission’s work in historical context and insured its legal consistency.

Dedicated interns Lee Brand, Brenda Cristerna, Stephanie Lin, Noah Lindenfeld, Danielle Melfi, Jon O’Brien, Talia Werber and Lina Zhou provided invaluable assistance in producing this final report.

## **Overview of the Charter Revision Process**

First adopted in 1897 and in effect in 1898, the New York City Charter is the basic document that defines the organization, power, functions, and essential procedures and policies of city government. It sets forth the institutions and processes of the City’s political system and

broadly defines the authority and responsibilities of city agencies and elected officials – the Mayor, the City Council, the Comptroller, Borough Presidents, and the Public Advocate – while, for the most part, leaving the details of operation to local law and agency rulemaking. Unlike the United States Constitution, which is rarely amended, the City’s Charter is a fluid document that is often amended to provide a more efficient and responsive government for the people of New York City. Indeed, while the U.S. Constitution has been amended only 27 times in its history, the Charter has been amended over 100 times since 1989 by local law and a number of times by referendums and by state law.

In the United States, city governments receive their legal authority from the states in which they are located. In the State of New York, municipalities have broad authority to structure how they operate by virtue of the Home Rule provisions of the State Constitution and the Municipal Home Rule Law (the MHRL). The Charter, along with the State Constitution, the MHRL, and other state statutes, provides the legal framework within which the City may conduct its affairs.

Section 36 of the MHRL permits the Mayor to establish a charter commission in New York City consisting of between nine and 15 members. The Mayor selects the chair, vice-chair and secretary of the Commission. All members must be residents of New York City and may hold public offices or employment. Pursuant to the MHRL § 36, a charter commission must review an entire charter and put proposals for its amendment before the voters, including proposals that, if enacted by the City Council, would require approval in a mandatory referendum (such as provisions curtailing the powers of an elected official) and provisions that could be otherwise adopted through local law.

A charter commission may propose a broad set of amendments that essentially “overhauls” the entire charter, or may narrowly focus upon certain areas and explain why such an approach is preferable in a report to the public.<sup>1</sup> The proposed amendments can only effect changes that are otherwise within the City’s local legislative powers as set forth in the State

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<sup>1</sup> MHRL § 36(5)(a).

Constitution and the Municipal Home Rule Law. They may be submitted to voters as one question, a series of questions, or alternatives.<sup>2</sup>

Charter commissions are not permanent commissions and are limited by MHRL § 36(6)(e). A commission expires on the day of the election at which a proposed new charter or amendments prepared by a commission are presented to the voters. However, if a commission fails to submit a new charter or any amendments to the voters, the commission expires on the day of the second general election following the commission's creation. There are no prohibitions against the reappointment of a commission or appointment of a new commission upon the expiration of an existing commission.

### **The Commission's Public Outreach Efforts**

From its inception, the Commission has pursued a varied and vigorous public outreach, using current multimedia and social networking platforms designed to provide notice, availability, and accessibility to the Commission's work. To that end, the Commission undertook a number of initiatives, including:

- Providing live webcasts of Commission hearings, meetings, and issue forums.
- Rebroadcasting Commission hearings on NYCTV, the city television network (Channel 74).
- Publishing hearing notices, press releases, transcripts, archived video and expert biographies on the Commission's website: [www.nyc.gov/charter](http://www.nyc.gov/charter).
- Partnering with CUNY-TV to develop public service announcements in 11 languages, which were distributed to media outlets and advocacy groups, and continuously featured on the Commission's website.
- Establishing an online presence through social networking sites such as Facebook ("NYC Charter Revision Commission") and Twitter ("CityCharterNYC"), which enables the Commission to receive interactive comments during public hearings.
- Issuing Commission notices to over 1,800 press and major media contacts, including 200 ethnic and community news outlets.
- Establishing an e-mail distribution list comprising over 4,000 groups and citizens, including community boards, neighborhood groups, civic organizations, not-for-profits

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<sup>2</sup> MHRL § 36(5)(b).

and advocacy groups, as well as members of the City Council, other elected officials, and their staffs.

- Issuing routine e-mail “blasts” containing Commission schedules and hearing information to over 44,000 citizens registered on the NYC.gov listserv.
- Locating Commission meetings and hearings in diverse neighborhoods in each of the five boroughs, at sites accessible by public transportation.
- Providing Commission notices in several languages, including Spanish, Chinese, Russian, and Korean.
- Providing information via the City’s 311 hotline, which, in addition to relaying Commission hearing schedules and locations, directs callers to the Commission’s website for further information.
- Providing language assistance to the hearing impaired upon request.

The Commission’s website, prominently displayed and accessible through the City’s website, [www.nyc.gov](http://www.nyc.gov), also provides a great deal of information to the public: it contains a copy of the current City Charter capable of being downloaded; a schedule of the Commission’s meetings, hearings and forums; transcripts, videos and live webcasts of the Commission’s meetings, hearings and forums; biographical information about the Commissioners; contact information for the Commission; and archived materials from previous Commissions. In response to its outreach efforts, the Commission has received numerous letters, telephone calls, e-mails, and online submissions requesting information, expressing concerns or containing proposals for charter revision.

### **Meetings and Hearings**

The Commission held its initial public meeting on March 18, 2010. Chair Goldstein introduced the members of the Commission and stressed the Commission’s determination to ensure extensive public opportunities to participate in the charter revision process.

The Commission subsequently hosted an initial round of five public hearings, one in each of the five boroughs, to solicit suggestions and opinions from New Yorkers. The first, on April 6, 2010, was in Manhattan, followed by hearings on April 12 in the Bronx, April 13 on Staten Island, April 19 in Queens, and April 20 in Brooklyn. The Commission heard from the public on a variety of issues.

During and after the first round of public hearings, the Commission received additional public input electronically and by mail. Commission staff also met with various good government and advocacy groups; former and current government officials and other stakeholders; reviewed the work of past charter revision commissions; and sought suggestions from the heads of city agencies. Suggestions and concerns fell into five general categories: term limits, low levels of voter participation, government structure, public integrity, and land use, which were formally acknowledged and adopted by the Commission at a public meeting at the Tweed Courthouse in Lower Manhattan on May 10.

The Commission began its second phase of meetings on May 17 with a panel of former Charter Revision Commission Chairs, including Lieutenant Governor Richard Ravitch (1988 Commission); Frederick A. O. Schwarz, Jr. (1989 Commission); Randy M. Mastro (1999 and 2001 Commissions); Dr. Frank J. Macchiarola (2003 Commission); and Dr. Ester R. Fuchs (2005 Commission).

Following the panel of former chairs, the Commission held a series of public “issue forums,” one in each borough, to hear expert testimony and public comment on each of the five categories. Charts summarizing testimony from the public at all of the hearings and forums conducted can be found in Appendix A of this Report and brief summaries of the expert testimony from the issue forums and public hearings held after the release of the Preliminary Report can be found in Appendix B.

At the first issue forum on May 25 in Brooklyn, the Commission heard testimony on term limits from Patrick J. Egan, Assistant Professor of Politics and Public Policy at New York University; Richard G. Niemi, Don Alonzo Watson Professor of Political Science at the University of Rochester; and Gregory Carl Schmid, General Counsel for the national organization U.S. Term Limits.

The second issue forum focused on voter participation and was held in the Bronx on June 2. Panelists and public participants discussed possible ways to increase voter participation,

including non-partisan elections, open primaries, and same day registration. The expert panel included Jerry Goldfeder, Special Counsel at Stroock & Stroock & Lavan; David R. Jones, President and CEO of the Community Service Society; Harry Kresky, an election attorney in private practice in New York City; Lorraine C. Minnite, Assistant Professor of Political Science at Barnard College; and J. Phillip Thompson, Associate Professor of Urban Politics at Massachusetts Institute of Technology.

The third issue forum, on government structure, took place in Staten Island on June 10. The Commission first heard testimony from City Council Speaker Christine Quinn and Councilmember Gale Brewer, chair of the Council’s Committee on Governmental Operations. The ensuing panel discussion, which addressed broad issues involving the relationship between the powers of elected officials and between centralized and decentralized powers, was led by panelists Gerald Benjamin, Distinguished Professor of Political Science at SUNY New Paltz; Brad Hoylman, Senior Executive and General Counsel at Partnership for New York City; Eric Lane, Eric J. Schmertz Distinguished Professor of Public Law and Public Service at Hofstra University; Doug Muzzio, Professor at Baruch College; and Marc Shaw, interim Senior Vice-Chancellor of Budget Finance and Financial Policy at the City University of New York.

The panel on issues related to public integrity took place in Manhattan on June 16. The Commission heard testimony from Richard Briffault, Joseph P. Chamberlin Professor of Legislation at Columbia University Law School; Mark Davies, Executive Director of the New York City Conflicts of Interest Board; Amy Loprest, Executive Director of the New York City Campaign Finance Board; Richard Rifkin, Special Counsel at the New York State Bar Association; and Benito Romano, Partner at Freshfields Bruckaus Deringer.

The fifth and final expert forum, on land use issues, took place in Queens on June 24 and included testimony from Thomas Angotti, Professor of Urban Affairs and Planning, Hunter College and the Graduate Center, City University of New York and Director of the Hunter College Center for Community Planning and Development; Vishaan Chakrabarti, Marc Holliday Professor of Real Estate and Director of the Real Estate Development Program, Columbia University; Christopher Collins, Vice-Chair, New York City Board of Standards and Appeals;

David Karnovsky, General Counsel to the New York City Department of City Planning; and Paul D. Selver, Partner, Kramer Levin Naftalis & Frankel LLP.

Following the completion of the initial citywide public hearings and expert forums, the Chair requested that the staff prepare a preliminary report and recommendations on the several issue areas that were discussed by the public and examined by the experts invited to testify before the Commission. This report was intended to serve as the basis for further discussion and action by the Commission. On July 9, the staff released this document, entitled, “Preliminary Staff Report and Recommendations to the Chair of the 2010 Charter Revision Commission” (Preliminary Report).

The Preliminary Report was divided into several parts that corresponded with the issue areas investigated by the Commissioners and the staff, notably: term limits, voter participation, public integrity and government structure. Each part included recommendations from the staff for the Commission’s consideration. Also included were other topics that had been raised by the public and experts alike, but that the staff felt should be reserved for future discussion.

After its release, on July 12, the Commission held a public meeting in Manhattan to discuss the Preliminary Report, and to announce an additional series of five hearings, one in each borough, to solicit public comment regarding the Preliminary Report.

At the first hearing on July 19 in Brooklyn, the Commission invited the Citizens Union of New York to testify prior to the public hearing on their recommendations for charter amendments. The second hearing was held in the Bronx on July 21. The third hearing took place in Manhattan on July 26 and began with testimony from Ester Fuchs and Terri Matthews, Chair and Executive Director, respectively, of the 2005 Charter Revision Commission, regarding the proposal to establish a commission to study reporting requirements and advisory bodies. Deputy Mayor Carol A. Robles-Roman, and David Goldin, Administrative Justice Coordinator also testified regarding the proposal to authorize the Mayor to order the consolidation of administrative tribunals. At the fourth hearing on July 28 in Queens, Mark Page, the director of the Office of Management and Budget, testified at the hearing’s start about proposals to establish

guaranteed budgets for various elected officials and agencies. The Commission capped off the series with its fifth and final hearing on August 2 in Staten Island.

On August 11, following the final series of public hearings, the Commission held a public meeting to finalize the issues to be placed on the November ballot. The Commissioners voted to put ten proposals before the public for consideration, including: term limits; independent expenditure disclosures; easing petition requirements for ballot access; modification of conflicts of interest law; administrative tribunal consolidation; reporting requirements review; and Fair Share reforms. On August 23, the Commissioners voted to approve the ballot language for these proposals, grouping them into two questions – term limits revisions in one, and elections and government administration reforms in the other.

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# **PART ONE**

## **PROPOSED AMENDMENTS TO THE NEW YORK CITY CHARTER**

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## SECTION ONE TERM LIMITS

### Background

Elected officials in the City have been subject to term limits since 1993, when New York City voters approved, by a 59% to 41% margin, a ballot initiative to prohibit persons from being elected to or serving in any elective city office for more than two consecutive full terms.<sup>3</sup>

In 2008, Local Law 51, which amended Charter § 1138, extended the number of consecutive terms to three. Prior to the enactment of Local Law 51, the City Council had considered two proposals to amend Charter § 1138 as originally enacted, but both met with failure. In 1996, the City Council unsuccessfully attempted, by ballot measure, to extend the two-term consecutive term limit by an additional term; the voters defeated the proposal by a 54% to 46% margin. And in March of 2001, the Council's Governmental Operations Committee considered a bill that would repeal the applicability of Charter § 1138 to Council members; the Committee disapproved the bill by a 5-4 vote.

One proposal for amendment, however, clarifying the meaning of Charter § 1138, did succeed. In 2002, over the veto of the Mayor, the City Council adopted Local Law 27. Local Law 27 amended the Charter to provide that a single two-year council member term does not constitute a full term; instead, when applying Charter § 1138, two consecutive two-year council member terms are to comprise one full term. After its enactment, Local Law 27 was challenged

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<sup>3</sup> The 1993 ballot measure reads as follows:

Should the New York City Charter be amended by the addition of a new Chapter 50 to provide that a person may not hold the office of mayor, public advocate, comptroller, borough president or city council member for more than two consecutive terms?

Prior to its approval by voters in November of 1993, the City Clerk had refused to certify the ballot measure on the ground that state law preempted a local law, including one adopted by initiative, that imposed term limits on city officeholders. The Court of Appeals, however, held otherwise; in *Roth v. Cuevas*, 82 N.Y.2d 791 (1993), decided less than a month before Election Day, the Court of Appeals affirmed the trial court's order compelling the City Clerk to place the initiative on the ballot. The Court based its decision on the reasoning of the trial court, which had examined whether state home rule law preempted local laws imposing term limits on its elected officials and found nothing constituting either an express or implied intent to reserve to the state the determination of a local officeholder's permissible length of service. *See Roth v. Cuevas*, 158 Misc. 2d 238 (Sup. Ct. N.Y. Cty. 1993).

on the ground that, since the term limits provision was enacted by the voters, any amendment of it, such as that approved in Local Law 27, needed voter approval. This challenge failed when the Court of Appeals declined to review the Appellate Division's determination, in *Golden v. New York City Council*, that Local Law 27 could be enacted without voter approval even though the charter provision that was affected by Local Law 27 had been adopted by the voters. *Golden* made clear that "laws proposed and enacted by the people under an initiative provision are subject to the same constitutional, statutory and charter limitations as those passed by the Legislature and are entitled to no greater sanctity or dignity."<sup>4</sup> When the term limits were extended by the Council in 2008 (Local Law 51), a similar challenge in federal court proved unsuccessful.

In *Molinari v. Bloomberg*, the U.S. Court of Appeals for the Second Circuit upheld Local Law 51 against claims that the law violated federal, state and local law.<sup>5</sup> The plaintiffs had argued that Local Law 51 violates (1) the First Amendment, by discouraging the public from utilizing the initiative process as a means of speech and by discouraging potential candidates from challenging incumbents; (2) the federal constitutional right to substantive due process, because it served the interests of those who enacted it; (3) state home rule law, because the provisions of Local Law 51 can only be approved by referendum; and (4) city conflicts of interest law, because Local Law 51 was approved by council members who stood to gain personally by its approval.

The Court rejected all these claims. It found no First Amendment right to legislation by voter initiative and no unconstitutional discouragement of speech protected by the First Amendment in Local Law 51. It found no violation of substantive due process, in light of the rational relationship between Local Law 51's extension of the term limits and the City's stated goal of affording voters the opportunity to retain its elected officials in a time of crisis. It rejected

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<sup>4</sup> *Golden v. New York City Council*, 305 A.D.2d 598, 600 (2d Dep't 2003), appeal denied by *Golden v. N.Y. City Council*, 100 N.Y.2d 504 (2003) (quoting *Caruso v. City of New York*, 136 Misc 2d 892, 895-896, (S. Ct. N.Y. Co. 1987), aff'd 143 A.D.2d 601 (1st Dept. 1988), aff'd 74 N.Y.2d 854 (1989), cert. denied 493 U.S. 1077 (1990)). In *Golden*, the Appellate Division held that the enactment of Local Law 27 did not require voter approval because the law neither changed the length of any elected official's term nor curtailed the power of any elected official – and therefore did not trigger the mandatory voter approval provisions of state law.

<sup>5</sup> *Molinari v. Bloomberg*, 564 F.3d 587 (2d Cir. 2009).

the claim that Local Law 51’s extension of the term limit for elected city officials constituted a “change in the membership” of the local legislative body that, under the New York State Municipal Home Rule Law, would require voter approval. And it found no violation of the City’s conflicts of interest law, agreeing with the City’s Conflicts of Interest Board that any benefit that an incumbent council member might obtain in voting for Local Law 51 would not constitute the “personal or private advantage” prohibited under the conflicts of interest law.<sup>6</sup>

The passage of Local Law 51 drew criticism even from some opponents of term limits.<sup>7</sup> In establishing this Charter Revision Commission, the Mayor asked that the voters be given another opportunity to weigh in on the issue of term limits. In analyzing the issue of term limits, the Commission has been mindful of the strong feelings in favor of allowing the voters to decide whether to return to the two-term limit that was amended by the Council in 2008. The context that led to the legislative extension of term limits in New York has weighed very heavily in the assessment of whether the two-term option should be proposed on the ballot, even in light of some literature and testimony in favor of longer term limits, particularly for members of the City Council, as discussed below.

### **Views on Term Limits**

The arguments for and against term limits have remained basically the same since the current term limits movement began in the late 1980s and early 1990s. Those in favor maintain that term limits make government more responsive to the public interest, while opponents argue that term limits are essentially undemocratic because they limit voter choice and that they render government less effective in serving the public interest.<sup>8</sup> The Commission has been provided with staff research on term limits and was presented with all sides of the debate by academics, advocates, elected officials and members of the public at its Forum on Term Limits.<sup>9</sup> Staff also

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<sup>6</sup> *Id.* at 595-618.

<sup>7</sup> *See, e.g.*, “Citizens Union Disappointed Over Council Term Limits Vote, Statement by Dick Dadey, Executive Director,” October 23, 2008 (available at <http://www.citizensunion.org/www/cu/site/hosting/Statements/TermLimits1023.html>) (describing approval of Local Law 51 as “unfortunate” in spite of Citizens Union historical opposition to term limits).

<sup>8</sup> *But see* Einer Elhauge, “Are Term Limits Undemocratic?,” 64 U. Chi. L. Rev. 83 (1997) (arguing, *inter alia*, that voting for term limits is a rational, democratic choice).

<sup>9</sup> Hearing, May 25, 2010 (webcast available at

commissioned two papers from political scientists, one from Richard Niemi and Kristin Rulison and another from Patrick Egan, evaluating the results of term limits.<sup>10</sup> Most of the academic research on term limits consists of studies of state legislatures;<sup>11</sup> although some question the applicability to New York City of this research, others believe it can be appropriately extrapolated, at least to the Council.<sup>12</sup> In addition to the academic and political debate over term limits, speakers at the public hearings and the forums noted the special context of the issue in New York City and many maintained the necessity of giving New York voters the opportunity to return to the original two-term limit approved by the voters in 1993.

### Commission Proposals

In regard to term limits, the Commission proposes that the public consider an amendment to the Charter which would: (1) reduce the current three-term term limit for elected city officials to two consecutive full terms; (2) restrict the City Council from changing the term limit of elected officials who are serving at the time of the change; and (3) provide that, if approved by the voters, the proposed change in the term limit will apply only to an elected official who is elected to his or her first term on or after November 2, 2010.<sup>13</sup> These proposals reflect the Commission's sensitivity to the importance of acknowledging the significance of the public vote in regard to the term limit issue as it has played out in New York City. The voters adopted a two-term limit in 1993 and rejected a three-term limit in 1996, yet Local Law 51 extended the term

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[http://www.nyc.gov/html/charter/html/meetings/public\\_meetings.shtml](http://www.nyc.gov/html/charter/html/meetings/public_meetings.shtml)).

<sup>10</sup> See P.J. Egan, "Term Limits for Municipal Elected Officials: Executive and Legislative Branches," (hereinafter "Term Limits") (paper on file with the Commission); R.G. Niemi and K.K. Rulison, "The Effects of Term Limits on State Legislatures and Their Applicability to the Executive Branch" (hereinafter "The Effects of Term Limits") (paper on file with the Commission).

<sup>11</sup> See, e.g., Karl T. Kurtz, Bruce Cain, and Richard G. Niemi (eds.), *Institutional Change In American Politics: The Case of Term Limits* (Ann Arbor 2007) (reporting the findings of the Joint Project on Term Limits, sponsored by the Council of State Governments, the National Conference of State Legislatures, and the State Legislative Leaders Foundation).

<sup>12</sup> See Richard G. Niemi and Kristin K. Rulison, "The Effects of Term Limits," , *supra* note 7, at 13 ("It seems likely that the effects of term limits [upon state legislatures] would apply relatively straightforwardly to city councils, which often have procedures, organizations, and objectives similar to those of state legislatures."); P.J. Egan, "Term Limits," *supra* note 7, at 13-14("all the evidence and facts suggest that the experience of term-limited states is not only relevant to New York City—but that term limits' weakening of City Council may be particularly exacerbated by the fact that individual members of Council are each responsible for so much oversight and so many constituents.").

<sup>13</sup> Although they voted for City Ballot Question 1, four Commissioners wrote after the final vote to explain their objection to the effective date. Their dissents can be founded in Appendix G.

limit from two terms to three and allowed elected officials who would soon be ending their second terms to run for a third term. Although it is clear that the Council acted within its jurisdiction in enacting Local Law 51,<sup>14</sup> the Commission heard testimony indicating that the extension of the term limit without referendum has troubled many voters.<sup>15</sup> This testimony influenced even those Commissioners who testified on the record as being personally opposed to any term limits at all,<sup>16</sup> and the Commission has thus agreed on the importance of responding to the public reaction to Local Law 51 by providing the voters with an opportunity to return the term limit to what the voters had originally approved.<sup>17</sup>

In reaching its conclusion, the Commission has considered the oral and written testimony of experts, the research-based recommendations of staff and the testimony of city residents, including former and current elected officials. The Commission took into account evidence on both sides of the issue: on one hand, that term limits weaken a legislature by disqualifying legislators with the most experience in formulating legislation and exercising its oversight responsibilities; on the other, that term limits limit the power of incumbency, lead to more competitive elections and have turned the City Council into “a more dynamic policy-making body due in part to the fresh perspective and energy of new Council members.”<sup>18</sup> Moreover, although term limits have not created a City Council stocked with “citizen-legislators” having no

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<sup>14</sup> See *Molinari v. Bloomberg*, 564 F.3d 587 (2d Cir. 2009) (upholding Local Law 51-2008).

<sup>15</sup> This testimony is compiled in the Appendix.

<sup>16</sup> Some Commissioners urged that the option to eliminate term limits be presented to the voters, if not on the November ballot, at some time in the future.

<sup>17</sup> The public popularity of term limits themselves has been attributed to widespread cynicism about government and its elected officials. See, e.g., Jeffrey A. Karp, “Explaining Public Support for Legislative Term Limits,” 59 *Pub. Op. Qry.* 373, 386 (1995), (concluding that “term limits support stems ... from a frustration with the political process, manifested in an increasingly cynical electorate”); Elizabeth Garrett, “Term Limitations and the Myth of the Citizen-Legislator,” 81 *Cornell L. Rev.* 623, 633 (1995-1996) (“Whatever the ultimate goals of the leaders of the movement, the resounding theme that unifies them is that professional politicians are the root of most problems pervading the federal government and that the citizen-legislator is the solution. Many average Americans who are sympathetic to this rhetoric are alienated and cynical with an intense, but generalized, distrust of the federal government and those who make a living working in it.”).

<sup>18</sup> Citizens Union of the City of New York, “2010 City Charter Revision Recommendations: Increasing Avenues for Participation in Governing and Elections in New York City,” at 74. In fact, taking office subject to a term limit might create this fresh perspective. See, e.g., John M. Carey, Richard G. Niemi, Lynda W. Powell, and Gary F. Moncrief, “The Effects of Term Limits on State Legislatures: A New Survey of the 50 States,” 31 *Legis. Stud. Q.* (2006) 105, 129 (suggesting that the ambition of term-limited legislators for holding subsequent offices having broader constituencies may explain their interest in larger issues as well as their greater reliance upon conscience).

interest in political careers, it is unclear whether that failure has been detrimental to city interests. Many if not most recently elected members come to the City Council with previous experience with or ties to city government,<sup>19</sup> suggesting that the regular replacement of incumbents with such “newcomers” might counter the loss of experienced members feared by opponents of term limits.

However, regardless of the extent to which studies of the effects of term limits can be applied to the City, the Commission believes that it must address the two distinct aspects of Local Law 51 that have received the most public attention: that the extension to three terms of the voter-approved two-term limit was accomplished without voter approval; and that the new three-term limit was made applicable to then currently serving elected officials, thereby allowing them to extend their eligibility for office.

The Commission’s proposals respond directly to these two concerns. First, the Commission proposes that voters be given the opportunity to return to the two-term limit originally approved by ballot initiative. Second, the Commission proposes that voters be given the opportunity to restrict incumbent City Council members from approving legislation affecting their own term limit or the term limit of other incumbent city officials. Finally, the Commission proposes that, should voters approve a shorter term limit, the new law apply to officials elected to their first terms on or after November 2, 2010.

### **Proposed Text**

Section 1. Sections 1137 and 1138 of the New York City Charter, as amended by Local Law 51 for the year 2008, are amended to read as follows:

§ 1137. Public Policy. It is hereby declared to be the public policy of the city of New York to limit the time elected officials can serve as mayor, public advocate, comptroller, borough president and council member so that [elected representatives are “citizen representatives” who are responsive to the needs of the people and are not career politicians] there is more opportunity for citizen participation in the legislative and executive branches and the airing of a greater

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<sup>19</sup> See Jeffrey Kraus, “The Circulation of Office Holders: Term Limits and the New York City Council,” Paper prepared for presentation at the 66<sup>th</sup> annual meeting of the Midwest Political Science Association, April 2008 (on file with the Commission) at 10-20.

diversity of ideas. It is further declared that this policy is most appropriately served by limiting the time such officials can serve to not more than [three full] two consecutive full terms. It is further declared that public confidence in government should be protected by restricting amendments that would affect the application of term limits to any elected official then in office.

§ 1138. Term Limits. a. Notwithstanding any provision to the contrary contained in this charter, no person shall be eligible to be elected to or serve in the office of mayor, public advocate, comptroller, borough president or council member if that person had previously held such office for [three] two or more [full] consecutive full terms, unless one full term or more has elapsed since that person last held such office[; provided, however, that in calculating the number of consecutive terms a person has served, only terms commencing on or after January 1,1994 shall be counted].

b. Notwithstanding any other provision to the contrary, no local law may be enacted by the city council, including but not limited to amendment of the provisions of this chapter, if such local law would alter or permit alteration of the term limit set forth in this section as such limit applies to any person then serving in the office of mayor, public advocate, comptroller, borough president or council member.

c. Severability. If any provision of this section, or any provision of paragraph one of subdivision k of section eleven hundred fifty-two relating to the application of this section, shall be held invalid or ineffective in whole or in part or inapplicable to any person or situation, such holding shall not affect, impair or invalidate the remainder of this section and such paragraph, and all other provisions thereof shall nevertheless be separately and fully effective and the application of any such provision to other persons or situations shall not be affected.

§ 2. Section 1152 of the New York city charter is amended by adding a new subdivision k, to read as follows:

(k)(1) The amendments to the charter, amending sections eleven hundred thirty-seven and eleven hundred thirty-eight, approved by the electors on November second, two thousand ten, shall take effect immediately, and hereafter shall control as provided with respect to all the powers, functions and duties of officers, agencies and employees; provided, however, that, notwithstanding any inconsistent provision of the charter, persons holding the offices of mayor, public advocate, comptroller, borough president or council member on the date such

## **TERM LIMITS**

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amendments take effect shall be subject, with respect to eligibility to be elected to or serve in the offices so held, to the provisions of section eleven hundred thirty-eight that were in effect immediately prior to the approval of such amendments, and to the provisions of subdivision b of such section as added by such amendments until one full term or more has elapsed since having last held such offices, after which such persons shall be fully subject to the provisions of section eleven hundred thirty-eight, as amended by such amendments, in its entirety.

## BALLOT PROPOSAL

### City Question 1: Term Limits

The proposal would amend the City Charter to:

- Reduce from three to two the maximum number of consecutive full terms that can served by elected city officials; and
- Make this change in term limits applicable only to those city officials who are first elected at or after the 2010 general election; and
- Prohibit the City Council from altering the term limits of elected officials then serving in office.

Shall this proposal be adopted?

### Abstract

The City Charter now sets three consecutive full terms as the maximum number that can be served by the Mayor, Comptroller, Public Advocate, borough presidents, and members of the City Council. This proposal would reduce the maximum number of consecutive terms that can be served by persons holding those offices from three to two. The proposal would also contain a new provision prohibiting the City Council from altering the maximum number of terms that can be served by any incumbent New York City elected official, thus making any alteration of term limits by the Council only applicable to future elected officials. The new law would affect City officials elected after the general election in November, 2010 so that current elected officials would remain subject to the present three-term limit.

## SECTION TWO

## ELECTIONS AND GOVERNMENT ADMINISTRATION

### DISCLOSURE OF INDEPENDENT EXPENDITURES

Currently, the Charter and Administrative Code empower New York City's Campaign Finance Board (the CFB) to require that candidates for public office comply with comprehensive disclosure requirements concerning contributions and expenditures, in addition to imposing contribution limits and expenditure limits for candidates participating in the voluntary campaign financing program.<sup>20</sup> These disclosure requirements are a large part of why the City's campaign finance law has been repeatedly lauded as a national model.<sup>21</sup> Under existing law, however, the CFB has no power to require disclosure related to expenditures that are made independent of any candidate, but that are nevertheless made with the express intent of influencing the outcome of municipal elections and ballot proposals. This gap in the City's campaign finance system allows independent actors to spend lavishly on local elections while remaining largely insulated from public scrutiny.

The CFB, which under the Charter is responsible for interpreting and enforcing the City's campaign finance laws,<sup>22</sup> proposed that this Commission consider requiring that independent expenditures above a minimum threshold be reported to the Campaign Finance Board, and that individuals or entities paying for advertising with independent expenditures disclose their

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<sup>20</sup> New York City Administrative Code §§ 3-701 to -720.

<sup>21</sup> *E.g.*, Testimony of Prof. Richard Briffault before the New York City Charter Revision Commission (June 16, 2010) ([http://www.nyc.gov/html/charter/media/video/pc061610\\_charter\\_meeting500k.asx](http://www.nyc.gov/html/charter/media/video/pc061610_charter_meeting500k.asx)); Testimony of Prof. John D. Feerick before the New York City Campaign Finance Board, Dec. 2, 2009 (<http://www.nyccfb.info/press/news/testimony/pdf/post-election/2009-12-02--Feerick.pdf>).

<sup>22</sup> New York City Charter § 1052.

identities in advertising materials.<sup>23</sup> This proposal has also received the support of good government groups, including the Brennan Center, Citizens Union, and Common Cause; the Commission also heard testimony in support of this proposal from Columbia Law School Professor Richard Briffault.<sup>24</sup>

In recent years, independent expenditures have become an increasingly significant part of election-related spending in New York City. In both the 2005 and 2009 municipal elections, minor political parties, labor unions, political committees, and other third-party actors made significant independent expenditures.<sup>25</sup> In 2009 in particular in some primary elections, there were independent advertising campaigns by minor parties receiving funds from other entities, including labor unions and the real estate industry.<sup>26</sup> These independent expenditures did not have to be disclosed to the CFB under current law. Furthermore, entities making independent expenditures are not required to identify themselves or key funding sources in advertising materials, which can lead to confusion for members of the public.<sup>27</sup> Requiring that expenditures of this nature be reported to CFB, and that those making significant expenditures be identified in advertising materials, would provide critical information and context for members of the public and help them to evaluate advertising messages aimed at influencing their votes. Requiring reporting of independent expenditures would also enhance CFB's ability to enforce expenditure

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<sup>23</sup> Letter from Loprest to Goldstein, May 4, 2010; Testimony of CFB Executive Director Amy Loprest before the New York City Charter Revision Commission (June 16, 2010 and August 2, 2010). *See also* New York City Campaign Finance Board, 2009 Post-Election Report, *New Yorkers Make Their Voices Heard*, September 2010 (forthcoming) at 165-178 (chapter on file with Commission).

<sup>24</sup> Citizens Union of the City of New York, "2010 Recommendations," at 58 (June 30, 2010); Testimony of Prof. Richard Briffault before the New York City Charter Revision Commission (June 16, 2010). *See also* Letter from Dick Dadey, Executive Director, Citizens Union, Susan Lerner, Executive Director, Common Cause/NY & Susan M. Liss, Director, Democracy Program, Brennan Center for Justice at NYU School of Law, Aug. 20, 2010 (on file with Commission); Letter from Robert M. Stern, President, Center for Governmental Studies, Aug. 19, 2010 (on file with Commission); Letter from Council Member Daniel R. Garodnick, Aug. 2010 (on file with Commission).

<sup>25</sup> Letter from Loprest to Goodman, May 24, 2010. *See, e.g.*, Cassi Feldman, *Working Families Fracas: Dems Blast Party for Meddling*, CITY LIMITS, Sept. 12, 2005, <http://www.citylimits.org/news/articles/1776/working-families-fracas-dems-blast-party-for-meddling>.

<sup>26</sup> Letter from Loprest to Goldstein, May 4, 2010. *See* Chris Bragg, Independence Party Mailers Tout Union Ties for Anti-WFP Candidates: Feerick, Stewart, Koslowitz and Mitchell Among Those Boosted, CITY HALL, Sept. 9, 2009, <http://www.cityhallnews.com/newyork/article-898-independence-party-mailers-tout-union-ties-for-anti-wfp-candidates.html>; Eliot Brown, Landlords Have a Party, N.Y. OBSERVER, Dec. 8, 2009, <http://www.observer.com/2009/real-estate/landlords-have-party>.

<sup>27</sup> *See, e.g.*, sample flyers on file with Commission (supporting identified Council members and slates of borough-wide or citywide candidates without clearly indicating who paid for the advertisements).

and contribution limits under current law by providing CFB with real-time data concerning expenditures of this nature.

On a national level, the Supreme Court’s recent decision in *Citizens United v. Federal Election Commission*<sup>28</sup> has significantly raised the profile of independent expenditures as a component of campaign related spending. In *Citizens United*, the Court held that no government interest could justify limiting the political speech of corporations<sup>29</sup> and struck down federal law that prohibited the use of corporate and union general treasury funds for independent election expenditures.<sup>30</sup> As a result of this decision, some commentators anticipate an increase in independent spending across the country, including in local elections. In that same decision, however, the Court also explicitly upheld the components of federal law requiring such independent actors to disclose their identity, expenditures, and funding sources to the Federal Election Commission.<sup>31</sup> In determining that a government interest did indeed justify encumbering electoral communication in this manner, even if it did not justify actually limiting such communication, the Court recognized the essential public policy purpose that underlies the disclosure of independent expenditures: “provid[ing] shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters.”<sup>32</sup>

In addition to the federal disclosure requirements endorsed by *Citizens United*, the current legal landscape outside of New York also includes laws and regulations in at least 29 states that require disclosure of independent expenditures in some form.<sup>33</sup> Several major

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<sup>28</sup> 130 S. Ct. 876 (2010).

<sup>29</sup> *Id.* at 913.

<sup>30</sup> *Id.* at 886.

<sup>31</sup> *Id.* at 914. The Court did, however, acknowledge an exception in that disclosure “would be unconstitutional as applied to an organization if there were a reasonable probability that the group’s members would face threats, harassment, or reprisals if their names were disclosed.” *Id.* at 916 (citing *McConnell v. FEC*, 540 U.S. 93, 198 (2003)).

<sup>32</sup> *Id.* at 915–16.

<sup>33</sup> See Letter from Loprest to Goodman, May 24, 2010. These 29 laws and regulations are: Ariz. Rev. Stat. § 16-914.02; Ark. Code § 7-6-220; Colo. Const. art. 28, § 5; Del. Code tit. 15, §§ 8023, 8031; Fla. Stat. § 106.071; Ga. Code § 21-5-34(f); Idaho Code § 67-6611; Iowa Code § 68A.404; Ky. Rev. Stat. § 121.150(1); La. Rev. Stat. § 18:1501.1; Me. Rev. Stat. tit. 21-A, § 1019-B; Mass. Gen. Laws ch. 55, § 18A; Mich. Comp. Laws § 169.251; Minn.

municipalities have also passed their own laws mandating such disclosure, including Los Angeles,<sup>34</sup> Seattle<sup>35</sup> and Portland.<sup>36</sup> New York State requires that political committees report contributions to and expenditures by political committees to the Board of Elections at certain times that are specified by law, but the reporting requirements are narrower in scope and do not provide for the degree of transparency contemplated by the Commission's proposal, nor are there any requirements concerning disclosure in advertising materials.<sup>37</sup> To provide the citizens of the City with more complete and timely information so that they can properly assess the content of political communications intended to influence their behavior at the polls, the Commission recommends that the Charter be amended to require the disclosure of independent expenditures. In addition to requiring disclosure of independent expenditures supporting or opposing candidates, the Commission proposes requiring reporting of expenditures made in support of or in opposition to ballot proposals, in order to provide greater information to the public about money spent to influence this means of adopting legislation.

The proposed charter amendment would make three major changes to § 1052, which governs the composition, powers and responsibilities of the CFB. First, it would require any individual or entity making independent expenditures in the amount of \$1,000 or more to support or oppose a city candidate or referendum to disclose such activities to the CFB. Second, it would require any entity making independent expenditures in the amount of \$5,000 or more to support or oppose a candidate to disclose the sources of the funds used to make such expenditures, preventing independent actors from circumventing the disclosure requirements through masking their identities by creating or contributing to other entities.<sup>38</sup> Third, it would require that

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Stat. § 10A.20(6b); Miss. Code § 23-15-809; Mo. Rev. Stat. § 130.047; Mont. Admin. R. 44.10.531(4); Neb. Rev. Stat. § 49-1467; Nev. Rev. Stat. § 294A.210; N.H. Rev. Stat. § 664:6; N.J. Admin. Code. § 19:25-12.8; N.C. Gen. Stat. § 163-278.12; Ohio Rev. Code. § 3517.105; Or. Rev. Stat. § 260.044; 25 Pa. Stat. § 3246(g); S.D. Codified Laws § 12-27-16; Va. Code § 24.2-945.2; Wash. Rev. Code § 42.17.100; W. Va. Code § 3-8-2.

<sup>34</sup> L.A. Mun. Code § 49.7.26.

<sup>35</sup> Seattle Mun. Code 2.04.270.

<sup>36</sup> Portland City Code § 2.10.140.

<sup>37</sup> N.Y. Election Law §§ 14-102, 14-108.

<sup>38</sup> See, e.g., Chris Bragg, Independence Party Mailers Tout Union Ties for Anti-WFP Candidates: Feerick, Stewart, Koslowitz and Mitchell Among Those Boosted, CITY HALL, Sept. 9, 2009, <http://www.cityhallnews.com/newyork/article-898-independence-party-mailers-tout-union-ties-for-anti-wfp-candidates.html>; Eliot Brown, Landlords Have a Party, N.Y. OBSERVER, Dec. 8, 2009,

literature or advertisements supporting or opposing candidates that are paid for by individuals or entities making independent expenditures aggregating \$1,000 or more include the name of any individual or entity making the expenditure. Procedurally, these changes would be implemented through rulemaking authority delegated to the CFB to prescribe the content, form and manner of such disclosures. The amendment would also make knowing violation of such disclosure requirements punishable through a civil penalty of up to \$10,000 for each violation and as a misdemeanor.

### **Proposed Text**

Section 1. Subdivision a of section 1052 of the New York city charter, as amended by local law number 34 for the year 2007, is amended by adding a new paragraph 15 to read as follows:

15. (a) For purposes of this paragraph, the following terms shall have the following meanings:

(i) “Independent expenditure” shall mean a monetary or in-kind expenditure made, or liability incurred, in support of or in opposition to a candidate in a covered election or municipal ballot proposal or referendum, where no candidate, nor any agent or political committee authorized by a candidate, has authorized, requested, suggested, fostered or cooperated in any such activity. The term “independent expenditure” shall not include:

(1) the value of services provided without compensation by individuals who volunteer a portion or all of their time,

(2) the use of real or personal property and the cost of invitations, food and beverages voluntarily provided by an individual, to the extent such services do not exceed five hundred dollars in value,

(3) the travel expenses of any individual who on his or her own behalf volunteers his or her personal services, to the extent such expenses are unreimbursed and do not exceed five hundred dollars in value, and

(4) any expenditure made, or liability incurred, that is considered to be a contribution to a candidate under any provision of this charter or local law, or under any rule promulgated by the board.

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<http://www.observer.com/2009/real-estate/landlords-have-party>; September 2009 run-off election flyer from “Parents and Children PAC” (copy on file with Commission)

(ii) “Entity” shall mean any corporation, limited liability company, partnership, limited liability partnership, political committee, political party or party committee, employee organization or labor organization, association, club, or other organization.

(iii) “Covered election” shall mean any primary, run-off primary, special, run-off special or general election for nomination for election, or election, to the office of mayor, public advocate, comptroller, borough president or member of the city council.

(b) Every individual and entity that makes independent expenditures aggregating one thousand dollars or more in support of or in opposition to any candidate in any covered election, or in support of or in opposition to any municipal ballot proposal or referendum, shall be required to disclose such expenditure to the board. In addition, every entity that, in the twelve months preceding a covered election, makes independent expenditures aggregating five thousand dollars or more in support of or in opposition to any candidate in any covered election shall disclose the identity of any entity that contributed to the entity reporting the expenditure, and any individual who, in the twelve months preceding the covered election, contributed one thousand dollars or more to the entity reporting the expenditure.

(c) Any literature, advertisement or other communication in support of or in opposition to any candidate in any covered election that is paid for by an individual or entity making independent expenditures aggregating one thousand dollars or more shall disclose the name of any individual or entity making the expenditure.

(d) The board may, upon notice and opportunity to be heard, assess civil penalties in an amount not in excess of ten thousand dollars for each violation of this paragraph. The intentional or knowing violation of this paragraph shall be punishable as a misdemeanor in addition to any other penalty provided under law.

(e) The board shall promulgate rules concerning the form and manner in which independent expenditures are to be reported and disclosed, the information to be reported and disclosed, the periods during which reports must be filed, and the verification required. The board shall promulgate such additional rules as it deems necessary to implement, administer, interpret and enforce this paragraph and shall provide in such rules that information regarding independent expenditures be promptly made accessible to the public during the covered election cycle.

## REDUCING SIGNATURE REQUIREMENTS FOR PETITIONS

The Commission has heard numerous ideas about ways to reduce the myriad barriers to ballot access in municipal elections. This amendment will take a first step towards lowering those barriers by reducing the number of signatures required on designating petitions, which allow access to party primary ballots, and on independent nominating petitions, which allow direct access to the general election ballot for independent candidates.

Currently under state law, candidates for the offices of Mayor, Comptroller and Public Advocate may, under certain circumstances, be required to obtain 7,500 signatures to appear on either the primary ballot or, in the case of independent candidates, the general election ballot. Similarly, candidates for Borough President may, under certain circumstances, be required to obtain 4,000 signatures to appear on either ballot, and candidates for City Council may be required to obtain 900 signatures to appear on the primary ballot or 2,700 to appear as an independent candidate in the general election.

However, the required number of signatures for a designating petition need not exceed five percent of the voters enrolled in the party in the office's subdivision, and for a nominating petition need not exceed five percent of the total votes cast for governor in the last gubernatorial election in the office's subdivision.<sup>39</sup> Prospective candidates for office must meet signature requirements within a limited time frame: 37 days for designating petitions<sup>40</sup> and 42 days for nominating petitions.<sup>41</sup> Designating petitions can only be signed by voters who are enrolled in the same political party as the candidate and who are eligible to vote in that party's coming primary election for the office. Nominating petitions can only be signed by voters registered in the political subdivision of the office. Because of these and other demanding requirements,

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<sup>39</sup> N.Y. Election Law §§ 6-136(2) and 6-142(2).

<sup>40</sup> N.Y. Election Law § 6-134(4).

<sup>41</sup> N.Y. Election Law § 6-138(4).

candidates need to obtain approximately three times the number of signatures that are mandated in order to ensure that their petitions will withstand legal challenges.<sup>42</sup>

Though this system was created in the late nineteenth century with the purpose of democratizing elections, running for office in New York is now considered “notoriously difficult because of the draconian ballot access laws.”<sup>43</sup> New York’s system is also particularly onerous compared to that of other jurisdictions in terms of both the details of its petition process and the fact that it is one of only a handful of states to set a petition requirement as the sole means of getting on the ballot for all candidates, including both incumbents and challengers.<sup>44</sup> The 37- and 42-day requirements are particularly stringent compared to the more than a year allowed in Michigan, and the unlimited time period in at least six other states, including New Jersey.<sup>45</sup> In addition, the number of signatures required to get on a ballot in New York is much greater than in other states: for example, access to the gubernatorial ballot in California currently requires only 65 signatures.<sup>46</sup> Some jurisdictions allow candidates to bypass the petition process altogether by paying a filing fee, a far superior alternative according to some ballot access experts.<sup>47</sup>

Suggestions to the Commission have included providing legal assistance to help candidates through the complexities of the petition process<sup>48</sup> and linking ballot access to a

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<sup>42</sup> D. Getachew & A. Senteno, “Understanding the Labyrinth: New York’s Ballot Access Laws,” GOTHAM GAZETTE (June 29, 2009) (<http://www.gothamgazette.com/print/2954>).

<sup>43</sup> Citizens Union of the City Of New York, “2010 Recommendations,” *supra* at n. 17, at 64 (June 30, 2010).

<sup>44</sup> *Id.*

<sup>45</sup> D. Israel & M. Gertz, “Ballot-Bumping, NYC’s Bloodsport,” GOTHAM GAZETTE, July 27, 2005, <http://www.gothamgazette.com/print/1492>.

<sup>46</sup> California Secretary of State’s Office, 2010 California Election Calendar, at 3-1, 2010 (<http://www.sos.ca.gov/elections/2010-elections/calendar/pdfs/section-3-candidate-filing.pdf>). These signatures are sufficient along with a filing fee of approximately \$3,500; in lieu of the fee a candidate may provide 10,000 signatures. *Id.*

<sup>47</sup> Alex Kane, “Getting on the Ballot in Other Cities,” GOTHAM GAZETTE, June 30, 2009, <http://www.gothamgazette.com/print/2962>.

<sup>48</sup> Statement by New York City Public Advocate Bill de Blasio: A Vision for Charter Reform in New York City, May 25, 2010 (on file with the Charter Revision Commission).

candidate's fundraising performance,<sup>49</sup> but the most straightforward way to level the playing field is to decrease the number of signatures required on designating and nominating petitions. Thus, the Commission proposes legislation that would amend the Charter to reduce the number of signatures required on petitions in order to expand ballot access to a wider variety of candidates. The required number of signatures, for both designating and nominating petitions, would be reduced to no more than half of the current level for designating petitions: 3,750 signatures for New York City-wide candidates; 2,000 for borough-wide candidates; and 450 for City Council candidates.

State constitutional and statutory laws, and the case law interpreting it, permit the reduction through charter amendment of the number of signatures required by a candidate seeking ballot access for election to a city office. The Municipal Home Rule Law vests the City with the power to adopt local laws relating to the "powers, duties, qualifications, number, [and] mode of selection ... of its officers and employ,"<sup>50</sup> provided that such local law is not inconsistent with the State Constitution or any general State law, and provided that the State Legislature has not restricted the adoption of such a local law on a matter of State concern.<sup>51</sup> Further, the municipal power to determine "the mode of selection ... of its officers" is confirmed in the state election law, which provides that "[w]here a specific provision of law exists in any other law which is inconsistent with the provisions of this chapter [setting forth state election law], such provision shall apply unless a provision of this chapter specifies that such provision of this chapter shall apply notwithstanding any other provision of law."<sup>52</sup> State law indicates, in provisions specific to the City, the number of signatures required for nominating petitions in regard to each city elective office.<sup>53</sup> Thus, the petition signature requirements for City election

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<sup>49</sup> Testimony of Jerry H. Goldfeder before the New York City Charter Revision Commission, June 2, 2010 ([http://www.nyc.gov/html/charter/media/video/pc060210\\_charter\\_forum\\_500k.asx](http://www.nyc.gov/html/charter/media/video/pc060210_charter_forum_500k.asx)).

<sup>50</sup> N.Y. Mun. Home Rule Law § 10(1)(ii)(a)(1). This provision implements Article IX, § 2(c), of the State Constitution.

<sup>51</sup> *Id.*

<sup>52</sup> N.Y. Election Law 1-102 (emphasis added).

<sup>53</sup> See N.Y. Election Law §§ 6-136(2)(a) (designating petition signatures for NYC citywide offices); 6-136(2)(b) (designating petition signatures for NYC borough-wide offices); 6-136(2)(c-1) (designating petition signatures for NYC council district offices); 6-142(2)(b) (independent nominating petition signatures for NYC citywide offices); 6-142(2)(c)(independent nominating petition signatures for NYC borough-wide offices); 6-142(2)(d-1) (independent nominating petition signatures for NYC council district offices).

ballot access are set forth in special, not general, law. Moreover, these provisions do not contain clauses expressly indicating the state's intent to preclude the exercise by the City of its home rule power to determine the "mode of selection ... of its officers." It therefore seems clear that the City may alter the signature requirements of state law as long as it indicates its intent to supersede those provisions.<sup>54</sup>

### Proposed Text

Section 1. The New York city charter is amended by adding a new section 1057-b to read as follows:

§ 1057-b. Designating and independent nominating petitions; number of signatures. a. The number of signatures required for any designating petition or independent nominating petition for the designation or nomination of a candidate for an elected office of the city shall be governed by applicable provisions of the New York state election law, except that in no event shall the number of signatures required exceed the following limits:

(1) for the offices of mayor, comptroller, or public advocate, three thousand seven hundred fifty signatures;

(2) for the office of borough president, two thousand signatures; and

(3) for the office of member of the city council, four hundred fifty signatures.

b. (1) The following provisions of the election law shall not apply to the extent that they govern the designation or independent nomination of mayor, comptroller, public advocate, member of the city council, and borough president: paragraphs (a), (b), and (c-1) of subdivision two of section 6-136 (designating petitions; number of signatures); and paragraphs (b), (c), and (d-1) of subdivision two of section 6-142 (independent nominations; number of signatures). Section 6-100 of the election law shall apply, except to the extent that provisions of article six of the election law are inapplicable in accordance with this section.

(2) Any other provisions that from time to time may be added to the election law and that

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<sup>54</sup> See *Bareham v. City of Rochester*, 246 N.Y. 140, 149 (1927) (striking down Rochester local law amending state law provisions for election to local offices for failing to set forth the state law being superseded, notwithstanding that "[Rochester] is empowered to modify an election law in so far as that law affects ... the election of the local officers."), but see N.Y. Mun. Home Rule Law § 22 ("In adopting a local law changing or superseding any provision of a state statute or of a prior local law or ordinance, the legislative body shall specify the chapter or local law or ordinance, number and year of enactment, section, subsection or subdivision, which it is intended to change or supersede, but the failure so to specify shall not affect the validity of such local law [emphasis added].")

relate to the matters covered by the provisions of the election law that are inapplicable in accordance with this section shall similarly not apply to the extent that they govern the designation or nomination of such officers.

(3) References to provisions of the election law in this section shall be deemed to refer to any successors to such provisions.

## RECONSTITUTING THE VOTER ASSISTANCE COMMISSION WITHIN THE CAMPAIGN FINANCE BOARD

### Background

The Voter Assistance Commission (VAC) and the position of Coordinator of Voter Assistance were created in 1988 in order to provide a role for government to assist in increasing voter registration and participation.<sup>55</sup> VAC was originally a component of a Department of Campaign Finance and Voter Assistance.<sup>56</sup> CFB and VAC were separated as part of the 1989 charter revisions, although CFB continues to produce the Voter Guide.<sup>57</sup> VAC consists of 16 Commissioners, including seven *ex officio* appointments, six persons appointed by the Council and three persons appointed by the Mayor. The *ex officio* appointments are the First Deputy Mayor, the Director of the Office of Management and Budget, the President of the Board of Education, the Public Advocate, the Executive Director of the Board of Elections, the Corporation Counsel and the Chair of the Campaign Finance Board.<sup>58</sup> VAC is responsible for taking actions to encourage voter registration and voting, while the Coordinator of Voter Assistance is responsible for encouraging and facilitating voter registration, and coordinating agencies' voter registration efforts.<sup>59</sup> Additionally, city agencies are responsible for distributing voter registration forms, and VAC and the Coordinator are responsible for monitoring agencies' compliance with this requirement.<sup>60</sup>

The Commission received testimony and comments from good government groups and others expressing concern that VAC has been hampered by structural issues and a lack of resources. VAC has also been viewed as unwieldy in light of its size.

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<sup>55</sup> New York City Charter Revision Commission, December 1986-November 1988, "The Report: Volume One," at 42-44.

<sup>56</sup> *Id.*

<sup>57</sup> Charter § 1053.

<sup>58</sup> *Id.* § 1054(a).

<sup>59</sup> *Id.* §§ 1054-55.

<sup>60</sup> *Id.* §§ 1054-55, 1057-a.

### **Moving VAC into CFB and Restructuring VAC**

The Commission is proposing that VAC be moved into CFB. CFB has dedicated funding and a well-established and managed operating framework through which VAC's impact can be enhanced. It already shares responsibility for voter education through its work in producing the Voters Guide, which provides information concerning candidates for City offices and ballot proposals, as well as where and how to register and vote.<sup>61</sup> CFB also works with VAC to produce the Video Voter Guide. CFB members are selected by both the Mayor and the Council in a manner designed to ensure that the CFB is non-partisan, and CFB has a reputation for non-partisanship. The idea of moving VAC into CFB is supported by good government groups including Citizens Union and the New York Public Interest Research Group.

In moving VAC into CFB, the Commission recommends that VAC be restructured as follows: VAC would be renamed the Voter Assistance Advisory Committee (VAAC), and would consist of nine members. Two members would be appointed by the mayor, provided that not more than one of these members could be enrolled in any one political party; two members would be appointed by the Council, with the same restriction; one member would be appointed by the Comptroller; one member would be appointed by the Borough Presidents acting together; the Public Advocate and the Executive Director of the Board of Elections would serve *ex officio*; and a chair would be appointed by the Mayor in consultation with the Council Speaker. The appointed positions would be chosen from among representatives of groups that are underrepresented among those who vote or register to vote, and community, voter registration, and civil rights organizations. The Coordinator of Voter Assistance would be appointed by CFB. CFB would be responsible for carrying out voter assistance functions with the advice and assistance of VAAC and the Voter Assistance Coordinator. These functions also would specifically include outreach targeted at young people, who as a group have low voter participation rates and eligible limited English proficient voters. CFB members could attend and participate in VAAC meetings but would not be able to vote.<sup>62</sup> CFB would have rule-making authority relating to voter assistance, except that rules pertaining to city agency operations would be promulgated in conjunction with the Mayor's Office of Operations.

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<sup>61</sup> Charter § 1053.

<sup>62</sup> This structure differs from that proposed by staff in the Preliminary Report.

### **Coordinating the Timing of VAC Hearings and Reports**

The Charter currently requires that VAC conduct hearings concerning voter registration and participation at least once a year, in the time between a general election and December 21. It further requires that the Coordinator of Voter Assistance prepare an annual report on voter registration and participation by July 30 of each year that reviews, among other things, voter registration and voting processes from the previous year. The Commission recommends that the report and the hearings be coordinated and the timeframes adjusted so the Coordinator's report can be considered at VAC's hearings, and the hearings can also consider voter registration efforts that are underway for the next election. Specifically, the report would be completed by April 30 of each year and, in addition to the post-election hearing, hearings would commence after submission of the report.

### **Term Commencement**

The Charter currently sets April 1 as the commencement date for new terms of the members and chairperson of the CFB. In April of an election year, however, board members must already be fully able to participate in key decisions on election conduct. Indeed, in both 2005 and 2009, the CFB issued critical advisory opinions in that month. To provide continuity of membership throughout an election year and to allow new members the chance to familiarize themselves with the important issues that the CFB must address, the proposed charter amendment would change the commencement date for new terms to December 1.

### **Proposed Text**

Section 1. Paragraph 1 of subdivision a of section 1052 of the New York city charter, as amended by local law number 34 for the year 2007, is amended to read as follows:

1. There shall be a campaign finance board consisting of five members. Two members of the board shall be appointed by the mayor, provided that not more than one such member shall be enrolled in any one political party, and two members shall be appointed by the speaker of the council, provided that not more than one such member shall be enrolled in any one political party, and one member, who shall be the chairperson, shall be appointed by the mayor after consultation with the speaker. The members shall first be appointed to serve as follows:

(a) one member appointed by the speaker for a term of one year;

- (b) one member appointed by the mayor for a term of two years;
- (c) one member appointed by the speaker for a term of three years;
- (d) one member appointed by the mayor for a term of four years; and
- (e) the chairperson for a term of five years.

[Each] The first term shall commence on April first, nineteen hundred eighty-eight. Thereafter, each member shall be appointed, by the mayor or the speaker, according to the original manner of appointment, for a term of five years that shall, for any term beginning on or after March first two thousand eleven, commence on December first [by the mayor or the speaker, according to the original manner of appointment]. Terms that began before, and have not expired on, March first, two thousand eleven shall be extended and shall expire on the November thirtieth following their original March thirty-first expiration dates. Upon expiration of the term of a member, if the mayor or the speaker, as appropriate, shall fail to appoint a member within one hundred twenty days of the expiration of such term, the member whose term has expired shall be deemed appointed for an additional term of five years, provided, however, that if the expiration of such term occurs in a year in which elections, except special elections, covered by the voluntary system of campaign finance reform are scheduled, the member whose term has expired shall be deemed appointed for an additional term of five years if the mayor or the speaker, as appropriate, shall fail to appoint a member within ninety days of the expiration of such term. In case of a vacancy in the office of a member, a member shall be appointed to serve the remainder of the unexpired term by the mayor or the speaker, according to the original manner of appointment. If the mayor or the speaker, as appropriate, shall fail to appoint a member within one hundred eighty days of such vacancy, then a member shall be appointed by the board to serve for the remainder of the unexpired term, if additional time remains in such term, provided, however, that if such vacancy occurs in a year, or within ninety days prior to a year, in which elections, except special elections, covered by the voluntary system of campaign finance reform are scheduled, then a member shall be appointed by the board to serve for the remainder of the unexpired term, if additional time remains in such term, if the mayor or the speaker, as appropriate, shall fail to appoint a member within ninety days of such vacancy. Except for the chairperson, such member shall not be enrolled in the same political party as the other member appointed by the official who failed to so appoint. Each member shall be a resident of the city, registered to vote therein. Each member shall agree not to make

contributions to any candidate for nomination for election, or election, to the office of mayor, public advocate, comptroller, borough president, or member of the council which in the aggregate are in excess of the maximum contribution applicable to such office pursuant to any local law establishing a voluntary system of campaign finance reform. No member shall serve as an officer of a political party, or be a candidate, or participate in any capacity in a campaign by a candidate, for nomination for election or election to the office of mayor, public advocate, comptroller, borough president or member of the city council. Officers and employees of the city or any city agency, lobbyists required to file a statement of registration under section 3-213 of the administrative code and the employees of such lobbyists shall not be eligible to be members of the board. In appointing members to the board, the mayor and the speaker shall consider campaign experience in general and particularly campaign experience with the New York city campaign finance system. Members of the board shall be required to undergo training developed pursuant to paragraph 14 of this section.

§ 2. Section 1052 of the New York city charter, as amended by local law number 34 for the year 2007, is amended by adding a new subdivision e to read as follows:

e. The board shall take such actions as it deems necessary and appropriate to encourage, promote, and facilitate voter registration and voting by all residents of New York City who are eligible to vote, including, but not necessarily limited to the employment of a coordinator of voter assistance and other necessary staff. The board shall have authority to promulgate rules in order to implement the voter assistance provisions of this chapter, except that any rules with respect to city agency operations concerning voter registration and voting, including but not limited to implementation of section one thousand fifty-seven-a, shall be promulgated in conjunction with the office of the mayor through its office of operations.

§ 3. Sections 1054 and 1055 of the New York city charter are REPEALED and section 1054 is reenacted to read as follows:

§1054. Voter assistance advisory committee. a. There shall be a voter assistance advisory committee consisting of nine members, which shall assist the board with its duties and responsibilities under this chapter, including but not limited to overseeing the voter assistance program established by this chapter. Two members shall be appointed by the mayor, provided

that not more than one such member shall be enrolled in any one political party; two members shall be appointed by the speaker of the city council, provided that not more than one such member shall be enrolled in any one political party; one member shall be appointed by the comptroller; one member shall be appointed by the borough presidents acting together; and one member shall be appointed by the mayor in consultation with the speaker and shall serve as chair. In addition, the committee shall include the public advocate, or in his or her absence, a representative, and the executive director of the board of elections (or, in his or her absence, the deputy executive director of the board of elections). In appointing members to the committee, the mayor, speaker, comptroller and borough presidents shall consider experience with groups or categories of residents that are underrepresented among those who vote or among those who are registered to vote and community, voter registration, civil rights, and disabled groups. The appointed members shall first be appointed to serve as follows:

1. one member appointed by the speaker for a term of one year;
2. one member appointed by the mayor for a term of two years;
3. one member appointed by the speaker for a term of three years;
4. one member appointed by the mayor for a term of four years;
5. one member appointed by the comptroller for a term of four years;
6. one member appointed by the borough presidents for a term of five years; and
7. the chair, appointed by the mayor in consultation with the speaker for a term of five years.

Each term shall commence on January first, two thousand eleven. Thereafter, each member shall be appointed for a term of five years according to the original manner of appointment. Upon expiration of the term of a member, if the appointing official or officials shall fail to appoint a member within one hundred twenty days of the expiration of such term, the member whose term has expired shall be deemed appointed for an additional term of five years. In case of a vacancy in the office of an appointed member, a member shall be appointed to serve for the remainder of the unexpired term according to the original manner of appointment. For appointees of the mayor or speaker, such member shall not be enrolled in the same political party as the other member appointed by the official making the appointment to fill the vacancy. Each member shall be a resident of the city, registered to vote therein. No member other than the public advocate shall serve as an officer of a political party, or be a candidate, or participate in

any capacity in a campaign by a candidate, for nomination for election or election to the office of mayor, public advocate, comptroller, borough president or member of the city council. The members of the committee shall serve without compensation.

b. The board, with the advice and assistance of the committee and the coordinator of voter assistance, shall:

1. encourage and facilitate voter registration and voting by all residents of New York City who are eligible to vote, and recommend methods to increase the rate of registration and voting by such residents;

2. identify groups or categories of such residents who are underrepresented among those registered and those voting and recommend methods to increase the rate of voter registration and voting among such groups and categories;

3. consistent with all state and local laws, coordinate the activities of all city agencies in general and specialized efforts to increase registration and voting including, but not limited to, the distribution of forms for citizens who use or come in contact with the services of city agencies and institutions; mailings by city agencies to reach citizens; cooperative efforts with non-partisan voter registration groups, community boards, agencies of city, state, and federal governments, and entities doing business in the city; publicity and other efforts to educate youth about the importance of voting and to encourage eligible youth to register to vote; and other outreach programs;

4. make such recommendations as it deems appropriate to the mayor, the council, the borough presidents, and the board of elections for steps that should be taken by such officials or bodies or by city agencies to encourage and facilitate voter registration and voting by all residents of New York City who are eligible to vote;

5. undertake, by itself or in cooperation with other public or private entities, activities intended to encourage and facilitate voter registration and voting by all residents of New York City who are eligible or may become eligible to vote, including eligible voters who are limited in English proficiency;

6. prepare and publish reports, including, at the minimum, an annual report to be published no later than April thirtieth in each year, regarding voter registration and voter participation in New York City, and forward copies of such reports to the mayor, the council, the borough presidents, and all other public officials with responsibilities for policies, programs and

appropriations related to voter registration and voter participation in New York City and to private entities that are currently or potentially involved in activities intended to increase voter registration and voting. Such annual report shall include, but not be limited to (a) a description of voter assistance activities and the effectiveness of those activities in increasing voter registration and voter participation; (b) the number of voter registration forms distributed by the programs related to voter assistance and voter participation, the manner in which those forms were distributed and the estimated number of persons registered through the activities of the programs; (c) the number and characteristics of citizens registered and unregistered to vote during the previous primary, general and special elections and for the most recent time period for which such information is available; (d) the number and characteristics of citizens who voted during the previous primary, general and special elections; (e) a review and analysis of voter registration and voter participation processes in New York City during the previous year; (f) recommendations for increasing voter registration and voter participation; and (g) any other information or analysis the board deems necessary and appropriate; and

7. monitor voter registration and voting in New York City, and receive citizen complaints regarding such processes.

c. The committee shall meet at least every other month. The committee shall hold at least two public hearings each year, one following the issuance of the annual report, and the second between the day following the general election and December twenty-first, regarding voter registration and voter participation in New York City. Any member of the board may attend and participate in committee meetings and hearings.

§ 4. Sections 1056 and 1057 of the New York city charter, as added by vote of the electors of the city of New York at a general election held on November 8, 1988, are amended to read as follows:

§1056. Cooperation of mayoral agencies. Heads of mayoral agencies shall cooperate to the extent practicable with the board of elections and the campaign finance board and [the] its coordinator of voter assistance to improve public awareness of the candidates, proposals or referenda in all elections in which there are contested elections held in the city of New York for any city, county, state, or federal office and/or ballot proposals or referenda pursuant to city, county, state, or federal law, and to encourage voter registration and voting by all residents of the

city of New York eligible to vote[, and shall prepare annually, in accordance with rules and guidelines of the coordinator of voter assistance, plans specifying]. Such cooperation shall include providing the campaign finance board with appropriate information concerning the resources, opportunities, and locations the agency can provide for public awareness and voter assistance activities.

§1057. Non-partisanship in program operations. The campaign finance board[, commission] and [coordinator] the voter assistance advisory committee shall conduct all their activities in a strictly non-partisan manner.

§ 5. Subdivision 1 of section 1057-a of the charter, as amended by local law number 52 for the year 2003, is amended to read as follows:

1. Participating agencies shall adopt such rules and regulations as may be necessary to implement this section. The [New York city voter assistance commission] campaign finance board shall prepare and distribute to participating agencies written advisory agency guidelines as to the implementation of this section and may establish training programs for employees of participating agencies; provided that any guidelines promulgated by the voter assistance commission prior to the effective date of this clause shall remain in effect unless further amended or repealed by the board. Participating agencies may consider such advisory agency guidelines in the promulgation of their rules and regulations.

## AMENDMENTS TO CHAPTER 68, CONFLICTS OF INTEREST

New York City has an extensive system for preventing and prosecuting conflicts of interest and corruption in government and for ensuring transparency in government operations and the electoral process. The City has its own ethics, lobbying and campaign finance laws, enforced by the Conflicts of Interest Board (COIB), the City Clerk, and the Campaign Finance Board (CFB), respectively. The New York City Department of Investigation is principally responsible for investigating possible unlawful activity by city employees and others trying to influence governmental actions and outcomes. The COIB and CFB were established as charter institutions in 1988, when voters approved the ballot proposal presented by the 1988 Charter Revision Commission.

The COIB consists of five persons who are appointed by the Mayor, subject to advice and consent of the Council, for up to two consecutive six-year terms, and can only be removed for cause.<sup>63</sup> The COIB's responsibilities include, among others, interpreting and enforcing the provisions of Chapter 68 and providing training to City employees. Chapter 68 includes many restrictions intended to prevent actual or apparent conflicts of interest in City government. These restrictions pertain to the following matters, among others:

- Financial interests and employment with entities that have business with the City;<sup>64</sup>
- Actions benefiting entities in which a public official or employee has a financial or employment interest;<sup>65</sup>
- Use of position to obtain financial gain for oneself or for an “associated” person;<sup>66</sup>
- Gifts and additional compensation;<sup>67</sup>
- Business relationships with superiors or subordinates;<sup>68</sup>

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<sup>63</sup> Charter § 2602(a)-(c), (f).

<sup>64</sup> *Id.* § 2604(a)(1).

<sup>65</sup> *Id.* § 2604(b)(1).

<sup>66</sup> *Id.* § 2604(b)(3).

<sup>67</sup> *Id.* § 2604(b)(5), (13).

- Political activity;<sup>69</sup> and
- Post-employment restrictions<sup>70</sup>

The current Commission heard testimony at public hearings regarding several topics related to public integrity, including the independence of the COIB, recent controversy relating to the allocation of discretionary funds by City Council members to non-profit organizations, recent instances of corruption at the Department of Buildings, and making the city lobbying law more effective. The Commission held an issues forum on public integrity and received expert testimony as well as additional comments from government officials, good government organizations and members of the public. The Commission proposes amendments that would:

- Increase the penalties for Chapter 68 violations, and authorize disgorgement of any gains from such activity; and
- Mandate Chapter 68 training for city employees.

## **Proposals for Change**

### ***Increased Fines & Disgorgement***

The Commission recommends increasing penalties for single Chapter 68 violations from \$10,000 to \$25,000 and authorizing the COIB to order payment to the city of the value of any gain or benefit obtained as a result of violating Chapter 68 (disgorgement) consistent with due process. The COIB has proposed these changes, and the Commission has also heard support for these proposals from good government groups.

The maximum fine for a single violation of Chapter 68 has been capped at \$10,000 since 1988, without any adjustment for inflation.<sup>71</sup> An increased penalty would make it easier to distinguish between different violations of Chapter 68 based on their severity, with greater penalties provided for more serious offenses. The increased fine, along with the disgorgement

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<sup>68</sup> *Id.* § 2604(b)(14).

<sup>69</sup> *Id.* § 2604(b)(9), (11)-(12), (15).

<sup>70</sup> *Id.* § 2604(d).

<sup>71</sup> *Id.* § 2606.

requirement, may also have a deterrent effect, and ensure that individuals will not benefit financially from activities that violate Chapter 68. Finally, disgorgement would provide for restitution to the City for any gains made by individuals through violations of Chapter 68.

**Proposed Text**

Section 1. Subdivision b of section 2606 of this charter, as added by vote of the electors of the city of New York at a general election held on November 8, 1988, is amended, and a new subdivision b-1 is added, to read as follows:

b. Upon a determination by the board that a violation of section twenty-six hundred four or twenty-six hundred five of this chapter has occurred, the board, after consultation with the head of the agency involved, or in the case of an agency head, with the mayor, shall have the power to impose fines of up to [ten] twenty-five thousand dollars, and to recommend to the appointing authority, or person or body charged by law with responsibility for imposing such penalties, suspension or removal from office or employment.

b-1. In addition to the penalties set forth in subdivisions a and b of this section, the board shall have the power to order payment to the city of the value of any gain or benefit obtained by the respondent as a result of the violation in accordance with rules consistent with subdivision h of section twenty-six hundred three.

***Mandatory Training***

Given the importance, breadth and complexity of Chapter 68, the Commission recommends that training in the requirements of Chapter 68 be made mandatory for all City employees. The proposed charter amendment would not require that training be provided in person, or that all training be provided by COIB directly. Rather, training could be provided on-line, or by staff at employing agencies who receive training from COIB.

**Proposed Text**

Section 1. Paragraph 2 of subdivision b of section 2603 of the New York city charter, as added by vote of the electors of the city of New York at a general election held on November 8, 1988, is amended to read as follows:

2. (a) The board [shall provide training to all individuals who become public servants to inform them of the provisions of this chapter, shall assist agencies in conducting ongoing training programs, and] shall make information concerning this chapter available and known to all public servants. On or before the tenth day after an individual becomes a public servant, such public servant [must file] shall be provided with a copy of this chapter and shall sign a written statement [with the board], which shall be maintained in his or her personnel file, that such public servant has received and read and shall conform with the provisions of this chapter.

(b) Each public servant shall undergo training provided by the board in the provisions of this chapter on or before the sixtieth day after he or she becomes a public servant, and periodically as appropriate during the course of his or her city service. Every two years, each agency shall develop and implement an appropriate agency training plan in consultation with the board and the mayor's office of operations. Each agency shall cooperate with the board in order to ensure that all public servants in the agency receive the training required by this subdivision and shall maintain records documenting such training and the dates thereof. The training required by this subdivision may be in person, provided either by the board itself or by agency personnel working in conjunction with the board, or through an automated or online training program developed by the board.

(c) The failure of a public servant to receive the training required by this paragraph, to receive a copy of this chapter, or to sign the statement required by this paragraph, or the failure of the agency to maintain the required statement on file or record of training completed, shall have no effect on the duty of such public servant to comply with this chapter or on the enforcement of the provisions thereof.

## CONSOLIDATION OF ADMINISTRATIVE TRIBUNALS

Under current law, the Office of Administrative Trials and Hearings (OATH) and the Environmental Control Board (which is located within OATH) have the power to conduct adjudicatory hearings with respect to many types of alleged violations of city laws and regulations. However, pursuant to a patchwork of legal provisions, adjudications concerning city laws and regulations are also held before in-house tribunals and hearing officers at multiple city agencies. Because administrative tribunals are located in, and operated by, many of the agencies whose determinations the public may wish to challenge, they are sometimes said to lack the appearance of impartiality and independence. In addition, sharing various back-office administration and using a standardized set of processes, to the extent practicable, would result in greater efficiencies and less confusion – and thus a greater sense of fairness. To address these issues, the Commission is proposing an amendment to the Charter that would allow for the consolidation of various city tribunals into one agency.<sup>72</sup>

Prior charter revision commissions have scrutinized the issue of city tribunals. In 1988, a ballot question adopted by the voters enacted procedural safeguards for city adjudications under the City Administrative Procedures Act. The 2003 Charter Revision Commission focused on increasing operational efficiency at the City's tribunals and considered the creation of the Coordinator of Administrative Justice, which was ultimately created by executive order in 2006. In 2005, the Charter was amended by vote of the electorate to set a code of conduct for administrative law judges mirroring the code applicable to state court judges. More recently, the Deputy Mayor for Legal Affairs and the Administrative Justice Coordinator have been leading the effort to further professionalize the City's adjudicatory system, including through potential consolidation. Consolidating many of the City's tribunals could greatly help in their efforts.

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<sup>72</sup> The Commission noted that certain tribunals and adjudicatory functions may not be appropriate candidates for transfer of functions to OATH, either because of the governing laws or because of public policy considerations. The committee established under the proposed amendment to evaluate and make recommendations in these areas would conduct this analysis. In addition, certain other City agencies – the Conflicts of Interest Board, the Loft Board, the Campaign Finance Board, the Commission on Human Rights, the Clerk's Office – have adjudicatory functions vested in them by Charter or state statute, but have already entered into arrangements to have their hearings conducted at OATH. In effect, their adjudicatory functions have already been consolidated.

To accomplish consolidation, the Commission recommends that the Charter be amended to authorize the Mayor to transfer the adjudicatory functions of various tribunals (for example, tribunals now located within the Taxi and Limousine or the Department of Health and Mental Hygiene) under the umbrella of a single tribunal/agency. The transfer could be made into OATH (which would be re-designated to reflect its enhanced role). Under this proposal, the Mayor would be authorized to issue such an executive order or orders, including an evaluation and planning process, so that over a period of time many of the City's tribunals could be brought under the jurisdiction of one agency.

The Commission also proposes further amendment of the Charter to authorize the Mayor to issue any orders or directives necessary to effectuate consolidation, including those related to the functional transfer of operations from one agency to another. Such orders or directives could also include provision for the handling of matters pending at the time any transfer is ordered. The Charter should also authorize the Mayor to convene a committee to oversee consolidation, which would be chaired by the Deputy Mayor for Legal Affairs and contain representatives from OATH, the Law Department and the Department of Citywide Administrative Services, among others, and might include a Deputy Mayor and representatives from OATH and the Law Department. This committee should also be charged with evaluating potential transfers and making recommendations based on its evaluation to the Mayor.

To give the public and other interested parties an opportunity to comment on proposed transfers, the amendments require the committee to solicit public comments prior to making recommendations to the Mayor. The committee would hold a public hearing in furtherance of obtaining public comments, giving notice of any such hearing in the City Record at least 20 days before the hearing is to be held specifying the transfers that the committee is considering recommending to the Mayor.

The Charter would also give flexibility to OATH to handle the appointment of administrative law judges. Judges handling current matters overseen by OATH and perhaps other transferred matters could continue to have five-year terms. In other cases, however, the Chief Administrative Law Judge of OATH may determine, consistent with applicable law governing

the establishment of new titles and terms and conditions of employment (including bargaining where otherwise required), that functions transferred to OATH under this amendment are better served by judges with alternative qualifications or terms than those applicable to current OATH administrative law judges.

Finally, the Commission recommends taking this opportunity to enhance the adjudicatory functions of the Department of Consumer Affairs by amending the Charter to authorize the Department to hold impartial hearings for violations of all of the laws the Department enforces. Currently, certain violations that are disputed are either handled by internal settlement discussions or adjudicated in state court. This amendment would level the playing field for all businesses subject to the laws the Department enforces, and would further the goal of increased efficiency. The amendment would preserve the Mayor's power to transfer adjudicatory functions as set forth in the proposed amendment to the provisions governing OATH.

This charter amendment could set the stage for an extensive consolidation of city adjudications into one centralized, professional and independent body.

### **Proposed Text**

Section 1. Subdivision e of section 1046 of the New York city charter, as added by vote of the electors of the city of New York at a general election held on November 8, 1988, is amended to read as follows:

e. Hearing officer. Except as otherwise provided for by this charter the person presiding at a hearing shall be assigned solely to adjudicative and related duties. Except as otherwise provided for by the rules of the agency or by order of the mayor issued in accordance with subdivisions two and three of section one thousand forty-eight, such hearing officer shall make final findings of fact and shall not make any final decision, determination, or order, but shall only recommend such, and shall forward such recommendation and the record of the adjudication to the agency, who may adopt, reject or modify any such recommended decision, determination or order.

§ 2. Section 1048 of the New York city charter, as added by local law number 49 of the city of New York for the year 1991, is amended to read as follows:

§ 1048. Office. 1. There shall be an office of administrative trials and hearings which shall conduct adjudicatory hearings for all agencies of the city unless otherwise provided for by executive order, rule, law or pursuant to collective bargaining agreements. The office shall be directed by the chief administrative law judge, who shall be an attorney admitted to practice for at least five years in the state of New York. The chief administrative law judge shall be appointed by the mayor.

2. Notwithstanding any inconsistent provision of law and except as provided in subdivision five of this section, the mayor shall be authorized to designate by executive order the office of administrative trials and hearings as the tribunal for the impartial administration and conduct of adjudicatory hearings for violations of this charter, the administrative code of the city of New York, rules promulgated pursuant to this charter or such code and any other laws, rules, regulations or other policies enforced or implemented by the agencies of the city through the conduct of adjudications. Pursuant to any such order, the mayor may transfer entire tribunals or parts thereof, or categories of adjudications to such office, which may perform such responsibilities, including responsibilities delegated elsewhere by this charter or other law, as the mayor shall direct in such order. In furtherance of any such order, agencies shall be authorized to establish their tribunals, or parts thereof, within such office. No existing right or remedy of any character shall be lost, impaired or affected by reason of a transfer of a tribunal or part thereof or category of adjudications pursuant to this subdivision except as may be necessary to implement such transfer.

3. Any order issued by the mayor pursuant to subdivision two of this section may include provision for matters pending at the time that any transfer pursuant to such subdivision shall take effect and may in appropriate instances deem agency rules in effect on the date of any transfer to be rules of the office of administrative trials and hearings. Any such order may in addition address circumstances in which agencies shall continue to make final findings of fact and/or decisions, determinations or orders.

4. (a) The mayor shall constitute a committee to evaluate the adjudicatory functions carried out by city agencies and to make recommendations with respect to the transfers authorized by subdivision two of this section. Such committee shall be chaired by the deputy mayor for legal affairs or another designee of the mayor. It shall have representatives from the office of administrative trials and hearings, the law department, the department of citywide

administrative services and any other agency the mayor deems necessary to implement the transfers described in this section. The work of such committee shall be deemed complete upon submission to the mayor of a final report identifying the tribunals or parts thereof, or categories of adjudications, that have been consolidated or that should be considered for future consolidation, provided that the mayor may reconstitute the committee at any time to perform the functions described in this section.

(b) Before recommending transfers of tribunals or parts thereof, or of categories of adjudications, the committee shall solicit comments from the public, including, to the extent practicable, any segments of the public particularly affected by such transfers. In furtherance of such solicitation, the committee or a person or agency designated by the committee shall hold a public hearing, on notice of at least twenty days published in the City Record. Such notice shall specify the transfers that are under consideration by the committee for recommendation to the mayor.

(c) The authority conferred upon the mayor by subdivisions two and three of this section shall not be limited by or contingent upon the requirements of this subdivision.

5. Subdivisions two through four of this section shall not apply to the office of administrative tax appeals, including the tax commission and the tax appeals tribunal, or the board of standards and appeals.

§ 3. Subdivision 1 of section 1049 of the New York city charter, as added by local law number 49 of the city of New York for the year 1991, is amended to read as follows:

1.(a) The chief administrative law judge shall have authority to direct the office established pursuant to section one thousand forty-eight with respect to its management and structure and to appoint a staff of administrative law judges. Each administrative law judge shall be an attorney admitted to practice in the state of New York for at least five years. Each administrative law judge shall be appointed for a term of five years removable only for cause after notice and opportunity for a hearing on a record.

(b) The provisions of paragraph (a) of this subdivision relating to terms and qualifications shall not be mandatory with respect to any administrative law judge or hearing officer transferred from another agency pursuant to subdivision two of section one thousand forty-eight of this chapter or assigned to any particular tribunal or part thereof, or category of adjudications,

transferred pursuant to such subdivision that may be specified by the chief administrative law judge. The chief administrative law judge may prescribe alternative qualifications and terms and conditions of employment for any administrative law judges or hearing officers who are not subject to paragraph (a) of this subdivision.

§ 4. Subdivision a of section 1049-a of the New York city charter, as amended by local law number 35 of the city of New York for the year 2008, is amended to read as follows:

a. There shall be in the office of administrative trials and hearings an environmental control board consisting of the commissioner of environmental protection, the commissioner of sanitation, the commissioner of buildings, the commissioner of health and mental hygiene, the police commissioner, the fire commissioner and the chief administrative law judge of the office of administrative trials and hearings, who shall be chair, all of whom shall serve on the board without compensation and all of whom shall have the power to exercise or delegate any of their functions, powers and duties as members of the board, and six persons to be appointed by the mayor, with the advice and consent of the city council, who are not otherwise employed by the city, one to be possessed of a broad general background and experience in the field of air pollution control, one with such background and experience in the field of water pollution control, one with such background and experience in the field of noise pollution control, one with such background and experience in the real estate field, one with such background and experience in the business community, and one member of the public, and who shall serve for four-year terms. Such members shall be compensated at [the] a rate [of one hundred fifty dollars per day when performing the work of the board] that may be specified by the chair and approved by the mayor. Within [its] the board's appropriation, the [board] chair may appoint an executive director, subject to the approval of the board, and such hearing officers, including non-salaried hearing officers, and other employees as [it] the chair may from time to time find necessary for the proper performance of [its] the board's duties.

§ 5. Section 2203 of the New York city charter is amended by adding a new subdivision (g) to read as follows:

(g)(1) Notwithstanding any inconsistent provision of law, the department shall be authorized, upon due notice and hearing, to impose civil penalties for the violation of any laws or rules the

enforcement of which is within the jurisdiction of the department pursuant to this charter, the administrative code or any other general, special or local law. The department shall have the power to render decisions and orders and to impose civil penalties for all such violations. Except to the extent that dollar limits are otherwise specifically provided, such civil penalties shall not exceed five hundred dollars for each violation. All proceedings authorized pursuant to this subdivision shall be conducted in accordance with rules promulgated by the commissioner. The remedies and penalties provided for in this subdivision shall be in addition to any other remedies or penalties provided for the enforcement of such provisions under any other law including, but not limited to, civil or criminal actions or proceedings.

(2) All such proceedings shall be commenced by the service of a notice of violation. The commissioner shall prescribe the form and wording of notices of violation. The notice of violation or copy thereof when filled in and served shall constitute notice of the violation charged, and, if sworn to or affirmed, shall be prima facie evidence of the facts contained therein.

(3) For the purposes of this subdivision, no act or practice shall be deemed a deceptive trade practice unless it has been declared a deceptive trade practice and described with reasonable particularity in a local law or in a rule or regulation promulgated by the commissioner.

(4) Notwithstanding any other inconsistent provision of law, powers conferred upon the department by this subdivision may be exercised by the office of administrative trials and hearings consistent with orders of the mayor issued in accordance with subdivisions two and three of section one thousand forty-eight of this charter.

## CITYWIDE REVIEW OF REPORTING REQUIREMENTS AND ADVISORY BODIES

The 2005 Charter Revision Commission took a detailed look at the issue of reporting requirements. Currently, the Charter and the Administrative Code contain a large number of requirements for detailed periodic reports on various aspects of agency programs. These requirements have steadily increased over the years in attempts to increase agency efficiency, effectiveness and accountability. Many reports are extremely useful to the public and to city managers, providing information about what agencies are doing, how well they are performing, and how to improve their performance. The most relevant and frequently updated reports enable the City to manage itself effectively and base its plans on precise performance indicators.

Many reporting requirements, however, have become outdated. Concerned that the continued production of unnecessary reports may be a waste of time and resources for strapped agencies, the 2005 Commission ordered two expert reports to examine the usefulness of 33 charter-mandated reports. In one of the reports, the experts noted that they could not even find 13 of the reports because they were difficult to locate online, not posted or not produced; and, of the remaining reports, many were not widely used or familiar to either the public or city managers. That report found that the best-known and most used reports were the Mayor's Management Report and the Preliminary Mayor's Management Report, the Executive Budget and the Adopted Budget. The report also recommended posting the meaningful reports online in order to make them more accessible to the public. The second expert report noted that there were close to 175 reports required by the Charter and Administrative Code combined, and that they do not form a coherent structure in support of performance and accountability: there is overlap and duplication, an ineffective linkage between spending and results, and little ability to trace connections among documents so that they provide an integrated picture of city government. The same general findings apply to the plethora of advisory bodies mandated by current provisions of law. An updated chart of required reports is attached in Appendix C.

Both expert reports advised the Commission that it was not feasible for the Commission itself to try to identify and excise reports that are no longer useful. Rather, they proposed amending the Charter to create a commission to study the usefulness of each report, as well as of the type of advisory bodies described below, and to recommend elimination of those that failed to meet certain criteria of continued usefulness. The 2005 Commission drafted proposed legislation to create such a commission but ultimately did not propose it. The expert reports, as well as the Preliminary Recommendations of the 2005 Commission, which contains a long discussion of the background and theory of reporting requirements, can be found on the Charter Revision Commission's website (<http://www.nyc.gov/html/charter/html/archives/reports.shtml>) in the Archives section.

With reference to bodies that are solely advisory in nature, it is the intent of this proposal to cover bodies that prepare reports or offer advice or recommendations, but do not themselves implement city programs or initiatives or have the power to bind agencies or the public to their determinations. Thus, for example, the Commission would have no jurisdiction over community boards, whose members have been found by the Corporation Counsel to be public officers and which exercise an array of powers and duties under the Charter, or over the Voter Assistance Commission, which is empowered to undertake activities to facilitate voter registration and voting.<sup>73</sup>

This Commission agrees with the 2005 Commission finding that reporting requirements and advisory bodies should be reviewed to assess their continued usefulness. The proposal set forth below would establish a seven-member Report and Advisory Board Review Commission charged with reviewing periodic reports required by the Charter, Administrative Code, or other local law, and the advisory commissions, committees, boards and task forces required therein. The members of the Commission would be: the City Council Speaker and two other Council members chosen by the Speaker, the Corporation Counsel, the Directors of the Mayor's Office of Operations and the Office of Management and Budget, and the Commissioner of Information Technology and Telecommunications. The Director of the Mayor's Office of Operations would

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<sup>73</sup> This would still be the case if voters approve the Commission's ballot proposal to merge the Voter Assistance Commission into the Campaign Finance Board and reconstitute it as the Voter Assistance Advisory Committee.

chair the Commission. The composition of the Commission is meant to allow the council and the relevant mayoral agencies to work together in order to increase the City's ability to govern itself and keep the people informed using the most up to date and important indicators.

The proposal charges the Report and Advisory Board Review Commission with soliciting the views of groups and organizations that are the subject of these reports or advisory bodies or are affected by them. After reviewing a reporting requirement, the Commission could retain it, waive it in whole or in part, or dissolve an advisory body, subject to review by the Mayor and City Council. The Commission would file any decision to waive a requirement or dissolve an advisory body with the Council and the Mayor, and provide copies of the information to interested groups. The Council could either vote to approve or disapprove the waiver; failure to act would constitute approval of the Commission's recommendation. The Mayor could veto the Council's disapproval, and the Council could override the Mayor by a two-thirds vote.

The proposal requires that, in deciding whether to waive a reporting requirement, the Commission consider several criteria, including but not limited to whether the report provides useful information for evaluating the results of programs, activities and functions and their effectiveness in achieving their goals; whether the report provides useful information to assess the effectiveness of the City's management of its resources; whether the report is duplicative of any other mandated report; whether the report remains relevant in light of changing circumstances, current information needs and technological advances; and whether the report's benefits outweigh the costs to produce it. The proposal specifically exempts certain reports from the Commission's power: the Mayor's Management Report, required by Charter § 12(c), the Comptroller's annual statement of the City's revenues and expenditures, the Comptroller's annual audit and actuarial audit, and any reports required by charter chapters concerning the Expense Budget, Capital Projects and Budget, Budget Process, and the Independent Budget Office; as well as any reports required by state or federal law.

When deciding whether to recommend the dissolution of an advisory body, the Commission must consider whether the body substantially furthers the mission of its City agency; whether its function or jurisdiction duplicates the work of any other mandated body;

whether its function is limited to producing reports that have been waived under this section; whether its function or jurisdiction remains relevant; and whether the body's benefits outweigh the costs of supporting it.

The legislation would also empower the Commission to recommend to the Mayor and the Council the modification of reports and advisory bodies to make them more effective; this would include recommendations to modify or consolidate reporting requirements in light of technological advances and additional data needs. In this respect, the 2010 Charter Revision Commission views the applicability of and compliance with electronic filing requirements in the Charter to be a very important tool for increasing the transparency of government, accessibility of the public to important information and public awareness. The Council could also repeal or limit any reporting requirement or advisory body at any time, or extend or enhance such requirements, provided that any such extensions or enhancements are subject to review by the Report and Advisory Board Review Commission. It also imposes a three-year waiting period before the Commission may review a newly enacted reporting requirement.

### **Proposed Text**

Section 1. The New York city charter is amended by adding a new section 1113 to read as follows:

§1113. Report and Advisory Board Review Commission.

a. Notwithstanding any inconsistent provision of this charter, the administrative code or any local law and except as provided in this section, any requirement in this charter, the administrative code or otherwise in any local law that mandates the issuance of periodic or multiple reports by public agencies, officers or employees where at least one such report is due on or after the effective date of this section, and any requirement that mandates the establishment of a commission, committee, board, task force or other similar body that is solely advisory in nature, shall be subject to waiver in accordance with the provisions of this section.

b. There shall be a report and advisory board review commission, which shall consist of the speaker of the city council, two members of the council to be chosen by the speaker, the corporation counsel, the director of the mayor's office of operations, the director of management and budget, and the commissioner of information technology and telecommunications or

designated officers or employees of the agencies headed by such members or in the case of the council members, designated employees of the council. The director of the mayor's office of operations shall be the chair of the commission.

c. The commission shall meet on a regular basis, at intervals determined by the chair, to perform the reviews required by this section. The commission shall hold at least one public hearing each year to solicit comment from members of the public on matters required to be reviewed by the commission pursuant to this section. The chair shall have charge of the organization of the commission and shall have authority to employ, assign and superintend the duties of such officers and employees as may be necessary to carry out the provisions of this section. In addition, the speaker of the city council, the commissioner or head of any agency or office represented on the commission or the commissioner or head of any other appropriate city agency or office may, if requested by the chair or the commission, provide staff and other assistance with respect to any matter within the jurisdiction of the commission.

d. (1) Except as provided in paragraph six of this subdivision, the commission shall have the power and responsibility to review all requirements in this charter or the administrative code or elsewhere in the local laws of New York city that mandate the issuance of periodic or multiple reports by city agencies, officers or employees where at least one such report is due on or after the effective date of this section, and all requirements that mandate the establishment of commissions, committees, boards, task forces or other similar bodies that are solely advisory in nature. Notwithstanding any inconsistent provision of this charter, the administrative code or any local law, the commission shall further have the power and responsibility, subject to review by the council and the mayor as provided in paragraphs four and five of this subdivision, and except as provided in paragraph six of this subdivision, to waive any such requirement. The commission shall be empowered to review requirements in effect on and after the effective date of this section regardless of the date of enactment of such requirements; provided, however, that the powers and duties of the commission shall not extend to the mayor's management report required pursuant to subdivision c of section twelve of this charter as in effect on July first, two thousand ten, or to requirements mandating the issuance of reports, or the creation of bodies, that are required pursuant to any state or federal law, rule or regulation or that are both (i) in effect on July first, two thousand ten and (ii) set forth in or required by sections ninety-three, ninety-five or ninety-six, or by chapters six, nine, ten or eleven of this charter.

(2) Prior to making any determination to waive a requirement pursuant to this section, the commission shall, to the extent practicable, solicit the views of groups, organizations, or entities representing the interests of persons and entities that the chair or the commission reasonably determines are the subject of or are otherwise affected or benefited by the requirement under review. Any such determination made by the commission shall include a statement that the commission has solicited input in accordance with this paragraph.

(3) The commission shall review all requirements within its jurisdiction. Except as provided in this subdivision, the chair may establish the agenda and priorities of the commission with respect to the order in which the commission reviews requirements and with respect to similar matters. Upon completing its review of each such requirement, the commission shall issue a written determination whether or not to waive such requirement and, if the commission determines such requirement shall be waived, stating the reasons therefor. A report waived by the commission, subject to the review process set forth in paragraphs four and five of this subdivision, shall cease to be required. In the event that the commission determines to waive the requirement that mandates the establishment of an advisory body, if such waiver is approved by the council and the mayor pursuant to the provisions of this section, such body shall cease to exist following such approval. The commission may waive a reporting requirement in part rather than in whole by identifying particular required elements of such report that should be waived or retained. The commission shall issue determinations with respect to requirements that are in effect on the date of adoption of this section no later than November first, two thousand fifteen, and shall issue determinations with respect to requirements enacted after such date of adoption no later than five years after the date of enactment of such requirements. The commission may from time to time make further determinations with respect to the waiver of any such requirement; provided, however, that when a requirement has been retained by the commission or as a result of the review process set forth in paragraphs four and five of this subdivision, the commission shall again review such requirement within five years of the date of the determination to retain the requirement.

(4) The commission shall promptly file with the council and the mayor, publish in the city record and post on the city website each determination to waive a requirement, whether in part or in whole, that is issued pursuant to paragraph three of this subdivision, and shall promptly provide copies of such determination electronically or by any other reasonable means to groups,

organizations or entities from which the commission has solicited input in accordance with paragraph two of this subdivision. Within one hundred twenty days of the filing of a determination by the commission, the council may either approve or disapprove such determination by the affirmative vote of a majority of all the council members. If, at the end of such one hundred twenty days, the council has failed to act on a determination of the commission, the council shall be deemed to have approved such determination, and such determination shall take effect.

(5) All actions of the council pursuant to this subdivision shall be filed by the council with the mayor prior to the expiration of the time period for council action under paragraph four of this subdivision. Any approval by the council pursuant to this subdivision, whether as a result of council action or failure to act, shall be final. Any disapproval by the council pursuant to this subdivision shall be final unless the mayor within ten days of receiving a filing with respect to such action files with the council a written disapproval of the action. A mayoral disapproval pursuant to this paragraph shall have the effect of vetoing any council disapproval and shall be subject to override by a two-thirds vote of all the council members within fifteen days of such filing by the mayor.

(6) Notwithstanding any other provision of this section, in no event shall the commission make a determination to waive a requirement otherwise subject to its jurisdiction for three years following the date of enactment of the most recent local law imposing any such requirement.

e. The commission shall base its reviews and determinations on such criteria as it may deem appropriate. Such criteria shall include but not be limited to the following:

(1) With regard to requirements mandating the issuance of reports: whether the report provides useful information for evaluating the results of programs, activities and functions and their effectiveness in achieving their goals and objectives; whether the report provides useful information for assessing the effectiveness of the management of city resources; whether the report is entirely or partially duplicative of the subject matter of any other mandated report; whether the report remains relevant in light of changing circumstances, current information needs and technological advances; and whether the benefits and usefulness of the report outweigh the expenditure of public resources to produce it.

(2) With regard to requirements mandating the establishment of advisory commissions, committees, boards, task forces or other similar bodies: whether the body substantially furthers

the mission of city agencies with which it interacts or within which it is located; whether the function or jurisdiction of a body is entirely or partly duplicative of the function or jurisdiction of any other mandated body; whether the function or jurisdiction of a body is limited to the production of reports that have been waived pursuant to this section; whether the function or jurisdiction of a body remains relevant in light of changing circumstances and needs; and whether the benefits and usefulness of the body outweigh the expenditure of public resources to support and interact with it.

f. In addition to the powers set forth in subdivisions a through e of this section, the commission may recommend to the mayor and the council the modification of existing requirements with respect to the issuance of reports and the establishment of solely advisory bodies in order to make the implementation of such requirements more effective in achieving their intended purposes; such recommendations may include, but not be limited to recommendations designed to modify or consolidate reporting requirements in light of technological advances, and may also evaluate, and make recommendations to the mayor and the council concerning, additional data needs.

g. Nothing in this section shall be construed to prevent the city council from acting by local law to limit or repeal any requirement otherwise subject to this section at any time, or to enhance or extend such requirement. Any such enhancement or extension shall be subject to commission review pursuant to this section, provided, however, that such review is limited by the three-year period set forth in paragraph six of subdivision d.

## FAIR SHARE

“Fair Share” was added to the Charter in 1989 in sections 203 and 204; it established criteria for the location of city facilities, with the goal of “fair distribution among communities of the burdens and benefits associated with city facilities, consistent with community needs for services and efficient and cost effective delivery of services and with due regard for the social and economic impacts of such facilities upon the areas surrounding the sites.” The Charter instructed the City Planning Commission (CPC) to promulgate rules to implement this goal, and the CPC enacted the Criteria for the Location of City Facilities, commonly known as the Fair Share Criteria, in 1991. The Criteria describe in detail the considerations to be weighed in siting, expanding or closing city facilities, including methods by which local community input is to be solicited as part of the decision-making process.

The CPC’s Criteria require city agencies making facility siting decisions to consider the relationship of the facility to existing city and non-city facilities. For example, Section 4.1(a) of the Criteria provides that the sponsoring agency must consider the “[c]ompatibility of the facility with existing facilities and programs, both city and non-city, in the immediate vicinity of the site.” The Department of City Planning makes clear in its publication “‘Fair Share’ Criteria: A Guide for City Agencies” that “[t]he types of non-city facilities that should be identified are generally the state, federal, and private institutions that serve as the City’s counterparts in providing public services.”<sup>74</sup> Like city facilities themselves, these non-city facilities may serve local neighborhoods only, or may serve an entire borough or the city as a whole.

The Criteria recognizes the importance of considering a city facility-siting decision in the context of existing non-city facilities providing similar services. Charter § 204(d)(3), however, currently requires that the map and explanatory text of facilities published by the Department of City Planning include information about the locations of only certain non-city facilities, specifically health and social service facilities operated by or on behalf of the state or federal

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<sup>74</sup> New York City Department of City Planning, “‘Fair Share’ Criteria: A Guide for City Agencies,” 1998, 14, [http://www.nyc.gov/html/dcp/pdf/pub/fair\\_share\\_guide.pdf](http://www.nyc.gov/html/dcp/pdf/pub/fair_share_guide.pdf).

government. The current map and explanatory materials have not, therefore, included non-city facilities classified under the Criteria as “Transportation and Waste Management Facilities,” a category which includes facilities such as airports, heliports, ferry terminals, sewage treatment plants, and solid waste transfer and processing facilities.<sup>75</sup> The Commission therefore proposes to amend Section 204(d) of the Charter to require that the map and explanatory text published by the Department of City Planning also include the locations of these facilities, as well as other state, federal or privately owned transportation and waste management facilities that provide comparable public services. This modification would align the charter map and data publication requirement with the Criteria, and provide agencies and the public with an information resource concerning these facilities.

Under this change, the locations of private waste management facilities, for example, would be identified on the map and explanatory text. Likewise, the locations of MTA or Port Authority bus depots and subway and train yards would be published. On the other hand, for example, a truck parking facility for a commercial distribution/warehouse operation would not be included.

### **Proposed Text:**

Section 1. Subdivision d of section 204 of the New York city charter, as amended by local law 20 for the year 2002, is amended to read as follows:

d. The statement of needs shall be accompanied by a map together with explanatory text, indicating (1) the location and current use of all city-owned real property, (2) all final commitments relating to the disposition or future use of city-owned real property, including assignments by the department of citywide administrative services pursuant to clause b of subdivision three of section sixteen hundred two, and (3) to the extent such information is available to the city, (i) the location of health and social service facilities operated by the state of New York or the federal government or pursuant to written agreement on behalf of the state or the federal government; and (ii) the location of transportation or waste management facilities operated by public entities or by private entities pursuant to written agreements with public entities, or by other private entities that provide comparable services. Information which can be

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<sup>75</sup> *Id.* 49.

presented most effectively in text may be presented in this manner. In addition to being transmitted with the statement of needs pursuant to subdivision a of this section, such map shall be kept on file with the department of city planning and shall be available for public inspection and copying. The map shall be updated on at least an annual basis.

## BALLOT PROPOSALS

### City Question 2: Elections and Government Administration

The proposal would amend the City Charter to:

- **Disclosure of Independent Campaign Spending:** Require public disclosure of expenditures made by entities and individuals independent from candidates to influence the outcome of a city election or referendum;
- **Ballot Access:** Generally reduce the number of petition signatures needed by candidates for city elective office to appear on a ballot;
- **Voter Assistance and Campaign Finance Board:** Merge voter assistance functions, including a reconstituted Voter Assistance Advisory Committee, into the Campaign Finance Board, and change when Campaign Finance Board member terms begin;
- **Conflicts of Interest Law:** Require all public servants to receive conflicts of interest training, raise the maximum fine for a public servant who violates the City's conflicts of interest law, and allow the City to recover any benefits obtained from such violations;
- **City Administrative Tribunals:** Authorize the Mayor to direct the merger of administrative tribunals and adjudications into the Office of Administrative Trials and Hearings and permit the Department of Consumer Affairs to adjudicate all violations issued by that department;
- **City Reporting Requirements and Advisory Bodies:** Create a commission to review requirements for reports and advisory bodies and waive the requirements, subject to City Council review, where the commission finds they are not of continuing value; and
- **Map for Facility Siting:** Include in the City's facilities siting map those transportation and waste management facilities operated by or for governmental entities, or by private entities that provide comparable services.

Shall this proposal be adopted?

### Abstract

#### *Disclosure of Independent Campaign Expenditures*

Currently, the Campaign Finance Board (CFB) has the power to require candidates for city office to comply with comprehensive reporting requirements, but does not have the power to require such reporting from individuals and entities making expenditures that are independent of

any municipal candidate. The proposed change would require reporting from all individuals and entities making independent expenditures of \$1,000 or more to support or oppose a municipal candidate or referendum. Additionally, it would require the CFB to require entities making independent expenditures of \$5,000 or more in support of or in opposition to a candidate in the 12 months preceding a city election to disclose the identity of any entity that contributed to the entity reporting the expenditure, and any individual who contributed \$1,000 or more to the entity reporting the expenditure in the 12 months preceding the covered election. In addition, the proposed change would require all advertising and other communications that support or oppose a candidate for city office, and are paid for by an individual or entity making independent expenditures in the amount of \$1,000 or more, to include the source of its funding. Both civil and criminal penalties would be available to punish noncompliance.

### ***Ballot Access***

This Charter amendment, which will in many instances reduce the number of signatures that candidates must collect in order to appear on the primary and general election ballots, is intended to make it easier for candidates to run for City elected offices.

Currently under state law, candidates for the offices of Mayor, Comptroller and Public Advocate may, under certain circumstances, be required to obtain 7,500 signatures to appear on either the primary ballot or, in the case of independent candidates, the general election ballot. Similarly, candidates for Borough President may, under certain circumstances, be required to obtain 4,000 signatures to appear on either ballot, and candidates for City Council may be required to obtain 900 signatures to appear on the primary ballot or 2,700 to appear as an independent candidate in the general election.

This Charter amendment would reduce the number of required signatures to no more than 3,750 for citywide office, 2,000 for borough-wide office, and 450 for City Council members for both primary and general election ballots. Consistent with current law, in no event would a candidate be required to collect a number of signatures exceeding five percent of the voters enrolled in the party holding the primary or, in the case of an independent candidate's petition to

appear on the general election ballot, five percent of the total votes cast for Governor in the last election for Governor.

### ***Voter Assistance and Campaign Finance Board***

The Voter Assistance Commission (VAC), which is charged with encouraging voter registration and voting, is now a separate entity in the Charter that appoints a Voter Assistance Coordinator on the Mayor's recommendation. Of the 16 Commissioners, six are appointed by the Council, three by the Mayor, and seven are officials who serve in their official capacities. This amendment would reconstitute VAC as a nine member Voter Assistance Advisory Committee, with two members from different political parties appointed by the Mayor, two members from different political parties appointed by the Council, and one member appointed by the Borough Presidents acting together. The Public Advocate and the Executive Director of the Board of Elections would serve in their official capacities. The Chair would be appointed by the Mayor in consultation with the Speaker of the City Council. Voter assistance functions would generally be transferred to the Campaign Finance Board (CFB), which would appoint the Voter Assistance Coordinator. Finally, the commencement date of terms of new members of the CFB would be changed from April 1 to December 1.

### ***Conflicts of Interests Law***

The Charter currently charges the Conflicts of Interest Board (COIB) with providing training for public servants. This amendment would require that every public servant receive training, either in person or electronically, within 60 days of appointment and periodically thereafter. It also requires agencies to develop training plans in consultation with COIB. In addition, the amendment would raise the maximum fine for a public servant who violates the City's conflicts of interest laws from \$10,000 to \$25,000 and would authorize the recovery of any benefits that result from such violations.

### ***City Administrative Tribunals***

Currently, many city agencies conduct adjudications concerning violations of city laws and regulations and other matters. The Office of Administrative Trials and Hearings (OATH) already exists to conduct adjudications for agencies in many circumstances, but there are also

tribunals that conduct specific types of adjudications in some agencies. This amendment would permit the Mayor, through executive order, to order the consolidation of City tribunals and/or categories of adjudications, when appropriate, into OATH. A committee of mayoral appointees would make recommendations to the Mayor concerning potential transfers into OATH, after obtaining public input, including holding a hearing. The Chief Administrative Law Judge of OATH could prescribe different qualifications, in place of the five-year terms that would otherwise apply, for those administrative law judges who handle matters newly transferred to OATH. Finally, the amendment would extend the adjudicatory authority of the Department of Consumer Affairs, which currently encompasses only violations by licensees of that agency, to all violations of the laws it enforces.

### ***City Reporting Requirements and Advisory Bodies***

Currently, the City's local laws require agencies to produce a large number of periodic reports on various aspects of their programs. There are also a significant number of advisory bodies required by local law that have no decision-making power. The requirements for these reports and bodies often go on indefinitely.

This Charter amendment would create a commission empowered to review the requirements for reports and advisory bodies for continued usefulness, and recommend their waiver where it determines that they are no longer of sufficient value. The commission would be made up of four mayoral appointees from key mayoral agencies and three representatives of the City Council, including the Speaker. Before recommending such waiver, the Commission would obtain input from parties who are likely to be interested in the requirement under review. Any Commission decision to waive a requirement would go to the City Council for its review. The City Council could either approve or deny the waiver, and the Mayor in turn could disapprove a Council denial, subject to Council override by a two-thirds vote. Certain key Charter requirements relating to the Mayor's Management Report and the city budget, and any requirements that are less than three years old, could not be waived using this process.

*Map for Facility Siting*

Under current law, each year the City shall make public a map, with explanatory text, to be used in siting City facilities. The map shows the location and current use of all city-owned real property, any commitments the City has made for the future use of its real property, and the location of health and social services facilities operated by or on behalf of New York State or the federal government. The proposed amendment would add to the map the locations of any transportation or waste management facilities operated by or on behalf of any governmental entity, as well as by private entities that provide comparable services.

## SEVERABILITY AND EFFECTIVE DATES

It is the intent of the Commission that the proposed amendments to subdivisions a and b of section 1138 of the Charter, that are contained in the “Term Limits” chapter of this report and in City Ballot Question 1, be considered severable from each other in the event that either such subdivision be adjudged by any court of competent jurisdiction to be invalid or otherwise cannot be implemented pursuant to law, and that the applicable portions of the question and abstract be severed in such event so as to permit the referendum on the remaining subdivision to proceed; and that, further, the separate amendments to various sections of the Charter in the proposed amendments contained in the chapter of this Report entitled “Elections and Government Administration” and proposed in city ballot question 2 be considered severable one from the other in the event that one such amendment be adjudged by any court of competent jurisdiction to be invalid or otherwise cannot be implemented pursuant to law, and that the applicable portions of the question and abstract be severed in such event so as to permit the referendum on the remaining separate amendments to proceed

### **Proposed Text**

The following is the Severability and Effective Date Provisions for Charter Amendments in Chapter 2, Election and Government Administration.

Section 1. Section 1152 of the New York city charter is amended by adding a new subdivision k, paragraph (2) to read as follows:

(2)(a) The amendment to the charter, adding a new section one thousand fifty-seven-b, approved by the electors on November second, two thousand ten, shall take effect immediately, and shall apply to elections for the offices specified in such section held on and after such date. Such amendments thereafter shall control as provided with respect to all the powers, functions and duties of officers, agencies and employees, except as further specifically provided in other sections of this charter.

(b)(i) The amendments to the charter, adding a new subdivision e of section one thousand fifty-two, repealing and reenacting section one thousand fifty-four, repealing section one

thousand fifty-five, and amending section one thousand fifty-six, section one thousand fifty-seven, and subdivision one of section one thousand fifty-seven-a, approved by the electors on November second, two thousand ten, shall take effect on the first day of January, two thousand eleven, and thereafter shall control as provided with respect to all the powers, functions and duties of officers, agencies and employees, except as further specifically provided in other sections of this charter.

(ii) Officers and employees of the city shall take any actions as are necessary and appropriate to prepare for the implementation of such amendment prior to the effective date prescribed in this subparagraph.

(c) The amendments to the charter, adding a new paragraph fifteen of subdivision a of section one thousand fifty-two, a new subdivision b-one of section twenty-six hundred six, and a new subdivision (g) of section twenty-two hundred three, and amending subdivision d of section two hundred four, subdivision e of section one thousand forty-six, section one thousand forty-eight, subdivision one of section one thousand forty-nine, subdivision a of section one thousand forty nine-a, paragraph one of subdivision a of section one thousand fifty-two, paragraph two of subdivision b of section twenty-six hundred three, and subdivision b of section twenty-six hundred six, approved by the electors on November second, two thousand ten, shall take effect immediately, and thereafter shall control as provided with respect to all the powers, functions and duties of officers, agencies and employees, except as further specifically provided in other sections of this charter.

(d)(i) The amendment to the charter, adding a new section eleven hundred thirteen, approved by the electors on November second, two thousand ten, shall take effect on the first day of January, two thousand eleven, and thereafter shall control as provided with respect to all the powers, functions and duties of officers, agencies and employees, except as further specifically provided in other sections of this charter.

(ii) Officers and employees of the city shall take any actions as are necessary and appropriate to prepare for the implementation of such amendment prior to the effective date prescribed in this subparagraph.

(e) Severability. If any clause, sentence, subparagraph, paragraph, subdivision, section or part of the amendments described in subparagraphs (a), (b), (c), and (d) of this paragraph shall be adjudged by any court of competent jurisdiction to be invalid or otherwise cannot be

implemented pursuant to law, such judgment or inability to implement shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subparagraph, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered or in the matter with respect to which implementation may not occur.

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**PART TWO**  
**ISSUES FOR FUTURE CONSIDERATION**

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After its review of the Charter as a whole, the 2010 Commission determined to focus its ballot proposals on those subjects presented in the first part of this Report. In addition, however, the Commission has considered many significant suggestions that it is not recommending for inclusion on the November 2010 ballot. These recommendations have come from a variety of sources: from members of the Commission itself, from the public, from the staff and from city agencies.

The following is a discussion of some of the issues the Commission believes should be explored further and are worthy of future consideration. The Commission will defer some of those suggestions for examination by future commissions, and others will be referred to appropriate bodies for consideration, either because they are outside the jurisdiction of this Commission or can be more easily addressed through the processes of local legislation.

## NON-PARTISAN / “TOP TWO” ELECTIONS

Five previous charter revision commissions (1998, 1999, 2001, 2002 and 2003) have considered this issue. The 2003 Commission, the last to consider nonpartisan elections, submitted a proposal that generated a great deal of controversy and was, ultimately, rejected by the voters. At that time, the proposal encountered strong opposition from many of the good government groups submitting testimony, including Citizens Union. In the intervening years, the climate regarding non-partisan elections appears to have changed in some respects. Citizens Union in the spring and summer of 2010 studied the issue anew and came out in favor of a version of non-partisan elections, similar to the one proposed by the 2003 Charter Revision Commission, known as “Top Two.” In its “2010 Charter Revision Recommendations,” issued June 30, 2010, Citizens Union points to the further sharp decline in voter turnout in the 2005 and 2009 elections and the increasing number of voters who register as independents as reasons for its changed viewpoint. The Campaign Finance Board, which in 2005 testified to problems that would result from the implementation of “Top Two,” has also dropped its opposition. In addition, the voters of California have just adopted this system.

The proposal presented to the voters in 2003 was a “Top Two” system. Under that proposal, all candidates for an office would run against each other in a September primary. While some non-partisan election systems prohibit candidates from listing their party identification or registration on the ballot, under the system proposed by the 2003 Commission, candidates would be permitted, but not required, to list their party registration or independent status on the ballot. Any voter, whether registered as a party member or as an independent, could vote for any candidate, including candidates who are members of different political parties than the voter or who are independent. The top two vote-getters in the primary election would compete in the November general election, regardless of their party affiliations, if any.

There is a significant body of academic research and writing concerning nonpartisan election systems. The prior Commissions did an enormous amount of work on the subject. The 2003 Commission heard and accepted testimony from persons on both sides of the issue, reviewed scholarly work and the performance and results of nonpartisan elections in the 50 largest U.S. cities, and commissioned voting rights experts who concluded that the proposal would pass the Voting Rights Act pre-clearance requirements. (Because New York City is subject to the provisions of Section 5 of the Voting Rights Act, any change in its election procedures must be cleared by a federal court or the Department of Justice to determine that the change does not abridge the right to vote as a result of race or color.)<sup>76</sup>

While supportive of the “Top Two” proposal, the 2003 Final Report observed that, “[t]he scholarship performed and data collected by social scientists on nonpartisan elections is far from conclusive.”<sup>77</sup> William Lynch, Jr., in a separate dissent presented the opposing view in an Appendix to the 2003 Final Report.

Subsequent to voter rejection of the 2003 Commission’s proposal, there has been some additional research, but the research remains inconclusive today. Some of the studies have questioned the assertions that nonpartisan elections depress turnout and advantage Republicans,

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<sup>76</sup> See 2003 Final Report and Appendices thereto.

<sup>77</sup> *Id.* at 27.

the wealthy, and incumbents.<sup>78</sup> Other analysts have continued to be critical of nonpartisan elections and the top two variant.<sup>79</sup> Nearly all the academic research, however, has focused on nonpartisan systems that do not place party labels on the ballot, which is not what has been contemplated for New York City.

At the forum conducted by the 2010 Commission, two of the expert panelists, J. Philip Thompson, Associate Professor of Urban Policy at MIT and Harry Kresky, an election attorney in private practice in New York City, supported the positive view of “Top Two” elections. In addition, testimony from the public at the first round of hearings before the 2010 Commission advocated for nonpartisan elections as a means to counter apathy and disillusionment with political parties, as well as to open up the political process to new blood, enfranchise

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<sup>78</sup> After 2003, Schaffner, Streb, and Wright presented findings that nonpartisan elections do not advantage Republicans, as the critics contend, but rather advantage the party that is in the minority. Schaffner, Streb, and Wright, “A New Look at Republican Bias in Nonpartisan Elections” (2004). However, in their view this might well be due to the fact that, in the absence of a party identifier on the ballot, a certain percentage of each party mistakenly voted for a candidate of the opposing party, a condition that would not be present in the 2003 proposal allowing party identification on the ballot. Also in 2004, Ansolabehere, Hirano, Snyder, and Ueda presented a paper rejecting the contention that nonpartisan elections give incumbents a greater advantage because in the absence of party identifiers, voters would choose the candidate whose name they knew. However, although the authors did not find that nonpartisan elections favored incumbents, they also did not find that nonpartisan elections made a difference in this regard. Ansolabehere *et al.*, “Voting Cues and Incumbency Advantage: Nonpartisan and Partisan Elections to the Minnesota State Legislature, 1950-1988” (2004).

In 2009, Francis Barry, Research Director of the 2003 Commission and currently the Mayor’s Director of Public Affairs, published *THE SCANDAL OF REFORM* (Rutgers, N.J. 2009). Barry provides an extensive review of the academic literature on nonpartisan elections. He argues that the conclusions that nonpartisan elections depress voter turnout and favor incumbents, the wealthy, and Republicans are not supported by the evidence, and indeed that the evidence points the other way. He also argues that under the particular circumstances of New York City, the effects on voter participation, minority representation, and competitiveness would be overwhelmingly positive.

<sup>79</sup> David Schleicher, rejecting the view that “there is no Democratic or Republican way to pave the streets,” argued that the lack of competitiveness in city council elections is due to the lack of congruence between local and national political issues and the decline of local political parties. Schleicher, “Why Is There No Partisan Competition in City Council Elections?” *J. L. & Politics* 23:419 (2007). Schleicher argued that the development of new municipal-level parties should be encouraged, and that nonpartisan election laws, which weaken parties, should be repealed. Similarly, in “The Oregon Constitution and the Quest for Party Reform,” 87 *Or. L. Rev.* 1061 (2008), political scientist Richard Clucas argued that neither nonpartisan elections nor top two elections in which party identification is permitted yield the promised results. According to Clucas, the reason nonpartisan elections do not significantly increase turnout is that, while they increase turnout among independents, they depress turnout among the poor and less educated. *See also* T.E. Patterson, *THE VANISHING VOTER*, at 46 (New York 2002) (“[t]he weakened state of the party . . . is central to any explanation of why election participation has slipped”); M.P. Wattenberg, *WHERE HAVE ALL THE VOTERS GONE?*, at 10 (Cambridge, Mass. 2002) (attributing low and declining turnout to the weakening of political parties). Although the Independence Party in New York supports the top two system, other third parties both in New York and elsewhere have opposed it. *See, e.g.*, “Washington State’s Third Party Leaders Issue Anti-Proposition 14 Statement,” at <http://www.freeandequal.org>.

independent voters, and widen the public discourse. Young voters who did not want to register with either party spoke to their feelings of disenfranchisement in a city where the nomination of the dominant party in an area is most often tantamount to election. The members of the public who voiced their support for nonpartisan elections at the expert forum stressed that all registered voters and independent candidates should be included in the primaries in order to achieve more competitive elections.

The critical view of nonpartisan and “Top Two” elections was presented by three of the panelists, David Jones, President and CEO of Community Service Society, Lorraine Minnite, Assistant Professor of Political Science at Barnard College and Jerome Goldfeder, Special Counsel at Strock & Strock & Lavan. The public testimony opposed to nonpartisan elections at the June 2, 2010 forum reflected concerns that nonpartisan elections would favor incumbents and candidates with the most campaign funding. The Commission also heard subsequent testimony from elected officials, members of the public and other good government groups opposing “Top Two” elections, and by John Mollenkopf of the City University of New York, who testified that the system would have an adverse effect on minority voters. The NAACP Legal Defense and Educational Fund also submitted a letter opposing nonpartisan elections and raising concerns about minority voting rights.

During discussions at public meetings, many commission members, regardless of their personal feelings about top two elections, expressed doubts about placing a proposal on the ballot without further consideration. Commissioners cited the historical context of “Top Two” in New York City and the rejection of the proposition and its accompanying questions on the 2003 ballot. In addition, some expressed interest in discussing and exploring variants of nonpartisan systems other than “Top Two.”

## INSTANT RUNOFF VOTING

One of the suggestions made at the Forum on Voter Participation was that the City adopt instant runoff voting (IRV), which is a system of elections in which voters rank their preferred candidates, and candidates are eliminated until one receives a majority. Most IRV systems in use are single-round elections. That suggestion received support from Commission members and other interested parties.<sup>80</sup> Although the Commission solicited public discussion of this proposal for possible placement on the November ballot following the publication of the Preliminary Staff Report and Recommendations, the Commission believes that more extensive discussion and analysis of potential impact are necessary, including analysis of the impact on minorities as required by the Voting Rights Act and any technical challenges that might be involved in preparing voting machines.

### **The IRV Proposal for Citywide Runoff Elections**

In the form of IRV considered by the Commission, the voters could rank up to three candidates in order of preference. If no candidate received at least 40% of the vote, there would be a runoff count between the two candidates with the greatest number of first-choice votes in the initial count. The runoff count would canvass the votes of those who did not select either of the top two as their first choice. The winning candidate would be the one preferred over the other by the majority of all the voters who expressed a preference. This IRV system simulates, in one election, the two-stage election system that now exists for citywide officials. Alternatively, IRV could be used in party primaries to eliminate the need for primary run-off elections. State Election Law § 6-162 now provides for a runoff primary election, which is held two weeks after the primary, if, in a primary election for a nominee for Mayor, Comptroller, or Public Advocate, no candidate receives at least 40% of the vote.

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<sup>80</sup> See also S. Roberts, "City of 8 Million Was a Ghost Town at the Polls," N.Y. TIMES, Oct. 6, 2006 (noting "growing chorus of calls for changing how runoff elections are conducted"); D. Getachew and A. Senteno, "Is New York Ready for Instant Runoffs?" GOTHAM GAZETTE, Nov. 23, 2009. State Senator Liz Krueger's bill to allow localities to experiment with IRV recently passed in the Senate, but has not been acted on by the Assembly.

IRV would prevent the drop-off in turnout that commonly occurs between the primary and the runoff and would create a winner with greater electoral support than under the current system. In the 2009 runoff elections in the New York City Democratic primary for Comptroller and Public Advocate, for example, there was a 35% drop-off in the number of votes cast in the runoff.

IRV would also save the City the cost of one or two elections, which require an estimated \$14 million for paying poll workers, police overtime, expenses of setting up and removing the voting machines, and Campaign Finance Board funding.<sup>81</sup> There would, however, be an initial cost to reprogram the machines to allow IRV. In addition, there would likely be additional costs for a public education campaign to explain the new system to the voters.

The “top two” variant of IRV described here is used, for example, to elect the mayors of those cities in England (including London) that have directly elected mayors. Since 2000, 16 local governments in the United States, including San Francisco and Minneapolis, have adopted IRV and will hold a single election in November.<sup>82</sup> Britain is expected to hold a referendum next May on whether to adopt IRV (there called Alternative Vote) for elections to the House of Commons.<sup>83</sup>

### **Criticisms of IRV**

Critics of IRV have argued that it is too complex for voters to understand. However, exit polls by the Public Research Institute at San Francisco State University during the 2004 and 2005 IRV elections in San Francisco showed that voters preferred IRV to the previous runoff

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<sup>81</sup> E. Einhorn, “Runoff Candidates Collect \$1.4 Million From Taxpayers” N.Y. DAILY NEWS, Sept. 18, 2009 (<http://www.nydailynews.com/blogs/brawlforthehall/2009/09/runoff-candidates-collect-14-m.html#ixzz0RwDQpYPD>).

<sup>82</sup> Two local governments, Burlington, Vermont and Pierce County, Washington, have repealed IRV. Burlington is discussed below.

<sup>83</sup> “Voting Reform Ballot Planned for May,” THE GUARDIAN, July 1, 2010 (<http://www.guardian.co.uk/politics/2010/jul/01/voting-reform-ballot-planned-for-may>). IRV has also been used, among other places, in Australia since 1949 to elect the House of Representatives and in Ireland since 1922 to elect the President.

system by a margin of three to one.<sup>84</sup> In the 2004 and 2005 San Francisco exit polls, 85% of respondents stated that they understood the system “perfectly well” or “fairly well.” In 2006, the Asian Law Caucus conducted an exit poll that found Asian voters in San Francisco to be overwhelmingly supportive of IRV in that year. The percentages did not vary greatly by racial or ethnic group.<sup>85</sup> Critics also contend that IRV eliminates the debate between the top two contenders, which sharpens and clarifies the differences between candidates for voters. Although turnout is generally lower in a subsequent runoff, the drop-off may be less in a mayoral runoff featuring two high-profile candidates.<sup>86</sup> On the other hand, it has also been hypothesized that wealthier and better-funded candidates do better in subsequent runoffs, because of the need to have funds on hand for a second round election just two weeks after the first.

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<sup>84</sup> New America Foundation and FairVote, “Instant Runoff Voting and Its Impact on Racial Minorities,” at 2, June 2008 (<http://archive.fairvote.org/?page=2290>).

<sup>85</sup> *Id.* at 3.

<sup>89</sup> For example, in 1977, Ed Koch ran in a crowded primary field comprised of Koch, Mario Cuomo, Abe Beame, Bella Abzug, Percy Sutton, Herman Badillo, and Joel Harnett. A New York Times/CBS poll taken in August put Beame, Abzug, and Cuomo ahead of Koch. However, running as a law-and-order liberal shortly after the blackout and ensuing riots, Koch nosed out Cuomo to win the first round with 19.8% of the vote. In the runoff, turnout fell by 13.6%, and Koch beat Cuomo by 55% to 45%. Some feel that the runoff enabled Koch to sharpen his message and thereby win.

## CHANGES IN REGISTRATION AND ELECTION PROCEDURE

Voter turnout is one of the measures of the successful functioning of a democratic electoral system. Unfortunately, New York does not fare well comparatively when its voter turnout is measured. In any international comparison of voter participation in democratic societies, the United States ranks near the bottom,<sup>87</sup> and turnout in New York State is well below the national average.<sup>88</sup> This lack of citizen participation in the electoral process seriously weakens our democracy. Even among registered voters, the turnout in elections, especially in New York City, is quite low. Since 2000, the decline in voter turnout for citywide elections has been acute: city turnout in presidential election years has ranged from 54% to 57% and in mayoral election years from 26% to 40%.<sup>89</sup> Moreover, in the Democratic Party primary elections that, for practical purposes, determine the winners of many of the fifty-one city council seats, voter turnout is significantly lower.<sup>90</sup> Low turnout has been attributed to the characteristics of voters, of political and social institutions, and the relationships between individuals and institutions to which elections give rise.<sup>91</sup> As is true throughout the United States, voters in the

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<sup>87</sup> See, e.g., Rafael Lopez Pintor, Maria Gratschew and Kate Sullivan, "Voter Turnout Rates from a Comparative Perspective," at 78-79 (available at [www.idea.int/publications/vt/upload/Voter%20turnout.pdf](http://www.idea.int/publications/vt/upload/Voter%20turnout.pdf)) (ranking the United States 120<sup>th</sup> out of 162 countries in voter turnout)

<sup>88</sup> See, e.g., "Voting and Registration in the Election of November 2008," at 8, U.S. Census Bureau (available at <http://www.census.gov/hhes/www/socdemo/voting/publications/p20/2008/index.html>) (ranking New York voter turnout 41<sup>st</sup> in 2004 election and 42<sup>nd</sup> in 2008 election).

<sup>89</sup> By contrast, 93% of registered New Yorkers voted in the 1953 mayoral election. See J. Chou, "NYC's Changing (Disappearing) Electorate," GOTHAM GAZETTE, May 22, 2000. (<http://www.gothamgazette.com/iotw/electorate/>); see also Lorraine C. Minnite, "How To Think About Voter Participation," (paper on file with the Commission), at 4-5 ("Over the decade of the 2000s, the rate of voting in citywide elections as a percent of presidential voting declined precipitously, from 67 percent in 2001, to 53 percent in 2005, and 45 percent in 2009.").

<sup>90</sup> See M. Barbaro and Sean McManus, "It Was Important to Vote in the Primary, Said the Handful Who Did," NEW YORK TIMES, September 29, 2009, at A26 ("Tuesday was an election day in this teeming metropolis, a fact that most New York City voters either forgot or ignored. In a political season of anticlimax, it seemed impossible to sink below the record low turnout of the Sept. 15 Democratic primary: 11 percent of registered Democrats."); cf. J. Chou, "NYC's Changing (Disappearing) Electorate," GOTHAM GAZETTE, May 22, 2000 ("Voter turnout was less than 20% for City Council elections in 1999.").

<sup>91</sup> See, e.g., Minnite, "How to Think About Voter Participation," at 7-9 (describing "American Voter," voting calculus, and voter mobilization approaches to explaining voter turnout); N. Caren, "From the Streets to the Voting Booth and Back: Contexts, Institutions, and Political Participation in American Cities, 1979-2003," (Ph.D. dissertation submitted to New York University, 2005), at 4-11 (surveying voter turnout literature).

City tend to be disproportionately middle and upper middle class.<sup>92</sup> Aside from changing the election system, however, there is little a Charter Commission can do to affect most of the many factors that contribute to low voter turnout.

At its public hearings, and especially at the forum on voter participation, the Charter Commission heard many promising suggestions for increasing turnout through election reform. However, the measures that research suggests would be most effective are ones that can only be enacted at the State level, either through constitutional amendment or through legislative action. We therefore strongly encourage the State Legislature to research and consider appropriate action with respect to two of these suggestions: election day registration and early/mail-in voting.

### **Election Day Registration**

Article II, § 5 of the State Constitution provides that State Election Law shall set the deadline for voter registration no less than 10 days before election day. EL 5-210(3) requires that completed applications for registration be completed and postmarked no later than the 25th day before the general election. The Commission recommends that the State Legislature commence the process of amending the New York State Constitution to permit Election Day Registration (EDR).

Of all the proposals to increase voter participation, EDR is the most promising. One recent study analyzing the potential impact of EDR in New York predicts that overall turnout would rise by 8.6 percentage points. Moreover, based on nationwide research, the greatest increase in turnout is predicted to be among those groups whose voter participation is typically lower: 12.3% among 18-to-25-year-olds; 9.8% among those with a grade school education or less; 11% among Latinos; 8.7% among African Americans; and 10.1% among those who have lived at their current addresses for less than six months.<sup>93</sup>

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<sup>92</sup> See, e.g., *id.*, at 5 (“According to the U.S. Bureau of the Census, just under a third of all adults in New York City have a college or postgraduate degree. But more than half of those casting ballots to choose the mayor, council and other citywide officials are educated at these levels. Just over half of all adults in New York City have annual family incomes of \$50,000 or less. But in 2009, only 42 percent of voters reported income at these levels.”).

<sup>93</sup> R.M. Alvarez, J. Nagler and C.H. Wilson, “*Making Voting Easier: Election Day Registration in New York*,” 2004, Caltech/MIT Voting Technology Project (available at [http://vote.caltech.edu/drupal/files/report/making\\_voting\\_easier\\_edr\\_ny.pdf](http://vote.caltech.edu/drupal/files/report/making_voting_easier_edr_ny.pdf)).

These predictions are based on nationwide analyses. “Analysts have concluded that universal same-day registration would result in more new voters than all other registration reforms combined.”<sup>94</sup> A 2002 survey found that 7.4% of registered non-voters in states without EDR failed to vote due to problems with their registration; that number is only 1.1% of non-voters in states with EDR.<sup>95</sup> Registration and turnout are higher among EDR states than non-EDR states.<sup>96</sup> In 2000, 77.3% of the population eligible to vote in non-EDR states were registered compared with 88.8% in EDR states. In the same election 50.5% of the population eligible to vote turned out in non-EDR states compared to 65.6% in EDR states.<sup>97</sup> Turnout in the 2008 election was 7 percentage points higher in states that allowed Election Day registration than in states that prohibited the practice.

Implementation of EDR would fall to the State Board of Elections. State Boards of Elections in other states have demonstrated that EDR can be administered quickly and cheaply with the right combination of voter education and staff training.<sup>98</sup> Moreover, the suggestion that EDR leads to voter fraud is not borne out by the evidence from those states that have adopted it.<sup>99</sup>

### **Early Voting: In-person and Mail-in Voting Prior to Election Day**

#### ***Early In-person Voting***

In-person voting gives voters the option of voting at polling stations one or more days before Election Day. While some have suggested that early in-person voting makes no difference

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<sup>94</sup> T.E. Patterson, *THE VANISHING VOTER* (New York 2002), at 179; *see also id.* at 133 (citing evidence that EDR would boost participation by 5 percent nationally).

<sup>95</sup> R.M. Alvarez, S. Ansolabehere, and C.H. Wilson, *Election Day Voter Registration in the United States: How One-Step Voting can Change the Composition of the American Electorate*. Caltech/MIT Voting Technology Project Working Paper, ([http://www.vote.caltech.edu/drupal/files/working\\_paper/vtp\\_wp5.pdf](http://www.vote.caltech.edu/drupal/files/working_paper/vtp_wp5.pdf)) (2002).

<sup>96</sup> Alvarez *et al.*, *supra* note 4, at 5.

<sup>97</sup> *Id.*

<sup>98</sup> Implementation of EDR in Maine, New Hampshire, Wyoming and Minnesota discussed in “The Promise and Practice of Election Day Registration,” in by B.E. Griffith, ed., *VOTING RIGHTS* (ABA 2008), at 75-76 (available at <http://www.demos.org/pubs/The%20Promise%20and%20Practice%20of%20Election%20Day%20Registration.pdf>).

<sup>99</sup> *See* Lorraine C. Minnite, “Securing the Vote: An Analysis of Election Fraud,” at 6 (2003) (available at <http://www.demos.org/pubs/Analysis.pdf>) (finding practically no proven voter fraud relating to EDR in states that permit EDR).

in turnout,<sup>100</sup> other evidence suggests that it increases turnout by approximately three percent.<sup>101</sup> Research does not show variation in turnout across income, education or age groups.<sup>102</sup> Thus, in close races, early in-person voting may affect outcomes.

In spite of the evidence that early in-person voting may increase voter turnout, albeit modestly, a practical obstacle constrains this Commission from recommending local amendments that would permit early in-person voting in the City: on the day that city elections are held there are typically some state offices on the ballot. Absent the enactment of state legislation permitting early in-person voting for state offices, the benefits of instituting early in-person voting only in the City might be outweighed by the voter confusion and administrative expense that would follow. It is unclear whether under state law two types of ballots would be required, one for municipal offices and the other for state offices. If that were the case, early voters for municipal offices would have to vote twice—once for municipal offices prior to Election Day and again for state offices on Election Day; moreover, the City would shoulder the expense of administering what would amount to two distinct elections.

Thus, the Commission recommends that steps be taken to promote the enactment of state legislation permitting early in-person voting for city and state offices. From a legal perspective, nothing appears to bar such legislation; moreover, there is precedent in support. The state constitution requires that municipal officers be elected on the first Tuesday succeeding the first Monday in November in odd number years.<sup>103</sup> This provision, however, does not appear to foreclose state legislation implementing early voting.

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<sup>100</sup> B.C. Burden, D.T. Canon, K.R. Mayer, and D.P. Moynihan, “The Turnout Effects and Costs of Early Voting, Election Day Registration, and Same Day Registration in the 2008 Presidential Election” at 2 (2009) (paper presented at the conference titled, “The 2008 U.S. Presidential Election: The Election that Rebranded the United States Abroad,” at the Ohio State University Mershon Center for International Security Studies. (available at <http://electionadmin.wisc.edu/OSU.pdf>).

<sup>101</sup> Jan E. Leighley & Jonathan Nagler, (2009) “*The Effects of Non-Precinct Voting Reforms on Turnout, 1972-2008*,” at 1 (2009) (report produced for the Pew Charitable Trusts’ Make Voting Work, a project of the Pew Center on the States, available at [www.pewcenteronthestates.org/elections](http://www.pewcenteronthestates.org/elections)).

<sup>102</sup> *Id.*

<sup>103</sup> *See* N.Y. Const. Art. XIII § 8.

### ***“No Excuse” Mail-In Voting, or Universal Absentee Ballots (UAB)***

Another commonly cited proposal is mail-in voting, or issuing absentee ballots to all voters who want them, rather than to specified groups like soldiers and the infirm. Currently, the state constitution limits the availability of absentee ballots to those who “may be *absent ... from the city ... or ... unable to appear personally at the polling place because of illness or physical disability* [emphasis added].”<sup>104</sup> Nearly half the states in the country have established liberal eligibility requirements for voting by mail. Voters avail themselves of absentee ballots if given the opportunity: 4.3% of voters in “standard” eligibility states (such as New York) use absentee ballots compared to 14.8% in states with universal eligibility.<sup>105</sup>

A recent nationwide study of state legislative elections indicates that UAB increases turnout by a statistically insignificant 2.1%.<sup>106</sup> Another nationwide study found that between 1972 and 2008, states that adopted UAB saw a turnout increase of about 3%.<sup>107</sup> However, studies suggest that the people most affected by UAB are those who would have voted anyway; they simply change their method of voting.<sup>108</sup> Thus UAB’s most significant effect is providing an alternative means of voting for those who would vote regardless.<sup>109</sup> Nonetheless, making voting easier, even for those who always vote, is a goal worth pursuing, as evidenced by the action of the majority of states, which have permitted all registered voters to cast absentee ballots.

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<sup>104</sup> N.Y. Const. Art. II, § 5; *see also* N.Y. Election Law § 8-400.

<sup>105</sup> J. Eric Oliver, “The Effects of Eligibility Restrictions and Party Activity on Absentee Voting and Overall Turnout,” 40 *AMERICAN JOURNAL OF POLITICAL SCIENCE*, 498, 499 (1996).

<sup>106</sup> Peter L. Francia & Paul S. Herrnson, “The Synergistic Effect of Campaign Effort and Election Reform on Voter Turnout in State Legislative Election,” 4 *STATE POLITICS & POLICY QUARTERLY*, 74, 84 (2004).

<sup>107</sup> *Id.*

<sup>108</sup> Jeffrey A. Karp and Susan A. Banducci, Going Postal: How All-Mail Elections Influence Turnout, 22 *POLITICAL BEHAVIOR*, 223, 228 (2002); *see also* Adam J. Berinsky et al., Who votes by Mail? A Dynamic Model of the Individual-Level Consequences of Voting-by-Mail Systems, 65 *THE PUBLIC OPINION QUARTERLY* 178-197 (2001) (showing the VBM retains rather than increases voter turnout rates).

<sup>109</sup> *See* Jan E. Leighley & Jonathan Nagler, (2009) “The Effects of Non-Precinct Voting Reforms on Turnout, 1972-2008,” report produced for the Pew Charitable Trusts’ Make Voting Work, a project of the Pew Center on the States ([www.pewcenteronthestates.org/elections](http://www.pewcenteronthestates.org/elections)) (showing no substantial increase in turnout in that adopt either universal absentee balloting or early voting); *see also* Adam J. Berinsky et al., “Who votes by Mail? A Dynamic Model of the Individual-Level Consequences of Voting-by-Mail Systems,” 65 *THE PUBLIC OPINION QUARTERLY* 178-197 (2001) (concluding that voting by mail retains rather than increases voter turnout rates).

## CONFLICTS OF INTEREST BOARD

The Commission has approved some conflicts of interest proposals for placement on the ballot. Significant additional proposals that were presented to the Commission are discussed below.

### **COIB Structure**

Some members of the public raised questions about the independence of the COIB in reviewing potential conflicts of interest involving the Mayor's office or other elected officials. Several good government groups have recommended that the Commission consider whether other elected officials in addition to the Mayor should be empowered to appoint the members of the board with the advice and consent of the Council. The current appointment structure, which was proposed by the 1988 Charter Revision Commission and approved by the voters, provides for the Mayor to appoint the five members of the board with the advice and consent of the Council. Supporters of so-called "split appointments" argue that, even if a mayoral majority is retained on the COIB, having individuals appointed by other officials would add new perspectives, and would also enhance the public's perception that the COIB is independent. Critics have argued that making this change would improperly politicize the COIB and possibly encourage members to feel that they should reflect the views of the one constituency who appointed them. They further argue that the current structure provides for sufficient independence in light of the advice and consent requirement and the requirement for six-year fixed terms with removal only for cause.<sup>110</sup> The Commission is not recommending change at this time.

### **Investigative and Subpoena Authority**

The COIB also seeks subpoena power, authority to conduct its own investigations, and the expansion of its jurisdiction to cover private parties who induce violations of Chapter 68, such as private sector businesses that give sizeable gifts to City employees. The 2001

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<sup>110</sup> Charter § 2602(a)-(c), (f).

## ISSUES FOR FUTURE CONSIDERATION

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Commission reviewed these issues, but was concerned about the potential for interference with DOI's criminal investigations. This Commission has decided not to revisit the issue of COIB investigative and subpoena power at this time. Finally, the proposed expansion of COIB's jurisdiction over non-city employees or contractors poses complex legal, operational and law enforcement issues.

## GOVERNMENT STRUCTURE

In its review of the Charter, the Commission has carefully considered the all-important choices about how to structure city government made by the 1989 Charter Revision Commission. When the 1989 Commission determined to eliminate the Board of Estimate, it faced the question of how and where to allocate the Board's powers. Its answer to those questions created the current structure of separation of powers and the balance between centralized and decentralized decision-making. The elimination of the Board of Estimate affected and defined the powers of the Mayor and the other citywide elected officials as well as the City Council. The offices of the Borough Presidents and the Community Board and the Land Use and Franchise provisions of the '89 Charter set forth the framework for community governance within an essentially centralized structure.

This Commission has had the opportunity to look at the government structure established by the 1989 Commission with a new perspective informed by two decades of experience and has concluded that the choices made by the 1989 Commission have worked well. In framing its analysis of issues arising from those choices, the 2010 Commission has considered the reports of earlier commissions, the public hearings, which highlighted the practical experiences of the public and elected officials with the present structure of city government, submissions and reports of good-government, civic and advocacy groups, and the testimony presented at the issue forums. The Commission, like prior commissions, is reluctant to tamper with basic structures and, indeed, has received much testimony urging it to proceed cautiously. Many of the suggestions raised, however, deserve further consideration. Future analysis and public discussion need to be focused around more specific proposals and their implications thoroughly explored.

It is interesting to note that many, if not all, of the issues discussed below were raised before the 2005 Charter Revision Commission. That Commission deferred consideration, suggesting that a future body review "all the various functions of all offices, from the 59 community boards to the Mayor and Council and consider a possible recalibration of powers to assure effective articulation of borough and community district interests and needs as well as

provide effective monitoring of both branches.”<sup>111</sup> Although it has determined to focus its ballot proposals on the issues in the first part of this Report, this Commission agrees that such a thorough review is necessary, not only in the interests of comprehensive reform, but in particular so that future amendments can be accomplished with confidence that unintended consequences that can result from a piecemeal approach can be avoided.

Below is a discussion of the major significant suggestions raised before the Commission. They range from fairly drastic changes, such as the elimination of some elected offices to, more commonly, suggestions for strengthening and clarifying the roles of various entities.

### **The Public Advocate**

Although several people suggested abolishing the Office of the Public Advocate and removing that position from its place in the line of mayoral succession, others urged the retention of the position and the enhancement of its powers. Many, including the current Public Advocate himself and the Citizens Union, suggested adding powers such as appointment powers, authority to require records from city agencies and enhanced responsibilities, for example, giving it the functions now under the jurisdiction of the Commission on Public Information and Communication. Some commentators urged giving the Public Advocate a role with respect to the Board of Standards and Appeals, the City Planning Commission, the Franchise and Concessions Review Committee, and the Conflicts of Interest Board. The Commission also heard calls for budget guarantees for the Public Advocate in order to protect that office, which was conceived by the 1989 Commission to be a “watchdog,” from cuts possibly motivated by political concerns. The Commission is not recommending guaranteed budgets for this or other offices, as will be discussed in the section below that deals with budget issues.

Although widespread feelings surfaced at the hearings that the functions of the Public Advocate should be better defined and possibly enhanced, no general consensus about the specifics of so doing emerged from the discussions. Different commentators, and indeed different persons who have served as Public Advocate, see the role of the office in different ways. Some have viewed the office’s primary role as to assist individual citizens in resolving

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<sup>111</sup> 2005 Charter Revision Commission Final Report, at.71.

disputes with city agencies and accessing services, while others have viewed the office as having an important role in exposing inefficiencies or problems in city government and advocating for change. Various recommendations, such as appointment powers for positions on various bodies and the power to subpoena records, may implicate substantial issues with respect to the balance of powers and need to be explored from that perspective.

The Commission believes that adding powers to the office of the Public Advocate on an *ad hoc* basis begs the larger questions about the role of the Public Advocate and recommends that future commissions that wish to address these issues focus on more thoroughly defining and clarifying the character of that office and its place within the scheme of separation of powers in city government.

### **The City Council**

Testimony by the panel at the Forum on Government Structure explored the nature of the proper balance between the Council and the Mayor in a strong mayoral system. Many of the most significant recommendations for changes that would strengthen the role of the Council, both from the Council itself and in the Citizens Union Report, focused on the relationship between the respective roles of the Mayor and the Council in budget negotiations and are addressed below in the discussion of budget issues. The Speaker of the Council testified at the issue forum and submitted a report setting forth 30 suggestions, including additional powers in the land use process (discussed below in the land use section), additional appointment authority and advice and consent powers in the appointment of the Corporation Counsel. These important issues were explored in depth by the Speaker and the Citizens Union, but the Commission does not recommend placing, these or the suggestions below from persons and groups outside the Council, on the ballot at this time.

### ***Member Items***

The Commission has considered several proposals relating to discretionary funds used by council members for designated non-profit organizations, commonly referred to as “member items.”

The practice of allowing individual council members to award public funds to organizations is decades-old. Supporters, including council members and community groups, argue that the provision of member items is an essential function of the City's legislative branch, and that member items are needed to address the specific service-based needs of individual communities. Critics of member items argue that there is significant potential for conflicts of interest; that they are unevenly distributed and used to reward or punish council members; and that there is insufficient oversight of the recipients. Some have suggested that member items should be awarded through competitive bidding or other source selection processes that apply to other contract awards.<sup>112</sup>

In 2009, the Speaker instituted new reforms to make the process for awarding discretionary funds more transparent and secure. These reforms include new pre-clearance requirements for organizations that seek discretionary funds; and an online searchable database that includes the names of council members sponsoring discretionary fund awards, the names and tax ID numbers of the organizations, the names of the agencies that would oversee the contracts and the purpose of the proposed contract awards. Additionally, the Conflicts of Interest Board issued an advisory opinion indicating that council members may not sponsor discretionary fund awards that present conflicts of interest.<sup>113</sup>

Several proposals for further addressing the issue of member items were recommended to the Commission. These include eliminating member items; equalizing member items;<sup>114</sup> mandating that discretionary fund award determinations be made using agency procurement procedures that are applicable to other, similar contracts; and codifying some of the Speaker's

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<sup>112</sup> Member items are currently awarded pursuant to section 1-02(e) of the rules of the Procurement Policy Board, which provides: "The source selection requirements of these Rules shall not apply to contract awards made from line item appropriations and/or discretionary funds to community-based not-for-profit organizations or other public service organizations identified by elected City officials other than the Mayor and the Comptroller."

<sup>113</sup> COIB Opinion 2009-2.

<sup>114</sup> Council Members each receive a fixed amount of discretionary funding for senior and youth services. However, beyond those categories, through the Speaker's Office, the borough delegations, and other means, some Council Members are able to sponsor more member items than others. For fiscal year 2011, member items for individual council members range from \$358,321 to \$1,371,839. Courtney Gross, Who Got What: FY 2011, Gotham Gazette, June 20, 2010, available at <http://www.gothamgazette.com/article/20100630/102/3301>.

reforms in the Charter. The Commission recommends further study of these proposals by the Council, as well as any future charter revision commission.

***City Council: Outside Income and “Lulus”***

*Full-Time Council.* At the Commission’s hearings, some Commissioners, members of the public and at least one Council Member proposed making the position of Council member a full-time position. Section 1100 of the Charter currently provides: “Every head of an administration or department or elected officer *except council members [emphasis added]* who receives a salary from the city shall give whole time to the duties of the office and shall not engage in any other occupation, profession or employment.” The 1998 Charter Revision Commission considered whether this provision should be amended to delete the exception for Council members, but did not reach a consensus, and recommended this issue for consideration by future commissions.<sup>115</sup> The current salary for Council members is \$112,500.<sup>116</sup> As discussed below, Council members may receive additional stipends (lulus) in varying amounts for committee chair or senior leadership positions.

Supporters of making the position of council member a full-time position argue that it would reduce the possibility for conflicts of interest for current council members; that council member pay is sufficient, or could be increased in exchange for making the position full-time; and that the duties of the position of council member warrant making the position full-time. Critics argue that making the position full-time might deter some talented people from running for office.

The Charter currently provides that prior to any increase in council member compensation, a commission appointed by the Council to review and recommend changes to council member salaries, or the Council itself, may consider in connection with its review of compensation levels “an analysis of the benefits, detriments, costs and impacts of placing restrictions on earned income derived by council members from sources other than their council

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<sup>115</sup> Report of the 1998 New York City Charter Revision Commission at 27-30.

<sup>116</sup> Charter § 26(b).

salary.”<sup>117</sup> The most recently appointed commission to review compensation for city officials recommended in 2006 that the question of whether council member should be a full-time position should be considered by a future charter revision commission or by the Council.<sup>118</sup> This Commission has not had sufficient opportunity to review this issue but recommends that a future commission consider it.

*Increased Outside Income Disclosure Requirements for Council Members.* Another proposal made to the Commission is to increase disclosure requirements for Council members who receive outside income. Council members are currently required to complete a detailed financial disclosure form, which requires disclosure of many sources of outside income, including income from second jobs.<sup>119</sup> Citizens Union has submitted a detailed proposal requiring that Council members report additional information concerning outside income, including the identity of paying clients (with certain exceptions), the amount of time spent working at other jobs, and more specific information concerning the amount of outside income received.<sup>120</sup> With respect to disclosure of client identity, while some have raised concerns about attorney-client privilege for legislators who have private law practices, the New York City Bar Association recently recommended that state legislators who are attorneys be required to disclose certain client information, with a commission established to consider exceptions.<sup>121</sup>

Supporters of this proposal suggest that it presents a reasonable alternative to making council member a full-time position. Specifically, while council members could continue to hold outside jobs, additional disclosure concerning outside income would provide increased transparency and avoid potential conflicts of interest stemming from the representation of clients

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<sup>118</sup> Advisory Commission for the Review of Compensation Levels of Elected Officials, Report and Recommendations (Oct. 23, 2006), at 24.

<sup>119</sup> N.Y. City Administrative Code § 12-110(d).

<sup>120</sup> Citizens Union Report at 81-83. Citizens Union also recommends requiring disclosure by Council members of other information, including all board memberships and additional information concerning relatives' employment.

<sup>121</sup> New York City Bar Association, Report on Legislation by the Committee on State Affairs, the Committee on Government Ethics and the Committee on Professional Responsibility, Reforming New York State's Financial Disclosure Requirements for Attorney-Legislators (January 2010), available at <http://www.nycbar.org/pdf/report/uploads/20071850-ReformingNYSFinancialDisclosureRequirements.pdf>. The opinion includes discussion of legislator client disclosure requirements in Washington and California.

whose interests might be affected by matters that are pending before the Council. Critics of the proposal note that council members already face detailed financial disclosure requirements, and/or raise concerns about client privacy.

*Lulus.* The City Council awards legislative stipends, commonly referred to as “lulus,” in addition to the base salary of members who chair committees or perform other leadership functions. The Charter currently authorizes compensation beyond the “base” salary of \$112,500 as follows:

In addition any council member, while serving as a committee chairperson or other officer of the council, may also be paid, in addition to such salary, an allowance fixed by resolution, after a hearing, for the particular and additional services pertaining to the additional duties of such position.<sup>122</sup>

This language was added by the 1989 Charter, with the intent of balancing the Council Speaker’s authority by requiring membership approval of stipends.<sup>123</sup>

A typical lulu is \$10,000, though they range from \$4,000 to \$28,500 for the Speaker. Lulus are awarded to many council members, with a total cost to the city in fiscal year 2010 of \$473,500.<sup>124</sup>

The Commission has heard recommendations that lulus be banned altogether, or that they be awarded only to council members in top leadership positions, such as the Speaker, Majority Leader, and Minority Leader. It has also been suggested that lulus be replaced by a restructuring of council member salaries designed to reflect the differences in their responsibilities.

Although several Commission members advocated strongly to place these issues described above before the voters, the Commission did not reach consensus. These issues relating to outside income and compensation for council members are to some extent interrelated

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<sup>122</sup> Charter § 26(b).

<sup>123</sup> Final Report of the New York City Charter Revision Commission, Jan. 1989–Nov. 1989 (March 1990), at 17; see also New York City Charter Revision Commission, Summary of Final Proposals (August 1989), at 10 (“The Council would be required to establish, by resolution, any system of stipends to Council leaders and committee chairs over and above their city salaries.”).

<sup>124</sup> Citizens Union Report at 78.

and most appropriately dealt with in a coordinated fashion. The Commission believes that further study, by a future commission or by the Council itself, should explore the effects of such reforms on the composition and leadership of the Council.

### *Lobbying*

One proposal made to the Commission recommended the transfer of responsibility for lobbying regulation and oversight from the City Clerk's Office to the Campaign Finance Board.<sup>125</sup> The City's lobbying law is in the Administrative Code, and not in the Charter. It was significantly strengthened by legislation enacted by the Council in 2006.

Supporters of this proposal have argued that, as the City Clerk is appointed by the Council, where significant lobbying occurs, there is an inherent conflict of interest for the Clerk to oversee lobbying. Lobbying laws are overseen by ethics, campaign finance and/or election agencies in more than half of the fifty states.<sup>126</sup> Supporters of the current structure note that lobbyists register with the Clerk of the House of Representatives and the Secretary of the Senate at the federal level<sup>127</sup> and with the legislature in some states.

Moving lobbying to CFB could also achieve some administrative efficiency. Specifically, the Campaign Finance Act provides that senior officials from entities that have business dealings with the city – defined to include lobbying activity – are subject to lower campaign contribution limits, and their contributions are not matched with matching funds.<sup>128</sup> In order to enforce this part of the law, CFB currently uses information about lobbyists that is included in a database maintained by the Clerk's Office.<sup>129</sup> Giving CFB responsibility for ensuring that lobbyists

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<sup>125</sup> The Commission received testimony in support of this proposal from Columbia Law School Professor Richard Briffault, and from Citizens Union Executive Director Dick Dadey. Citizens Union advanced this proposal in its 2010 City Charter Revision Recommendations. Citizens Union of the City of New York, 2010 City Charter Revision Recommendations: Increasing Avenues for Participation in Governing and Elections in New York City (June 30, 2010) (“Citizens Union Report”) at 84-85.

<sup>126</sup> Information obtained from <http://www.lobbyinglaws.com/StateLaws/AtoI.html>.

<sup>127</sup> 2 U.S.C. § 1603(a)(1).

<sup>128</sup> N.Y. City Administrative Code §§ 3-702(3)(h), (18); 3-703(1-a), (1-b).

<sup>129</sup> Information concerning contractors and other entities with business relationships with the City that are covered by the law is maintained by the Mayor's Office of Contract Services.

register as required by the Lobbying Law would make CFB accountable for ensuring that lobbyists are included in the database, and thus could improve CFB's ability to enforce the pay-to-play legislation.

The Commission declines to act in this area at this time because recent amendments to the Lobbying Law specifically provide for a commission to be appointed by the Council and the Mayor to review the performance of the Clerk's Office in implementing the law, among other things.<sup>130</sup> The Commission recognizes that the Lobbying Law Commission is in the process of formation and recommends that the question of whether the lobbying function should be transferred to CFB be revisited following the completion of that commission's review.

### **Local Control: Borough Presidents and Community Boards**

From the beginning, the Charter has sought to “provide a mechanism for dealing with smaller, ‘local’ matters that did not affect the entire city.”<sup>131</sup> The 1989 Charter Revision Commission in particular needed to address these matters, since in eliminating the Board of Estimate where Borough Presidents played powerful roles, it substantially reduced their powers. At the same time, however, the 1989 Commission determined not to eliminate those offices and, by giving them and the Community Boards charter-mandated responsibilities, contemplated an important role for both. The 2010 Commission, like prior commissions, has heard testimony from both Borough Presidents and members of Community Boards expressing their frustration either with the limitations inherent in the roles established for them or with limitations on their ability to exercise charter responsibilities because of what they feel is the inadequacy of the resources allocated to them.

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<sup>130</sup> N.Y. City Administrative Code § 3-212(e).

<sup>131</sup> Richard Briffault, “The New York City Charter and the Question of Scale,” 42 *N.Y. Law Sch. Rev.* 1059, 1060. Professor Briffault traces the swings of the pendulum between more and less decentralized control, discusses the mechanisms for community participation in decision-making (*e.g.* the Borough Presidents, the creation of community districts and Community Boards, the former Community School Boards, representation on the City Council, the rise of Business Improvement Districts (BIDS)), and points out the issues and choices that would be involved in any decision to change the Charter to make “sub city” governance more powerful.

### *Borough Presidents*

The 2010 Commission heard concerns from Borough Presidents that they lacked sufficient powers to serve their constituencies. One major theme articulated by Brooklyn Borough President Marty Markowitz and echoed by others, taken up as well in the Citizens Union Report and addressed in the discussion below on budget issues, recommended guaranteed budgets for Borough Presidents. Other recommendations included enhancing powers and responsibilities in land use decisions, giving the Borough Presidents appointment powers to entities involved in land use (discussed in the land use section) and on the Franchise and Concessions Review Board; recommendations (by Manhattan Borough President Scott Stringer) to require the Mayor to issue detailed explanations for not including a borough president's recommendation in the budget and the Council to state the extent to which the budget incorporates the recommendations and to require city agencies and OMB to provide departmental estimates broken down by borough; and strengthening certain public notice and hearing requirements. All the Borough Presidents have raised concerns about the Borough Presidents' role in ensuring service delivery to constituents. In this respect, Borough President Markowitz has suggested giving advice and consent authority over the appointment of borough commissioners of relevant agencies and Borough President Molinaro has instituted monthly meetings with the relevant borough commissioners in his borough. It has been suggested that the Borough Presidents be given the authority to mandate attendance at such meetings.

The Commission and its staff listened carefully to the thoughtful suggestions of all five Borough Presidents. The suggestions made were diverse, but all reflected a desire on the part of Borough Presidents for greater power and presence in city decision making. Making what appear to be only small changes in the powers of the Borough Presidents might, however, impact the balance of powers in city government in unanticipated ways. In addition, it appears from the testimony and written submissions that the various Borough Presidents exercise their responsibilities and powers differently, even within the current boundaries of their charter authorization. Any action in this area should, therefore, be based on a firm understanding both of the empirical functioning of the Borough Presidents and an analysis of the practical implications of increasing their powers. This Commission realizes the importance of the issues raised by the Borough Presidents and recognizes the need for a future commission to focus its attention on the

complex mission of studying the roles of the City's elected officials with an eye towards whether, and how, powers should be reallocated in order to optimize governmental functioning.

### ***Community Boards***

Members of community boards have put forth suggestions for strengthened powers, ranging from guaranteed funding (*see* the budget section) to increased planning powers under both ULURP and Charter § 197-a (*see* the land use section). Others have recommended mandating the procedural reforms instituted by Manhattan Borough President Scott Stringer that involve outreach, a formalized application process and screening of potential members before appointment. The Commission has not heard from other Borough Presidents regarding these procedures; in the absence of such testimony and since they can be put into effect without charter authorization, the Commission hesitates to mandate them in the Charter.

Many representatives of community boards testified to a lack of resources. Some boards are able to draw upon internal resources, such as architects, engineers, planners and other relevant professionals in their districts who volunteer their time and services; other boards lack this wherewithal. This kind of disparity makes it difficult to frame a one-size fits all solution. As an example, several proposers suggested empowering the boards to exercise their planning responsibilities by mandating an urban planner for each board. In exploring this option, however, Commission staff heard that not all boards want, or can use, the services of a full-time urban planner as part of permanent staff. One solution would require Borough Presidents to make their urban planners available to the boards, but many boards want planners whom they feel will be independent of the Borough Presidents. As a practical matter then, how to develop a mechanism (such as providing contractual access to planning firms or the Citizens Union suggestion for a pool of planners outside the offices of the Borough Presidents) to address these problems is not readily apparent and, in any event, should result from consultation between relevant city agencies and all the community boards. Such a solution can perhaps be better achieved through the give and take of the normal legislative process.

### **The Budget**

The 2010 Commission has heard calls for guaranteed or independent budgets for the District Attorneys (D.A.s), the Comptroller, the Public Advocate, and the Borough Presidents as well as for certain non-elected boards and commissions: the Civilian Complaint Review Board (CCRB), the Equal Employment Practices Commission (EEOC), the Conflict of Interest Board (COIB), and the Community Boards. In addition, the Speaker of the Council has suggested significant changes in the budget process proposing that the Mayor's revenue estimates be presented earlier in the process and that the definition of units of appropriation be narrowed.

New York City's Budget has long been recognized as a model for municipalities in the United States and abroad. Since the fiscal crisis of the 1970's, the City has delivered 30 consecutive balanced budgets according to Generally Accepted Accounting Principles. Budget determinations represent political, social, and technical choices for a given point in time. Final decisions on the fiscal management of the city result from a delicate political negotiation between the elected representatives of the people: the Mayor and the City Council. For these reasons, the Commission recommends extreme caution in approaching these issues and has determined to take no action on them this year.

### ***Budget Guarantees***

The proponents of these guarantees maintain that they would insulate the so-called oversight entities – the D.A.s, COIB, EEOC, CCRB, DOI, Public Advocate and Comptroller – against possibly politically motivated budget cuts, and would allow the Public Advocate, the Borough Presidents and the Community Boards to more fully carry out their duties and serve their communities.

Proponents of guaranteed budgets generally argue that the aggregate of the guaranteed budgets sought by elected officials and agencies represents a very small percentage of the City's overall budget and therefore would not substantively diminish the amount to be allocated by the Mayor and the Council.<sup>132</sup> The mechanism proponents suggest for guaranteeing budgets involves either tying the budget to that of another similar entity or setting it at a percentage of the overall

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<sup>132</sup> The total amount for all entities who requested a guaranteed budget in FY 2010 was approximately \$430 million.

city budget. By “tying” this type of allocation to another larger or “core” function budget, the guaranteed budget would reflect significant fluctuations in the economy and evade distortions over time.

On the other hand, the Citizens Budget Commission and the City’s Office of Management and Budget (OMB) point to the disadvantages of such guarantees. Each year the budget undergoes a transparent six month process pursuant to which the Mayor and the Council set the budget priorities for the coming year; Citizens Budget and OMB argue that “to remove specific agencies, offices and/or entities from that process by permanently earmarking dollar amounts or formulas, is to shield them from the public input on budgetary priorities.”<sup>133</sup>

OMB explains that funding for all city entities is generally a reflection of the economic performance of the local economy. In good economic times, funding for city agencies tends to increase; conversely, when the local economy is in distress, funding for city agencies tends to decrease and the city tends to allocate available city resources to core services such as public safety. When resources are scarce, non-core services (like boards and commissions, elected officials cultural affairs, services for seniors, etc.) usually take larger cuts in order, for example, to preserve school personnel or keep fire houses open.

In New York City, approximately only one-third of the total budget is available for discretionary allocation by the Mayor and the City Council. The rest includes money already committed for debt service, state and federal funds which must be spent on specific programs and pension and fringe benefits for employees. “Dedicating funding for specific City agencies outside of the City’s overall financial management process would only increase the amount of non-controllable expenses each fiscal year, further limiting the Mayor and the City Council in their ability to close budget gaps.”<sup>134</sup>

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<sup>133</sup> Testimony of Courtney Wolf, Citizens Budget Commission, before the 2010 Charter Revision Commission, August 2, 2010, [http://www.cbcny.org/sites/default/files/TESTIMONY\\_08022010.pdf](http://www.cbcny.org/sites/default/files/TESTIMONY_08022010.pdf).

<sup>134</sup> Memorandum from the Director of the Mayor’s Office of Management and Budget, Mark Page, on file with the Commission.

Critics of guaranteed budgets also worry that they result in diminished accountability. They claim that superior performance and productivity are partly a result of budget discipline, wherein entities must continually prove their worth in the competition with other city entities for their share of scarce government resources. OMB believes that guaranteed budgets would eliminate incentive to maintain and improve agency productivity. Citizens Budget Commission, too, challenges the notion that guaranteed budgets make entities more independent. Instead, it argues that “it is more likely a protective device against true political accountability in the budget process. If someone is independently elected, they should be independent no matter how much money they are appropriated. The Public Advocate and Comptroller derive their independence from their election, not from how large or small their budgets are.”<sup>135</sup> Moreover, it is worth noting that the federal Government Accountability Office and the Congressional Budget Office – as well as the Supreme Court itself – do not have guaranteed budgets.

Finally, the amount of the “guarantee” may be extremely difficult to ascertain without a detailed study of the function and personnel needs of the entity. A guaranteed budget based on a percentage of the budget of another entity can have unintended consequences. There may be very specific circumstances resulting in an increase in the budget of one agency which do not dictate an increase in the budget of the agency tied to it. For example, the budget of the only City agency with a guaranteed budget, the Independent Budget Office, is tied to the budget of OMB. Last year, OMB received a number of large federal grants to be used to administer the federal stimulus program (ARRA). Consequently, the Independent Budget Office, without any corresponding mandated increase in its duties or responsibilities, received a large increase; but in tax levy, not federal dollars. While it may be possible to eliminate such anomalies through careful drafting, the analysis necessary to set a responsible amount for any specific entity has not been undertaken. Commission has not been presented with the necessary analysis to set a responsible amount for any specific entity.

Over the course of the Commission’s work, the COIB and the Borough Presidents and Public Advocate made particularly strong arguments in favor of independent budgets. COIB

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<sup>135</sup> Testimony of Courtney Wolf, Citizens Budget Commission, before the 2010 Charter Revision Commission, August 2, 2010, [http://www.cbny.org/sites/default/files/TESTIMONY\\_08022010.pdf](http://www.cbny.org/sites/default/files/TESTIMONY_08022010.pdf).

argued that it “regulates the conduct of the very persons who set its budget, often at the time they are setting its budget.”<sup>136</sup> While this could be said about a number of entities which advocate for independent budgets, COIB alone is in a position where public employees must engage with the Board if they wish to participate in certain activities with impunity. Thus, the conflict, which is inherent in the situation of all of the oversight bodies, is intensified, with regard to the COIB, by the frequency, nature and volume of contacts between public employees and the Board. Finally, the COIB is not a high visibility agency with a strong constituency that can mobilize public support against budget cuts. The COIB request for an independent budget was supported by members of the Council, including the Speaker, and various good government groups, including Citizens Union.

The Borough Presidents and Public Advocate argue that they are independently elected officials sometimes in conflict with the Mayor and the City Council. They point out that since 1989 (when the City’s governance structure drastically changed) their budgets have been systematically reduced to the point where their offices have been forced to cut staff and operations. Citizens Union agreed with their plea for independent or guaranteed budgets and argued that elected officials might modulate their advocacy for fear that their budgets would be cut by a Mayor or a Council opposed to their positions.<sup>137</sup>

These are important and legitimate concerns. We recommend that future commissions consider these arguments and devote significant resources to studying the roles of both COIB and various elected officials so as to make an intelligent assessment of their fiscal needs. Only then can a creative solution with the same transparency and accountability which characterizes the present system be developed to assure the independence and stability of such entities.

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<sup>136</sup> Letter to Christine Quinn, Speaker of the City Council, from Steven B. Rosenfeld, Chair of the Conflicts of Interest Board, August 3, 2009, [http://www.nyc.gov/html/conflicts/downloads/pdf2/charter\\_revision/letter\\_to\\_quinn\\_chap\\_68\\_amendments.pdf](http://www.nyc.gov/html/conflicts/downloads/pdf2/charter_revision/letter_to_quinn_chap_68_amendments.pdf).

<sup>137</sup> Citizens Union of the City of New York, “2010 Charter Revision Recommendations: Increasing Avenues for Participation in Governing and Elections in New York City,” June 30, 2010, [http://www.citizensunion.org/www/cu/site/hosting/Reports/0610CU\\_Charter\\_Revision\\_Report&Recommendations.pdf](http://www.citizensunion.org/www/cu/site/hosting/Reports/0610CU_Charter_Revision_Report&Recommendations.pdf).

### Units of Appropriation

“Units of appropriation” as a budgeting mechanism were originally introduced to the Charter in 1963. They replaced the practice of line-by-line scheduling, or “line items,” as first required in the 1873 Charter, with a more streamlined “program budget” approach.<sup>138</sup> Each “unit”, represents “the amount requested for personal service or for other than personal service (OTPS) for a particular program, purpose, activity or institution” within a City agency.<sup>139</sup>

The 1989 Charter Revision Commission sought to enhance the Council’s role in the budget process by requiring that Council approval be obtained in order for a unit of appropriation to include more than “one particular program, purpose, activity or institution.”<sup>140</sup> The 1989 Commission explained that “[t]he new charter would require city agencies to construct budgets with more specific and easily understandable units of appropriation.”<sup>141</sup>

The Council has now proposed narrowing the definition of units of appropriation. The Council maintains that units of appropriation in agency budgets are, in certain instances, so large as to preclude meaningful Council input with respect to formulating and modifying the budget. With respect to budget modification, agency transfers of budget monies within units of appropriation are not made known to the Council. The Charter mandates only that the Council be notified and have an opportunity to disapprove transfers of funds between units of appropriation between agencies, or that result in a unit being increased or decreased by more than five percent or \$50,000 (whichever is greater).<sup>142</sup> The Council further argues that narrower units of appropriation would lead to greater budget transparency.

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<sup>138</sup> Archibald F. Robertson, Jr. & Lucian A. Vecchio, A Legal History of Expense Budgeting in New York City, *Fordham Urban Law Journal* 1, 23, 37-38, 42- (1975).

<sup>139</sup> New York City Charter § 100(c).

<sup>140</sup> *Id.* (as amended in 1989).

<sup>141</sup> New York City Charter Revision Commission, “Summary of Revised Proposals,” June 1989, p. 13.

<sup>142</sup> Charter § 107(a).

Several changes have been recommended in this area, including the following:

1. Further refine the definition of “unit of appropriation” to require a more fine-grained description of “program,” and delete the term “purpose;”
2. Eliminate the requirement in the Charter that there be separate units of appropriation for personal service and for OTPS; and
3. Raise the threshold amount of a budget modification which could be disapproved by the council, in order to provide for greater budgetary flexibility and remove a built-in incentive to create large units of appropriation.

The issues raised by the Council are to some extent about implementing requirements that already exist in the Charter. The Commission defers consideration of this issue and recommends that the Council and OMB work together to resolve any differences regarding how units of appropriation are structured in the expense budget.

## LAND USE

Members of advocacy groups and Community Boards provided a great deal of testimony at the public hearings and the forum on land use regarding the City’s land use processes. Their suggestions fell into the categories described below, each of which has been explored by the Commission. The Commission believes they should be preserved for future consideration.

### **ULURP**

The Uniform Land Use Review Procedure (ULURP) was established in 1975 in Charter § 197-c and 197-d. Those sections describe the uniform process by which applications “by any person or agency ... respecting the use, development, or improvement of real property subject to city regulation” will be reviewed. The section lists twelve categories of actions specifically subject to ULURP, including changes to the city map, platting of land into streets, designations of zoning districts, special permits, site selection for capital projects, revocable consents, improvements in real property, housing and urban renewal plans, sanitary or waterfront landfills, the disposition and acquisition of city real property, and other matters proposed by the City Planning Commission (CPC) and enacted by the City Council. The CPC has established detailed procedures for processing these applications. Applications go through an open-ended precertification process which includes environmental review; once an application is certified, there are specific time frames for Community Boards, Borough Boards and Borough Presidents to hold public hearings and submit written recommendations on the application. The process ends with an approval or disapproval by the CPC, subject in some cases to review by the City Council.

Overall, the Commission heard testimony from expert panelists at the Land Use Forum that ULURP works well. Most of the panelists agreed that the process provides a logical and coherent structure, with predictable timelines and multiple opportunities for public input. The main criticism of ULURP focused on the advisory roles of the Community Boards and Borough Presidents. The way ULURP currently operates, upon receiving a certified application, an

affected Community Board must hold a public hearing and then submit a written recommendation to the CPC, the applicant, the Borough President and, in the case of applications involving land in more than one community board, and the Borough Board. Expert panelist Tom Angotti stated, however, that many agreements are made in the pre-certification phase, before the formal commencement of ULURP, which fosters cynicism about the formal process. He recommended that some structure be provided for the pre-ULURP process.<sup>143</sup> Analyzing the non-binding nature of Community Board recommendations, the Pratt Institute, for example, charges that Community Board recommendations do not affect the CPC's subsequent review (an assertion denied by the Department of City Planning [DCP]), which Pratt maintains often results in a Community Board adopting an obstructionist position in order to garner attention and compel a compromise. Others feel that, similarly, the Borough Presidents should have more than an advisory role in ULURP. Some argue that the communities' lack of opportunity for input during ULURP creates a vacuum which is increasingly being filled by the rise of private community benefit agreements negotiated directly between developers and community groups, which are discussed below.

The Citizens Union has recommended that the community input into ULURP could be improved by standardizing the structure of recommendations. Citizens Union recommended that the CPC be required by the Charter to create rules to guide Community Boards, Borough Presidents, and Borough Boards in commenting in a uniform manner on different types of proposals subject to ULURP. Manhattan Borough President Scott Stringer also recommended adding to the list of actions that should be subject to full ULURP review, including the disposition of city-owned air rights and all proposals to amend the zoning resolution, including zoning text amendments.

The discussion of the ULURP roles given the Community Boards and Borough Presidents centers around differing perceptions of whether the present advisory role works; that is, whether the recommendations of the Boards and Borough Presidents receive adequate consideration by the CPC. The DCP responds to criticisms by maintaining that CPC gives community input great weight when making its determinations and vigorously disputes the claim

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<sup>143</sup> Tom Angotti, "Land Use and the New York City Charter," August 10, 2010 (on file with the Commission).

by advocates that a purely advisory role has allowed the CPC to ignore community input. These are important issues. Charter amendments that would provide the Community Boards and Borough Presidents with a stronger role in ULURP have serious implications for the present balance between centralized decision-making and community input. Such steps require careful study of what has actually occurred in the ULURP decision-making process in order to resolve the competing claims. The Commission has considered both the criticisms and the responses to them, and recommends for the future both further empirical study and analysis of how such changes would affect development in the City.

### **Fair Share**

The Commission is proposing an amendment to the Fair Share provisions of the Charter regarding the publication in the city map of information about non-city owned transportation and waste management facilities. Below are considerations related to some of the additional changes that have been requested.

As explained above, Fair Share is a concept that was added to the Charter in 1989 in sections 203 and 204; it established criteria for the location of city facilities, with the goal of “fair distribution among communities of the burdens and benefits associated with city facilities, consistent with community needs for services and efficient and cost effective delivery of services and with due regard for the social and economic impacts of such facilities upon the areas surrounding the sites.” The Charter instructed the CPC to promulgate rules to implement this goal, and the CPC enacted the Criteria for the Location of City Facilities, commonly known as the Fair Share Criteria, in 1991. The Criteria describe in detail the considerations to be weighed in placing (or closing) city facilities, including the methods by which local community input is to be solicited as part of the decision-making process. Charter § 204 provides for the annual publication of the Citywide Statement of Needs, which gives notice to communities of facilities that the city is planning to site, expand, close, or reduce in the ensuing two fiscal years; along with an accompanying map showing the current use of all city-owned property. Community Boards and Borough Presidents are to review and comment upon these proposed sites.

Critics of current Fair Share practices, such as the Environmental Justice Alliance, the Pratt Institute, The Point Community Development Corporation and Citizens Union have argued that the Charter and the Fair Share Criteria are not sufficiently protective and that, as a result, some low-income communities are bearing the burden of more than their fair share of polluting facilities. These groups suggest that Fair Share be extended to apply not only to the siting of new city-owned or -operated facilities but also to state and private facilities such as power plants and waste transfer stations. While it is true that under the current Charter, the siting of these facilities is not subject to Fair Share analysis, when *city* facilities are sited, the existence of similar private and state or federal facilities must be taken into account by the city agency in determining a community's present burden. Whether the Charter could be amended to extend Fair Share to the siting of private or state/federal facilities is uncertain. For example, state law has always governed the siting of energy-producing facilities such as power plants; the law is presently in flux following the expiration of Article X of the Public Service Law, which established the New York State Board on Electric Generation Siting and the Environment. The expiration of the law has spawned debate and controversy over its replacement. Environmental advocates are participating in the process of generating new legislation, which may allow localities more of a role and address the concerns of environmental justice advocates. It is questionable whether the City has authority to legislate in this area absent specific enabling legislation from the state. The siting of private waste transfer stations, although not specifically addressed by Fair Share, is governed by detailed rules promulgated by the City Department of Sanitation, after protracted litigation and negotiation with environmental advocates. Those rules are designed to protect against over-proliferation and concentration of these facilities and to provide buffer zones around transfer stations proximate to residential communities.

The extension of the reach of Fair Share review beyond city facilities would be a major expansion of city jurisdiction and a significant increase in the responsibility of the CPC, to the extent siting decisions for non-city facilities would come before it for review. There has not yet been the full consideration of the practical and public policy implications of expanded jurisdiction that should take place before such charter amendments. In some respects, such an expansion, without enabling state legislation, might face serious legal challenges.

Advocates have also called for a prohibition on agency ability to proceed with siting actions not previously identified in the Statement of Needs for that year, on the basis that the practice robs communities of an adequate opportunity to respond to new proposals. The Charter now provides that if an agency files an application for a new city facility that will be subject to the ULURP process but that was not included in the Statement of Needs, the agency must give notice of the proposed facility to the Borough President, who may suggest an alternate site. Proposals for new facilities that are not subject to ULURP and that arise after the publication of the Statement of Needs do not have to undergo a formal process for community notification. According to the DCP, agencies undertake an informal consultation with affected communities before proposing a new site, but this process is not presently formally codified. Future commissions addressing land use issues should consider whether the Charter should formalize a process for non-ULURP facilities that are proposed after the publication of the Statement of Needs. Community groups have argued that the siting of such facilities be postponed until the next Statement of Needs, but the DCP counters that such a restriction would unduly limit agency flexibility to respond to emerging needs, including unanticipated demand for services and health or public safety emergencies that occur after the annual Statement of Needs.

Advocacy groups further suggested that the Charter be amended to require the DCP to publish and agencies to utilize technical indicators of the environmental burdens facing local communities, including local health data, numbers of brownfields and air quality data. With respect to such proposals regarding the incorporation of health indices and other measures into the Fair Share Criteria, DCP notes that there are significant uncertainties about how to measure these factors as well as complexities involved in taking them into account in siting decisions. Further, DCP responds that this information is already available elsewhere and is taken into account to the extent relevant for purposes of environmental review of a proposed facility, but not as the measure of whether a city facility should be sited at a particular location, and that the level of specificity urged by the advocates may not be appropriate for inclusion in the Charter.

As described above, the Commission is making a recommendation that DCP increase the information it publishes in the city map and gazetteer by including private, state, and federal transportation and waste management facilities in order to provide agencies and the public with

more information when making facility-siting decisions. If future commissions go in the direction of further expanding the DCP's responsibilities with respect to publishing geographical or other information, the Commission suggests careful analysis of its relevance and discussion between DCP and advocacy organizations as to what types of facilities and information should be included, so that the information is relevant, useful and not over-broad.

Some environmental groups have taken issue with the fact that under the current Charter, "efficient and cost effective delivery of services" is relevant to a Fair Share determination. These groups argue that this consideration encourages the placement of city facilities in low-income neighborhoods, because costs of building and operating in such communities are lower. The DCP maintains that the charter provision taking cost into account contemplates that cost and efficiency be considered not by themselves but along with concerns about concentration, equity and other factors in reaching a balanced determination. Any modification to these criteria would be a fundamental change in the Fair Share determination process. Finally, the Commission heard criticism of the fact that there is currently no administrative appeals process for a siting decision made under the Fair Share criteria. Opponents of a siting decision must go to court to challenge such a decision. The Commission notes that this is an issue best addressed by CPC.

The Commission heard and received testimony (including from Professor Tom Angotti at the Land Use Expert Forum, Pratt Center for Community Development, Citizens Housing and Planning Council, and Manhattan Borough President Scott Stringer) on the need for a holistic approach to city planning to complement bottom-up planning and zoning. These witnesses and others, including Commission members, identified PlaNYC, managed by the Mayor's Office of Long-Term Planning & Sustainability (within the Office of Operations), as an important planning framework to be integrated with the work of City Planning. A future charter revision commission focusing on land-use issues should study the balance among local and city-wide, and near-term and long-term, planning structures and processes.

### **197-a Plans**

Section 197-a of the Charter was added in 1975 to provide for community-based land use planning, which was a departure from the prior Charter requirement of comprehensive citywide

master planning. Section 197-a empowered Community Boards, Borough Presidents, Borough Boards, the DCP, the CPC, and the mayor to create “plans for the development, growth, and improvement” of the land within their jurisdiction. Any such plan that is written by a Community Board, Borough Board or Borough President must undergo a series of hearings, recommendations and approvals by the CPC, subject to City Council review.

Pursuant to the Charter, the CPC has promulgated rules concerning the processing of 197-a plans. Under those rules, once adopted, a plan “shall serve as a policy to guide subsequent actions by city agencies.” The CPC is to consider the plan when reviewing land use and zoning actions, where such consideration is consistent with the Charter and general law, and agencies other than the CPC are also urged to consider the plans as guidance. However, “[t]he existence of an adopted 197-a plan shall not preclude the sponsor or any other city agency from developing other plans or taking actions not contemplated by the 197-a plan that may affect the same geographic area or subject matter.”

Despite the intention of section 197-a, decentralized community planning has not happened on a wide scale: since 1989, 13 197-a plans have been approved by the CPC. Eleven were sponsored by Community Boards, one by a Borough President, and one by the DCP. One plan was withdrawn and one was disapproved.

The Commission has heard a great deal of public testimony from members of Community Boards and from civic groups such as the Pratt Institute, the Environmental Justice Alliance, and Citizens Union that Community Boards would like to create more 197-a plans but are hampered by their lack of technical expertise and lack of resources. The DCP currently provides technical advice to Community Boards, but advocates would like the DCP to devote more resources. Other suggestions would mandate that each community board hire its own urban planner, both to draft 197-a plans and to provide meaningful input when a community board is asked to comment on a proposed land use during the ULURP process; or mandate the Borough Presidents to maintain and provide planners to the Community Boards. These recommendations are discussed more fully in the section on Government Structure.

Another suggestion for encouraging the creation and implementation of 197-a plans is to give them more teeth. As noted above, under the current Charter and CPC rules, an adopted plan serves as policy guidance to the city but is not binding. Thus, some argue, there may not be enough incentive for a community board to go to the considerable trouble and expense of researching and drafting a plan. Advocates have accused the CPC of moving too slowly to certify community-drafted 197-a plans, and giving precedence to private proposals or city land use priorities. Advocates have also suggested implementing a requirement that a DCP proposal that is in conflict with an officially adopted 197-a plan require a super-majority vote of the CPC for approval.

The DCP, on the other hand, argues that the 197-a plans are intended to be planning frameworks that guide, but do not dictate, the substance of future zoning and other actions, which are themselves the subject of a separate public review process. Civic groups have also called for the CPC to create a citywide planning framework, so that 197-a plans can be created that are consistent with that framework. DCP, in contrast, maintains that local communities provide input into the planning process even in the absence of specific 197-a plans, and that dynamic and continuing planning is preferable to citywide master plans.

Like the issues discussed above, any change from the present role accorded 197-a plans by the Charter has significant implications for the planning process. The Commission cannot recommend such change at this point without further study of the ways in which it would affect the balance between city planning and community input and the practical effects on development.

### **Community Benefit Agreements**

Community benefit agreements (CBAs), are private agreements negotiated and agreed to by developers and community groups. A CBA contains promises to the community made by the developer in order to mitigate the harms that the development may cause, and to provide benefits for the local community. Such promises often involve matters that are outside the purview of standard land use agreements between developers and local governments, such as the creation of jobs for local citizens, the building of affordable housing units and other amenities. In return, the

community groups pledge not to oppose the development using any administrative or legal means open to them. These agreements are generally negotiated without any government oversight, but often at the insistence of or with the encouragement of local officials.

The best-known CBAs in the City have been created in connection with the Atlantic Yards development in Brooklyn, the new Yankee Stadium (although elected officials, rather than community groups, negotiated that CBA), and the expansion of Columbia University. These CBAs have received some mixed reviews, including criticism of direct payments made to community organizations that didn't exist before the creation of the CBA, lack of compliance by developers with promises made, and the failure to include truly representative community groups in the bargaining coalition. CBAs have been criticized generally because their negotiation is closed to the public; there can be a great disparity in knowledge and resources between large developers and small community groups, which can lead to agreements that are suboptimal for the community; and it is unclear whether the promises they contain are enforceable, especially in complicated situations where developers have committed to long-term initiatives such as hiring minority- and women-owned businesses at the site. CBAs have also been criticized for distorting the land use review process, and effectively resulting in situations where governmental land use decisions are improperly based on agreements which have no nexus to the land use and environmental issues. However, CBA supporters argue that the normal land use process does not allow for enough input by community members, and that CBAs provide a better forum for citizens to procure what they need from developers, resulting in a strengthening of the local economy and improvement of the neighborhood.

The Commission has heard mainly negative reactions to these unregulated agreements. At the expert panel on land use, Vishaan Chakrabarti, Professor of Real Estate at Columbia University, expressed concern over the proliferation of CBAs, which he said invite mischief and lack accountability. He went on to warn that they are a fundamental threat to the economy and growth of the city, and that they must be seriously addressed because they circumvent the oversight of elected officials and formalized legal processes. A second expert, Christopher Collins, Vice-Chair of the city Board of Standards and Appeals, agreed. The Commission also received a written submission from Lucy Koteen, President of the Central

Brooklyn Independent Democrats, who characterized CBAs as “a means for a developer to essentially buy support from people both within and without a community.” The New York City Bar Association has studied CBAs extensively and recommended to the Commission that clear guidelines be established. Other jurisdictions have chosen to regulate CBAs by overseeing their negotiation and/or enforcing the agreements after their approval. If these agreements continue to gain popularity in the city, future commissions may wish to consider how to regulate them.

### **Reorganizing Building Permissions**

The Commission has heard testimony that the current procedures guiding permit approval present several major challenges to the capital development and design community in New York City. Critics assert that the process lacks sufficient transparency and is often unpredictable, resulting in confusion for experienced and inexperienced developers alike, and creating expansive timelines that add significant costs. Furthermore, intermittent attempts to streamline policy have resulted in conflicting agency policies. The result, critics argue, is an atmosphere that provides disincentives for growth and modernization, and causes safety concerns as many avoid pursuing all approvals.

A proposal presented by the New York chapter of the American Institute of Architects (AIA) recommends the creation of a Buildings Commission to address the inefficiencies of the permit approval process. As proposed, such a commission would be comprised of executive representatives from each of the agencies engaged in building code enforcement. The Buildings Commission would be mandated to assess established operations, set policy, coordinate implementation among agencies, oversee conflicts and provide open forums for public education. It has also been suggested that, rather than a free-standing commission, such a division be placed under the purview of the Mayor’s Office of Operations, which possesses the charter-derived authority to “plan, coordinate and oversee the management of city governmental operations to promote the efficient and effective delivery of agency services.”

Work permits are required for the vast majority of renovations, expansions, demolition, and new construction throughout the city, as prescribed by the New York City Building Code. The Building Code, most recently revised in 2008, provides detailed guidelines surrounding

materials, construction trades, and use and occupancy. Charter § 643 provides the Department of Buildings with enforcement and oversight of the building code, including all permitting provisions included within. Accordingly, DOB has primary authority to interpret the code and implement rules that guide adherence to it.

The process for obtaining work permit approval is the same whether owners are engaging in multi-million dollar projects or home renovations. A registered architect or professional engineer must first submit plans to the DOB for review. Upon plan approval, contractors submit applications for each component of the job requiring a permit. Permit approval must be obtained prior to commencing construction and contractors must maintain them throughout the life of the project. While the DOB holds full oversight of the permit approval process, other agencies may become part of the permit review process if their approval is necessary in order to obtain a DOB permit. These might include, where relevant, the DCP, Landmarks Preservation Commission, Public Design Commission, Department of Design and Construction, and the Department of Housing Preservation and Development, among others. The number of agencies from whom permit applicants must obtain approval is dependent upon several factors, including project size, scope, and site location.

Although the Commission has expressed some interest in this issue, it was brought to its attention late in the process and has not been extensively discussed in Commission meetings or by the public. The Commission therefore defers the discussion for consideration by future commissions with the recommendation that proposals be referred to the DOB for comment and analysis, and that input from the public and relevant stakeholders be solicited in order to develop a solution that carefully considers charter-established structures and provides for long-term sustainability.

## STREAMLINING THE CHARTER

Many of the Commissioners and some of the public and good government groups believe that the Charter should be a document akin to the U.S. Constitution, setting forth the structure of government and leaving the details and implementation to the Administrative Code. They believe that simplifying the Charter in this manner would make it more accessible. This project would involve many choices and many strategic decisions. Creating an efficiently accessed and streamlined body of law for the City is a long-term project best undertaken by the Council in conjunction with the Law Department, and can in large measure be achieved by local law. The Commission recommends the establishment of a task force to review the Charter and the Administrative Code with a view towards “streamlining” the Charter and removing outdated materials.

In addition, advances in technology have transformed the world of 1989, when the charter was last extensively revised. In today’s world, New Yorkers need and expect immediately accessible, accurate information from and about their government. The City has taken extensive steps to make available online public notice of hearings, rule-making and contracting opportunities. In addition, state law requires publication in the City Record. This Commission’s use of current technology including web-casting and social networking tools to expand its hearing rooms to the entire city demonstrates some of the potential for creating a more transparent and accessible government. Every day brings new technological improvements. The Commission recommends that future commissions explore the ongoing opportunities provided by these advances.

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# APPENDICES

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## SUMMARY OF PUBLIC COMMENTS TO THE COMMISSION

Since the Commission began its work in March, it has drawn input from all corners of the City. The following is a summary of the proposals that individuals, whether elected officials or private citizens, submitted to the Commission for consideration.

<b>PUBLIC HEARINGS</b>	
<b>Manhattan Borough Hearing (April 6, 2010)</b>	
<b>Bill de Blasio Public Advocate</b>	<ul style="list-style-type: none"> <li>- Place term limits on ballot</li> <li>- Enhance voter assistance</li> <li>- Revise land use process</li> <li>- Enhance CCRB</li> <li>- Independent Budgets for COIB and CCRB</li> <li>- Enhance checks and balances in city government</li> <li>- Enhance Office of Public Advocate</li> </ul>
<b>Scott Stringer Manhattan Borough President</b>	<ul style="list-style-type: none"> <li>- Study concept of City Department of Foods and Markets</li> <li>- Study concept of City Office of Inspection</li> <li>- Create independent authority to decide on school overcrowding</li> <li>- Provide Community Boards with urban planning resources</li> <li>- Study concept of independent Planning Office</li> </ul>
<b>Patricia Dolan Queens Civic Congress President</b>	<ul style="list-style-type: none"> <li>- Enhance Community Boards, provide baseline budget, and give them greater autonomy</li> <li>- Enhance Office of Borough President, provide office baseline budget</li> </ul>
<b>Henry Stern New York City President</b>	<ul style="list-style-type: none"> <li>- Enhance Community Boards</li> <li>- Enhance checks and balances in city government</li> <li>- Streamline Charter</li> </ul>
<b>Frank Morano private citizen</b>	<ul style="list-style-type: none"> <li>- Reinstitute proportional representation</li> </ul>
<b>Lenora Fulani Chairwoman, New York City Independence Party</b>	<ul style="list-style-type: none"> <li>- Place non-partisan elections on ballot</li> </ul>
<b>Harry Kresky Counsel, New York City Independence Party</b>	<ul style="list-style-type: none"> <li>- Place non-partisan elections on ballot</li> </ul>
<b>Donald Long Veterans Quality of Life Access</b>	<ul style="list-style-type: none"> <li>- Increase voter and civic participation</li> </ul>

<b>Diego Quinones Community Voices Heard</b>	- Enhance Community Boards, have membership be elected positions
<b>Angelo Vega private citizen</b>	- Place term limits on ballot - Revise land use process - Institute affordable minimum wage
<b>Janelle Farris Pratt Center for Community Development</b>	- Revise land use process, and review zoning changes - Strengthen 197-a - Strengthen ULURP, make more transparent
<b>Elain Fisher Community Voices Heard</b>	- Enhance Community Boards
<b>Laura Caruso Policy Director, SEIU 32BJ</b>	- Revise land use process, include community input, codify community involvement in land use by requiring City Council to initiate all land use actions - Revise ULURP to mandate a wage standard - Revise powers of Procurement Policy Board to set criteria for administrations regarding contracts - Do not place non-partisan elections on ballot - Enhance Office of the Borough President
<b>Michael Zumbluskas New York State Independence Party</b>	- Place non-partisan elections on ballot - Reinstitute proportional representation - Institute instant run-off voting
<b>Carl Paladino Gubernatorial Candidate</b>	- Reinstitute two-term limits
<b>George Spitz private citizen</b>	- Reinstitute proportional representation - Repeal tuition at CUNY - Examine charter schools
<b>The Bronx Borough Hearing (April 12, 2010)</b>	
<b>Ruben Diaz, Jr. The Bronx Borough President</b>	- Do not place non-partisan elections on ballot - Enhance Office of the Borough President, provide independent budget, provide power to appoint to BSA, require agencies to attend Borough Services Cabinet meetings - Revise ULURP to include greater input for Borough Presidents - Revise COIB board membership appointment process, having criminal and civil court justices select board members
<b>Robert Press private citizen</b>	- Enhance Office of Borough President - Enhance Community Boards - City Council Speaker should be popularly elected position - Institute ten-year term limit for local elected officials, with two terms of five years each
<b>Joseph Garber Director, Citizens Police Council</b>	- Study agency functions provided in MMR and compare to Green Book and City website - Preserve DORIS and City Hall Library

<b>Alonso DeCastro</b> private citizen	<ul style="list-style-type: none"> <li>- Enhance Office of Borough President</li> <li>- Enhance Community Boards</li> <li>- Reinstigate term limits, set at two terms</li> </ul>
<b>John Rasenkowsky</b> private citizen	<ul style="list-style-type: none"> <li>- Reinstigate term limits</li> <li>- Revise Community Board appointment process, separate appointments from Borough Presidents, following Scott Stringer model</li> </ul>
<b>Oliver Koppel</b> New York City Council Member	<ul style="list-style-type: none"> <li>- Eliminate term limits</li> <li>- Mandate independent investigations into NYPD</li> </ul>
<b>Cedric Loftin</b> District Manager, The Bronx Community Board 1	<ul style="list-style-type: none"> <li>- Enhance Community Boards</li> </ul>
<b>Damian McShane</b> Chair, The Bronx Community Board 8	<ul style="list-style-type: none"> <li>- Enhance Community Boards</li> <li>- Revise land use procedures, include Community Boards in land use decisions and development</li> </ul>
<b>Fernando Tirado</b> District Manager, The Bronx Community Board 7	<ul style="list-style-type: none"> <li>- Enhance Community Boards, provide increased role with all service-providing city agencies, communicate all 3-1-1 data directly to Community Boards</li> </ul>
<b>Hetty Fox</b> private citizen	<ul style="list-style-type: none"> <li>- Provide charter support for women and homegrown small businesses</li> </ul>
<b>Robert Beeder</b> Representative, Bronx Merchants Coalition	<ul style="list-style-type: none"> <li>- Enhance Community Boards, student youth coordinator position, provide land use powers and land use planners for Community Boards</li> </ul>
<b>Howard Charles Yourow</b> private citizen	<ul style="list-style-type: none"> <li>- Study needed for LPC</li> </ul>
<b>Allen Cox</b> Chair, Bronx County Independence Party	<ul style="list-style-type: none"> <li>- Place non-partisan elections on ballot</li> </ul>
<b>Ramon Pena</b> private citizen	<ul style="list-style-type: none"> <li>- Place non-partisan elections on ballot</li> </ul>
<b>Ronni Colangalo</b> private citizen	<ul style="list-style-type: none"> <li>- Restore term limits</li> <li>- Prevent eminent domain in City</li> <li>- Make COIB independent from Mayor</li> </ul>
<b>Brian Fuentes</b> private citizen	<ul style="list-style-type: none"> <li>- Place non-partisan elections on ballot</li> </ul>
<b>Jennifer Huerrera</b> private citizen	<ul style="list-style-type: none"> <li>- Codify Mayor's office of Adult Education in Charter</li> </ul>
<b>J.C. Polanco</b> Commissioner, New York City Board of Elections	<ul style="list-style-type: none"> <li>- Place non-partisan elections on ballot</li> </ul>

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<p><b>Bob Nolan</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Enhance Office of Borough President, increase funding to office, allow Borough President appointments to CPC, provide role for Borough Presidents in borough schools</li> <li>- Study enhancements to Community Boards, provide Community Boards \$250,000 annual budget</li> </ul>
<p><b>Eddie Bautista</b> Executive Director, New York City Environmental Justice Alliance</p>	<ul style="list-style-type: none"> <li>- Reform Fair Share and 197-a</li> </ul>
<p><b>Roberto Garcia</b> Chair, The Bronx Community Board 2</p>	<ul style="list-style-type: none"> <li>- Enhance Office of Borough President</li> </ul>
<p><b>Cherryl Cherries</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Enhance Community Boards</li> <li>- Revise US Census options for race</li> </ul>
<p><b>Anthony Green</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Include charter-mandate for introducing technology to City residents</li> </ul>
<p><b>Michael Myers</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Restore term limits</li> </ul>
<p><b>Arthur Richardson</b> Black United Leadership of The Bronx</p>	<ul style="list-style-type: none"> <li>- Do not place non-partisan elections on ballot</li> <li>- Enhance Office of Borough President, provide Borough President land use power</li> </ul>
<p><b>Bree Smith</b> President, South Bronx Community Association</p>	<ul style="list-style-type: none"> <li>- Enhance Office of Borough President</li> <li>- Enhance Community Boards</li> <li>- Restore term limits</li> <li>- Codify living wage</li> </ul>
<p><b>Julia Geronimo</b> Community Advisor, Throgs-Neck Community Action Partnership</p>	<ul style="list-style-type: none"> <li>- Enhance Community Boards</li> </ul>
<p><b>George Spitz</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Investigate tuition in CUNY as it appears to be illegal</li> </ul>
<p><b>Carl Everett</b> Chair, The Bronx Conty Green Party</p>	<ul style="list-style-type: none"> <li>- Do not place non-partisan elections on ballot</li> <li>- Enhance Community Boards</li> <li>- Study creating better venue for citizen complaints</li> </ul>
<p><b>John Reynolds</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Enhance Office of Borough President</li> <li>- Enhance Community Boards, make Community Board members elected positions</li> <li>- Do not place non-partisan elections on ballot</li> <li>- Revise New York State election laws for City</li> </ul>
<p><b>Kenny Augusto</b> The Bronx Community Board 11 Member</p>	<ul style="list-style-type: none"> <li>- Enhance Office of Borough President</li> <li>- Enhance Community Boards, increase budgets</li> </ul>
<p><b>Alex Diaz</b> Chief of Staff, New York State Senator</p>	<ul style="list-style-type: none"> <li>- Abolish Office of Borough President</li> <li>- Abolish Office of Public Advocate</li> </ul>

<b>Pedro Espada, Jr.</b>	<ul style="list-style-type: none"> <li>- Enhance Community Boards, creating civic boards and/or empowering Community Boards by making members elected positions</li> </ul>
<b>Staten Island Borough Hearing (April 13, 2010)</b>	
<b>James Molinaro Staten Island Borough President</b>	<ul style="list-style-type: none"> <li>- Enhance Office of Borough President</li> <li>- Mandate inter-agency Borough President council with monthly meetings for all borough-service providing agencies</li> <li>- Borough Presidents appoint / maintain licensed-borough architect</li> </ul>
<b>James Oddo New York City Council Member</b>	<ul style="list-style-type: none"> <li>- Enhance Office of Borough President, carve out role for Borough Presidents in choosing borough commissioners</li> <li>- Consolidate all land use agencies into Department of Land Use</li> <li>- Study means of improving communications between local elected officials and City agencies</li> <li>- Decentralize City government / provide boroughs more autonomy and power with City agencies</li> </ul>
<b>Vincent Ignizio New York City Council Member</b>	<ul style="list-style-type: none"> <li>- Reduce Mayoral power</li> <li>- Prevent Mayor and Council from overturning referendums</li> <li>- Community Board appointments direct from Council</li> <li>- COIB should have separate budget</li> <li>- Comptroller should set revenue projection</li> <li>- Study multi-year budget</li> <li>- Merge DOR and City Clerk's offices</li> <li>- City Council should have final scoping authority on land use, remove 15 days from timeline</li> <li>- BSA standard should be changed from "any evidence" to "substantial evidence" for City Council</li> <li>- LPC meetings should be subject to Open Meetings Law</li> <li>- City Council should review parks concessions</li> </ul>
<b>Deborah Rose New York City Council Member</b>	<ul style="list-style-type: none"> <li>- Study term limits</li> <li>- Study procurement</li> <li>- Study borough powers</li> </ul>
<b>Michael Capitelli Chief of Staff, New York State Assembly Member Lou Tobacco</b>	<ul style="list-style-type: none"> <li>- Provide boroughs more autonomy and control over City agencies / selection of borough commissioners</li> <li>- Decentralize City government</li> </ul>
<b>Anthony Reinhart District Operations Director, New York State Senator Andrew Lanza</b>	<ul style="list-style-type: none"> <li>- Decentralize City government, allow borough commissioners to make independent decisions for boroughs</li> </ul>
<b>Michael Albanese Staffer, New York State Senator Diane Savino</b>	<ul style="list-style-type: none"> <li>- Maintain Office of Public Advocate, add CCRB and COIB to Public Advocate</li> <li>- Enhance Comptroller's role in budget process</li> <li>- Enhance Office of Borough President, give Borough Presidents power to veto selections for borough commissioners of agencies</li> <li>- Create borough commissioner positions for EDC</li> <li>- Decentralize City government</li> </ul>

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<b>Gloria Smith</b> private citizen	- Prevent Mayor and Council from overturning referendums - Restore term limits
<b>Joe Valentino</b> private citizen	- Enhance Office of Borough President - Decentralize City government
<b>Alan Capelli</b> private citizen	- Enhance Office of Borough President - Decentralize City government
<b>Barbara Fisher</b> Waterways Project of Tempny Players	- Enhance Office of Public Advocate
<b>Philip Rampulla</b> Rampulla Associates Architects	- Enhance Office of Borough President, create inter-agency Council mandated by Charter, Borough Presidents get two appointees to CPC - Borough representative on BSA - Mandated local registration for civic associations with City
<b>David Goldfarb</b> private citizen	- Decentralize City government, specifically land use decisions- Enhance Office of Borough President, give Borough Presidents appointment power for local transportation commissioner- Land use variances should be approved by borough boards
<b>Ronald Maisella</b> private citizen	- Decentralize City government - Enhance Community Boards
<b>Lee Covino</b> private citizen	- Enhance Office of Borough President - Prevent Mayor and Council from overturning referendums
<b>Robert Scamardella</b> private citizen	- Enhance Office of Borough President - Student governmental decentralization
<b>Patrick Highland</b> District Director, United States Representative <b>Michael McMahon</b>	- Decentralize City government - Enhance Office of Borough President - Provide Staten Island ability to push economic development projects
<b>Linda Baran</b> President, Staten Island Chamber of Commerce	- Decentralize City government - Allow Borough Presidents to make local traffic and transit decisions - Mandate Master Plans for boroughs
<b>Michael Grimm</b> private citizen / candidate for United States Representative	- Restore term limits
<b>Alessandra Cain</b> private citizen	- Place non-partisan elections on ballot
<b>Kenneth Hicks</b> Treasurer, Richmond County Independence Party	- Place non-partisan elections on ballot
<b>Randy Lee</b> private citizen	- Abolish Office of Public Advocate - Establish two term limit for Mayor, three term limit for Council

	<ul style="list-style-type: none"> <li>- Support Council Intro-630</li> <li>- Revise land use process, ULURP, DCP, and CPC</li> <li>- Enhance Office of Borough President</li> </ul>
<b>Dee Vandenberg</b> <b>Staten Island Taxpayers Association</b>	<ul style="list-style-type: none"> <li>- Decentralize City government</li> </ul>
<b>James Ochio</b> <b>private citizen</b>	<ul style="list-style-type: none"> <li>- Enhance Office of Borough President</li> <li>- Decentralize City government</li> <li>- Study election law regarding redistricting based on Census</li> </ul>
<b>Michael Morrell</b> <b>President, Westerleigh Improvement Society</b>	<ul style="list-style-type: none"> <li>- Decentralize City government</li> </ul>
<b>Alan Kayler</b> <b>private citizen</b>	<ul style="list-style-type: none"> <li>- Place non-partisan elections on ballot</li> </ul>
<b>Sarah Lyons</b> <b>Chair, Richmond County Independence Party</b>	<ul style="list-style-type: none"> <li>- Place non-partisan elections on ballot</li> </ul>
<b>Frank Morano</b> <b>Chair, Staten Island Community Board 3</b>	<ul style="list-style-type: none"> <li>- Enhance Office of Borough President</li> <li>- Create borough-planning commissions for land use</li> <li>- Change DOB waiver process</li> <li>- Prevent Mayor and Council from overturning referendums</li> <li>- Abolish Office of Public Advocate</li> </ul>
<b>Alex Zlabocki</b> <b>private citizen</b>	<ul style="list-style-type: none"> <li>- Revise land use process, eliminate CPC "pocket veto"</li> <li>- Redefine Council Member position in Charter as full-time</li> <li>- Public Advocate and Borough President should have BSA appointments</li> <li>- Provide Public Advocate with subpoena power</li> <li>- Mandate time frames for agencies to answer FOIL requests</li> <li>- Eliminate VAC, replace with CIVIC</li> <li>- Create "Office of Coordination" in Mayor's Office of Operations</li> <li>- Create borough director position for Borough Presidents</li> <li>- Place non-partisan elections on ballot</li> <li>- Change order of mayoral succession to Comptroller</li> <li>- Provide Public Advocate with independent budget</li> <li>- Revise Community Board appointment process</li> <li>- Provide Public Advocate with two appointments per board, Borough Presidents with 23, and make remaining 25 positions elected positions</li> </ul>
<b>Maria Boddner</b> <b>private citizen</b>	<ul style="list-style-type: none"> <li>- Enhance Office of Borough President, give Staten Island Borough President power over DOT improvements</li> <li>- Decentralize City government</li> </ul>
<b>Brendan Lantry</b> <b>District Leader, Richmond County Republican Party</b>	<ul style="list-style-type: none"> <li>- Place non-partisan elections on ballot</li> </ul>

<b>Ralph Martell</b> private citizen	- Decentralize City government
<b>Guy Zoda</b> private citizen	- Place non-partisan elections on ballot
<b>Bill McCarthy</b> private citizen	- Study Charter's relationship with other State laws
<b>Alan Weissman</b> private citizen	- Place non-partisan elections on ballot
<b>David Mario Cursio</b> Law Chairman, Staten Island Community Board 2	- Enhance Office of Borough President - Enhance Community Boards
<b>Christopher Rooney</b> Second Vice-Chairman, Staten Island Community Board 1	- Enhance Office of Borough President, create inter-agency council for borough commissioners for Borough Presidents, provide Borough Presidents with BSA appointments - Decentralize City government
<b>Brian Whelan</b> private citizen	- Decentralize City government - Provide Staten Island with more power to make infrastructure changes
<b>Deborah Derrico</b> District Manager, Staten Island Community Board 2	- Strengthen checks and balances between Mayor and boroughs / Council - Enhance Office of Borough President - Decentralize City government, give land use and transportation issues to boroughs- Create local land use planning offices
<b>Roy Moskowitz</b> private citizen	- Enhance Office of Borough President - Enhance Office of Public Advocate, provide guaranteed budget - Increase bus and ferry frequency - Mandate budget allocations for city services based on population
<b>Father John Ryan</b> private citizen	- Enhance Office of Borough President - Study how to further City's ability to govern itself under Home Rule
<b>John Tobacco</b> private citizen	- Place term Limits on November ballot - Study proportional representation
<b>Queens Borough Hearing (April 19, 2010)</b>	
<b>Jimmy Van Bramer</b> New York City Council Member	- Change language of law that allows Mayoral-formed Charter Revision Commission to trump Council-formed one - Institute the proposals in Council Member Brewer's letter to Charter Revision Commission
<b>Daniel Dromm</b> New York City Council Member	- Provide Council with power for advice and consent on all Mayoral commissioner appointments - Mandate all commissioner nominees complete detailed questionnaire and provide testimony under oath

	<ul style="list-style-type: none"> <li>- Have Council policy report developed on each nominee</li> <li>- Have each nominee formally visit with appropriate City Council committee chairs</li> </ul>
<p><b>Scott Stringer</b> <b>Manhattan Borough President</b></p>	<ul style="list-style-type: none"> <li>- Enhance Community Boards, provide with an urban planner</li> <li>- Create independent planning Office for City</li> <li>- LPC and BSA should have Borough President and Public Advocate appointees</li> <li>- Revise land use process, Increase Borough and Community input</li> <li>- Create a Department of Foods and Markets</li> <li>- Provide Comptroller and DCP control over school enrollment numbers</li> <li>- Curb DOB power and authority, create a Department of Citywide Inspections to investigate building complaints</li> </ul>
<p><b>Santiago Vargas</b> <b>Representative, New York State</b> <b>Assemblywoman Catherine Nolan</b></p>	<ul style="list-style-type: none"> <li>- Preserve Community Boards</li> </ul>
<p><b>Brian Pu-Folks</b> <b>President, New Immigrant Community</b> <b>Empowerment</b></p>	<ul style="list-style-type: none"> <li>- Mandate VAC publications be made available to public</li> <li>- Change COIB appointment process, separate from Mayor, - Provide guaranteed budget</li> </ul>
<p><b>Helen Marshall</b> <b>Queens Borough President</b></p>	<ul style="list-style-type: none"> <li>- Enhance Community Boards</li> <li>- Enhance Office of Borough President</li> </ul>
<p><b>David Casavis</b> <b>private citizen</b></p>	<ul style="list-style-type: none"> <li>- Abolish Office of Borough President</li> </ul>
<p><b>Barbara Glassman</b> <b>private citizen</b></p>	<ul style="list-style-type: none"> <li>- Restore term limits</li> <li>- Prevent Mayor and City Council from overturning referendums</li> <li>- Eliminate campaign spending for City</li> <li>- Preserve Office of Public Advocate</li> <li>- Do not place non-partisan elections on ballot</li> </ul>
<p><b>Robert Giglio</b> <b>Queens County Independence Party</b></p>	<ul style="list-style-type: none"> <li>- Place non-partisan elections on ballot</li> </ul>
<p><b>Adrienne Kivelson</b> <b>City Affairs Chair, New York City</b> <b>League of Women Voters</b></p>	<ul style="list-style-type: none"> <li>- Codify Department of Education in Charter</li> <li>- Institute IRV</li> <li>- Guaranteed budgets for Public Advocate and Comptroller</li> <li>- Enhance Community Boards</li> <li>- Study term limits</li> <li>- Transfer Charter Section 528 to the Administrative Code</li> <li>- Streamline Charter</li> </ul>
<p><b>Steven Beard</b> <b>private citizen</b></p>	<ul style="list-style-type: none"> <li>- Mandate moratorium for developments</li> <li>- Give Council power to implement moratoriums</li> <li>- Make Community Board members elected positions</li> </ul>
<p><b>Antoine Joyce</b> <b>Producer, All-Stars Program</b></p>	<ul style="list-style-type: none"> <li>- Place non-partisan elections on ballot</li> <li>- Support "community-building" initiative</li> </ul>
<p><b>Adjoa Gzifa</b></p>	<ul style="list-style-type: none"> <li>- Enhance Community Boards</li> </ul>

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<b>Chair, Queens Community Board 12</b>	
<b>Megan Freidman</b> private citizen	- Create more control over developers by City Planning and Council
<b>Barbara Lorenz</b> <b>Representative, Dutch Kills Advocacy League</b>	- Mandate moratorium for development - Implement new rules for development
<b>David Pollock</b> <b>Associate Executive Director, Jewish Community Relations Council</b>	- Repeal Charter Chapter 50's mandate for proportional minority representation on the districting commission
<b>James Fallach</b> private citizen	- Provide Community Boards the power to run interference on development
<b>Robert Strong</b> private citizen	- Mandate DOB Commissioner be certified engineer or architect - Prevent Council from removing requirement from Charter
<b>Bob Friedrich</b> <b>President, Glen Oaks Civic Association</b>	- Redefine Council member position in Charter as full-time - Prohibit member items - Study term limits - Make term limit changes prospective - Make salary changes prospective
<b>Harbachan Singh</b> <b>Vice-President, Queens Civic Congress</b>	- Separate Community Boards from City Hall
<b>Matthew Bishop</b> <b>Representative, Volunteers America</b>	- Streamline Charter, make Charter gender-neutral
<b>Jeremiah Frei-Pearson</b> private citizen	- Restore term limits - Remove stipends for Council chairs
<b>Brent O'Leary</b> private citizen	- Enhance Community Boards, make Community Board members elected positions
<b>J. Rose</b> private citizen	- Preserve Community Boards - Preserve Office of Public Advocate
<b>Maurice Penzel</b> private citizen	- Abolish Office of Borough President
<b>Grace Lawrence</b> <b>Chair, Queens Community Board 3</b>	- Enhance Office of Borough President - Enhance Community Boards
<b>Giovanna Reid</b> <b>District Manager, Queens Community Board 3</b>	- Enhance Office of Borough President - Enhance Community Boards
<b>Eugene Kelty</b> <b>Chair, Queens Community Board 7</b>	- Enhance Community Boards, provide guaranteed budget - Lower threshold for Parks Department Capital Construction for project size requiring Community Board review
<b>George Spitz</b>	- Revise process of City providing campaign financing, direct

<b>private citizen</b>	funding toward enhancing Voters Guide, purchasing television and air time for educational slots about candidates
<b>Brooklyn Borough Hearing (April 20, 2010)</b>	
<b>Marty Markowitz Brooklyn Borough President</b>	<ul style="list-style-type: none"> <li>- Enhance Office of Borough President, provide urban planners / resources to hire urban planners, provide resources for Borough Presidents to fund borough-based groups</li> <li>- Enhance Community Boards</li> <li>- Enhance Office of Public Advocate</li> <li>- Provide guaranteed budgets to Borough Presidents, Community Boards and Public Advocate</li> </ul>
<b>Lew Fidler New York City Council Member</b>	<ul style="list-style-type: none"> <li>- Enhance checks and balances in City government</li> <li>- Provide Comptroller role in setting City revenue estimate</li> <li>- Allow Council to make and modify budget modifications</li> <li>- Mandate Mayor must enforce all laws passed by Council</li> <li>- Mandate Chancellor of the Department of Education (DOE) be appointed with advice and consent of Council</li> <li>- Require DOE budget be divided into smaller units of appropriation</li> <li>- Eliminate Arts Commission</li> <li>- Enhance Office of Borough President</li> <li>- Enhance Community Boards</li> </ul>
<b>Steve Levin New York City Council Member</b>	<ul style="list-style-type: none"> <li>- Revise land use process, Provide Council power to modify land use applications and strike down development applications in CPC</li> <li>- Enhance Office of Borough President</li> <li>- Enhance Community Boards</li> <li>- Provide Council greater power to modify Executive budget</li> </ul>
<b>Brad Lander New York City Council Member</b>	<ul style="list-style-type: none"> <li>- Place term limits on ballot</li> </ul>
<b>Elizabeth Jean-Pierre Executive Director, UpGirls</b>	<ul style="list-style-type: none"> <li>- Mandate City include more information for Fair Share and 197-a reports, including citing new facilities in City's Annual Statement of Needs, and City Planning should not trump Fair Share and 197-a plans under ULURP</li> </ul>
<b>Eddie Bautista Executive Director, New York City Environmental Justice Alliance</b>	<ul style="list-style-type: none"> <li>- Mandate City cite facilities and properly identify facilities in annual Statement of Needs, City Planning should not trump Fair Share and 197-a plans</li> <li>- Enhance Community Boards, provide with guaranteed funding, and change Community Board appointment process</li> </ul>
<b>Maria Santangelo Academic Counselor, College and Community Fellowship</b>	<ul style="list-style-type: none"> <li>- Codify Mayor's office of Adult Education in Charter</li> </ul>
<b>Fran Miller private citizen</b>	<ul style="list-style-type: none"> <li>- Place non-partisan elections on ballot</li> </ul>
<b>Michael Alibretti</b>	<ul style="list-style-type: none"> <li>- Decentralize City government</li> </ul>

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<b>private citizen</b>	- Place non-partisan elections on ballot
<b>Leticia James New York City Council Member</b>	- Decentralize City government, Provide more power to Council - Provide Council with oversight over CCRB, NYPD, EDC, and IDA - Fair Share issues should be reviewed by Council - Enhance Community Boards
<b>John Liu Comptroller</b>	- Mayor should not be allowed to set the revenue projections for the City, allow the Comptroller's office to do so
<b>Stacy Sanchez Director, Susnet Park Alliance for Youth</b>	- Codify Mayor's office of Adult Education in Charter
<b>Stacy Evans Director, Adult Education and Training, Lutheran Family Health Center</b>	- Codify Mayor's office of Adult Education in Charter
<b>Bob Conroy Chair, Kings County Independence Party</b>	- Place non-partisan elections on ballot
<b>Jumaane Williams New York City Council Member</b>	- Revise land use process, provide Community Boards vote on ULURP applications - Remove school safety from NYPD - Provide Council more oversight over CCRB - Provide Council more power over City budget - Council should have oversight over PEB, Rent Guidelines, and other committee that Council currently has no power over
<b>Ed Jaworski Executive Vice-President, Madison-Marine-Homecrest Civic Association</b>	- Amend Charter to mandate that PAAs for building must be received through BSA, not DOB - Mandate BSA appointments from other officials - Revise Community Board appointment process - Place term limits on the ballot - Revise Charter to include terminology on "ethical behavior" to regulate actions of City officials
<b>Alan Butnick private citizen</b>	- Prevent Mayor and Council from overturning referendums
<b>Nizjoni Granville Chair, Brooklyn Community Board 8</b>	- Enhance Community Boards, increase Community Boards' role in ULURP
<b>Alvin Burke Chair, Brooklyn Community Board 14</b>	- Enhance Community Boards, increase Community Boards' role in land use process
<b>Tom Angotti Professor, Hunter College</b>	- Strengthen 197-a, create framework for planning for entire City
<b>Theresa Scavo Chair, Brooklyn Community Board 15</b>	- Enhance Community Boards

<b>Nadine Whitte</b> <b>District Manager, Brooklyn</b> <b>Community Board 4</b>	- Enhance Community Boards, provide guaranteed budgets
<b>Yessenia Fajardo</b> <b>Member, Right to the City Alliance</b>	- Promote Community Board youth membership
<b>Ed Eisenberg</b> <b>private citizen</b>	- Enhance Community Boards, increase Community Board funding
<b>Deanna Bitetti</b> <b>Associate Director, Common Cause/NY</b>	- Place ballot initiative on term limits
<b>Theo Moore</b> <b>Communications and Outreach</b> <b>Coordinator, Common Cause/NY</b>	- Enhance Community Boards, provide guaranteed budget, and provide tools for communication and outreach
<b>David Casavis</b> <b>private citizen</b>	- Abolish Office of Borough President
<b>Joan DeCalibis</b> <b>private citizen</b>	- Place non-partisan elections on ballot
<b>Julie Menin</b> <b>Chair, Manhattan Community Board 1</b>	- Revise ULURP, add standards to ULURP process
<b>Serena Blanchard</b> <b>Representative, Kings County</b> <b>Democratic Party</b>	- Do not place non-partisan elections on ballot
<b>Meredith Staton</b> <b>Member, Brooklyn Community Board</b> <b>8</b>	- Enhance Office of Borough President - Place non-partisan elections on ballot
<b>Raphael Mendez</b> <b>private citizen</b>	- Reorganize system of elections, promote more youth participation
<b>Gene Russianoff</b> <b>Director, Straphangers Campaign,</b> <b>NYPIRG</b>	- Do not place non-partisan elections on ballot - Study City's authority to increase voter participation - Place term limits on the ballot - Prevent Mayor and City Council from overturning referendums
<b>Brian Puertas (et. al.)</b> <b>private citizens</b>	- Place non-partisan elections on ballot
<b>Paul Nelson</b> <b>Chief of Staff, New York State</b> <b>Assembly Member Joan Millman</b>	- Revise powers and responsibilities of BSA - Revise land use process - Study term limits, institute three terms or two five-year terms
<b>Eric Weltman</b> <b>private citizen</b>	- Decentralize City government - Maintain Office of Public Advocate - Enhance Office of Borough President - Enhance Community Boards - Revise land use process - Penalize facilities that pollute the City

<p><b>Cole Culclasure</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Voter Guide should include debate program</li> <li>- Study question of whether candidates should be required to raise \$50K before participation in an election is allowed</li> </ul>
<p><b>Barbara Zucker</b> Vice-President for Public Policy, Women's Club of New York</p>	<ul style="list-style-type: none"> <li>- Codify pay equity in Charter</li> <li>- Redefine Council Member position in Charter as full-time, limit outside income for Council Members</li> <li>- Re-evaluate member items and stipends for Committee chairs</li> <li>- Maintain Office of Public Advocate</li> <li>- Provide Public Advocate with guaranteed budget</li> <li>- Mandate non-partisan redistricting</li> <li>- Chapter 20 on DOE needs to be fixed or deleted</li> <li>- DOE should be made subject of oversight and accountability</li> <li>- Streamline Charter</li> </ul>
<p><b>Dick Dadey</b> Executive Director, Citizens Union</p>	<ul style="list-style-type: none"> <li>- Supports two terms for citywide officials, three terms for Council Members</li> </ul>
<p><b>Loraine Marseillaine</b> Executive Member, Kings County Independence Party</p>	<ul style="list-style-type: none"> <li>- Place non-partisan elections on ballot</li> </ul>
<p><b>Jo Anne Simon</b> District Leader, Kings County Democratic Party</p>	<ul style="list-style-type: none"> <li>- Enhance Community Boards, provide urban planner / urban planning expertise to all boards</li> </ul>
<p><b>Charles Latson</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Enhance Community Boards</li> <li>- Add surveillance cameras to all schools</li> </ul>
<p><b>George Spitz</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Mandate Pension funds be invested exclusively in NYC debt</li> <li>- Contracting officers and relevant commissioner must certify that private contracts cannot be performed by NYC civil servants</li> </ul>
<p><b>Owen Monk, Sr.</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Restore term limits</li> <li>- Mandate maintenance of fire houses</li> <li>- Maintain independence of Comptroller</li> </ul>
<p><b>Gail George</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Maintain term limits</li> <li>- Maintain Office of Public Advocate</li> <li>- Provide Comptroller with independent budget</li> </ul>
<p><b>Josefina Sanfeliu</b> Latinas Against FDNY Cuts</p>	<ul style="list-style-type: none"> <li>- Mandate EIS for closure of firehouses</li> </ul>
<p><b>Joseph Garber</b> Director, Citizens Police Council</p>	<ul style="list-style-type: none"> <li>- Study codification of NYCHA</li> <li>- Compare functions of agencies in Charter to Green Book and Mayor's Management Report</li> </ul>
<p><b>Frank Morano</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Place non-partisan elections on ballot</li> <li>- Institute proportional representation</li> <li>- Revise process of Community Board member appointments</li> </ul>
<p><b>Mercedes Narcisse</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Enhance Community Boards</li> <li>- Maintain Office of Public Advocate</li> </ul>

	- Restore term limits
<b>ISSUE FORUMS</b>	
<b>Term Limits (May 25, 2010)</b>	
<b>Marty Markowitz</b> Brooklyn Borough President	- Maintain three terms, or abolish term limits completely
<b>Howard Charles Yourow</b> private citizen	- Place term limits on ballot
<b>Michael White</b> Noticing New York	- Against the increased power of the Mayor's Office
<b>Henry Stern</b> Director, New York Civic	- Supports limit of two terms for all elected officials
<b>Julius Tajiddin</b> private citizen	- Supports limit of two terms for all elected officials
<b>John Keefe</b> Staff Member, New York State Assembly Member James Brennan	- No new issues on the ballot - Extend charter revision - 2/3 Council vote to place issues on the ballot
<b>Adjon Zifa</b> Brooklyn Community Board 12	- Against term limits, but supports the vote of the people
<b>Bill de Blasio</b> Public Advocate	- Address term limits for different offices and whether the Mayor or City Council have the authority to change their own terms
<b>Alex Camarda</b> Citizens Union	- Decisions should be made by voters - Two consecutive four-year terms for Public Advocate, Borough President, Comptroller, Mayor - Three consecutive four-year terms for Council - Initiate discussion on redistricting
<b>Oliver Koppel</b> New York City Council Member	- Abolish term limits
<b>AB Britton</b> private citizen	- Two terms for Mayor and all elected officials
<b>Juamani Williams</b> New York City Council Member	- Supports limit of three terms for all elected officials
<b>Ed Brady</b> private citizen	- Allow everyone to vote on term limits
<b>Michael Zumbuskas</b> Independence Party	- Against term limits
<b>Una Clark</b> Former New York City Council Member	- Against term limits

<b>Lorraine McKeon Scanni</b> (via Facebook)	Term Limits - "all for them. Being an elected official should not be a 'career'"
<b>Christopher Spinelli</b> (via Facebook)	Term limits- "yes. And since the people of NY twice voted for term limits, this seems to be a moot point."
<b>Gary He Junior</b> (via Facebook)	"On a level as local as a city, term limits are unnecessary. If we are unhappy with our politicians, we can vote them out as we please. No need to impose unnecessary limitations."
<b>Francesca Orrach</b> (via Facebook)	"I don't like the way the Council extended term limits, but I think three is the right number of terms."
<b>Griffin McGee</b> (via Facebook)	"All term limit decisions should be left to the people rather than having politicians decide themselves."
<b>Voter Participation (June 2, 2010)</b>	
<b>Gene Russianoff &amp; Neil Rosenstein</b> NYPIRG	<ul style="list-style-type: none"> <li>- Implement same day registration</li> <li>- Mail-in ballots</li> <li>- Generally encourage registration, improve voter assistance, expand voter guide</li> </ul>
<b>John Keefe</b> Staff Member, New York State Assembly Member James Brennan	<ul style="list-style-type: none"> <li>- Do not place nonpartisan elections on the ballot</li> </ul>
<b>John Rozankowski</b> private citizen	<ul style="list-style-type: none"> <li>- Restore term limits</li> <li>- Improve outreach to the average voter</li> </ul>
<b>Eric Ulrich</b> New York City Council Member	<ul style="list-style-type: none"> <li>- Place nonpartisan elections on the ballot</li> </ul>
<b>Jane Thompson</b> Resale and Wholesale Department Store Union	<ul style="list-style-type: none"> <li>- No new issues on this ballot, including nonpartisan election, need more time to properly address issues</li> </ul>
<b>Lenora Fulani</b> Chairwoman, New York City Independence Party	<ul style="list-style-type: none"> <li>- Include independents in primary</li> </ul>
<b>Jumaane Williams</b> New York City Council Member	<ul style="list-style-type: none"> <li>- Automatic registration for those applying for driver's licenses and other government forms</li> <li>- Move voting to weekends, or extend the voting period</li> <li>- Compulsory voting</li> <li>- Enfranchise legal noncitizens</li> <li>- Do not place nonpartisan elections on ballot</li> </ul>
<b>Thomas Thomassian</b> Minority Party	<ul style="list-style-type: none"> <li>- Provide for free college education and terminate debt</li> <li>- Eliminate NASA</li> <li>- Fine registered voters who fail to vote</li> </ul>
<b>Denora Getachew</b> Staff Member, Public Advocate Bill de Blasio	<ul style="list-style-type: none"> <li>- Do not place nonpartisan elections on ballot</li> <li>- Same day registration, electronic registration</li> <li>- Improve Voter Assistance Commission</li> </ul>

<b>Robert Press</b> private citizen	- Five two-year terms for city council
<b>Roxanne Delgado</b> private citizen	- Do not place nonpartisan elections on ballot - Increase accountability of office holders
<b>Adamola Oyefeso</b> Working Families Party	- Do not place nonpartisan elections on ballot - Same day voting
<b>Nicholas Widzowski</b> private citizen	- Place nonpartisan elections on ballot - Allow all registered voters to participate in primaries
<b>Al Rodriquez</b> Staff Member, The Bronx Borough President Ruben Diaz, Jr.	- Voting reform: early, weekend, mail-in, same-day registration, internet - Do not consider nonpartisan elections
<b>Frank Morano</b> private citizen	- Instant runoff - Place nonpartisan elections on ballot
<b>Joseph Garber</b> Director, Citizens Police Council	- Improve poll worker education - Against same-day registration
<b>Father Richard Gorman</b> Chair, The Bronx Community Board 12	- Enhance Community Boards - Enhance Public Advocate - Enhance Comptroller
<b>Ronald Adamako</b> private citizen	- Place nonpartisan elections on ballot - Include independents in primary elections
<b>Gary Allsbrook</b> private citizen	- Include independent voters in primary elections
<b>Myrna LaBow</b> private citizen	- Supports popular election of judges
<b>Claudio Simpkins</b> (via Facebook)	<p>"Voter participation is a function of a voting populace that is informed, motivated, and empowered. The people need to KNOW what their rights are and how to use the electoral process to effect change. They need to be MOTIVATED to participate and to encourage those in their community to do the same. And finally, they must have the ABILITY to actually participate. Actions such as the 2008 usurpation of the people's right to choose to affirm or change term limits are an affront to these principles.</p> <p>We must continue to trust and empower the people of this great city to make the tough decisions that previous generations have had to make -- decisions that, if we look at the state of this city to date, those before us have made wisely and to the benefit of us all. Elections must offer citizens a chance to forge a new future, not merely to ratify the comfortable conclusions of the past."</p>
<b>Becky McCauley</b> (via Facebook)	"There should be more voter participation in NYC. Any proposal that accomplishes that, sounds good to me."

<p><b>Sarah David</b> (via Facebook)</p>	<p>"I think it's also essential to update voting equipment. When people see lines for hours, they're dissuaded from voting. There is no reason to have only two machines in voting districts that have thousands of people. "</p>
<p><b>Ken Sherrill</b> (via Facebook)</p>	<p>"Non-partisan elections are bad things. Read the testimony that I delivered to prior Commissions."</p>
<p><b>Ramon Pena</b> (via Facebook)</p>	<p>"How can letting over 1,000,000 people vote in primaries be a bad thing? It's called Democracy, we pay for these primaries how can we be excluded? NON-PARTISAN ELECTIONS = YES!!"</p>
<p><b>Government Structure (June 10, 2010)</b></p>	
<p><b>Christine Quinn</b> Speaker, New York City Council</p>	<ul style="list-style-type: none"> <li>- Do not overturn decision of Council on term limits</li> <li>- Do not place nonpartisan elections on ballot</li> <li>- Enhance budget transparency to check government officials and increase accountability</li> <li>- Make explicit in Charter Mayor's duty to enforce laws</li> <li>- Give legislative control of Department of Education to the council rather than state legislature</li> <li>- Make Corporation Counsel appointment subject to Council approval</li> <li>- Enhance CCRB, provide independent budget, and give ability to prosecute</li> <li>- Enhance COIB, allow Council to appoint COIB members, and give independent budget</li> <li>- Give Community Boards and Borough Presidents greater representation on Franchise Concession, BSA, and Landmarks</li> <li>- Eliminate vote sharing on city concessions and franchises</li> </ul>
<p><b>Gale Brewer</b> New York City Council Member</p>	<ul style="list-style-type: none"> <li>- Units of appropriation: review structure to make budgetary decisions more transparent and less broad, make units more particularized</li> <li>- Require mayor to submit an estimate before budget negotiation process</li> <li>- Revise capital budget</li> <li>- Allow Council to have 60 days for ULURP review</li> <li>- Remove requirement of returning modifications to City Planning</li> </ul>
<p><b>Bill de Blasio</b> Public Advocate</p>	<ul style="list-style-type: none"> <li>- Provide Public Advocate with independent Budget</li> <li>- Codify Open NYC initiative</li> <li>- Provide Public Advocate with subpoena power</li> <li>- Provide Public Advocate with more influence in city planning, land use, and BSA</li> </ul>
<p><b>Anthony Reinhart</b> Staff Member, New York State Senator <b>Andrew Lanza</b></p>	<ul style="list-style-type: none"> <li>- Enhance local control regarding land use, parks, etc.</li> </ul>
<p><b>Shaan Khan</b> Staff Member, Manhattan Borough President <b>Scott Stringer</b></p>	<ul style="list-style-type: none"> <li>- Independent budgets for Borough Presidents</li> <li>- Reform Community Boards, provide urban planners, and change appointment process</li> </ul>

<p><b>John Zaccone</b> Staff Member, Staten Island Borough President James Molinaro</p>	<ul style="list-style-type: none"> <li>- Mandate power to convene meetings with borough commissioners of city agencies</li> <li>- Increase independence in determining local policy</li> <li>- Revise ULURP process, require 2/3 majority to make decisions on city planning</li> <li>- Independent budgets for Borough Presidents</li> </ul>
<p><b>James Oddo</b> New York City Council Member</p>	<ul style="list-style-type: none"> <li>- Do not give Council revenue estimate power</li> <li>- Independent budgets for city offices, especially Borough Presidents</li> </ul>
<p><b>Vincent Ignizio</b> New York City Council Member</p>	<ul style="list-style-type: none"> <li>- Decentralize City government</li> <li>- Community board appointments should be approved by the borough president</li> <li>- Abolish Office of Public Advocate</li> <li>- Independent budget for COIB</li> </ul>
<p><b>Debi Rose</b> New York City Council Member</p>	<ul style="list-style-type: none"> <li>- Borough control of land use</li> <li>- Need extension of charter revision commission</li> </ul>
<p><b>Robert Scamardella</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Strengthen Borough President</li> <li>- Formulation of policy by executive, but execution of policy by the borough</li> <li>- ULURP reform: must first be submitted to borough president, if rejected it can only be overturned by a supermajority</li> <li>- Borough President reform: hiring of architect, borough transportation maintenance budget</li> </ul>
<p><b>Christine Berthet</b> Staten Island Community Board 4</p>	<ul style="list-style-type: none"> <li>- Financial stability for Community Boards, provide needed staff</li> <li>- Increase review from 30 to 45 days</li> </ul>
<p><b>Corey Johnson</b> Staten Island Community Board 4</p>	<ul style="list-style-type: none"> <li>- Baseline Budget for Community Boards</li> <li>- Coterminous boundaries between Community Boards to facilitate provision of city services (e.g. police precincts)</li> <li>- Mandate provision of services and the expenditures of these services by Community Boards</li> <li>- Greater resources to carry out the functions of Community Boards</li> </ul>
<p><b>Sally Williams</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Importance of interagency collaboration</li> <li>- Supports decentralization</li> </ul>
<p><b>Linda Eskenas</b> Staten Island Community Board 1</p>	<ul style="list-style-type: none"> <li>- Enhance Community Boards</li> </ul>
<p><b>Michael Beck</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Have budgets on opposite year of elections</li> <li>- Eliminate term limits</li> </ul>
<p><b>Mary Ann Clark</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Oversight for BSA and increased involvement of local communities by appointing local board members</li> </ul>
<p><b>Charles Sorentino</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Need more time for issues; don't put anything except term limits on ballot</li> <li>- Consider who would take role of Public Advocate and mayoral</li> </ul>

	<ul style="list-style-type: none"> <li>succession if Public Advocate was abolished</li> <li>- Reinforce power of Comptroller</li> </ul>
<p><b>Robert McFeeley</b> <b>Voter Assistance Commission</b></p>	<ul style="list-style-type: none"> <li>- Reorganize voter assistance commission</li> <li>- Mayor should not have authority to pocket veto people's referendum on term limits</li> </ul>
<p><b>Earline Fisher</b> <b>private citizen</b></p>	<ul style="list-style-type: none"> <li>- Less centralized authority, increased local power</li> </ul>
<p><b>John Tobacco</b> <b>private citizen</b></p>	<ul style="list-style-type: none"> <li>- Need for legitimate government</li> <li>- Place nonpartisan elections on ballot</li> </ul>
<p><b>Norma Perez, John MacDuffie &amp; Darryl David</b> <b>New York Harm Reduction Educators</b></p>	<ul style="list-style-type: none"> <li>- Strengthen CCRB w/ prosecutorial power</li> </ul>
<p><b>Jay Bond</b> <b>American Institute of Architects</b></p>	<ul style="list-style-type: none"> <li>- Supports interagency coordination with regard to building permits</li> </ul>
<p><b>Frank Morano</b> <b>private citizen</b></p>	<ul style="list-style-type: none"> <li>- Enhance Community Boards, election of members</li> <li>- Proportional representation</li> </ul>
<p><b>Louis Wein</b> <b>private citizen</b></p>	<ul style="list-style-type: none"> <li>- Increased role of the public in city leadership</li> <li>- Abolish Community Boards</li> </ul>
<p><b>Juamane Williams</b> <b>New York City Council Member</b></p>	<ul style="list-style-type: none"> <li>- Increased police oversight; strengthen CCRB</li> </ul>
<p><b>EJ McLeavey-Fisher</b> <b>(via Facebook)</b></p>	<p>"Community Board members should be elected, just like everybody else."</p>
<b>Public Integrity (June 16, 2010)</b>	
<p><b>Steve Rosenfield</b> <b>Chair, COIB</b></p>	<ul style="list-style-type: none"> <li>- Increase outreach and enforcement</li> <li>- Make COIB independent</li> </ul>
<p><b>Walter South</b> <b>Manhattan Community Board 9</b></p>	<ul style="list-style-type: none"> <li>- Maintain independence of Community Boards</li> </ul>
<p><b>Kristin Davis</b> <b>Independent Party</b></p>	<ul style="list-style-type: none"> <li>- No city-funded pension for officials guilty of committing crimes</li> </ul>
<p><b>Frank Morano</b> <b>private citizen</b></p>	<ul style="list-style-type: none"> <li>- Tax payers cannot pay legal bills of officials</li> <li>- End the prohibition of county chairman serving as city-elected officials</li> <li>- Groups that provide campaign funding to a Council Member should not be permitted to receive money from that same Council Member</li> </ul>
<p><b>Henry Stern</b> <b>Director, New York Civic</b></p>	<ul style="list-style-type: none"> <li>- CFB grant money must be forfeited if candidates do not receive enough votes</li> <li>- Rename COIB as Board of Ethics</li> <li>- COIB Chairman should be a rotating position</li> <li>- COIB Commissioners should have 4 year term limit</li> </ul>

	- Prohibit contributions of interested parties to political campaigns
<b>Ryan Majerus (via Facebook)</b>	“The City Council shouldn't be able to throw member items around without checks and balances on them. The Council should follow the same rules the rest of the City does.”
<b>James DeLucia (via Facebook)</b>	“Given the recent headlines in the newspaper, i think the city government should have more transparency!”
<b>Land Use (June 24, 2010)</b>	
<b>Helen Marshall Queens Borough President</b>	<ul style="list-style-type: none"> <li>- Enhance Office of Borough President, provide resources for Borough Presidents to hire environmental experts and full-time engineers</li> <li>- Increase Borough Presidents role in land use process</li> <li>- Provide Borough Presidents independent budget</li> <li>- Provide Borough Presidents appointments to Landmarks Commission, BSA, Art Commission</li> <li>- Mandate that City Planning can only overturn Borough President recommendations on ULURP with a super majority vote</li> <li>- Increase role of Community Boards in ULURP</li> <li>- Monitor and enforce compliance with community agreements</li> <li>- Comply with Fair Share principles</li> <li>- Create borough infrastructure committees to be chaired by Borough Presidents</li> </ul>
<b>Susan Stetzer Manhattan Community Board 3</b>	- Reform Fair Share and 197-a
<b>Nizjoni Granville Brooklyn Community Board 8</b>	<ul style="list-style-type: none"> <li>- Strengthen Community Boards' role in ULURP</li> <li>- Review and approve all government funded use of real property, regardless of purview</li> <li>- Require Community Board approval and review of all contracts for residential and supportive services</li> </ul>
<b>Juliana Dubovsky New Yorkers for Parks</b>	<ul style="list-style-type: none"> <li>- Increased local involvement in ULURP</li> <li>- Expand rules for increased public review of concessions</li> </ul>
<b>Walter Mankoff Manhattan Community Board 4</b>	<ul style="list-style-type: none"> <li>- Assure availability of independent consultants for Community Boards through guaranteed funds or use of the services of other independent agencies such as the Borough President's office or Comptroller</li> <li>- Need for an allowance for unique community conditions in zoning regulations</li> </ul>
<b>Corey Johnson Manhattan Community Board 4 and Chelsea Preservation Committee</b>	<ul style="list-style-type: none"> <li>- Independent budget for Community Boards</li> <li>- Increased involvement of Community Boards in land use</li> <li>- Heightened barrier for approval by City Planning Commission</li> </ul>
<b>John Rozankowski private citizen</b>	- Importance of independence of Bronx Community Boards in order to prevent members from being pressured to vote the same way as Borough Presidents
<b>Matt Ryan</b>	- Close Fair Share loopholes

<p><b>New York Jobs of Justice and Urban Agenda</b></p>	<ul style="list-style-type: none"> <li>- Re-examine section 203 of the charter</li> <li>- Consider community impact reviews</li> <li>- Establish minimum standards for quality of jobs</li> <li>- Chair of City Planning Commission to be more independent</li> </ul>
<p><b>Mel Siegal Broadway Flushing Homeowners Association</b></p>	<ul style="list-style-type: none"> <li>- Increase role of Community Boards in ULURP process</li> </ul>
<p><b>Stuart Garmise private citizen</b></p>	<ul style="list-style-type: none"> <li>- Strengthen Community Boards by changing the appointment process and remove appointment power from Borough Presidents</li> </ul>
<p><b>Sarah Watson Citizens Housing and Planning Council</b></p>	<ul style="list-style-type: none"> <li>- Increase housing and initiate long-term city-wide planning process</li> <li>- Explore strong institutional authority for city-wide planning</li> <li>- Adjust land use review process to take long-term goals into consideration</li> </ul>
<p><b>Elena Conte Pratt Center</b></p>	<ul style="list-style-type: none"> <li>- Need for long-term planning by independent to guide budget and policy</li> <li>- Reform Fair Share practices</li> <li>- Institute community based planning</li> <li>- Make land use decisions public</li> </ul>
<p><b>Henry Euler Queens Community Board and Auburndale Improvement Association</b></p>	<ul style="list-style-type: none"> <li>- Decentralize BSA and LPC by placing offices in all five boroughs</li> <li>- Make land use appeals process easier for public</li> <li>- Impose a moratorium on planning on old zoning</li> <li>- Divide DOB into one office for issuing permits and another for enforcement</li> <li>- Stricter enforcement of building rules and zoning regulations by DOB</li> </ul>
<p><b>Brian Cook Staff Member, Manhattan Borough President Scott Stringer</b></p>	<ul style="list-style-type: none"> <li>- Strengthen role of Borough Presidents and Community Boards through CPC voting rules</li> <li>- Create an independent planning process for comprehensive planning</li> </ul>
<p><b>Ed Jaworski Executive Vice-President, Madison- Marine-Homecrest Civic Association</b></p>	<ul style="list-style-type: none"> <li>- Review number of commissioners on BSA and move away from a mayoral majority</li> <li>- Top-down planning process from BSA to Community Boards to depoliticize these organizations</li> <li>- Create a BSA body in each borough</li> </ul>
<p><b>David Reck Manhattan Community Board 2</b></p>	<ul style="list-style-type: none"> <li>- Need experts and educational classes for Community Boards</li> <li>- Study importance of city air rights</li> </ul>
<p><b>John Levine Morningside Heights/West Harlem Sanitation Coalition</b></p>	<ul style="list-style-type: none"> <li>- Strengthen Fair Share and 197-a provisions</li> </ul>
<p><b>Helen Rosenthal Manhattan Community Board 7</b></p>	<ul style="list-style-type: none"> <li>- Community Boards must hire land use planner</li> <li>- Independent budget linked to Mayor's Office</li> </ul>
<p><b>Wilhelm Ronda</b></p>	<ul style="list-style-type: none"> <li>- Increase Borough Presidents role in ULURP process by requiring</li> </ul>

<p><b>Staff Member, The Bronx Borough President Ruben Diaz, Jr.</b></p>	<p>a super majority for an override</p> <ul style="list-style-type: none"> <li>- Increase Borough Presidents role in BSA by making their recommendations binding</li> <li>- Have objective impact analysis by having consultants chosen by the city rather than by the developer</li> <li>- Reform Statement of Needs</li> </ul>
<p><b>James Rouse American Planning Association</b></p>	<ul style="list-style-type: none"> <li>- 60 day ULURP review period for Council</li> <li>- Allow Council to approve minor modifications without returning to City Planning</li> <li>- Allow Borough Presidents scoping session for all applications</li> <li>- CPC to make final decisions on all land use permits</li> <li>- Commissioner appointments to BSA approved by borough boards and Council</li> <li>- Require BSA to hire land use attorney</li> <li>- Removal of BSA commissioner to be approved by Council</li> <li>- Council to review BSA decisions with ability to invoke appeal with 2/3 vote</li> <li>- Stricter guidance, enforcement, and limitations needed for Community Benefits Agreement</li> </ul>
<p><b>Eddie Bautista Executive Director, New York City Environmental Justice Alliance</b></p>	<ul style="list-style-type: none"> <li>- Take action on Fair Share and 197-a</li> <li>- Facility decisions need to be submitted before Statement of Needs</li> <li>- Share burden of emissions</li> </ul>
<p><b>Kellie-Terry Sepulveda Point Community Development Commission</b></p>	<ul style="list-style-type: none"> <li>- Reform Fair Share and 197-a</li> <li>- Need for advanced notice under Statement of Needs</li> <li>- Initiate Community Board reform through funding, appointments, and land use training</li> <li>- Facility citing, expansions, and reductions for Fair Share must be announced in Statement of Needs</li> </ul>
<p><b>Siddhartha Sanchez Staff Member, United States Representative Jose Serrano</b></p>	<ul style="list-style-type: none"> <li>- Require the complete listing of facilities to demonstrate cumulative environmental burden</li> <li>- Need for a timely review in 197-a plans that cannot be overridden Community Boards</li> <li>- Reform funding</li> <li>- Diversity of appointments</li> <li>- Land use training</li> </ul>
<p><b>Frank Morano private citizen</b></p>	<ul style="list-style-type: none"> <li>- Consolidate Department of City Planning and Department of Buildings into one agency that can create and enforce the rules</li> <li>- Give Borough Presidents a full vote each on the Franchise Review Committee</li> <li>- Remove rulings on scope from the CPC to the City Council to increase the accountability of officials</li> </ul>
<p><b>Harbachan Singh Queens Civic Congress</b></p>	<ul style="list-style-type: none"> <li>- Add additional actions such as legislative review, text amendments, and transfer of air rights to ULURP</li> </ul>
<p><b>Claudio Simpkins (via Facebook)</b></p>	<p>"The addition of Citi Field to the Willets Point area follows in the long line of attempts to develop the Willets Point area -- efforts</p>

	<p>including the construction of Shea Stadium, the U.S. Tennis Center and Flushing Meadow-Corona Park. Today's efforts to develop the area into a useful mix of residential, retail, office and entertainment property could do wonders to clean up the environmentally degraded and infrastructurally decrepit area. However, it'd be a tremendous asset if the Commission could bring about an improved way to develop such areas, especially in cases such as this where affordable housing is always a wonderful idea but may not provide enough income to the city to offset the costs of the clean-up, purchase of property and businesses, and subsidies to builders and potential new businesses in the area."</p>
<p><b>Kristen Lucibello</b> (via Facebook)</p>	<p>"Outer boroughs suffer from too much under development. The City needs to protect us."</p>
<p><b>David Giller</b> (via Facebook)</p>	<p>"Expansion and change are important for any City, especially one of the size and diversity of New York. However, because of that size and diversity, land use projects offer special challenges for New York. We have to ensure that any projects undertaken do not negatively affect certain communities or prove an undue burden to certain segments of the population or areas. Development if done right should lift everyone, not just a select few."</p>
<p><b>Christine Curella</b> (via Facebook)</p>	<p>"I second David Giller's comment above. To ensure that communities have voice in the process, the uniform land use review procedure (ULURP) has to include meaningful opportunities for engagement and transparency. Involvement at the Community Board level is one means, but in order for this to be truly reflective of the diverse needs and perspectives of all community residents, we must strengthen the role and capacity of Community Boards.</p> <p>But many city land use decisions, which have significant impacts on communities and how we use our land, do not require the ulurp process (namely, state eminent domain decisions). The Commission should consider how can we ensure community voices are represented in these and all land use decisions."</p>
<p><b>JULY / AUGUST PUBLIC HEARINGS</b></p>	
<p><b>Brooklyn Borough Hearing (July 19, 2010)</b></p>	
<p><b>Bill de Blasio</b> Public Advocate</p>	<ul style="list-style-type: none"> <li>- Need for more public input for ballot issues</li> <li>- Do not place nonpartisan elections on ballot</li> </ul>

<p><b>Scott Stringer</b> <b>Manhattan Borough President</b></p>	<ul style="list-style-type: none"> <li>- Provide independent budget for Borough Presidents and Public Advocate</li> <li>- Do not place nonpartisan elections on ballot; increase participation by extending poll hours, weekend voting, and same day registration</li> <li>- Wants planning staff for Borough Presidents</li> </ul>
<p><b>Mark Dunle</b> <b>Green Party</b></p>	<ul style="list-style-type: none"> <li>- Disagrees with how council overturned term limits</li> <li>- Proportional representation will increase voter turnout</li> <li>- Supports IRV</li> </ul>
<p><b>Burchell Marcus</b> <b>NYCC</b></p>	<ul style="list-style-type: none"> <li>- Do not put nonpartisan elections on ballot</li> <li>- Change the composition of Community Boards</li> <li>- Increase transparency in the Mayor's office</li> </ul>
<p><b>Joy Stewart</b> <b>Community Director</b></p>	<ul style="list-style-type: none"> <li>- Need for politicians to "examine their conscience"</li> <li>- Need for increase community input, apart from community boards</li> </ul>
<p><b>Harry Kresky</b> <b>Counsel, New York City Independence Party</b></p>	<ul style="list-style-type: none"> <li>- Place nonpartisan elections on the ballot</li> </ul>
<p><b>Jeffrey Kraus</b> <b>Voter Assistance Commission</b></p>	<ul style="list-style-type: none"> <li>- Have the president of the Board of Elections, instead of the executive director, serve as a member of VAC</li> <li>- Change date of mandated public hearing and date of report</li> <li>- Clarify relationship between VAC and coordinator; have coordinator appointed by the President of CFB</li> </ul>
<p><b>Robert McFeele</b> <b>Voter Assistance Commission</b></p>	<ul style="list-style-type: none"> <li>- Keep VAC and executive director together, rather than have the executive director a part of CFB</li> </ul>
<p><b>Jane Kalmus</b> <b>Voter Assistance Commission</b></p>	<ul style="list-style-type: none"> <li>- Supports union of VAC and CFB</li> <li>- Need for VAC to fulfill its mandated role of overseeing the Board of Elections</li> </ul>
<p><b>Gene Russianoff</b> <b>Director, Straphangers Campaign, NYPIRG</b></p>	<ul style="list-style-type: none"> <li>- Supports staff decision to limit ballot proposals</li> <li>- Do not put nonpartisan elections on the ballot</li> <li>- Supports COIB recommendations regarding increasing penalties, mandating conflicts of interest training, but wants COIB to have an independent budget</li> <li>- Supports VAC joining with CFB</li> <li>- Calls for increased voter participation</li> </ul>
<p><b>Mark Davies</b> <b>Executive Director, Conflicts of Interest Board</b></p>	<ul style="list-style-type: none"> <li>- Supports the Citizens Union proposal to have an independent budget for the COIB linked to the Law Department</li> </ul>

<p><b>Daniel Wiley</b> Office of Congresswoman Nydia Velasquez</p>	<ul style="list-style-type: none"> <li>- Reform Fair Share and 197-a</li> <li>- Wants separate questions on the ballot for each proposed change</li> </ul>
<p><b>Alyssa Katz</b> Pratt Center</p>	<ul style="list-style-type: none"> <li>- Critiqued staff decision to not make land use changes this year</li> <li>- Wants a comprehensive planning framework with community involvement</li> <li>- Need for increased long-term planning</li> </ul>
<p><b>Julia Yopez</b> NYCC</p>	<ul style="list-style-type: none"> <li>- Lack of participation is rooted in the lack of public trust in officials</li> </ul>
<p><b>Bertha Lewis</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Do not put nonpartisan elections on ballot</li> </ul>
<p><b>Linette Ebanks</b> NYCC</p>	<ul style="list-style-type: none"> <li>- Ensure that the ballot is clear and precise so that voters understand who they are voting for</li> </ul>
<p><b>Kyle Bragg</b> SEIU 32BJ</p>	<ul style="list-style-type: none"> <li>- Implement independent budgets for Community Boards and Borough Presidents</li> <li>- Do not put nonpartisan elections on ballot</li> </ul>
<p><b>John Mollenkopf</b> Center for Urban Research, CUNY</p>	<ul style="list-style-type: none"> <li>- Opposed to nonpartisan elections</li> <li>- Disagrees with Citizen Union's argument that nonpartisan elections increase participation</li> <li>- Partisan elections increase minority representation in elections</li> </ul>
<p><b>George Finley</b> NYCC</p>	<ul style="list-style-type: none"> <li>- Need to renew Voters Rights Act</li> </ul>
<p><b>Howard Yoorow</b> Historic Districts Council Board</p>	<ul style="list-style-type: none"> <li>- Ban Mayor and council from overturning the people's referendum</li> <li>- Implement tighter term limits for the executive</li> <li>- Avoid rushing ballot proposals</li> </ul>
<p><b>Leidy Henriquez</b> NYHJC</p>	<ul style="list-style-type: none"> <li>- Do not put nonpartisan elections on ballot</li> </ul>
<p><b>Nathalie Alegre</b> NYJWJ/VA</p>	<ul style="list-style-type: none"> <li>- Do not put nonpartisan elections on ballot</li> </ul>
<p><b>Murad Awawdeh</b> UpRose</p>	<ul style="list-style-type: none"> <li>- Fix Fair Share and 197-a by considering true indicators of burden in Fair Share review</li> <li>-Mandate all city facilities be identified in the statement of needs</li> <li>- Mandate all polluting infrastructure facilities be listed in the atlas of properties</li> </ul>

<p><b>Jumaane Williams</b> New York City Council Member</p>	<ul style="list-style-type: none"> <li>- Do not put nonpartisan elections on the ballot</li> <li>- Implement three terms for City Council and two terms for executive</li> <li>- Do not support IR, as it has not been extensively studied</li> <li>- Don't decrease petition signatures</li> <li>- Supports the idea that Council should only extend term limits prospectively</li> <li>- Combine VAC and CFB</li> <li>- Implement Saturday and Sunday voting</li> <li>- Allow Community Boards to vote in ULURP, and have urban planner on staff</li> <li>- Examine NYPD and increase CCRB's power</li> </ul>
<p><b>Eddie Bautista</b> NYCEJA</p>	<ul style="list-style-type: none"> <li>- Wants Fair Share and 197-a reform</li> </ul>
<p><b>Reverend Cheryl Anthony</b> Judah International</p>	<ul style="list-style-type: none"> <li>- Do not put nonpartisan elections on ballot</li> </ul>
<p><b>Joan Byron</b> Pratt Center</p>	<ul style="list-style-type: none"> <li>- Mandate all city facilities be identified in the Statement of Needs</li> <li>- Close loop holes</li> <li>- Change charter language so that polluting facilities are listed in atlas</li> <li>- Compile database for environmental and health indicators</li> </ul>
<p><b>Frank Morano</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Cut the percentage requirement from 5%-2.5% for municipal candidates getting on the ballot</li> <li>- Eliminate the need for petitioning to get on the ballot</li> </ul>
<p><b>Michael O'Neil</b> Green Party</p>	<ul style="list-style-type: none"> <li>- Supports IRV and proportional representation</li> </ul>
<p><b>Lin Vogel</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Do not put nonpartisan elections on ballot</li> <li>- Do not "bundle" issues together</li> </ul>
<b>Bronx Borough Hearing (July 21, 2010)</b>	
<p><b>Ruth Acker</b> Women's City Club of New York</p>	<ul style="list-style-type: none"> <li>- Do not put nonpartisan elections on ballot</li> <li>- Eliminate term limits</li> </ul>
<p><b>Kathy Stewart</b> Independence Party</p>	<ul style="list-style-type: none"> <li>- Place nonpartisan elections on ballot</li> <li>- Distinguishes the city Independence Party from that of the state</li> </ul>
<p><b>Joseph Little</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Need for increased outreach and greater consideration of community issues</li> </ul>

<p><b>Kellie Terry</b>  <b>The Point Community Development Organization</b></p>	<ul style="list-style-type: none"> <li>- Implement Fair Share and 197-a reform reforms as described by other environmental justice organizations</li> </ul>
<p><b>Frank Morano</b>  <b>private citizen</b></p>	<ul style="list-style-type: none"> <li>- Supports IRV</li> <li>- Put nonpartisan elections on ballot</li> </ul>
<p><b>David Shuffler</b>  <b>Youth Ministries for Peace and Justice</b></p>	<ul style="list-style-type: none"> <li>- Implement Fair Share and 197-a Reform as described by other environmental justice organizations</li> <li>- Increase community role in City planning</li> </ul>
<p><b>Manhattan Borough Hearing (July 26, 2010)</b></p>	
<p><b>Abbe Gluck</b>  <b>New York City Bar Association</b></p>	<ul style="list-style-type: none"> <li>- Create different term limits for different officials</li> <li>- Increase term limits</li> </ul>
<p><b>Cynthia Scheps</b>  <b>New York City Bar Association</b></p>	<ul style="list-style-type: none"> <li>- Do not consolidate of administrative tribunals</li> </ul>
<p><b>Karen Young</b>  <b>Green Party</b></p>	<ul style="list-style-type: none"> <li>- Supports IRV</li> </ul>
<p><b>George Strauss</b>  <b>private citizen</b></p>	<ul style="list-style-type: none"> <li>- Do not put nonpartisan elections on ballot</li> </ul>
<p><b>Franc Perry</b>  <b>Community Board 10 Member</b></p>	<ul style="list-style-type: none"> <li>- Mandate standards for community boards</li> <li>- Implement full-time urban planners</li> </ul>
<p><b>Jeff Galloway</b>  <b>Manhattan Community Board 1 Member</b></p>	<ul style="list-style-type: none"> <li>- Engage the community in land use</li> <li>- Ensure Uniform standards are applied to Community Boards in ULURP</li> <li>- Provide independent budgets and land use resources for Community Boards</li> </ul>
<p><b>Alison Greenberg</b>  <b>Community Board 2 Member</b></p>	<ul style="list-style-type: none"> <li>- Mandate uniform standards for Community Board appointments</li> <li>- Provide urban planners for each Community Board</li> </ul>
<p><b>Michael Keane</b>  <b>private citizen</b></p>	<ul style="list-style-type: none"> <li>- Provide funding for urban planners for Community Boards</li> </ul>
<p><b>Kate Samuels</b>  <b>private citizen</b></p>	<ul style="list-style-type: none"> <li>- Allow for local representation on the City Planning Commission along with urban planning and engineering professionals</li> <li>- Reform Community Boards such that members are elected not appointed, each is comprised of fewer members, and give them professional support staff</li> <li>- Enhance the office of Public Advocate</li> <li>- Abolish Borough Presidents</li> </ul>

<b>Lenora Fulani</b> <b>Independence Party</b>	<ul style="list-style-type: none"> <li>- Place nonpartisan elections on ballot</li> <li>- Need for public education on ballot issues</li> </ul>
<b>Linde Barrera</b> <b>private citizen</b>	<ul style="list-style-type: none"> <li>- Revise Charter to make the New York City Chancellor an elected rather than appointed position</li> </ul>
<b>Galin Brooks</b> <b>private citizen</b>	<ul style="list-style-type: none"> <li>- Increase resources and urban planners for Community Boards</li> </ul>
<b>Isis Ausar</b> <b>private citizen</b>	<ul style="list-style-type: none"> <li>- Supports term limits to prevent oligarchy</li> </ul>
<b>Pam Palan Que</b> <b>private citizen</b>	<ul style="list-style-type: none"> <li>- Create standards for appointments to Community Boards</li> <li>- Provide urban planners and increased funds to Community Boards</li> <li>- Extend Charter Commission to handle land use issues</li> </ul>
<b>Frank Morano</b> <b>private citizen</b>	<ul style="list-style-type: none"> <li>- Put nonpartisan elections on ballot</li> </ul>
<b>Anita Burson</b> <b>NAACP</b>	<ul style="list-style-type: none"> <li>- Extend charter revision</li> <li>- Place only term limits on 2010 ballot</li> </ul>
<b>Community Voices Heard</b>	<ul style="list-style-type: none"> <li>- Strengthen Community Boards</li> <li>- Provide for more community involvement in land use</li> </ul>
<b>Queens Borough Hearing (July 28, 2010)</b>	
<b>Barbara Zucker</b> <b>Women's Club of NY</b>	<ul style="list-style-type: none"> <li>- Place question of whether term limits should be eliminated on the ballot</li> <li>- Include pay equity in staff report</li> <li>- Enhance Public Advocate</li> <li>- Increase transparency for City Council</li> <li>- Update Charter chapter to reflect change from Board to Department of Education, and to reflect its current role</li> <li>- Agree with report regarding VAC and CFB, and public integrity portions</li> </ul>
<b>Harry Kresky</b> <b>Independence Party</b>	<ul style="list-style-type: none"> <li>- Place nonpartisan elections on ballot</li> </ul>
<b>Steven Newman</b> <b>Human Services Council</b>	<ul style="list-style-type: none"> <li>- Mandate that City agencies submit an annual contracts plan</li> <li>- Conduct single audit for organizations with multiple city contracts</li> <li>- Recognize overhead rates that are realistic, and do not cap overhead rates for non-profits that provide services</li> <li>- Create multi-year budgets for non-profits</li> </ul>

<p><b>Dan Jacoby</b> Grass Roots NYC</p>	<ul style="list-style-type: none"> <li>- Both term limit proposals shouldn't be put on the ballot together</li> <li>- Only ballot proposal should be regarding referendum</li> <li>- Eliminate petitioning</li> <li>- No new issues on ballot</li> </ul>
<p><b>Daniel Halloran</b> New York City Council Member</p>	<ul style="list-style-type: none"> <li>- Require City Council members to serve full-time</li> <li>- Enforce equity of pay</li> <li>- Prevent Council from overturning the people's choice</li> </ul>
<p><b>Lynne Serpe</b> Green Party</p>	<ul style="list-style-type: none"> <li>- Supports IRV</li> <li>- Do not put nonpartisan elections on ballot</li> </ul>
<p><b>Mark Davies</b> New York City Conflicts of Interest Board</p>	<ul style="list-style-type: none"> <li>- Create independent budget for COIB</li> </ul>
<p><b>Corey Johnson</b> Manhattan Community Board 4</p>	<ul style="list-style-type: none"> <li>- Create independent budget for Community Boards</li> <li>- Extend notification period from 30 to 45 days</li> <li>- Send all applications should to Community Boards</li> <li>- Provide funding for urban planners</li> <li>- Study membership/voting on BSA and Department of City Planning</li> </ul>
<p><b>Patricia Dolan</b> Queens Civic Congress</p>	<ul style="list-style-type: none"> <li>- Prevent budget cuts for Borough Presidents</li> <li>- Allocate 50% of Council's budget to the Borough Presidents should receive 50% of Council budget</li> </ul>
<p><b>Carol Machulski</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Prevent elected officials from overturning the people's referendum</li> <li>- Stresses importance of planning boards</li> <li>- Change the current primary system</li> </ul>
<p><b>Frank Morano</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Support Commissioner Cassino's suggestions regarding the Council</li> <li>- Place nonpartisan elections on ballot</li> <li>- Place other big issues on the budget as well, not just nonpartisan elections and term limits</li> </ul>
<p><b>Sherman Kane</b> Queens Community Board 9 Member</p>	<ul style="list-style-type: none"> <li>- Enhance Community Boards</li> </ul>
<p><b>Adrienne Kivelson</b> League of Women's Voters</p>	<ul style="list-style-type: none"> <li>- Opposes the actions of the Mayor and Council regarding term limits</li> <li>- Vote up or down on term limits</li> <li>- Do not place new issues on ballot</li> <li>- Extend charter revision</li> </ul>

<b>Richard Nunez Lawrence</b> private citizen	- Place nonpartisan elections on ballot
<b>Staten Island Borough Hearing (August 2, 2010)</b>	
<b>Amy Loprest</b> Campaign Finance Board	- Mandate disclosure independent expenditures
<b>Sarah Lyons</b> Independence Party	- Place nonpartisan elections on ballot - Emphasize the difference between nonpartisan elections and IRV
<b>Carol Van Guilder</b> Real Estate Board of NY	- Consider land use issues at this time - Require that 1/4 of Community Board membership must be members of the local business community - Oppose to CBAs - Place City Planning Commission in charge of the capital budget for zoning - Clearly delineate which land use permits can be decided by which agency - Require the landmarks Commission to consider various issues before making a decision, and increase the power of Council in this decision-making process
<b>Frank Morano</b> private citizen	- Support lowering the number of signatures required for candidacy petitions, and lowering the percentage of registered party members required - Do not place the "no term limits" option on the ballot
<b>Dick Dadey</b> Citizens Union	- Provided statistics on nonpartisan elections - Redraw district lines and create an independent redistricting commission - Change City Clerk's responsibility for City Council oversight
<b>Steven Levine</b> LaGuardia Community College	- Emphasize the importance of youth outreach in the proposed merged VAC and CFB - Have voting rights a part of public school curriculum
<b>Courtney Wolf</b> Citizens Budget Commission	- Oppose independent budgets because it prevents transparency in budgetary issues
<b>Linda Baran</b> Staten Island Chamber of Commerce	- Importance of having the charter relevant for an extended period of time, rather than needing constant revisions - Recommend a change in the charter revision process- commission must extend until it completely finishes its duties

<p><b>John Mollenkopf</b> Center for Urban Research, CUNY</p>	<ul style="list-style-type: none"> <li>- Provided voter turnout statistics on minorities</li> <li>- Ending primaries would have a retrogressive effect on minority turnout</li> </ul>
<p><b>Dee Vandenburg</b> Staten Island Taxpayers Association</p>	<ul style="list-style-type: none"> <li>- Do not provide City Planning with a capital budget for zoning</li> <li>- Implement Borough-specific planning</li> <li>- Place land use issues on ballot</li> </ul>
<p><b>Deanna Bitetti</b> Common Cause NY</p>	<ul style="list-style-type: none"> <li>- Do not put nonpartisan elections on ballot</li> </ul>
<p><b>Eddie Bautista</b> NYC Environmental Justice Alliance</p>	<ul style="list-style-type: none"> <li>- Prevent applications for siting of city facilities from being permitted post-statement of needs</li> </ul>
<p><b>Gale Brewer</b> New York City Council Member</p>	<ul style="list-style-type: none"> <li>- Do not put nonpartisan elections on ballot</li> <li>- Preserve three terms for legislature</li> <li>- Do not curtail the power of Council over term limit decisions</li> <li>- Implement transparency reforms</li> <li>- Narrow the units of appropriation</li> <li>- Change the timing for the Mayor's revenue estimate</li> <li>- Take into consideration land use and governance issues</li> </ul>
<p><b>Ede Fox</b> Staff Member, New York City Council <b>Member Jumaane Williams</b></p>	<ul style="list-style-type: none"> <li>- Do not prevent councilmen from supporting budget items of which they have interest</li> <li>- Do not create new reporting commission because it will detract from transparency</li> <li>- Do not put nonpartisan elections on ballot</li> <li>- Do not ban Council from distributing discretionary funds</li> <li>- Provide three terms for the legislature</li> </ul>
<p><b>Final Commission Hearing (August 23, 2010)</b></p>	
<p><b>Carl E. Person</b> Libertarian Party Candidate for Attorney General</p>	<ul style="list-style-type: none"> <li>- Wants environmental impact statements regarding changes to streets and to traffic patterns, and suggests Council should provide them</li> <li>- Wants Attorney General to oppose illegal actions</li> <li>- Charter should have greater checks and balances, as currently they are ineffective as between the Mayor and Council</li> </ul>

<p style="text-align: center;"><b>Howard Schoor</b> <b>Brooklyn Representative of UFT</b></p>	<ul style="list-style-type: none"> <li>- Opposes consolidation of administrative tribunals, as the UFT’s point person regarding administrative law judges (ALJs)</li> <li>- There is no evidence that consolidation will be more efficient or reduce costs</li> <li>- Thus far, all attempts to consolidate tribunals have resulted in mistreatment of ALJs</li> <li>- Consolidation will not increase perception that ALJs are independent and fair, but protecting ALJs from pressure of retaliation will increase that perception – ALJs should not merely be at-will employees</li> <li>- Under consolidation, ALJs will not be recognized for their talents or expertise, and will be randomly assigned to cases regarding issues where they are not experts</li> <li>- The proposed process allowing the ALJ coordinator to appoint ALJs will give the appearance of political patronage and certainly not result in a perception of independence and fairness</li> </ul>
<p style="text-align: center;"><b>Allan Bortnick</b> <b>private citizen</b></p>	<ul style="list-style-type: none"> <li>- Reads a writing by Henry Stern into the record, to put an end to the term limits issue and reflect the will of the people</li> <li>- Believes it is improper for Council Members to give themselves a \$30,000 raise</li> <li>- Wants petitioning eliminated entirely</li> <li>- Wants annual dollar disclosure, itemized as to what Council Members receive and spend</li> </ul>
<p style="text-align: center;"><b>Dan Jacoby</b> <b>Grassroots NYC</b></p>	<ul style="list-style-type: none"> <li>- Voters should be able to vote on each question separately, and recommends not bundling issues into a ballot question</li> <li>- Believes Commission does not have the legal authority to reduce number of petition signatures, as the authority falls under state election law</li> <li>- Recommends holding more public hearings after the release of the Final Report, to allow for greater public discussion and coverage by media outlets</li> <li>- Supports 5 and opposes 6 of the Commission’s proposals – details can be found on Grassroots NYC website</li> </ul>
<p style="text-align: center;"><b>Howard Youro</b> <b>private citizen</b></p>	<ul style="list-style-type: none"> <li>- Reads a writing by Henry Stern into the record, about the Commission’s proceedings and the effective date for term limits</li> </ul>
<p style="text-align: center;"><b>Emily Lyon</b> <b>W 15/W 16 Block Association</b> <b>In Manhattan</b></p>	<ul style="list-style-type: none"> <li>- Urges changes to city zoning laws to fix loopholes and prevent development of high-rise buildings in low-rise neighborhoods</li> </ul>
<p style="text-align: center;"><b>Jim Fouratt</b> <b>former candidate for City Council</b></p>	<ul style="list-style-type: none"> <li>- Thinks term limits must be discussed in conjunction with campaign finance reform, since the term limit extension utterly disadvantaged citizens who wanted to run and were forced to run against incumbents</li> <li>- Opposes lumping several issues together in one ballot question – lumping impedes transparency and clarity, prevents voters from</li> </ul>

	<p>being able to understand and make decisions, and is akin to old party politics</p>
<p><b>Bill de Blasio</b> <b>Public Advocate</b></p>	<ul style="list-style-type: none"> <li>- Thanks commissioners for a deliberative, transparent, and independent process</li> <li>- Applauds not putting a question regarding non-partisan elections on the ballot</li> <li>- Applauds putting term limits question on the ballot, putting government on the path to restoring public faith</li> <li>- But opposes reopening the discussion from August 11 regarding effective date of term limits, since revisiting the decision could erode the public trust</li> </ul>
<p><b>Henry Stern</b> <b>Director, New York Civic</b></p>	<ul style="list-style-type: none"> <li>- Charter framers did not write into Charter that Council couldn't amend their own term limits because they couldn't envision that the Council would have the nerve to create eligibility for themselves</li> <li>- Council's extension of term limits was theft of service, and Commission's "grandfathering" proposal makes it an accessory after the fact</li> <li>- Suggests putting the question of effective date on the ballot as a separate question</li> </ul>
<p><b>Michael Farrin</b> <b>Democratic State Committee,</b> <b>74th Assembly District</b></p>	<ul style="list-style-type: none"> <li>- Opposes reduction of petition signatures, as petitioning serves an important gate-keeping function</li> <li>- Clarifies the current rules regarding petitioning, which he believes are misunderstood by both Citizens Union and the Commission</li> </ul>
<p><b>Gwen Goodwin</b> <b>former candidate for City Council</b></p>	<ul style="list-style-type: none"> <li>- Voter turnout was low in the last election because of their frustration with elected officials – especially the Council's extension of term limits, which amounted to an arrogant usurpation of voters' rights</li> <li>- Even fewer people will come out at the next election because of their frustration with how term limits is playing out under the Commission</li> <li>- Current zoning practices cause people hurt and pain by replacing neighborhoods with glass towers</li> </ul>
<p><b>Roxanne Delgado</b> <b>private citizen</b></p>	<ul style="list-style-type: none"> <li>- Opposes the grandfathering option for effective date of term limits proposal, as it is disrespectful to the people</li> <li>- Some Council members opposed the term limit extension, but flipped and now have chairmanships and increased funds – why should they get rewarded by being grandfathered in and receiving City pensions?</li> <li>- Voter turnout is low because it feels futile</li> <li>- Disappointed by the Public Advocate's testimony on term limits, since he won on that issue but has now flipped</li> </ul>

<p><b>Mark Axinn</b> Chair, NYS Libertarian Party</p>	<ul style="list-style-type: none"> <li>- Supports reducing number of petition signatures because it is currently too difficult for third parties to get on the ballot</li> <li>- Even if this ballot proposal is preempted by state law, the Commission should still put it on the ballot to send a message to the state that the law should be changed</li> </ul>
<p><b>Jim Brennan</b> Assemblymember</p>	<ul style="list-style-type: none"> <li>- Commission should postpone ballot questions until 2011, to fully engage the public</li> <li>- Ballot questions should not be lumped together, rather should be separated, to be fair to the voters who should be able to choose what they do and do not support</li> <li>- To address the concern that the ballot questions will be too long if separated, Commission should not bundle questions, rather it should eliminate some of the questions</li> <li>- Should eliminate question on consolidating administrative tribunals because of collective bargaining rights and integrity of decisions</li> <li>- Should eliminate question on ballot access because there is no correlation between the number of candidates on the ballot and voter turnout, and because it may be preempted by state law</li> </ul>
<p><b>Elena Conte</b> Organizer, Pratt Center for Community Development</p>	<ul style="list-style-type: none"> <li>- Glad that a Fair Share question will be on the ballot, but believes more needs to be done, especially adding to the map power plants, health indicators, and more</li> <li>- A future Charter Revision Commission should study environmental justice, with the help of the experts – environmental justice advocacy groups</li> <li>- Because zoning is a problem, urges the appointment of a commission to better develop a land use planning scheme</li> </ul>
<p><b>Dan Halloran</b> Councilmember</p>	<ul style="list-style-type: none"> <li>- Wants two term limits because the people voted for it</li> <li>- Wants two term limits to be effective immediately, because application of the law should be fair, consistent across the board, and legally sufficient</li> <li>- Commission must respect the rule of law and do no harm to governmental institutions</li> </ul>

**CORRESPONDENCE**

<p><b>Elizabeth Forel</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Let Council Speaker be elected by the voters</li> <li>- Increase power of Council members</li> </ul>
<p><b>Scott Avidon</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Set term limits at three terms</li> <li>- Prevent Mayor and City Council from overturning referendums</li> <li>- Allow independents to vote in primaries</li> <li>- Abolish the office of Public Advocate</li> <li>- Hold special election for mayoral succession</li> <li>- Maintain office of the Borough Presidents</li> </ul>

<p><b>Claire Shulman</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Create body to handle real estate projects</li> <li>- Move the pre-certification process from the Dep. of City Planning to the Borough Presidents' offices</li> </ul>
<p><b>Gavin Kearney</b> New York Lawyers for Public Interest</p>	<ul style="list-style-type: none"> <li>- Reform Fair Share and 197-a</li> <li>- Implement concession reform, including public review and checks by the Council</li> </ul>
<p><b>Deanna Bitetti</b> Common Cause NY</p>	<ul style="list-style-type: none"> <li>- Elongate current terms of office</li> <li>- Do not endorse nonpartisan elections</li> <li>- Increase the independence of agencies</li> <li>- Allow candidates to include three endorsements on the ballot</li> <li>- Increase accountability of DCP and CPC</li> <li>- Increase community involvement in land use</li> </ul>
<p><b>Ron Hayduk</b> CUNY</p>	<ul style="list-style-type: none"> <li>- Restore voting rights to legal noncitizens in municipal elections</li> </ul>
<p><b>Sindri McDonald</b> SEIU 32BJ</p>	<ul style="list-style-type: none"> <li>- Testimony of Kevin Doyle, Exec VP, on voter participation</li> <li>- Opposes nonpartisan elections</li> </ul>
<p><b>Deborah J. Glick</b> New York State Assembly Member</p>	<ul style="list-style-type: none"> <li>- Do not put nonpartisan elections on the ballot</li> <li>- Extend the commission</li> </ul>
<p><b>Brooke Pierce</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Support nonpartisan elections</li> </ul>
<p><b>Beryl Thurman</b> North Shore Waterfront Conservancy of Staten Island</p>	<ul style="list-style-type: none"> <li>- Include environmental justice in the Charter</li> </ul>
<p><b>Eddie Bautista</b> Executive Director, New York City Environmental Justice Alliance</p>	<ul style="list-style-type: none"> <li>- Recommendations for how Charter can fulfill Fair Share and Section 197-a provisions</li> <li>- Place only term limits on the 2010 ballot</li> <li>- Implement Community Board reform</li> </ul>
<p><b>Zellnor Myrie</b> private citizen</p>	<ul style="list-style-type: none"> <li>- Change the Public Advocate to city manager</li> <li>- Make all community board district managers accountable to the city manager</li> </ul>
<p><b>Mark Thompson</b> Manhattan Community Board 6</p>	<ul style="list-style-type: none"> <li>- Place proposals on 2011 ballot</li> <li>- Urge State Senate to adopt S7110 to amend Municipal Home Rule</li> </ul>
<p><b>Henry Euler</b> Private citizen</p>	<ul style="list-style-type: none"> <li>- Support nonpartisan elections</li> <li>- Strengthen Community Boards</li> <li>- Recommend two four-year terms</li> <li>- Review process for BSA</li> <li>- Review DOB</li> </ul>
<p><b>Damian McShane</b> Bronx Community Board 8</p>	<ul style="list-style-type: none"> <li>- Revise BSA membership</li> </ul>
<p><b>Sideya Sherman</b></p>	<ul style="list-style-type: none"> <li>- Publicize the Livable Neighborhoods program</li> </ul>

<b>Municipal Arts Society</b>	
<b>Jo Hamilton Manhattan Community Board 2</b>	- Forgo placing proposals on 2010 ballot
<b>John Healey private citizen</b>	- Eliminate the Borough President
<b>Michael O'Neil Kings County Green Party</b>	- Implement Choice voting
<b>Ruben Diaz, Jr. The Bronx Borough President</b>	- Reform the ULURP process
<b>C. Ber private citizen</b>	- Require the BSA to hire financial analysts
<b>E-mail Account (Username withheld)</b>	- Implement electronic voting
<b>E-mail Account (Username withheld)</b>	- Support nonpartisan elections
<b>Josefina Sanfeliu Latinas Against FDNY Cuts</b>	- Mandate the FDNY to conduct and publish studies before closing fire companies
<b>Larry Parnes private citizen</b>	- Remove “de minimis” changes to the map from ULURP - Post applications by applicants - Create deadline for land use procedures
<b>Carmen Lee Shue private citizen</b>	- Require prior experience - Appointment by Chair - Staggered term limits - More representative committees
<b>Melissa Elstein West 80s Neighborhood Association</b>	- Hire financial analysts for BSA
<b>Selman A. Berger CUNY</b>	- Appoint a deputy mayor to each borough
<b>George D. Zulch private citizen</b>	- Maintain the Pelham Parkway trees
<b>Cathe Giffuni private citizen</b>	- Implement instant runoff voting
<b>George Spitz private citizen</b>	- Investigation MTA funds, billions can be saved in pensions and contracts
<b>J. Lanier private citizen</b>	- Maintain Community Boards
<b>Theodore Moore Common Cause NY</b>	- Increase the strength of Community Board by revising the appointment procedure - Clarify the role of Borough President
<b>Michael Mulvaney</b>	- Abolish the office of Public Advocate

<b>Forest Hills Civic</b>	<ul style="list-style-type: none"> <li>- Enhance the office of Borough President</li> <li>- Enhance Community Boards</li> <li>- Implement open primaries</li> <li>- Revise land use and ULURP process</li> </ul>
<b>Zoe Zidbeck private citizen</b>	<ul style="list-style-type: none"> <li>- Implement ranked ballot</li> </ul>
<b>Edward Virshup private citizen</b>	<ul style="list-style-type: none"> <li>- Place term limits on ballot, two or three terms for the mayor, and no term limits for the legislature</li> </ul>
<b>Wayne Green New York City Department of Health and Mental Hygiene</b>	<ul style="list-style-type: none"> <li>- Consideration of NYC Administrative Tribunals</li> </ul>
<b>Simeon Bankoff Historic Districts Council</b>	<ul style="list-style-type: none"> <li>- Recommendations regarding the Landmarks Preservation Commission, City Planning Commission, Department of City Planning, Department of Buildings, and Art Commission</li> </ul>
<b>Atasha Mahabir 45th Council District Brooklyn</b>	<ul style="list-style-type: none"> <li>- Support the proposals of New York City Council Member Jumaane's Williams</li> </ul>
<b>Suzy Sanders private citizen</b>	<ul style="list-style-type: none"> <li>- Do not place non-partisan elections on ballot</li> </ul>
<b>Ivan Mrakovic Queens Community Board 9</b>	<ul style="list-style-type: none"> <li>- Keep Community Boards involved in ULURP</li> </ul>
<b>Juamane Williams New York City Council Member</b>	<ul style="list-style-type: none"> <li>- Need for new calculation process</li> <li>- Provide an urban planner for Community Boards</li> <li>- Do not place nonpartisan elections on ballot</li> </ul>
<b>Alfredo Centola Malba Gardens Civic Association</b>	<ul style="list-style-type: none"> <li>- Limit the power of Community Boards</li> <li>- Reinstate term limits</li> </ul>
<b>Daniel Barton Malba Gardens Civic Association</b>	<ul style="list-style-type: none"> <li>- Institute term limits for Community Board members and staff</li> </ul>
<b>Dominic Pisciotta Chair, Manhattan Community Board 3</b>	<ul style="list-style-type: none"> <li>- Provide community boards with independent budget and urban planner</li> <li>-Assign and codify full support services to city agencies</li> <li>-Required the publication of information</li> </ul>
<b>Ellie Karanauskas private citizen</b>	<ul style="list-style-type: none"> <li>- Provide the BSA with financial analysts</li> </ul>
<b>Ileana Carillo private citizen</b>	<ul style="list-style-type: none"> <li>-Strengthen laws regarding animal abuse</li> </ul>
<b>MaryAnn Clark private citizen</b>	<ul style="list-style-type: none"> <li>- Appoint borough presidents to the BSA</li> </ul>
<b>Carol Kellerman Citizens Budget Commission</b>	<ul style="list-style-type: none"> <li>- Do not establish formula budgets for city agencies</li> </ul>

<b>David Casavis</b> Private citizen	- Eliminate borough presidents
<b>Steve Abramson</b> NYS-IRV	- Supports IRV
<b>Jeanne Massey</b> FairVote Minnesota	- Supports IRV
<b>Cam Gordon</b> Minneapolis City Council	- Supports IRV, it has worked in Minneapolis
<b>Michael Heimbinder</b> HabitatMap	- Reform Fair Share
<b>Elizabeth Capelle</b>	- Reform land use this year
<b>Dr. Silas Lee</b> Silas Lee & Associates	- Do not place nonpartisan elections on ballot
<b>Jared Goldstein</b> private citizen	- Create a Department of Tourism
<b>Cathe Giffuni</b> private citizen	- Supports IRV
<b>Peter Wolk</b> private citizen	- Supports IRV
<b>Jeff Dennler</b> private citizen	- Supports IRV
<b>Mark Dunlea</b> Green Party	- Supports IRV and proportional representation
<b>Andrew Herschkowitz</b> private citizen	- Supports IRV
<b>Lawrence Norden</b> Brennan Center for Justice	- Do not support nonpartisan elections
<b>Michael Drucker</b> Independence Party	- Eliminate need for IRV by placing top-two on the ballot
<b>Jo Hamilton</b> Manhattan Community Board 2	- Mandate standards for community board appointment - Provide urban planners to community boards
<b>Barry Popik</b> private citizen	- Eliminate the Borough Presidents and Public Advocate
<b>Richard Bier</b> private citizen	- Implement stricter charter enforcement - Clarify definition of Mayor and Public Advocate - Shrink the bureaucracy
<b>Dan Garodnick</b> City Council	- Place all term limit options on the ballot - Disclosure of independent expenditures

## APPENDIX A

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	<ul style="list-style-type: none"><li>- Supports IRV, reduce petition signatures, limit "safe harbor" provisions, provide COIB board member appointments to public advocate and comptroller, provide independent budgets for charter-mandated government entities, change the budget process; strengthen community boards, CCRB, and CFB, study land use this year</li></ul>
<b>Marcia Tepler</b> private citizen	<ul style="list-style-type: none"><li>- Define role of community boards more clearly</li></ul>
<b>Rich Flanagan</b> private citizen	<ul style="list-style-type: none"><li>- Place nonpartisan elections on ballot</li></ul>
<b>Peter Vallone</b> former Member and Speaker, New York City Council	<ul style="list-style-type: none"><li>- Vote "no" on City Ballot Question 1</li></ul>

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## SUMMARY OF EXPERT TESTIMONY TO THE COMMISSION

### TERM LIMITS

Brooklyn Borough Hall • May 25<sup>th</sup>, 2010

#### **Patrick J. Egan, Assistant Professor of Politics and Public Policy, NYU**

Patrick Egan posited that term limits can be used to address the institutional imbalances between New York City’s executive and legislative branches. As the number of terms that members of the City Council may serve increases, legislator and legislative staff turnover decreases, affording the Council greater capacity to gain and maintain the expertise needed to address the challenges affecting their constituents. Egan also cautioned against comparisons to other cities, and argued that states offer more apt examples of the magnitude of issues facing New York City.

Addressing questions, Egan acknowledged the mixed impact of term limits and the general voter unhappiness with their representatives, whether or not term limits are in place. Egan chose not to take a position on whether the issue of term limits should be decided by the legislature or the voters. He instead encouraged the Commission to recognize that a referendum is no more legitimate from a social science perspective than a legislative vote, or vice-versa. He also commented on the question of terms for non-mayoral elected executives: the Comptroller, Public Advocate, and Borough Presidents. The Commission, he argued, should consider the relative powers of each office, wrestle with whether they are more akin to the executive or legislative branches and, determine the appropriate term limit.

#### **Richard G. Niemi, Professor of Political Science, University of Rochester**

Richard Niemi described the effects of term limits on state legislatures as studied by social scientists. Term limits have not resulted in a new non-political “citizen legislator.” Instead, legislators elected to term limited offices go on to other public offices to continue their careers. The evidence is mixed in regard to the effect of term limits on the competitiveness of races and

legislator turnover: open seats are more competitive, but potential challengers appear to wait for such open seats rather than challenge an incumbent, who has not served the maximum terms permitted. Term limits alter intergovernmental relations; in states, they weaken the legislature relative to the executive and one can expect the same to be true in the municipal context. With regard to the effects of term limits on the influence of lobbyists, the increased dependence upon lobbyists in some regards is counterbalanced by an increased skepticism of lobbyists by term-limited legislators.

Niemi also noted that term limits have neither been the panacea proponents had hoped for, nor the disaster critics feared. Social scientists continue to examine the many complex effects of term limits. He also cautioned the Commission to return the term limits issue to the voters, arguing that not doing so would only increase cynicism among voters. Responding to the question of whether more public education on term limits is required, Niemi argued that voters seem to have firm opinions on the issue; any further education is unlikely to make a difference.

### **Gregory C. Schmid, General Counsel, U.S. Term Limits**

Gregory Schmid presented testimony in favor of a two-term limit for all city elected officials. Rather than limiting voter choice, he argued, term limits serve to empower voters by fostering more competitive elections, militating against abuses of power, and encouraging greater government accountability.

In response to Commissioners' questions, Schmid also argued that, while not a panacea, term limits are an essential tool for voters in the promotion of good government. In Schmid's view, voters hold strong opinions on the issue, have previously chosen term limits, and should once again be permitted to indicate their preference through referendum.

## VOTER PARTICIPATION

Lehman College • June 2<sup>nd</sup>, 2010

### **Jerry R. Goldfeder, Counsel, Strook & Strook & Lavan, LLP**

With respect to the timing of elections, Jerry Goldfeder recommended that the date for primaries should be changed from September to the spring in order to increase voter turnout and to accommodate the forty-five day requirement for the new military voting law. He also advised that election law should be liberalized in order to make it easier for candidates to run for office; an example of this includes reforming the petitioning process.

Regarding the voting process, Goldfeder advocated for structural changes such as early voting, instant runoff, same-day registration, and the use of “special ballots” for absentee voting.

During questioning, Goldfeder argued against using non-partisan elections as a tool to increase voter turnout. He maintained that data indicated that non-partisan elections either have no effect or a negative effect on voter participation. Goldfeder later encouraged the Commission to consider the possibility of internet-based voting, a method that will be used by the military in an upcoming election.

### **David Jones, President and CEO, Community Service Society**

In his testimony, David Jones addressed VAC as well as non-partisan elections. Regarding the Voter Assistance Commission, Jones advocated for increased independence. Specific recommendations include moving the VAC from the Mayor’s Office to the Office of the Public Advocate, appointing an independent leader, allotting a fixed budget, and providing that the guidelines of VAC carry the force of law. Jones also advised that the VAC increase outreach to members of disadvantaged urban populations by amending the guidelines for city agencies to facilitate voter registration in these areas, and by appointing additional Commission members who are representative of this population.

Jones spoke against non-partisan elections, arguing that they are advantageous to wealthy and well-known candidates and detrimental to voters from poor and minority communities.

In response to questions, Jones suggested that any structural changes to the voting system need to be supplemented by further reforms, including restrictions on campaign financing, equality of access to the media, and registration reforms.

### **Harry Kresky, Law Office of Harry Kresky, New York City**

Harry Kresky addressed the issue of voter participation by recommending that non-aligned voters be allowed to vote in primary elections. He advocated for the “top two” voting system that allows all voters to participate in elections. Kresky also supported non-partisan municipal elections, arguing that, among other effects, they will increase the participation of younger voters, who are more likely to be independent.

Kresky spoke further in support of non-partisan elections during his response to questions. He argued that non-partisan elections significantly increase the power of voters, at the expense of parties, to control the result of elections. The direct impact, he claimed, is an increase in voter participation. Kresky recommended mobilizing independents to educate the public on the non-partisan election model.

### **Lorraine C. Minnite, Assistant Professor of Political Science, Barnard College**

Lorraine Minnite pointed out that class-bias in voter turnout leads to the electorate being unrepresentative of the population at large. She recommended that the Commission address the problem of voter turnout by looking to the rational voter model, which political scientists use to understand the costs and benefits voters weigh when deciding whether to cast a vote; properly applied voting rules can shift the cost-benefit balance. Suggestions for improving the registration process include same-day registration, the expansion of agency-based registration and allowing voters to change their address at polling sites. Additional ideas on election law reform include synchronizing municipal elections with other elections and allowing for instant runoff elections.

In responding to questions, Minnite asserted that factors affecting voter turnout are very complicated to analyze. She urged the Commission, therefore, to avoid isolating factors, as no one rule change can dramatically alter voting dynamics. The Commission should instead examine the effect of various combinations of factors working in conjunction with one another.

**J. Phillip Thompson, Associate Professor of Urban Politics, MIT**

In his remarks, J. Phillip Thompson focused on the one-third of the voting-age population that he said is excluded from the electoral process. In order to resolve this, Professor Thompson suggested that the Commission enfranchise non-citizen immigrants, allow independents to participate in primaries, and provide for non-partisan general elections.

In response to questions, Thompson emphasized the role organizations have in catalyzing voter engagement. He encouraged the Commission to consider ways to facilitate cultural practices that support participation in the electoral process. Thompson would permit voting by non-citizen residents, citing European countries, the European Union, and 30 states (prior to the 1920s) as precedent. Regarding internet voting, Thompson expressed concerns about bias and security, and suggested that the Commission not put forth any such recommendation.

**GOVERNMENT STRUCTURES**

Staten Island Technical High School • June 10<sup>th</sup>, 2010

**Gerald Benjamin, Distinguished Professor, SUNY New Paltz**

In his comments, Gerald Benjamin focused on the legislative branch. He noted that the 1989 Commission sought to make the legislature more diverse, and to diminish party influence over Council elections. Benjamin encouraged the current Commission to seek a means of elevating the Council's power. Any structural recommendations must be made in light of state constitutional guidelines, with the goal of strengthening the institution as a whole, rather than increasing the power of individual members.

Benjamin argued that the implementation of term limits has negatively affected the Council by creating selfish incentives, thereby weakening the body overall. He also encouraged the Commission to examine the issue of full-time versus part-time engagement.

Responding to questions, Benjamin spoke against guaranteed budgets, arguing that there are ways to strengthen local voices without creating greater institutional problems.

**Brad Hoylman, former Chair, Community Board 2, Manhattan**

In his remarks, Brad Hoylman focused on the role of Community Boards. He noted that the charter calls on Community Boards to fulfill three main functions: improving delivery of services to neighborhoods, reviewing land use proposals, and making local recommendations. With the advent of 311, Community Boards play a diminished role in service delivery, thus making the latter two functions their primary focus. Hoylman argued that the ability of Community Boards to adequately analyze land use proposals is hindered by a lack of in-house expertise. Citing the success of the community planning fellowship program implemented by Community Board President Scott Stringer, Hoylman recommended that the Commission revise the charter to mandate the employment of a full-time urban planner, with requisite budget appropriations, by every Community Board. He also argued that vague appointment standards have resulted in boards that are often impaired by lack of diversity, significant vacancies, and conflicts of interest. In order to ensure that Community Boards are filled with the most qualified representatives, Hoylman recommended the creation of uniform application standards administered by each Borough President.

Hoylman later expanded on his call for mandated urban planners. Citing the importance of Community Board involvement in land use decisions, and the inability of busy volunteers to devote sufficient time, Hoylman argued that all boards would benefit from a full-time employee with specialized expertise.

**Eric Lane, Prof. of Public Law and Public Service, Hofstra University School of Law**

Eric Lane outlined several issues the 1989 Commission confronted and that he felt the current Commission should revisit. He argued that the primary concern should be clear separation and balancing of powers across all branches of local government. Lane endorsed maintaining a strong mayor in order to facilitate efficiency and establish clear lines of accountability, and ensuring structures that enable the Council to function as a unified legislative body.

With respect to other elected officials and community boards, Lane maintained that: the 1989 Commission was mistaken in not assigning the Office of the Public Advocate an

independent budget; the Commission should seek ways to improve the political clout of borough presidents; and, he suggested the Commission examine providing a greater voice for community boards in Fair Share decisions.

Addressing questions, Professor Lane testified that the original intent of the 1989 Commission was to strengthen the Borough Presidents in the absence of the Board of Estimate. He urged the Commission to strengthen the office further, whether through the provision of a guaranteed budget or otherwise. He also suggested that the Commission investigate whether there have been abuses of councilmember veto power in land use decisions.

**Doug Muzzio, Professor, School of Public Affairs, Baruch College**

Doug Muzzio addressed the powers of the Borough Presidents and the Public Advocate. He outlined the history of each office, spoke to their current roles, and sketched the options available to the Commission. The Commission may choose to eliminate, retain, or enhance the powers of each office. With respect to eliminating the Public Advocate, he noted that some argue the function is better served through an appointed ombudsman, rather than an elected official. Those in favor of strengthening the office argue for the provision of an independent budget, clearly articulated powers, and taking over the functions of the Commission on Public Information and Communication (COPIC).

With respect to the Borough Presidents, Muzzio testified that some believe the office's lack of substantive authority is justification for its elimination; others believe the office would benefit from independent budgets for each borough office, charter-mandated monthly meetings with agency borough commissioners, greater influence in the ULURP process, and and/or appointment power to the Board of Standards and Appeals and the Landmarks Preservation Commission. Muzzio also noted that the Commission may opt to leave the offices as they are, as neither is dangerously broken and any structural change to them would introduce political chaos.

Muzzio went on to argue in favor of guaranteed budgets for all elected officials, saying that they should be insulated from politically-motivated budgetary decisions.

**Marc V. Shaw, Interim Senior Vice Chancellor for Budget, Finance and Financial Policy, CUNY**

Marc Shaw provided testimony on New York City's budget process, responding to two areas where the Council had called for changes to current practice: Mayor's revenue estimate, and the Council's budgetary powers with respect to revenue modifications. In considering these and other challenges, he urged the Commission to recognize that the City is generally working well. Any charter changes should preserve Council power as a check on a strong mayor, promote the open, public allocation of resources, and avoid a level of detail which does not allow for flexibility over time.

In his response to questions, Shaw argued that the revenue estimate is an executive function and, as such, the power should belong to the Mayor alone. He also argued that there is no need for independent budgets when a strong Council and Comptroller are in place and when decisions are made in an open, public manner.

**PUBLIC INTEGRITY**

City College • June 16<sup>th</sup>, 2010

**Richard Briffault, Professor, Columbia University Law School**

Briffault supported the current system of public funding for campaign finance. Regarding Council discretionary funds, Briffault recommended that there be charter-mandated disclosure of discretionary funds. Furthermore, he supported the disclosure of independent expenditures in support or opposition to candidates and also suggested that the oversight of lobbyists become a function of the CFB or COIB.

Briffault expanded upon his view of discretionary funding during questioning, stating that that there is a need for a formalized, charter-mandated way to address the issue. Greater transparency is needed to clarify the relationship between the Council Members who allocate funds and the organizations that receive them.

**Mark Davies, Executive Director, New York City Conflicts of Interest Board**

Mark Davies began his testimony by outlining the history and functions of the COIB. He followed with recommendations regarding the COIB budget and ability to impose penalties. Davies argued that the COIB needs an independent budget. In regards to penalties, Davies suggested increasing the maximum civil fine from \$10,000 to \$25,000, empowering the COIB to debar and suspend individuals involved in violations, and granting COIB the authorization to enforce repayment to the City for any violations. He emphasized that COIB needed to increase maximum civil fines in order for the penalties to reflect the relative severity of the offenses.

In response to questioning by the Commissioners, Davies proposed that the fixed budget of the COIB be a percentage of the City's net expense budget. Davies also discussed the issue of lobbyist oversight and cited precedent in other cities where this task is assigned to the City's ethics board. In response to questioning regarding "split" appointment of board members (where officials other than the Mayor would make appointments), Davies advised against it in order to prevent the politicizing of the board.

**Amy Loprest, Executive Director, New York City Campaign Finance Board**

After providing the Commissioners with an explanation of the role of CFB, Amy Loprest recommended that the Charter mandate the disclosure of independent expenditures (expenditures that are not made by or at the request of candidates) that support candidates in city elections.

During questioning, Loprest explained that she does not believe that there is a need for specific legislation regarding legal defense funds used to defend campaign finance offenders. In regard to the oversight of lobbyists, she recommended educating lobbyists about the legal provisions that govern their activities. In response to questions about the Voter Assistance Commission (VAC), Loprest described the formal relationship between VAC and CFB, and the outreach and voter education assistance that CFB has given to VAC over the years.

**Richard Rifkin, Special Counsel, New York State Bar Association**

In his testimony, Richard Rifkin discussed the importance of providing an ethical framework wherein employees can participate in interests and activities outside of government

and balance the functions of their office with their ability to be involved citizens. Rifkin focused on the need for education and the availability of guidance for those affected by the ethics law.

In response to questioning, Rifkin discussed the difficulty of determining the appropriate fine for an offense because in some cases, the designated mentalities of the actors do not seem to match the offense. He asserted that fines should be a tool to change the behavior of offenders, to prevent further offenses, and to assure the public that those guilty are being punished for their actions.

**Benito Romano, Partner, Freshfields Bruckhaus Deringer LLP**

Benito Romano began his testimony with an enumeration of the functions of the COIB. His primary recommendation was the need for a guaranteed budget, which would allow the COIB to preserve the authority derived from the public perception of its independence.

During questioning, Romano again asserted the need for a fixed floor for the agency's budget. Regarding penalties, Romano supported increasing fines to allow the COIB to differentiate among offenses. He also suggested that an evaluation of fines be mandated every five years in order to maintain the sufficiency of penalties.

**LAND USE**

Flushing Branch, Queens Borough Public Library • June 24<sup>th</sup>, 2010

**Tom Angotti, Professor of Urban Affairs and Planning, Hunter College**

Tom Angotti offered recommendations to address the problems confronting ULURP, City Planning and Community Boards. He argued that the pre-ULURP process, in which many agreements are made privately, fosters widespread cynicism about the formal process. He also argued that environmental reports are overly complicated, impeding citizens input. Professor Angotti called on the Commission to provide a structure for the pre-ULURP process.

With regard to City Planning, he argued that widespread re-zoning should not take place in the absence of a comprehensive citywide plan, and that every proposal should be related to capital and expense budgets.

With regard to Community Boards, he recommended establishing a uniform process containing outreach requirements, criteria for board member eligibility, and the development of a formula that would give the Community Boards' recommendations more weight than the current 'advisory' provision affords.

In response to questioning by commissioners, Professor Angotti discussed the importance of facilitating top-down and bottom-up planning, and argued that planning must precede zoning. Furthermore, he emphasized increasing public involvement and shortening the environmental review process. Angotti also posited that ULURP is partially to blame for the proliferation of Community Benefit Agreements.

### **Vishaan Chakrabarti, Professor of Real Estate, Columbia University**

Vishaan Chakrabarti testified to the strength of ULURP, arguing that it is a dependable process has proven to be a key factor in maintaining a healthy market-place. Chakrabarti acknowledged, however, that there is much room for improvement outside of ULURP. He expressed concern over the unpredictable environmental review process and the proliferation of CBAs, which invite mischief and lack accountability.

Chakrabarti recommended that the Commission seek ways to standardize the Environmental Impact Statement process, consider creating a redevelopment authority for the City, and examine whether any jurisdiction the State currently holds over city property can be transferred to the City.

During questioning, Chakrabarti reiterated his views on the importance of fostering city-wide sustainability and stated that achieving sustainability is dependent upon building as much infrastructure and mass transit as possible. He also stated that there is a sustainability role for City Hall, as the promotion of sustainability is too large for City Planning alone. Chakrabarti also

testified that, in his experience, planning does precede zoning, and that City Planning does well in considering the community perspective. Regarding Community Benefits Agreements (CBAs), Chakrabarti asserted that they are a fundamental threat to the economy and growth of New York City; CBAs must be seriously addressed, since they circumvent the oversight of elected officials and formalized legal processes.

### **Christopher Collins, Vice-Chair NYC Board of Standards & Appeals**

Christopher Collins spoke from his experience as former Counsel to the City Council's Land Use Committee. He posited that ULURP generally works well, is flexible enough to allow community board participation outside of the designated 60-day period, and that the threat of Council veto power over land use proposals is unrealized. He recommended that the Commission review the Council's current power in regard to modifying City Planning Commission decisions, arguing that it is an unnecessary check. In addition, he urged the Commission to proceed with caution in reviewing the City's land use process, so as not to weaken a strong process.

During questioning, Collins discussed the role of borough presidents and stated that the voice of the borough may be heard from both the office of the Borough President and the Council. He echoed Professor Chakrabarti's sentiments on CBAs and requested that the Commission use caution in making any final recommendations.

### **David Karnovsky, General Counsel, NYC Department of City Planning**

David Karnovsky credited the 1975 and 1989 Charter Revision Commissions with creating a land use process that has been proven to be strong and effective. He posited that the ULURP provides a logical and coherent structure, a predictable timeline, and multiple opportunities for public input. It is a tool that has proven helpful in balancing multiple interests: local vs. citywide, Mayor vs. Council, and professional vs. political.

Karnovsky also countered criticisms of the appointment structure to the City Planning Commission (CPC) by noting that members do not act as "delegates" of their appointing bodies. With respect to criticisms that the Community Boards are powerless, he emphasized that all Community Board input is considered carefully.

During questioning, Karnovsky asserted that zoning plans are integrated and coordinated with other city agencies, so that planning happens holistically, even if a community does not have a 197(a) plan in place. He argued that citywide master plans have historically been discredited in favor of dynamic and continuing planning. Karnovsky also reiterated that Borough Presidents do have a persuasive voice in the planning processes.

**Paul Selver, Kramer Levin Naftalis & Frankel LLP**

Paul Selver, focusing on the concerns of the real estate industry, provided several recommendations to fine-tune a process he described as sound. With respect to the pre-ULURP process, he called for the CPC to exercise final approval over city permits, and for a prohibition on any conditions to the permits that do not have a nexus to the project. Discussing Community Boards, Mr. Selver called for a mandate that 25% of all board members hold ties to the community, and for the introduction of a sunset period of 10 years for all 197-a plans.

Selver also urged the Commission to reevaluate the Landmarks Preservation Commission's guidelines in order to encourage consideration of long-term economic impact, and to narrow the LPC's jurisdiction to those elements of a landmark site that are visible to the public.

During questioning, Selver stated that providing that the CPC may override a Community Board veto only with a two-thirds vote would upset the balance of power. With respect to the role of borough presidents, Selver argued that final land use decisions require a broad, citywide perspective that borough presidents are not in a position to provide. Therefore, the Council should retain its decisive role in land use negotiations.

## BROOKLYN PUBLIC HEARING

Brooklyn College • July 19<sup>th</sup>, 2010

### **Citizens Union**

Citizens Union Chair Peter Sherwin provided Commissioners with an overview of the history of the organization, followed by an introduction to the report—2010 City Charter Revision Recommendations—that Citizens Union produced. He emphasized its support for a strong mayoralty while advocating for five key reform objectives: ensure checks and balances, open elections, strengthen accountability, protect integrity, and increase transparency.

Specific recommendations were then discussed by Executive Director Dick Dadey, who was joined by John Avalon and Alex Camarda. Citizens Union has changed its previous position and is now advocating top-two elections to increase voter participation. The organization also supports independent budgets for borough presidents, the public advocate, the Conflicts of Interest Board, and community boards. In its report, Citizens Union also supports increased community board participation in land use decisions as a check on the mayoralty. Citizens Union also recommends that other land use issues, including 197-a, be addressed this year.

Citizens Union made specific recommendations regarding the City Council. These include ending “lulus”, implementing equity in the distribution of discretionary funding, and a independent commission, 1/3 of whom would be appointed by the Campaign Finance Board, to take on redistricting. In regard to term limits, Citizens Union supports three four-year terms for City Council, and two four-year terms for citywide offices. Citizens Union also supported the merger of the Voter Assistance Commission with the Campaign Finance Board.

During questioning by commissioners, Citizens Union more clearly explained its previous proposals, focusing particularly on the difference between nonpartisan elections and top-two. They also emphasized their support for increased terms for the legislature in order to provide balance to a strong mayoralty.

**BRONX PUBLIC HEARING**

Bronx Community College • July 21, 2010

No expert testimony was given at the July 21<sup>st</sup> public hearing.

**MANHATTAN PUBLIC HEARING**

Adam Clayton Powell Jr. State Building • July 26, 2010

**Ester Fuchs, Professor, Columbia University****Terri Matthews, Senior Policy Advisor, NYC Department of Design and Construction**

Esther Fuchs provided background on the proposal to create a commission to systematically examine the functioning of reports and advisory bodies established in the Charter and Administrative code, a proposal which originated with the 2003 Charter Revision Commission, of which she was the Chair. Fuchs referenced the numerous conversations she and her staff had with people both inside and outside government, noting the need for a “politically safe space” to engage in conversations on data needs.. Agencies described the burden of producing numerous reports that remain unread and are often outdated before publication, and members of the public expressed their desire for an avenue to request and comment upon available data. Fuchs stressed that, currently, the Charter allows for the proliferation of advisory boards and reports without a mechanism for either review or update or requirements, which ultimately hinders government efficiency.

Such a commission would put forth recommendations on a rolling basis; recommendations would require approval from both City Council and the Mayor.

**Carol Robles-Roman, Deputy Mayor for Legal Affairs and Counsel to Mayor****David Goldin, New York City Administrative Justice Coordinator**

Carol Robles-Roman advocated for a consolidation of all administrative tribunals into the Office of Administrative Tribunals and Hearings (OATH). She noted that there are currently 12 independent tribunals that adjudicate millions of disputes each year. These disputes range from

traffic and parking violations to health and sanitation violations issued by agencies including the Department of Consumer Affairs, the Department of Sanitation, the Taxi and Limousine Commission, and the Department of Finance. Citing the success of the Environmental Control Board's 2008 consolidation with OATH, Deputy Mayor Robles-Roman contended that further consolidation will result in a smaller, more efficient government, greater fiscal stability, decreased backlog, reduced appeal time and significant improvements in customer service.

David Goldin pointed out that the consolidation of ECB into OATH is a successful model that can be emulated. He urged the Commission to recommend the establishment of mayoral authority over tribunal consolidation, and the establishment of a committee to determine the appropriate process for each tribunal.

In responding to questions, Robles-Roman and Goldin argued that charter-mandated mayoral-driven consolidation is the most advantageous mechanism for implementing change, as it allows for both swift implementation and careful consideration of the tribunals' unique needs.

## **QUEENS PUBLIC HEARING**

Queens Borough Hall • July 28, 2010

### **Mark Page, Director, Office of Management and Budget**

Mark Page testified in opposition to the establishment of independent or guaranteed budgets for municipal entities. He stressed the challenge of creating a budget that addresses competing needs, particularly when revenues are declining. The current resource allocation process is a flexible and transparent one that allows agencies and elected officials to reexamine their programs and services, find solutions that stretch the dollar, and results in a more engaged and effective government. Page cautioned against devising fixed formulas that the City would have to accommodate for years to come and argued that it is difficult to devise a formula that can take into account the evolving demands faced by the City.

**STATEN ISLAND PUBLIC HEARING**

PS 58 - Space Shuttle Columbia School • August 2, 2010

No expert testimony was given at the August 2<sup>nd</sup> public hearing.

## NEW REPORTING REQUIREMENTS: LOCAL LAWS ENACTED FROM 2005 THROUGH 2010

The table below is an update of the reporting requirements table appended to the Final Report of the 2004-2005 New York City Charter Revision Commission, which found that there were approximately 94 Charter-mandated reporting requirements and 78 reporting requirements in the Administrative Code. Staff's research has found that since 2005, approximately 13 new reporting requirements have been added to the Charter, 49 to the Administrative Code, and 3 to unconsolidated law.

The list is based on a search of Local Laws enacted from January 1, 2005 through June 30, 2010 that contain the word "report." The search was conducted through the New York City Council's online Legislative Research Center.<sup>144</sup>

Law Ref.	Reporting Requirement	Agcy.
Chart. § 14(d) (LL 2006/010)	The veterans' advisory board shall submit an annual report of its activities to the Mayor and the Council.	MOVA
Chart. § 19(d)(5) (LL 2005/061)	The domestic violence fatality review committee shall submit to the mayor and to the Speaker of the Council an annual report on the incidences of domestic violence fatality cases in the city, the committee's work reviewing such cases, and recommendations regarding victim services.	OCDV
Chart. § 20 (LL 2008/017)	The director of long-term planning and sustainability shall make an annual public report on the City's performance with respect to indicators identified to assess and track the overall sustainability of the city (such report may be made in conjunction with the MMR). The director shall also submit to the mayor and the Speaker of the City Council an annual report on the City's long-term planning and sustainability efforts. The director shall post these reports on the City's website.	LTPS
Chart. § 522(b) (LL 2005/122)	DOE shall report to the council annually regarding the use of non-standard classrooms within the public school system.	DOE

<sup>144</sup> <http://legistar.council.nyc.gov/Legislation.aspx>

Law Ref.	Reporting Requirement	Agcy.
Chart. §§ 522(c) to (f) (LL 2005/125)	DOE shall report to the Council twice annually, and place on its website, information regarding class sizes in the public school system.	DOE
Chart. § 529 (LL 2005/004)	DOE shall make available to the public annual reports that reflect the environment of criminal and seriously disruptive behavior in schools it operates based on information reported by the NYPD. DOE shall make such reports available on its web site, include such information in the school report card, and make such reports available in paper form at all schools and all district and regional offices, and shall provide copies to the public on request.	DOE
Chart. § 530* (LL 2009/062)	DOE shall report annually to the MTA information regarding any new DOE schools, any schools receiving an increase of 200 or more students, and the students enrolled in such schools.	DOE
Chart. § 530* (LL 2009/068)	DOE shall report twice annually to the City Council and on its website regarding children that DOE places in out-of-state instructional facilities pursuant to state education law.	DOE
Chart. § 1075 (LL 2005/047)	DOITT shall make available on the City's official website, and submit to the Speaker of the Council, the Public Advocate and each Community Board, monthly electronic reports regarding requests for service calls and directory assistance calls received by the 311 citizen service center. DOITT shall also submit to each community board a monthly electronic list of all such new and unresolved requests for service identified to have occurred in the respective community district.	DOITT
Chart. §§ 1301(1)(b) and (b-1) (LL 2005/048)	Expands requirements relating to an already existing annual job creation report that SBS must include in all contracts with LDCs providing economic development services on the City's behalf. LDCs must submit a report to the Public Advocate, Comptroller and Borough Presidents (in addition to previously required submission to the Mayor and Council) for any project to create or retain jobs involving assistance to a business in excess of \$150,000 (previously in excess of \$250,000). Also requires SBS to submit a new biennial report to the mayor and Speaker on the methodology of the existing report.	LDCs, SBS
Chart. § 1303(e) (LL 2009/020)	The waterfront management advisory board shall issue a biennial report to the Mayor, the City Council, and the Borough Presidents regarding the development of wharves, and waterfront property and infrastructure in the City.	WMAB

\* There are two distinct Chart. §§ 530

**APPENDIX C**

<b>Law Ref.</b>	<b>Reporting Requirement</b>	<b>Agcy.</b>
Chart. § 1805(5) (LL 2006/058)	The commissioner shall report annually to the Council on payments from the affordable housing trust fund.	HPD
Chart. § 2302 (LL 2010/025)	Expands requirements of the existing TLC annual report to the city council to include information regarding complaints received by the TLC from the public and enforcement actions undertaken by the TLC, and requires such complaint and enforcement information to be posted on the TLC's website and updated at least monthly.	TLC
A.C. § 3-212 (LL 2006/015)	The City Clerk shall post on the internet an annual report relating to the administration and enforcement of the regulation of lobbying provisions of the Administrative Code.	Clerk
A.C. § 6-129 (LLs 2005/129 and 2006/012)	The City chief procurement officer, in consultation with SBS's division of economic and financial opportunity, shall submit twice annual reports (preliminary and final) to the Speaker of the Council, and shall also post such reports on the division's website, regarding compliance with the programs to enhance participation by minority and women-owned business enterprises and emerging business enterprises in city procurement.	MOCS, SBS
A.C. §§ 6-304 to -305 (LL 2005/118)	The director of citywide environmental purchasing shall submit an annual report to the Speaker of the Council and the Mayor detailing the City's progress in establishing and meeting environmental purchasing standards. Each agency shall designate an environmental purchasing officer who shall submit an annual report as required by the director detailing agency compliance with the City's environmental purchasing standards. DOE shall submit an annual report to the Speaker of the Council and the Mayor detailing its procurement activities that are consistent with the City's environmental purchasing standards.	MOCS, DOE and var. agcys.
A.C. § 7-808 (LL 2005/053)	Through 6/1/2012, the corporation counsel shall transmit to the Mayor and the Speaker of the Council an annual report on proposed civil complaints and enforcement actions relating to the NYC False Claims Act.	Law

Law Ref.	Reporting Requirement	Agcy.
A.C. § 9-130 (LL 2009/029)	The commissioner shall post a quarterly report on the DOC website pertaining to adolescents in city jails and including information regarding census data and security indicators.	DOC
A.C. § 9-201 <sup>†</sup> (LL 2010/012)	Beginning no later than 9/30/2010, DJJ shall post an annual report of demographic data on its website regarding the total number of admissions to detention facilities, and regarding the average daily population of, and time spent by admitted youth in, secure and non-secure detention facilities.	DJJ
A.C. § 9-201 <sup>†</sup> (LL 2010/014)	DJJ shall post a quarterly report on its website regarding the use of restraint on, injury to, and room confinement of children at secure and non-secure detention facilities. DJJ shall also post an annual report on its website regarding allegations that a child in a DJJ detention facility was a neglected or abused child and the state office of children and family services substantiation of such allegations.	DJJ
A.C. § 11-245.1-A (LL 2006/058)	Through 12/28/2010, the boundary review commission shall submit a biennial report to the Speaker of the Council and the Mayor on its recommendations for revisions to the boundaries of the geographic exclusion zones restricting benefits provided pursuant to § 421-a of the real property tax law (final report due 12/1/2010).	BRC
A.C. § 14-150 (LLs 2005/005, 2005/114, 2008/057 and 2009/001)	Expands requirements of NYPD's existing enforcement personnel quarterly report to the City Council to include the number of school safety agents assigned to each school operated by DOE. Expands requirements of NYPD's existing crime status quarterly report to the City Council to include information on major felony crime complaints in parks under the jurisdiction of the department of parks and recreation. Creates new NYPD quarterly report to the City Council regarding the number of firearms possessed in violation of law that have been seized and the related arrests made and crimes charged. Creates new NYPD annual report to the City Council regarding firearms discharge incidents during which a police officer discharged a firearm or a firearm belonging to a police officer was discharged.	NYPD
A.C. § 16-405 (LL 2005/097)	The commissioner shall report biennially to the Mayor and Council concerning the amount of rechargeable batteries recycled within the city.	DSNY
A.C. § 16-428 (LLs 2008/013 and 2008/021)	DSNY shall submit an annual report on implementation of electronic equipment collection, recycling and reuse to the Mayor and the City Council.	DSNY

<sup>†</sup> There are two distinct A.C. §§ 9-201.

**APPENDIX C**

<b>Law Ref.</b>	<b>Reporting Requirement</b>	<b>Agcy.</b>
A.C. § 16-453 (LL 2008/001)	The commissioner shall report to the Mayor and the Council biennially regarding the implementation and enforcement of the plastic carryout bag and film plastic recycling law.	DSNY
A.C. § 17-188 (LL 2005/020)	DOHMH shall provide the Mayor and City Council with an annual report on the quantities and locations of automated external defibrillators placed in public places for 5 years.	DOHMH
A.C. § 17-190 (LL 2005/063)	Through 1/30/2012, DOHMH shall submit a quarterly report to the council on the incidence of deaths of homeless persons and homeless shelter residents and DOHMH shall also submit an annual report to the Council and the mayor summarizing and updating the preceding four quarterly reports and indicating the causes of such deaths.	DOHMH
A.C. § 17-191 (LL 2005/115)	Through 1/30/2012, the child fatality review advisory team shall submit an annual report to the Mayor, the Speaker of the City Council, and the Public Advocate, regarding child fatality cases in the City and recommendations to decrease the future incidence of such fatalities.	DOHMH
A.C. § 17-194 (LL 2009/011)	Beginning 3/1/2010, DOHMH shall submit four annual reports to the Council which shall provide information about water tank inspections.	DOHMH
A.C. § 17-325.2 (LL 2008/009)	DOHMH shall submit four annual reports to the Council which shall set forth information concerning fresh fruits and vegetables permits and green carts (first such report submitted 9/10/2009).	DOHMH
A.C. § 17-1004 (LL 2005/019)	DOHMH shall provide the City Council with an annual report regarding the prescription drug discount card program.	DOHMH
A.C. § 17-1203 and -1208 (LLs 2005/037 and 2007/054)	DOHMH shall submit an annual report to the City Council regarding changes made to the list of pesticides classified as carcinogenic by the EPA, changes made to the list of pesticides classified as developmental toxins by the California office of environmental health hazard assessment, and to what extent any added or removed pesticide is used by city agencies or contractors. Each city agency that uses pesticides shall submit an annual report to the health commissioner in February detailing each instance of such use, and shall also submit an annual report to the Speaker of the Council in May containing both the information in the February report and a summary thereof.	DOHMH and var. agcys.
A.C. § 17-1307 (LL 2010/022)	Through 8/30/2014, DOHMH shall furnish to the Speaker of the City Council a quarterly report regarding the licensing and inspection of child care programs in the city and DOHMH shall publish on its website an annual report containing the information set forth in such quarterly reports.	DOHMH

Law Ref.	Reporting Requirement	Agcy.
A.C. § 18-131 (LL 2005/029)	The parks commissioner shall maintain a record of public reports of accidents or hazardous conditions, and actions taken in response, which shall be provided to the mayor and city council on an annual basis. The health commissioner shall forward an annual report of the inspections of all bathing beaches and any advisory or closure to the Mayor, the Public Advocate and the Speaker of the Council. The parks commissioner shall forward an annual report of inspections of departmental property to the Mayor, the Public Advocate and the Speaker of the Council.	Parks, DOHMH
A.C. § 18-134 (LL 2008/028)	The commissioner shall submit an annual report to the Council on funding and donations provided by non-governmental sources to parks under the jurisdiction of the department.	Parks
A.C. § 18-136 (LL 2010/019)	Through 6/1/2013, the department shall, at least every six months, provide a report (or written statement that no such report exists) to the advisory committee on the safety of new surfacing materials regarding any evaluation of new surfacing materials intended to be used by the department for playgrounds and athletic fields. Such report shall also be sent to the mayor and the Speaker of the Council and made available on the department's website.	Parks
A.C. § 19-180** (LL 2008/011)	DOT shall annually identify the twenty highest crash locations involving pedestrians, inspect and audit such locations, and report on such inspections and audits to the relevant council members and community boards.	DOT
A.C. § 19-180** (LL 2008/023)	DOT shall submit to the Mayor and the Council, and make available on its website, a written annual report regarding performance indicators that assist in assessing and reducing the amount of traffic on transportation infrastructure and promote high performance modes citywide and within each borough.	DOT
A.C. § 19-307 (2008/003)	The Mayor shall submit to the Comptroller and the Council an annual report regarding the use of ultra low sulfur diesel fuel and the best available technology for reducing the emission of pollutants for diesel fuel-powered city ferries. The information in this report shall also be included in the PMMR and MMR.	Mayor

\*\* There are two distinct A.C. §§ 19-180.

**APPENDIX C**

<b>Law Ref.</b>	<b>Reporting Requirement</b>	<b>Agcy.</b>
A.C. § 19-534 (LL 2006/053)	The TLC shall include information regarding the implementation status and environmental benefits of the clean air and accessible taxicab and for-hire vehicle plan in every annual report submitted to the City Council pursuant to Charter § 2302. The TLC shall also make available information regarding the numbers of clean air and accessible vehicles in the city on its website, which shall be updated at least every four months.	TLC
A.C. § 19-711 (LL 2005/068)	DOT, CCHR and operators of any water borne commuter services facility each shall provide the Mayor and the City Council with a twice annual report regarding compliance with the accessible water borne commuter services facilities transportation act at each such facility.	DOT, CCHR, and var. operators
A.C. § 20-370.1 (LL 2007/006)	DCA shall submit to the City Council an annual report regarding all contracts that the commissioner has required cabaret and public dance hall licensees to enter into with independent monitors.	DCA
A.C. § 21-128 (LL 2005/032)	The commissioner shall submit written, quarterly reports to the Mayor and the council providing information on the provision of benefits and services to persons with HIV/AIDS.	HRA/ DSS
A.C. § 21-131 <sup>††</sup> (LL 2005/080)	The commissioner shall submit a quarterly report to the Speaker of the City Council indicating the emergency feeding programs to which it distributed food stamp applications and the number of applications distributed.	HRA/ DSS
A.C. § 21-131 <sup>††</sup> (LL 2005/116)	The child welfare parent advocate advisory committee shall submit a public annual report to the Mayor and the Speaker of the City Council regarding improvement of foster care services, preventive services and other aspects of the child welfare system.	ACS
A.C. § 21-902 to -903 (LL 2006/020)	ACS shall furnish to the Speaker of the City Council a quarterly report regarding child protective services and family reunification practices and will also publish and make available on its website an annual report compiling the information provided in such quarterly reports.	ACS
A.C. § 21-904 (LL 2010/006)	Beginning no later than 1/13/2012 and sun-setting in 2015, ACS shall submit to the City Council an annual report on implementation of a comprehensive plan to provide services to children in contact with ACS who may be deemed eligible for special immigrant juvenile status or other immigration benefits.	ACS

<sup>††</sup> There are two distinct A.C. §§ 21-131.

Law Ref.	Reporting Requirement	Agcy.
A.C. § 24-163 (LL 2009/005)	ECB shall submit an annual report to the City Council on the number of notices of violation issued for engine idling violations. DOF shall submit an annual report to the City Council on the number of summonses issued for engine idling violations.	ECB, DOF
A.C. § 24-163.1 to -163.2 (LLs 2005/038 and 2006/021)	The Mayor shall submit annual reports to the Comptroller and the Speaker of the City Council regarding the City's purchase of light and medium-duty vehicles, the fuel economy of such light-duty vehicles, and the City's purchase of alternative fuel buses. The information in these reports shall also be included in the PMMR and MMR. DEP shall annually publish on its website, and the mayor shall include in the PMMR and MMR, the estimated total amount of fuel consumed and equivalent carbon dioxide emitted by the City's fleet of motor vehicles. The sanitation commissioner shall report to the Mayor, the Comptroller and the Speaker of the City Council on DSNY's alternative fuel street sweeping vehicle pilot project.	Mayor, DEP, DSNY
A.C. § 24-163.4 (LL 2005/039)	The commissioner shall submit an annual report to the Comptroller and the Speaker of the Council regarding the use of ultra low sulfur diesel fuel and the best available retrofit technology by diesel fuel-powered vehicles owned or operated by city agencies.	DEP
A.C. § 24-163.5 (LL 2005/040)	The commissioner shall submit an annual report to the Comptroller and the Speaker of the Council regarding the use of ultra low sulfur diesel fuel and the best available retrofit technology by diesel fuel-powered vehicles used in the performance of solid waste and recyclable materials contracts.	DEP
A.C. § 24-163.6 (LL 2005/041)	The commissioner shall submit an annual report to the Comptroller and the Speaker of the Council regarding the use of the best available retrofit technology by diesel fuel-powered sightseeing buses.	DEP
A.C. § 24-163.7 (LL 2005/042)	The commissioner shall submit an annual report to the Comptroller and the Speaker of the Council regarding the use of ultra low sulfur diesel fuel and the best available retrofit technology by school buses.	DEP
A.C. § 24-163.9 (LL 2009/061)	No later than 12/31/2011, and annually thereafter, DOE shall submit a report to the Mayor and the Speaker of the Council on compliance with the retrofitting of, and age limitations on, diesel fuel-powered school buses.	DOE
A.C. § 24-205 (LL 2005/113)	The environmental protection commissioner, in conjunction with the NYPD, shall periodically report to the Mayor his or her recommendations regarding the potential use of emerging acoustical measurement technology for enforcement of the noise control code.	DEP, NYPD

Law Ref.	Reporting Requirement	Agcy.
A.C. § 24-343.1 (LL 2009/076)	DEP shall report twice annually to the Council on hazardous and other facilities which the department knows have had required backflow prevention devices installed, and such facilities that have been notified by the department of the need to install backflow prevention devices.	DEP
A.C. § 24-526.1 (LL 2008/005)	The interagency best management practices task force shall submit a biennially report to the Mayor, the Speaker of the Council, and the public regarding the implementation status of the sustainable stormwater management plan. The Mayor shall include in the PMMR and MMR, with respect to each agency or office identified as responsible for a specific measure of the plan, quantitative indicators of progress towards implementing such measure.	IBMPTF, Mayor
A.C. § 24-527 (LLs 2005/071 and 2006/036)	The commissioner shall submit a biennially report to the Mayor and the Speaker of the Council on the implementation status of the Jamaica Bay watershed protection plan.	DEP
A.C. § 24-528 (LL 2009/031)	No later than 4/22/2015, and on at least a quadrennial basis thereafter, the commissioner shall submit a report to the Mayor and the Speaker of the Council providing an update on the comprehensive wetlands protection strategy.	DEP
A.C. § 24-805 (LL 2008/022)	DEP shall submit to the Mayor, the Speaker of the Council, the Public Advocate and the Comptroller and post on its website an annual report regarding its actions pursuant to the provisions of the climate protection act, including changes in citywide and city government emissions measured in carbon dioxide equivalent.	DEP
A.C. § 27-2153 (LL 2007/029)	HPD shall submit to the Council and post on its website an annual report on the results of the alternative enforcement program for violations of the housing maintenance code and multiple-dwelling law.	HPD
A.C. § 28-309.9 (LL 2009/084)	During calendar years 2011, 2012 and 2013, the office of long-term planning and sustainability shall submit to the Mayor and the Speaker of the City Council, and post on the internet, a report reviewing and evaluating the administration and enforcement of benchmarking of energy and water use in city and other covered buildings.	LTPS
Unconsolidated (LL 2005/073)	The Mayor shall issue a quarterly report to the Council regarding the receipt, use and savings for payers of payments in lieu of taxes.	Mayor
Unconsolidated (LL 2005/086)	Through 1/1/2019, an annual report shall be prepared in accordance with the procedure and format established by the DDC. Such report shall include a description of any capital project subject to Charter § 224.1, and the estimated level of LEED certification and the costs and benefits attributable to green building standards of such projects.	DDC

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<b>Law Ref.</b>	<b>Reporting Requirement</b>	<b>Agcy.</b>
Unconsolidated (LL 2009/087)	Beginning 12/31/2014, DCAS shall submit an annual report to the Mayor and the Speaker of the City Council on capital improvements of base building systems completed pursuant to Char. § 224.2.	DCAS

## MEETINGS WITH ORGANIZATIONS AND INDIVIDUALS

### April through August, 2010

Alan Gartner, Chief of Staff to the Deputy Mayor for Education and Community Development

American Institute of Architects, New York Chapter

Betsy Gotbaum, former Public Advocate

Bill de Blasio, Public Advocate

Bill Lynch Associates

Board of Elections

Brad Lander, Council Member

Brennan Center for Justice

Building and Construction Trades Council

Campaign Finance Board

Christine Quinn, Council Member & Speaker of the City Council

Citizens Union

Conflicts of Interest Board

David Goldin, New York City Administrative Justice Coordinator

David Yassky, Commissioner, the Taxi and Limousine Commission

Department of City Planning

Equal Employment Practices Commission

Frank Barry, Research Director, 2004 Charter Revision Commission

Gale Brewer, Council Member

Helen Marshal, Queens Borough President

Human Services Council

Independent Budget Office

International Visitor Leadership Program: Turkish Delegation

James Molinaro, Staten Island Borough President

James Oddo, Council Member

Jewish Community Relations Council  
John Mollenkopf, Professor, City University of New York  
Jumaane Williams, Council Member  
Liz Fine, General Counsel, City Council  
Mark Green, former Public Advocate  
Marty Markowitz, Brooklyn Borough President  
NAACP Legal Defense Fund  
NAACP, Brooklyn Branch  
NAACP, New York State Conference  
Nazli Parvizi, Commissioner, Mayor's Community Assistance Unit  
New York City Council, Finance Division  
New York City Council, Land Use Committee  
New York City Environmental Justice Alliance  
New York City Law Department  
New York City Voter Assistance Commission  
New York Jobs with Justice  
New York Public Interest Research Group  
NYC & Co  
Office of Management and Budget  
Patrick Egan, Professor, New York University  
Peter Vallone, former Speaker of the City Council  
Pratt Center for Community Development  
Public Health Solutions  
Real Estate Board of New York  
Richard Briffault, Professor, Columbia Law School  
Rose Gill Hearn, Commissioner, Department of Investigation  
Ruben Diaz, Bronx Borough President  
Queens Civic Congress  
Scott Stringer, Manhattan Borough President  
Stephen Goldsmith, Deputy Mayor for Operations  
Working Families Party

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Testimony of Charles Brecher, Citizens Budget Commission, before the New York City Charter Revision Commission, June 27, 2005.

Testimony of Alex Zablocki before the New York City Charter Revision Commission, April 13, 2010.

## REPORTS PREPARED FOR THE COMMISSION

The following reports were prepared for the Commission. These reports reflect the authors' viewpoints and not those of the Commission or any individual member. Copies of all reports are available at the Commission's website.

### TERM LIMITS

Patrick J. Egan

"Term limits for Municipal Elected Officials: Executive and Legislative Branches"

Richard G. Niemi & Kristin K. Rulison

"The Effects of Term limits on State Legislatures and Their Applicability to the Executive Branch"

### ELECTIONS

Lorraine C. Minnite

"How to Think About Voter Participation"

### GOVERNMENT ADMINISTRATION

Tom Angotti

"Land Use and the New York City Charter"

Gerald Benjamin and Douglas Muzzio

"Structures of New York City Government: City Council"

Douglas Muzzio

"Government Structure: Borough Presidents and Public Advocate"

## MINORITY STATEMENTS ON EFFECTIVE DATE PROVISION OF TERM LIMIT PROPOSAL

### LETTER FROM COMMISSIONER KEN MOLTNER

Kenneth M. Moltner

August 27, 2010

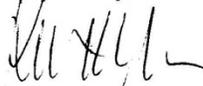
Hon. Matthew Goldstein  
Charter Revision Commission  
2 Lafayette Street, Room 1412  
New York, NY 10007

Dear Matt:

I would appreciate the following comments be included in the Commission's Final Report:

As I publicly stated, the grandfathering provision of the proposed term limits law as passed by the Commission does not respect the will of the voters and is inconsistent with the rationale for presenting the voters with the opportunity to return term limits to two maximum terms. Those are the reasons, in summary, that I voted against that provision. I supported immediate effect because it fully respects the will of the people should they vote once again for two terms. I supported the hybrid in the alternative because it adequately respects the will of the people, and certainly more so than the grandfathering provision which does not.

Respectfully,



Kenneth M. Moltner

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## MINORITY REPORT ON EFFECTIVE DATE FOR IMPLEMENTATION OF TWO-TERM LIMIT

Unlike all other ballot recommendations discussed in this report – which the commission approved unanimously – there was considerable debate and disagreement as to the appropriate effective date for implementing a change back to a two-term limit for all city officials. A passionate and vocal minority advocated implementing the change as soon as possible, i.e., allowing current third-term incumbents to serve out their terms while disallowing second-term incumbents from running again and limiting all future elected officials (including current first-term incumbents) to two terms (“No Grandfathering”)<sup>145</sup>. However, over the course of numerous votes carried out during meetings on August 11 and August 23, advocates of grandfathering third-term eligibility for all incumbents (“Full Grandfathering”) prevailed.<sup>146</sup>

At the August 11<sup>th</sup> meeting, the vote for No Grandfathering failed by a vote of 5-10. A motion was then made for the Full Grandfathering, which also failed by a vote of 6-9. The Chair then proposed a compromise that would have allowed all current incumbents to run for one additional term, thereby imposing a two term limit on the class of 2009 and allowing the class of 2005 to serve a third term (“Hybrid Grandfathering”). The Hybrid Grandfathering failed by a vote of 6-9. Finally, another motion was made for Full Grandfathering, and it prevailed by a vote of 9-6.

Following the August 11 votes, commission staff drafted ballot language reflecting the adoption of the Full Grandfathering. On August 23, 2010, the commission met to finalize the ballot questions. Commission members introduced the same two amendments from the August 11<sup>th</sup> meeting to change the effective date contained in the ballot question. The Hybrid Grandfathering failed by a vote of 6-4 with 2 abstentions and the No Grandfathering failed by a vote of 6-6, with the result that the ballot question includes the full grandfathering approved previously.

No Grandfathering advocates, while continuing to dissent on the effective date question, ultimately supported the bundled resolution on term limits because of its other elements: returning to a limit of two terms and limiting the ability of the City Council to change the term limits law in the future.

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<sup>145</sup> Commissioners Anthony Perez Cassino, Hope Cohen, Joseph McShane, Kenneth Moltner, Kathryn Patterson. Commissioner Angela Mariana Freyre joined with these five on the amendment vote held August 23.

<sup>146</sup> Transcript of the August 11 discussion of effective date is available at [http://www.nyc.gov/html/charter/downloads/pdf/transcript\\_20100811.pdf](http://www.nyc.gov/html/charter/downloads/pdf/transcript_20100811.pdf), pages 24-85. Transcript of the August 23 discussion is available at [http://www.nyc.gov/html/charter/downloads/pdf/transcript\\_20100823.pdf](http://www.nyc.gov/html/charter/downloads/pdf/transcript_20100823.pdf), pages 53-121.

The undersigned commissioners, regardless of their personal views on term limits,<sup>147</sup> believe that public outcry over the City Council's 2008 action, overturning the results of two public referenda on term limits, was a key reason this commission was formed – and that responding to that outcry was, in turn, a key responsibility of the commission. During the commission's hearings, the vast majority of witnesses clearly demanded a return to two terms for all city elected officials – and the greatest possible assurance that its vote not be overturned again. The commission rightly responded to those concerns. However, by "grandfathering" all incumbents, we believe that the commission failed to deliver on the public's implicit demand that the restoration occur as soon as possible. The 2008 change from two terms to three was made effective immediately. The change back from three to two – if the voters approve it – should be no different. Elected officials are not entitled to a certain number of terms. We see no justification for exempting any elected official from the two-term limit, should the voters reinstitute one.

Respectfully Submitted, August 30<sup>th</sup>, 2010

Anthony Perez Cassino

Hope Cohen

Kathryn Patterson

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<sup>147</sup> Commissioner Cohen noted her philosophical antipathy to term limits throughout the proceedings of the commission.

## FINAL RESOLUTION OF THE COMMISSION



### RESOLUTION OF THE NEW YORK CITY CHARTER REVISION COMMISSION

dated August 23, 2010, in relation to the filing with the City Clerk of proposals revising the city charter and questions therefor for the purpose of having the same submitted to the electors of the City at the general election held November second, two thousand and ten, and the adoption of a report relating thereto.

Resolved, that pursuant to Section 36 of the Municipal Home Rule Law, two proposals to amend the charter of the City of New York with the appropriate ballot questions and the amendments to be effected upon the approval of such questions are attached hereto, to be filed with the City Clerk of the City of New York before September third, two thousand and ten; and be it further

Resolved, that the City Clerk of the City of New York shall take such action as may be required by law to provide for the submission of the said revisions to the electors of the City of New York at the general election to be held on November second, two thousand and ten; and be it further

Resolved, that the Commission hereby adopts the report that is attached hereto; and be it further

Resolved, that the intent of the Commission regarding the severability of the proposed amendments to subdivisions a and b of section eleven hundred thirty-eight of the Charter and of the separate amendments put forth and contained in the proposed City Ballot Question #2 is set forth in the final report of the Commission; and be it further

Resolved, that the Commission hereby authorizes and delegates to the Chair, the Executive Director and other staff and the Office of the Corporation Counsel the duty and power to take all necessary and/or appropriate actions to effectuate the placement of the questions on the ballot in

accordance with section 36 of the Municipal Home Rule Law, including but not limited to inclusion of non-substantive technical changes to the documents attached hereto, the preparation of ballot abstracts pursuant to law, the preparation of other material to be appended to the final report including documentation memorializing the proceedings of the commission, summaries of public and expert testimony, and other materials relevant to the commission's deliberations, and the defense or commencement of litigation to effectuate such placement on the ballot, and to provide for such publication and other publicity as may be appropriate to ensure that the public is adequately informed about the proposals.

The foregoing resolution was adopted by the New York City Charter Revision Commission by a vote of 2, with 3 not present,



Matthew Goldstein, Chair



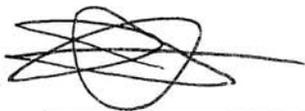
, Commissioner



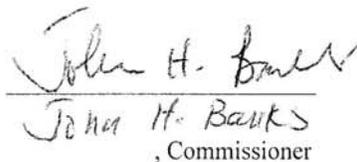
Commissioner



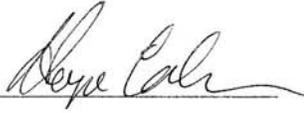
, Commissioner



Mitchell G. Taylor  
Commissioner

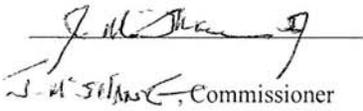


, Commissioner



Hope Cohen, Commissioner

\_\_\_\_\_  
, Commissioner



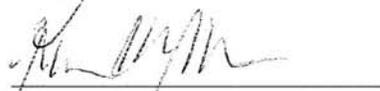
J. M. S. [unclear], Commissioner

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, Commissioner



Anthony P. [unclear], Commissioner

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, Commissioner



Kenneth A. [unclear], Commissioner



Angela [unclear], Commissioner



[unclear], Commissioner