



**TOWN
+GOWN:
NYC**

**Optimizing Local Infrastructure and
Community Resiliency
Resilient People Places and Projects.3
DYCD, 2 Lafayette, 14th Floor (Hybrid)
November 3, 2022, 8:30 a.m. to Noon**

AGENDA

- | | |
|-------------------------------|---|
| 8:30 a.m. – 8:45 a.m. | Sign In |
| 8:45 a.m. – 9:00 a.m. | Introduction and Welcome

Terri Matthews, Town+Gown: NYC |
| 9:00 a.m. – 10:00 a.m. | RP3 Working Group Research Project Update

<i><u>In-House Research Project Efforts and Findings</u></i>

David Green, AREA Research

<i><u>Pratt Institute’s National Science Foundation’s Disaster Resilience Grant Proposal</u></i>

Zehra Kuz, Pratt Institute

<i><u>Questions and Answers</u></i> |
| 10:00 a.m.—10:15 a.m. | Short Break |
| 10:15 a.m.—10:45 a.m. | Bias in 311 Usage and Data

Constantine Kontokosta, NYU/Marron Institute

<i><u>Questions and Answers</u></i> |
| 10:45 a.m.—11:00 a.m. | Short Break |
| 11:00 a.m.—Noon | NSF UNUM Project Community Outreach and UrbanARK Update

Debra Laefer, NYU/Tandon |

RP3 Working Group Background. Town+Gown:NYC (Town+Gown) initiated a collaborative inquiry into planning and designing resilient public spaces to support resilient communities with two events—the first, *Resilient Public Spaces and Communities: Data Driven Explorations* on October 31, 2018 (RP3.1), and the second, *Resilient Public Spaces and Communities.2*, on November 18, 2019 (RP3.2). For the precis documents related to both events, see under Symposia at https://www1.nyc.gov/site/ddc/about/Experiential_Learning.page.

RP3.1 leveraged a series of design-related events in Town+Gown that focused on the Red Hook neighborhood as a jumping-off point to pilot a Town+Gown working group format to accelerate the action research cycle. Red Hook served as the case study area to establish the knowledge base and move it forward by exploring and contextualizing resilience in the built environment, generally, and public space and communities, specifically, and then identifying issues for future research within Town+Gown. RP3.1 participants divided into two sub-groups with the first focusing on what allows public space to function as community resiliency asset in both disaster and everyday life and the second focusing on how to move from qualitative data analysis to quantitative data analysis. *Both* sub-group discussions raised issues posed by the City’s capital budget process, which was not only amazing, but also required the research to focus on the City’s capital budget process—not a small task.

Members of the two sub-groups coalesced into a working group (the RP3 WG), leading to an outline of a research project, in April 2019, that required an additional event to explore the capital budget connection because it became clear that the RP3.1 focus on interventions during the post-adoption design stage was inadequate and it was necessary to focus further back in the process from budget adoption—specifically on the annual capital budget planning period (see definition below under **Translating Preliminary Findings to the Capital Budget Planning Process**) preceding budget adoption. RP3.2 brought the planning discipline’s focus on community explicitly to bear on the complex issues raised by the research project.

RP3 “In House” Research Project. The participating City agencies and academics from Pratt and AREA Research within the RP3 WG (the Study Group) continued to develop the research project focusing on the capital budget planning period to optimize infrastructural infrastructure investments in neighborhoods as one way to increase community resiliency and explore ways the “community” can participate in that process more effectively. This “in house” research project aimed to:

(1) Apply the Neighborhood Activation Study (NAS) methodology,¹ changing the policy objective from reducing crime to increasing infrastructural and community resiliency, to analyze case study clusters of routine capital infrastructure projects in a holistic manner during the capital budget planning period to identify ways to rethink them together to increase their infrastructural and community resiliency. This became known within the Study Team as the “cluster” analysis. Aging infrastructure is an unrecognized resiliency hazard in the literature and in practice. State of good repair capital infrastructure projects in each year’s capital budget, however, represent multiple opportunities to optimize infrastructural and community resiliency. As one example, agencies could rethink how a park project running by or near a sewer project could include stormwater holding infrastructure, as is done in Rotterdam and Copenhagen,² to hold water during a storm and feed it into the sewer system over time but during dry days would be usable for park purposes (e.g., sitting, skateboarding, etc.).

The NAS methodology uses a collection of place-based planned capital investments within neighborhoods to identify potential synergies among them where collaborative planning can strengthen ongoing community initiatives and agency efforts. It envisions engaging and learning from community residents about their needs that could be met through these synergies so that intentional design could leverage the individual projects to be more than a sum of their parts. The methodology suggested collaborative capital project planning and design as a tool for to achieve policy objectives, noting that multiple NYC agencies should coordinate their projects among themselves and with the communities.³ The NAS focused on the post adoption design phase, when collaborative changes to project clusters are likely to increase costs and delay schedules, representing a significant weakness of implementing the NAS methodology in practice.⁴

(2) Apply the Envision framework, which is a holistic framework for evaluating and rating the community, environmental, and economic benefits of all types and sizes of infrastructure projects and permits project owners to evaluate, grade and give recognition to infrastructure projects that use transformational, collaborative approaches to assess the sustainability

¹ See <https://criminaljustice.cityofnewyork.us/reports/neighborhood-activation-study/>.

² See Rosemary Misdary, “Cloudburst Program Would Turn Parts of NYC into Floodwater Super Sponges,” Gothamist, October 12, 2022, at <https://localtoday.news/nj/the-cloudburst-program-would-turn-parts-of-nyc-into-floodwater-supersponges-61989.html>

³ NAS, p. 38. Another tool consisted of leveraging NYC agencies’ public space programs through their capital projects. NAS, p. 37.

⁴ After the capital planning process, agencies can and do learn more about other agencies’ projects in specific neighborhoods in order to rethink their individual projects to further policy objectives, but rethinking projects post-budget adoption would likely require additional funding for project re-designs and extend project schedules, which tends to discourage NAS methodology application for place-based multi-project optimization.

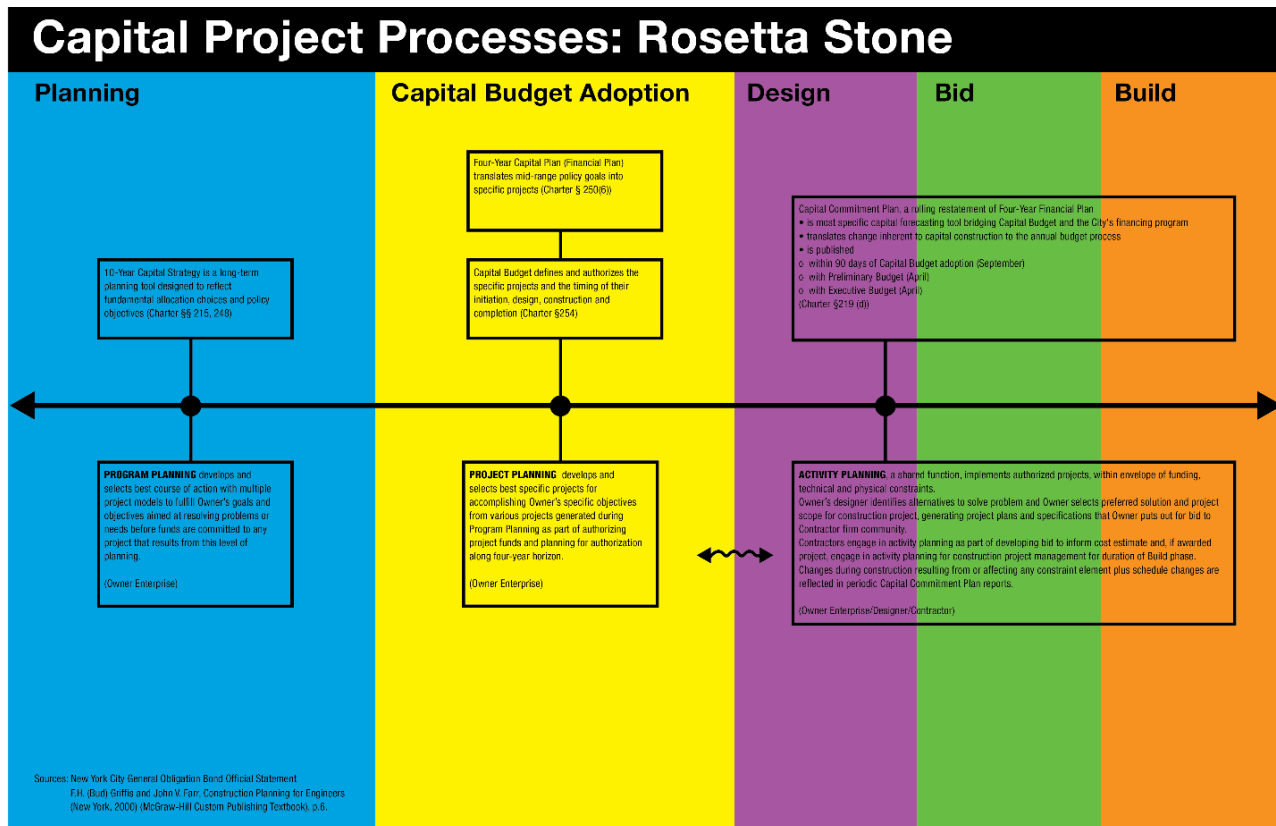
indicators over the course of the project's life cycle,⁵ to determine how ideas emanating from the application of the NAS methodology could form the basis of Envision credits, especially innovation credits, and possibly further refine the holistic rethinking of the case study project begun under the NAS methodology.

(3) Apply AREA Research's life cycle cost benefit analysis (LCCBA) model to these rethought clustered case study projects to quantitatively analyze the ability of interagency collaboration during the capital budget planning period to maximize/optimize the level of total return on City capital investments within a neighborhood and quantify potential capital budget savings opportunities. Steps (1) through (3) became known within the Study Team as the "proof of concept" analysis.

The identification, planning and implementation of City capital projects is a complex process (see image below) and the City's capital process typically assigns execution of stand-alone projects through individual agencies that have sector-specific criteria for project performance and desired outcomes.⁶ The standard process for stand-alone projects, however, may tend to limit the parameters that define a project, leading to several siloed projects within a neighborhood, unconnected with each other and providing isolated returns for the public.

⁵ Spiro N. Pollalis, "The Envision® Rating System for Sustainable Infrastructure Projects" presentation at Town+Gown: NYC symposium event, *CD+W.4. Envision and Impact Analyses*, October 23, 2019; not yet posted to website. See Wellbeing QL1.1 Improve Community Quality of Life, Mobility QL2.1 Improve Community Mobility & Access, Community QL2.4 Enhance Public Space & Amenities, Collaboration LD1.2 Foster Collaboration & Teamwork, Planning LD2.2 Plan for Sustainable Communities, Resilience CR2.5 Maximize Resilience.

⁶ For some large projects involving multiple city agencies, however, the City assigns execution to a lead managing agency, such as DDC or EDC, that coordinates the project with and on behalf of all the other agencies.



Applying the LCCBA model to the synergistically rethought clustered case study projects in Phase 1 would determine quantitatively the extent to which it is possible to collective enhance clusters of closely co-located projects within neighborhoods to provide the highest level of return from an infrastructural and community resiliency perspective on the City’s investment by focusing on the several aspects of "return". Starting with ideas about what should be done, the LCCBA model permits agencies to quantitatively analyze and test these projects during the capital budget planning period for optimized total infrastructural resiliency of these projects at the end of the build phase. Each capital project has its stand-alone problem to solve that is generally addressed through a very limited, focused set of project criteria. There are, however, opportunities during the capital budget planning period when agencies could assure that each project is good for the community, within the context of other contemporaneous adjacent projects, because, with the other projects, it can solve multiple problems within a neighborhood, while quantifying clustered returns at planned—or possibly decreased—levels of investment.⁷

⁷ The “proof of concept” exercise is a version of applying the value engineering (VE) methodology to potential capital projects during the capital planning stage where all options can be on the table for consideration. Since these projects are assumed to be prior to adoption in the exercises, there is the opportunity to refine the estimated project amounts and schedules prior to adoption, with the potential to keep overall cost estimates

(4) Build on the “proof of concept” analysis results to analyze the institutional community board process to **identify opportunities to bring community infrastructural and community resiliency deficit knowledge** to bear during the capital budget planning period. This phase of the research project would apply urban hazard mitigation principles to leverage state of good repair capital infrastructure projects to optimize infrastructural and community resiliency.⁸

For greater detail on the RP3 WG “in house” research project, see

<https://www1.nyc.gov/assets/ddc/downloads/town-and-gown/SummaryofRP3In-HouseResearchProject.pdf>.

Preliminary Research Results from RP3 “In House” Research Project. Phase 1 of the project—*Identification of Study Projects and Application of NAS Methodology and Envision Framework*—was planned for Summer and Fall 2020. The Study Group agencies reviewed their agency capital plans and programs and other projects in the City's budget documents to identify case study projects that would be mapped for application of the NAS methodology and Envision framework to the case study projects to identify potential points of convergence to support increased infrastructural and community resiliency and generate synergistic ideas for these case study projects for Phase 2—*Application of AREA Research LCCBA Model to Case Study Projects*.

The Study Group has been working on Phase 1 since Fall 2020, with four separate exercises, which included a change in case study neighborhoods in early 2021. During the NAS methodology map exercise #4 using the recent Department of City Planning map of Commitment Plan projects for pre-selected case study Community Districts, the RP3 WG determined there was insufficient density of project data for cluster analysis for the case study Community Districts. The last RP3 WG discussion (1) concluded that pre-selecting case study neighborhoods for cluster analysis did not work and that it would be necessary to look at the entire city to identify Community Districts with sufficient project density for cluster analysis, which would require some funded academic assistance, and (2) confirmed the absence of effective interagency collaboration during capital budget planning period. The Study Team’s case study exercises, which assumed a level interagency collaboration practice during the

constant or result in lower overall costs. The “proof of concept” analysis would take place much earlier than when the City typically applies VE during the design phase of each project in a silo, where innovative ideas that may cost money on an individual project but save money on others have to be rejected because changes during design that add costs and/or delay schedules on siloed projects are difficult to accomplish post budget adoption.

⁸ David R. Godschalk, "Urban Hazard Mitigation: Creating Resilient Cities," *Natural Hazards Review* (American Society of Civil Engineers, August 2003), pp. 136-140.

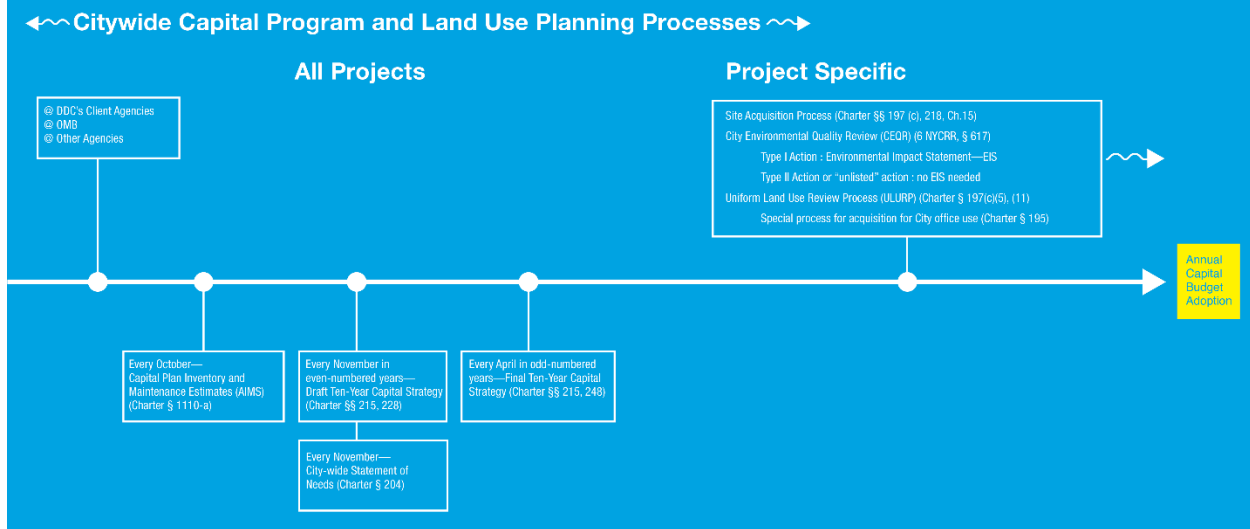
capital budget planning period, discovered that NYC’s existing capital budget process based on Charter provisions does not require this type of interagency collaboration during the capital budget planning period and that there is currently no effective mechanism to facilitate such collaboration. The Study Group raised the idea of a platform to support interagency collaboration, which platform would also support transmission of community observed infrastructure and community resilience deficit knowledge. Please see the chart below for the Study Group’s work on its “in house” research project.

Event	Participants
10/31/18 , <i>Resilient Public Spaces and Communities: Data Driven Explorations</i>	NYC agencies, academics, practicing architects and community groups
11/18/19 <i>Resilient Public Spaces and Communities.2</i>	NYC agencies, academics, practicing urban planners and community groups
07/23/20 Research Project Draft release	RP3 WG (NYC capital agencies and researchers)
09/18/20 Capital Project identification exercise for mapping from publicly available budget documents	RP3 WG (researchers)
09/23/20 Research Project Kick Off Meeting	RP3 WG (NYC capital agencies and researchers)
<i>Request to NYC capital agencies for Red Hook projects to map</i>	
11/17/20 NAS methodology map exercise #1 for Red Hook; RP3 WG determined Red Hook not appropriate case study neighborhood	RP3 WG (NYC capital agencies and researchers)
<i>NYC DDC to identify neighborhoods with all 3 aspects of resiliency deficiencies (urban heat island, inland flooding and coastal flooding)</i>	
01/12/21 Meeting to discuss and select new case study neighborhoods—South Bronx and Greenpoint Community Districts were selected	RP3 WG (NYC capital agencies and researchers)
<i>Request to NYC capital agencies for two case study neighborhood projects to map</i>	
05/20/21 NAS methodology map exercise #2; RP3 WG determined insufficient project data for cluster analysis of case study Community Districts	RP3 WG (NYC capital agencies and researchers)
<i>Request to DCP for additional case study neighborhood projects to map</i>	
07/15/21 NAS methodology map exercise #3; RP3 WG determined insufficient project data for cluster analysis of case study Community Districts	RP3 WG (NYC capital agencies and researchers)
<i>Waiting for DCP to release new Commitment Plan Map; T+G analysis of case study neighborhood Community Boards Registers by Borough revealed temporal gap in local knowledge transmission during capital planning process</i>	

<p>01/28/22 NAS methodology map exercise #4 using the recent DCP map of Commitment Plan projects for the case study Community Districts ; RP3 WG determined insufficient project data for cluster analysis of case study Community Districts; WG discussion (1) concluded that pre-selecting case study neighborhoods for cluster analysis did not work and that it would be necessary to look at the entire city to identify Community Districts with sufficient project density for cluster analysis, which would require some funded academic assistance and (2) also confirmed the absence of interagency collaboration during capital planning phase. Idea of platform emerged to support interagency collaboration was raised, which platform would also support local knowledge transmission.</p>	<p>RP3 WG (NYC capital agencies and researchers)</p>
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Translating Preliminary Findings to the Capital Budget Planning Process. As discussed above, the NAS methodology outlines how agencies can engage with neighborhood or community residents to achieve stated City policy objectives with capital projects in a way that reflects expressed community needs, priorities and prior local actions. The NAS suggests that multiple agencies can coordinate their projects within neighborhoods among themselves and with the communities as a way to optimize stated policy objectives within a neighborhood. The NAS methodology pointed to using a collection of place-based planned capital investments within neighborhoods to identify potential synergies among them where design can strengthen City and agency efforts and ongoing community initiatives so that the closely co-located projects' synergies could leverage the individual projects to be more than a sum of their parts. But as discussed above, a weakness of the NAS methodology is its focus on the post budget adoption design phase, when collaborative changes to project clusters are likely to increase costs and delay schedules.

Capital Project Processes: Planning



NYC’s annual capital budget planning period begins roughly after the post-budget Commitment Plan is established in September, and ends in January, when the Mayor releases his Preliminary Budget, with an “echo” planning window that roughly begins after January and ends in April when the Mayor releases his Executive Budget, after which the Mayor and the City Council negotiate the budget that the City Council will adopt by June 30 (the “**capital budget planning period**”). Combined capital and expense elements of the budget formation process, along with related reports, are detailed on Exhibit 1 and see also image above. Exhibit 2 discusses impacts of the Financial Emergency Act on the City’s budget process that may help to explain why interagency collaboration and community knowledge transfer practices are less effective than what the Charter would permit.

The RP3 WG in-house research project identified the following knowledge transfer gaps during the capital budget planning period, which highlights the weaknesses of the NAS methodology and points to ways to address them during the capital budget planning period. The two knowledge transfer gaps discussed below together constitute the **structural capital infrastructure project planning gap**.

- Public agencies do not collaborate closely with each other on planned capital projects that are closely co-located within neighborhoods during the capital budget planning period. NYC’s existing capital budget process outlined in the City Charter (see Exhibit 1) does not require this type of interagency collaboration during the capital project planning period and there is currently no mechanism to support it. This is the **interagency knowledge transfer gap** during the capital budget planning period.

The interagency knowledge transfer gap is structural and primarily the result of the City's implementation of the Charter provisions. The departmental estimate basis of budget formation (see Exhibit 1) forces agencies working with OMB during the capital budget planning period to function primarily on a siloed basis. While the biennial Ten-Year Capital Strategy provides all agencies with information about the capital plans of other agencies to theoretically permit interagency co-located capital project planning, this document generally does not include granular project-level detail and the exigencies of the budget formation process during the short capital budget planning period, when OMB is engaged in three budgets at any single time (budget formation leading to budget adoption, budget administration during the fiscal year aimed at avoiding an end of fiscal year gap of more than \$100,000 (see Exhibit 2) and the post fiscal year audit process) makes location-based interagency collaboration and knowledge transfer during the capital budget planning period unlikely. An infrastructure-based exception does, however, occur during the capital budget planning period when OMB sees DEP water and sewer rehabilitation projects and DOT street reconstruction projects planned for the same street segments and combines them as part of budget adoption to head eventually to DDC to manage the design and construction of these co-located street-based infrastructure projects.

- The Community Boards' observed local infrastructural resiliency deficits within the capital portions of their Capital Needs Statements do not reach the agencies during the capital budget planning period in a way that can inform or influence agencies' planning for infrastructure projects within neighborhoods. This is the **local community knowledge transfer gap** during the capital budget planning period.

The local community knowledge transfer gap is also structural and primarily the result of the City's historical implementation of the Charter provision related to NYC's 59 community districts' operation through community boards, which are the smallest level of government with Charter-defined roles in citywide capital planning process when, in theory, community members can officially inform and influence city-wide capital planning and budgeting with local perspectives. One goal for community boards is to increase "... the participation of ... the people in the things that affect their lives," and 1989 Charter changes sought to enhance the ability of community boards to participate in citywide processes.⁹ That goal reflects Jane Jacobs's belief that professional urban planners, versed in techniques, theories and services, need to know "the terms of the precise and unique places in a city with which they are dealing" by turning to "the people of the place" who "understand thoroughly" the

⁹ In 1989, it was specifically the land use planning function.

specific place.¹⁰ Jacobs' term "locality coordination" describes a vertical communications mechanism that captures place-based expertise for "locality knowledge in planning, whether the planning is creative, coordinating or predictive,"¹¹ which NYC's community boards are intended to fulfill.

Each year during the capital budget planning period, community boards submit their Community Board Budget Priorities or District Needs Statements that reflect, to some extent, real time capital asset assessments reflecting infrastructural and community resiliency deficiencies.¹² The community boards and other community organizations working within and outside the official community board process are widely known to feel frustrated in their attempts to inform and influence city-wide capital investment decisions. The OMB-agency process observed as part of the "in house" research with respect to these community board submissions¹³ during the capital budget planning period suggests systemic timing lags in community-based knowledge transfer of local infrastructural and community resiliency deficiencies during this period.¹⁴ While NYC agencies and OMB must act for the City as a whole and balance multiple needs in excess of resources, resolving identified systemic impediments at the community board level due to poorly designed interfaces within NYC's capital planning process would optimize the impact of public capital investments to enhance peoples' access to essential public resources and services where these capital investments would significantly improve neighborhood quality of life and community resilience to disruptions caused by a shock or disaster.

Community boards originally functioned as a decentralized version of 311 that imparted local knowledge and navigated the bureaucracy at operating agencies and the central budget and planning offices on behalf of community members. Many of the promises from the 311 system, such as agency and citywide data-driven analytics to inform operations,

¹⁰ Jane Jacobs, *The Death and Life of Great American Cities* (New York: Random House, 1993), p. 533.

¹¹ *Ibid.*, pp. 543-545.

¹² See Community Boards Register by Borough (<https://www1.nyc.gov/assets/omb/downloads/pdf/cbrboro6-21.pdf>).

¹³ See <https://www1.nyc.gov/site/omb/publications/budget-reports.page?report=Comm%20Bd%20Register>.

¹⁴ This process is not unlike the "kabuki" drama that has for some time been ascribed to the executive-legislative process for the entire city budget. The NYC Capital Process Reform Task Force aims at reducing elements of the kabuki drama related to the Council's "Reso C" to the adopted capital budget in its recommendation — Improve the Project Pipeline-Capital Project Coordination Expos. This recommendation would involve "[h]osting Capital Project Coordination Expos early in the City's budget cycle to provide an opportunity for elected officials and City agencies to discuss ideas for potential projects that may be pursued in the ensuing budget process. By facilitating a forum where technical feedback can be provided on a range of specific feedback ideas, the City will better position capital projects for budgetary approval and successful implementation." These expos would take place during the capital budget planning period discussed above, seeking a similar type of local knowledge transfer that is discussed above with respect to community boards. See p. 4 at <https://www1.nyc.gov/assets/home/downloads/pdf/press-releases/2022/CP-Reform-Task-Force.pdf>.

planning and budgeting, have been realized, but agency reliance on 311 data for operations and capital planning purposes has drawbacks. Not only does the 311 system tend to bypass community boards' local knowledge at all points in the city-wide processes, including service district agency meetings, but also known biases in 311 use, along with 311 data primacy at agencies for operations and capital planning purposes, can translate into biased outcomes in agency decisions, leaving some vulnerable and underserved neighborhoods with underestimated and unaddressed needs, including infrastructural and community resiliency needs.¹⁵ It is possible to address the existing practice interfaces to comply with Charter requirements (see Exhibit 1), without changes in law but with tools to support the locality coordination function during the capital budget planning period, which permit development of a methodology within the institutional community board function for optimal transmission of important community knowledge, expressed, with training to be less like complaints and more like professional infrastructural and community resiliency deficits, to City agencies to support capital project effectiveness in increasing infrastructural and community resilience on an equitable basis by correcting for 311 reporting biases.

The structural capital infrastructure project planning gap can lead to missed opportunities for the City to optimize infrastructural and community resiliency within neighborhoods and advance city-wide resiliency policy objectives. Without solving for the structural capital infrastructure project planning gap during the capital budget planning period, the resulting inability to optimize infrastructural and community resiliency within neighborhoods can result in less-than-optimal collections of closely located planned project investments in neighborhoods, which is a form of financial “waste.” Applying the NAS methodology to these projects after budget adoption will likely increase costs and delay schedules from what had been previously authorized, thus discouraging efforts at post-adoption change.¹⁶ Solving the structural capital infrastructure project planning gap during the capital project planning period will increase the likelihood of optimizing closely located planned project investments in neighborhoods with a cumulative budgeted cost that likely will not require additional post adoption funding because collaboratively rethinking clustered projects during the capital

¹⁵ Constantine Kontokosta and Boyeong Hong, “Bias in Smart City Governance: How Socio-Spatial Disparities in 311 Complaint Behavior Impact the Fairness of Data Driven Decisions,” *Sustainable Cities and Society*, Volume 64 (2021). A Town+Gown research project for Brooklyn Community Board 14 with multi-disciplinary Parsons student teams, which is abstracted on pp. 16-19 of Building Ideas, Vol. 5 (at <https://www1.nyc.gov/assets/ddc/downloads/town-and-gown/building-ideas-5.pdf>), focused on the community district budget function in a 311 environment.

¹⁶ It should be noted that the City’s Design Resiliency Guidelines also aim at post adoption projects (https://www1.nyc.gov/assets/orr/pdf/NYC_Climate_Resiliency_Design_Guidelines_v4-0.pdf). The guidelines anticipate the possibility of increased costs to be “evaluated on a project-by-project basis in conjunction with the NYC Office of Management and Budget (OMB).” (p. 36)

budget planning period provides agencies with an opportunity to capture value across all clustered projects, so that each single project might be able to simultaneously solve parts of the other projects' problems, collectively generating long-term cost savings.

NYC Budget Process

- No later than 60 days before Community Boards submit Community Board Budget Priorities (circa October 31): The Mayor submits the annual Report on Social Indicators to the City Council, Borough Presidents and Community Boards. The Report on Social Indicators analyzes the social, economic and environmental health of the City and proposes strategies to address issues raised in such analysis. (Charter §16)¹⁷
- October 1: Each agency submits to the Mayor (who then transmits to the Council, the Comptroller and the City Planning Commission), **agency capital plant inventory setting forth condition assessment and annual maintenance schedule for major capital assets** for the agency, as well as estimated amounts necessary, for the next fiscal year and the following three fiscal years, to maintain such assets in good repair consistent with the maintenance schedules. (Charter §1110-a)
- Circa October 31: Community Boards submit to the Mayor an annual statement of community district needs consisting of both capital and expense (program) budget items (**Community Board Budget Priorities** or **District Needs Statements**). Community Boards hold public hearings in connection with preparing their Community Board Budget Priorities. (Charter §§ 2801(d)(10), 230)
 - Each agency submits to the Mayor a detailed **Departmental Estimate** setting forth estimated expense and capital budget requirements of the agency for the next fiscal year (next succeeding 3 fiscal years in the case of capital), as well as the agency's estimated revenue budget of non-tax receipts. Agencies that deliver local services and agencies with capital projects must consult with appropriate Community Boards and consider the Community Board Budget Priorities when preparing Departmental Estimates. (Charter §§ 231, 212)

For capital projects, agency departmental estimates contain detailed estimates for capital projects that the agency head believes should be undertaken within the ensuing fiscal year (budget in formation) and the three succeeding fiscal years. (Charter § 212) See Exhibit 2. These departmental estimates are modified by the

¹⁷ Not published since 2019.

Mayor in the Preliminary Budget, to reflect capital projects he believes should be undertaken within the ensuing fiscal year.

- Each agency submits to the Mayor a **Departmental Statement of Need for City Facilities**. Agencies must review the Community Board District Needs Statements. (Charter §204(e)(2))
- November 1 in every even-numbered year: OMB and City Planning submit, to the Mayor, the Council, the Borough Presidents and the City Planning Commission, a **draft Ten-Year capital strategy**.¹⁸ While the Charter anticipates the draft strategy to be released well in advance of the Preliminary Budget, with ample opportunity for public hearings on the strategy alone, the City has, from time to time, released it with the Preliminary Budget. (Charter §228)
- November 15: The Mayor submits, to the Council, the Borough Presidents, the Borough Boards and the Community Boards, a **Citywide Statement of Needs** identifying new City facilities, significant expansions to City facilities, closures or significant reductions of City Facilities. Comment on Citywide Statement of Needs is a Borough President/Community Board responsibility. (Charter §204)
- December 1: The Comptroller submits, to the Mayor, Council and City Planning Commission, the Comptroller's **Report on Capital Debt and Obligations** setting forth, among other things, the amount and nature of all obligations authorized for capital projects, the City's financial condition with advise as to the maximum amount and nature of debt and reserves which the City may soundly incur for capital projects during each of the four succeeding fiscal years. (Charter §232)
- December 15: The Comptroller presents a **Report on the State of the City's Finances** at a stated meeting of the City Council on the state of the City's economy and finances, including evaluations of the City's Financial Plan, as most recently updated by the Mayor. (Charter § 233)
- January 16: The Mayor submits the **Preliminary Budget** to the City Council, with copies to the Borough Presidents, Community Boards, Borough Boards, City Planning Commission and Department of City Planning. The Preliminary Budget for the next fiscal year, consisting of the three component budgets--expense, capital and revenue--also includes an update of the

¹⁸ NYC's Ten-Year capital strategy is intended to inform the annual capital planning process and thus generally does not include project-level detail.

Financial Plan. (Charter §236) The capital budget component of the Preliminary Budget consists of a financial plan covering estimates of capital expenditures for the four ensuing fiscal years (see Exhibit 2), departmental estimates pursuant to §212, a capital project status report for the current fiscal year and expenditures to date, along with other detailed information (Charter § 213). In addition, the Mayor submits a **preliminary certificate on capital debt and obligations** to the Council, the Comptroller, the Borough Presidents and the City Planning Commission. This preliminary certificate sets forth, among other things, the maximum amount of debt and reserves the City may soundly incur for capital projects during the next fiscal year and next succeeding three fiscal years. (Charter § 235)

- January 16 in odd-numbered years: The City Planning Commission submits, to the Mayor, Borough Presidents and Council, its *comments* on the **draft Ten-year capital strategy**. (Charter § 234)
- January 30: The Mayor presents, to the Council, a **Preliminary Mayor's Management Report** ("PMMR"). The PMMR contains for each agency a statement of actual performance for the first 4 months of the current fiscal year and proposed performance goals and measures for the next fiscal year reflecting budgetary decisions in the Preliminary Budget.
- February 15: Community Boards submit to the Mayor, City Council, Director of OMB, Borough President and Borough Board **statements of their assessment of the responsiveness of the Preliminary Budget to their earlier Community Board Budget Priorities**. (Charter §238)

The Commissioner of Finance also submits an **estimate of assessed value for the ensuing fiscal year** and a **statement of real property taxes** due and uncollected for the current fiscal year to the Mayor and the City Council, and the Mayor submits a **Tax Benefit Report** to the City Council. (Charter §§239 and 240)

- February 25: Each Borough Board submits comprehensive statements on the budget priorities of the Borough (**Borough Board Budget Priorities**) to the Mayor, City Council and Director of OMB; public hearings to obtain the views and recommendations of the community boards, residents and others are held in connection with preparation of these statements including . (Charter §241)
- March 1: The Comptroller submits to the Mayor and the City Council a **Statement of Debt Service** containing a schedule of the appropriations required during the next fiscal year for debt service. (Charter §242)

- March 10: Each Borough President submits, to the Mayor and City Council, **proposed modifications of the Preliminary Budget**, taking into consideration related Community and Borough Board Budget Priorities. In his preparation of the Executive Budget, the Mayor must consult with the Borough Presidents. (Charter §§ 244 and 245) In addition, the Council approves and submits to the Mayor, **estimates of the Council's financial needs** for the next fiscal year. The Mayor must include these estimates in the Executive Budget without revision, but he may comment on them. (Charter §243)
- March 25: The City Council submits, to the Mayor, its **findings and recommendations on the Preliminary Budget** after public hearings, by Council Committees, have been held in connection with, among other things, the Preliminary Budget, Community Board Budget Priorities and the Borough Presidents' recommendations. (Charter §247)
- By April 8: The Council holds **public hearings on the PMMR** and on the agencies' proposed program and performance goals and measures. The Council later submits a report to the Mayor on its findings and recommendations. (Charter §12)
- April 26: The Mayor submits, to the City Council, the **proposed Executive Budget**. (Charter §249)
- April 26 in every odd-numbered year: The Mayor issues the **Ten-Year Capital Strategy**.¹⁹ (Charter §248)
- May 6: Borough Presidents submit, to the Mayor and City Council, their **responses to the Mayor's proposed Executive Budget**. (Charter §251)
- May 6 - May 25: The City Council holds **public hearings on the Mayor's proposed Executive Budget**. (Charter §253)
- No later than June 30: The City Council adopts the **City's budget (capital and expense)**, subject to veto of the Mayor and override by the City Council. The City Council can alter the Mayor's proposed Executive Budget by increasing, decreasing, adding or omitting any unit of appropriation and adding, omitting or changing any term or condition related to any appropriation. (Charter §§254 and 255) The Mayor estimates the **probable amount of all**

¹⁹ NYC's Ten-Year capital strategy is intended to inform the annual capital planning process and thus generally does not include project-level detail.

revenues except real property taxes. The City Council adopts **real property tax fixing resolution**, fixing annual tax rates on real property for the ensuing fiscal year, so that the amount of total revenues -- non-real property as estimated by the Mayor and real property tax revenues -- equals the amount of expenditures appropriated in the adopted budget. (Charter §§1515 and 1516) The Charter provides for a fallback budget; in the event the City does not adopt a budget by June 30. (Charter §254)

- Within 90 days of adoption of the capital budget (the "September report"), with the Preliminary Budget (the "January report"), and with the Executive Budget (the "April report"), the City releases the **Capital Commitment Plan** to the Council, City Planning Commission, Community Boards, Borough Boards, Borough Presidents and the public. Agencies prepare and submit their portion of the Capital Commitment Plan to OMB, on behalf of the Mayor, at least three times each year, summarizing progress on their capital projects. The Capital Commitment Plan is published within 90 days of adoption of the capital budget (the "**September report**"), with the Preliminary Budget (the "**January report**"), and with the Executive Budget (the "**April report**"). In the Capital Commitment Plan, agencies report on schedule dates in the adopted capital budget for completion of scope, design and construction and any changes in such dates, with clear explanations of delays. The September report—also known as the "**adopted plan**"—includes for each capital project added to budget and for each capital project for which substantial change was made, project description, or revised project description, including, to extent practicable, project scope information—agencies essentially re-forecast their projects. The April report includes for each proposed capital project, project description including, to the extent practicable, project scope information. (Charter §219 (d))
- September 17: The Mayor submits a **Mayor's Management Report**, to the Council, which among other things, contains a review of the implementation of the Citywide Statement of Needs. (Charter §12)

Impact of NYC's Financial Emergency Act on the NYC's Budget

There are particular features of the City's budget process that resulted from the legislative solutions to NYC's fiscal crisis. New York State enacted the New York State Financial Emergency Act for The City of New York (the "Emergency Act") as part of a complex financial plan designed to enable the City to emerge, with the assistance of the State and federal governments, from a fiscal crisis that began in the 1970s. The general consensus at the time identified several financial practices of the City, illuminated by the crisis, that were thought to have exacerbated the City's precarious financial condition.

The Emergency Act specifically focused on improving the City's financial practices--first, by imposing certain budgetary and financial practices on the City, described below, while simultaneously imposing a state-created monitoring apparatus with two levels of control over the City's financial affairs. The two-level approach reflected a belief that the City would eventually emerge from its fiscal crisis and require a more appropriate lower level of state control of its finances, which occurred as of June 30, 1986. NYC now operates under what is referred to as the "sunset" period, during which the State's Financial Control Board (FCB) exercises scaled-back monitoring functions aimed at determining annually whether, in the FCB's judgment, a trigger event has occurred to require the re-imposition of its more intensive "control" period powers.

The most significant budget impact of the Emergency Act comes from the following three requirements. Under the Emergency Act, the City must:

- * prepare and balance its budgets (including the budgets of its "covered organizations") so that the results thereof would not show a deficit when reported in accordance with governmentally accepted accounting practices (GAAP)
- * establish and fund a general reserve of \$100 million
- * prepare and maintain a three-year financial plan-- forecasted budgets for the next three fiscal years (called the Financial Plan)

The Emergency Act requires GAAP budgeting but does not indicate what it means. GAAP consists of rules for financial accounting and reporting, not budgeting. After the Emergency Act was enacted, however, the accountants applied accounting rules to the budget process in the presence of the lawyers and the City developed GAAP budgeting principles. GAAP-based financial reporting requires that the reporting entity use the modified accrual or accrual basis of

accounting, as opposed to a cash basis. The modified accrual or accrual accounting concepts applied to budgeting require, among other things, that revenues be recognized in the accounting period when they become available and measurable and that expenditures be recognized in the accounting period when the fund liability is incurred, if measurable.⁵⁸ GAAP budgeting may seem to be common sense, but to the City's budget practices in place at the beginning of the Fiscal Crisis, it was revolutionary. The practical problem imposed by GAAP budgeting is the City's inability to simply "roll" a budgetary surplus from one fiscal year to the next. The rule that revenues be recognized in the accounting period when they become available and measurable prohibits a surplus generated in one year from being recognized in the next as revenue. The technical solution to this problem has been to prepay measurable future expenses, such as debt service in the following year, reducing the amount of debt service in the next year and freeing up those debt service dollars to be used elsewhere in the budget in the next year.

The confluence of GAAP budgeting and the \$100 million deficit trigger creates the practical reality that the City must not let its budget enter a deficit situation in excess of \$100 million at any time during a fiscal year. An assessment of a substantial likelihood and imminence of such a deficit at any time other than the close, is assisted by presentation conventions and monitoring processes that were developed by the City and the FCB during the initial control period and that have continued during the sunset period.

The initial control period lasted over ten years. At the beginning of this period, it was expected that the City would have budget gaps-- estimated expenditures in excess of estimated revenues. Thus, the City's budget monitors perceived the practice of identifying the magnitude of a budget gap at adoption and budget initiatives to close the gap during the fiscal year in order to avoid or minimize an operating deficit in a positive light. The summary budget presentation document set out expenditures and revenues for the budget year (and the next three forecasted years). The result of netting the expenditures and revenues produced negative figures. Below this "line", the City summarized its Program to Eliminate the Gap (PEG Program), listing initiatives on both expense and revenue side which, if realized, produced a satisfactory non-negative "below-the-line" operating result. Initiatives in a PEG Program included actions within the City's control, ranging from productivity savings, personnel and OTPS reductions to certain fee and certain tax increases. Actions outside the City's control, State and federal actions, ranged from revenue increases requiring State authorization to changes in program assumptions controlled by the State or federal government.

The gap sheet presentation continues to be part of budget and Financial Plan presentation documents during the sunset period. In addition, a monitoring process has continued during

the sunset period to enable the FCB to evaluate whether there is a substantial likelihood and imminence of the City incurring a deficit in excess of \$100 million during the fiscal year.