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### **Charter Revision Commission Testimony**

*September 27, 2018*

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

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

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

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

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

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



This Commission can create a pathway for all the residents with great ideas for laws at these hearings and in the future to submit bills to the City Council for a guaranteed hearing and vote.

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

I would highlight for this commission three main themes:

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



## Table of Contents

I.	Create a New York City Bill of Rights	6
II.	Support for the 2018 New York City Charter Revision Commission	6
	A. Match Every Dollar with a Full Public Match	6
	B. Match Small Dollars with More Public Dollars	7
	C. Lower Contribution Limits	7
	D. Term Limits for Community Board Members	7
	E. Urban Planners for Every Community Board	7
III.	Respect the Will of the People	7
	A. Protections for Charter Amendments Voted on by Residents	7
	B. Empower Residents to Propose Legislation to Council: CrowdLaw	8
IV.	Springing Powers	8
I.	Remove Relics from the Charter	9
	A. Remove Outdated References	9
	B. Remove Poverty Wages from the Charter	9
V.	Improve Democracy	9
	A. Get Big Money Out of New York City Politics	9
	1. Stop Matching Big Dollar Contributions	9
	2. Eliminate War Chests	9
	3. Kill All the Zombie Committees	10
	4. Young Adult Voter Registration Act	10
	5. Act Now	11
	B. Expand Candidates and Voters Now	11
	1. Empower Residents to Run for Office	11
	2. Automatic Voter Registration	11
	3. Separate Voter Assistance and Campaign Finance	12
	4. Remove Post-Census Half Term	12
	5. Lifetime Term Limits	12
VI.	Ethics Reforms to End Patronage and Corruption Citywide	13
	A. Protect the Civil Service from Provisionals	13
	B. Publicly Post All Government Jobs	13
	C. Lifetime Ban on Lobbying	13
	D. Protect Compensation from Politics	14
	E. Protect Oversight Officials and Agencies from Retaliation	14
VII.	Permanently Reform the City Council by Protecting and Expanding Reforms	15
	A. Full Time Elected Officials	15
	B. Equal Compensation for All Council Members by Eliminating “Lulus”	15
	C. City Employees May Not Be Party Officials	15



D.	Standardized Budget	15
E.	Standardized Formula for Setting Discretionary Budget for Council Members	16
F.	Capping the Budget Allocation of City Council Speaker	16
G.	Notify Residents about Legislation that is Ready for a Vote	16
H.	Better Legislation Using Scientific Method	17
I.	Excessive Reports, Studies, and Taskforces	17
J.	Expert Testimony: Use New York’s Best Natural Resource	17
VIII.	Empower Residents through the City Council and Borough Presidents	18
A.	Support 2010 Recommendations	18
B.	Expand Advice and Consent to All Agency Leaders	18
C.	Agency Leaders Terminated for Cause	18
C.	Expand the Right of Visitation	18
D.	Empower Residents through Community Boards and Borough Presidents	19
E.	Binding Land Use Votes	19
F.	City Funded Environmental Assessment and Impact Statements	19
G.	End Automatic Reappointment with Standardized, Public Applications	19
H.	Ensure Representation with Automatic Removal for Non-Attendance	20
I.	Prohibit the Appointment of Partisan Party Officials or Lobbyists	20
J.	Member Training	21
IX.	Land Use	21
A.	Expand Appointments to Land Use Boards and Commissions	21
A.	Meaningful Public Review	22
B.	Protect Potential Landmarks from Eternal Limbo	22
C.	Expand Council’s Power from “Major” to Review All Concessions	23
D.	Require Wage and Job Standards Following City Action	24
E.	Land Use Approvals Must Not Spring Eternal	24
F.	Follow 197-a Plans	24
D.	Reform 197-c and 197-d	25
G.	Fair Share	25
H.	Achieve Fair Housing and Affordable Housing Goals in Every District	25
I.	Protect Residents in Affordable Housing from Displacement by New Development	26
X.	Bridging the Digital Divide with Universal Broadband and Improved Cable and Phone Service	26
A.	Voting Rights for All Borough Presidents on Multi-Borough Franchises	27
B.	City Council Member Participation Following Authorizing Resolution	27
XI.	Contracting	27
A.	Collective Bargaining	27
B.	Stop Government from Overpaying	28
C.	In-Source Over Out-Sourcing	28
D.	Engage Public in Contracting and Awards	28
XII.	Empower Residents in the Budget Process	29



## **BENJAMIN J. KALLOS**

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DISTRICT 5, MANHATTAN

A.	A Transparent and Accountable Budget	29
B.	Transparency to Spot Light Hidden Funds	29
C.	Scope Capital Projects to Prevent Overruns	30
D.	Fiscal Impact Tracking	30
E.	Expand Budget and Performance Oversight Requirements	31
XIII.	Conclusion	31



## I. Create a New York City Bill of Rights

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

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

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

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

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

### A. Match Every Dollar with a Full Public Match

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



**B. Match Small Dollars with More Public Dollars**

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

**C. Lower Contribution Limits**

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

**D. Term Limits for Community Board Members**

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

**E. Urban Planners for Every Community Board**

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

**III. Respect the Will of the People**

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

**A. Protections for Charter Amendments Voted on by Residents**

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



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

**B. Empower Residents to Propose Legislation to Council: CrowdLaw**

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

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

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

**IV. Springing Powers**

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



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

I. Remove Relics from the Charter

A. Remove Outdated References

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

B. Remove Poverty Wages from the Charter

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

V. Improve Democracy

A. Get Big Money Out of New York City Politics

1. Stop Matching Big Dollar Contributions

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

2. Eliminate War Chests

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



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

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

### 3. Kill All the Zombie Committees

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

When candidates do not use the money in their city, state, or federal accounts for an election, or once those candidates are no longer in office due to a term limit, losing an election, resignation in disgrace, or even death, their campaign committees live on as “zombie committees.” One notable example involves convicted – and re-convicted – on felony corruption charges, former Assembly Speaker Sheldon Silver who is barred from ever holding public office in New York. Yet, through a campaign account called SpeakerPAC, Silver is [able to use \\$428,764 for political purposes or legal defense](#). Unfortunately, Silver is one of example of many former elected officials who maintain campaign accounts years after having left, or been removed, from office.

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

### 4. Young Adult Voter Registration Act

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



## 5. Act Now

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

### B. Expand Candidates and Voters Now

#### 1. Empower Residents to Run for Office

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

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

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

#### 2. Automatic Voter Registration

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



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

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

### 3. Separate Voter Assistance and Campaign Finance

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

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

### 4. Remove Post-Census Half Term

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

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

### 5. Lifetime Term Limits

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



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

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

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

## VI. Ethics Reforms to End Patronage and Corruption Citywide

### A. Protect the Civil Service from Provisionals

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

### B. Publicly Post All Government Jobs

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

### C. Lifetime Ban on Lobbying

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



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

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

**D. Protect Compensation from Politics**

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

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

**E. Protect Oversight Officials and Agencies from Retaliation**

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



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

### A. Full Time Elected Officials

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

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

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

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

### C. City Employees May Not Be Party Officials

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

### D. Standardized Budget

In the past, members were rewarded for loyalty to the Speaker with more money in their staff and office budget, or punished for opposing the Speaker by seeing that money taken away. On top of being poor practice and creating a system of patronage within the Council chambers, this practice ultimately hurts the constituents who council members were elected to serve. A smaller budget means less staff the handle constituent service, conduct outreach for services and events,



or advocate for funding for district needs. Budgets for council members must be set equally, the only exception being a transparent formula which allots more money for a district office based on district-by-district real estate prices or districts separated by bodies of water where more than one district office might be necessary. Without this, members from districts with more expensive real estate are disadvantaged as they will have to spend money allocated for staff on office rent.

**E. Standardized Formula for Setting Discretionary Budget for Council Members**

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

**F. Capping the Budget Allocation of City Council Speaker**

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

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

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



#### H. Better Legislation Using Scientific Method

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

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

#### I. Excessive Reports, Studies, and Taskforces

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

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

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

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



## VIII. Empower Residents through the City Council and Borough Presidents

### A. Support 2010 Recommendations

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

- an explicit requirement that the mayor must enforce all laws
- language to strengthen fair share (discussed later in this testimony)
- improving the composition of the Franchise Concession Review Committee (discussed later in this testimony)
- the disclosure of independent campaign expenditures
- reforming the 197-a, 197-c, and 197-d processes (discussed later in this testimony)

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

### B. Expand Advice and Consent to All Agency Leaders

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

### C. Agency Leaders Terminated for Cause

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

### C. Expand the Right of Visitation

Under Charter Chapter 25 Section 627, Council Members are only specifically "authorized to inspect and visit at any time the institutions and facilities" of the Department of Corrections. This



Commission must specifically empower the Comptroller, Public Advocate, Borough Presidents, and Council to visit and inspect all city owned, operated, leased, concessioned, or franchised properties on 24 hours' notice, with the ability to conduct surprise inspections with reasonable cause.

**D. Empower Residents through Community Boards and Borough Presidents**

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

**E. Binding Land Use Votes**

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

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

**F. City Funded Environmental Assessment and Impact Statements**

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

**G. End Automatic Reappointment with Standardized, Public Applications**



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

A standard, publicly available online application will end the culture of automatic reappointment, encourage stronger performance, and better ensure members reflect their communities. Members may be volunteers but they are part of a government entity and their decisions affect their entire neighborhoods. The public has a right to know who they are and what may affect their decision making.

#### H. Ensure Representation with Automatic Removal for Non-Attendance

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

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

#### I. Prohibit the Appointment of Partisan Party Officials or Lobbyists

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

#### J. Urban Planners for Community Boards

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



## K. Member Training

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

## IX. Land Use

### A. Expand Appointments to Land Use Boards and Commissions

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

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

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

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

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

All three of these land use bodies must be reformed to empower communities and expand the number of elected officials with real power in every step of the land use process. This



Commission must examine these bodies and come back with recommendations for how they could be empowered. As a starting point, I suggest amending Chapter 74 of Section 3020 and reducing the Mayor’s appointed members to 5 and including appointments from the Public Advocate and each Borough President, as was done in 1989 for the CPC and met Constitutional scrutiny. All members must have professional requirements with similar geographic and professional background.

All three should have five appointments added by the City Council. Both the Mayor and the Council should be required to appoint members from each borough, spanning multiple political parties, representing specific communities including one each for a rent-regulated tenant, a homeowner, and community preservation organization. Objective criteria must be set forth to ensure that appointments not only meet the criteria but actually represent the interests of their communities.

#### A. Meaningful Public Review

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

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

#### B. Protect Potential Landmarks from Eternal Limbo

On the 50th anniversary of the landmarks law, the City Council sought to undo years of preservation with Introduction 755, to remove nearly 100 properties from the LPCs calendar under the auspices of a “timeline.” It included a poison pill provision to preclude the consideration of any building that did not get designated for 5 years. During the dispute, the one complaint that came from nearly every Council Member and neighborhood they represented was that buildings, districts and sites cherished in the community spent far too long in limbo being



considered for landmark status without the protection of even being on the calendar. The Commission must examine the process by which districts, properties, and sites are evaluated by the LPC and propose a formal process for evaluation. The 2010 City Council Charter report suggested that the LPC should advise the Community Board of whether it would initiate a study and how long it would take. This Commission must go farther, by empowering a Borough President, Council Member, or Community Board to submit a district, property or site for evaluation with a response provided within 6 months. All should be empowered to force a vote by LPC on whether to calendar after 6 months.

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

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

The qualifications for major concessions are:

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

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



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

D. Require Wage and Job Standards Following City Action

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

E. Land Use Approvals Must Not Spring Eternal

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

F. Follow 197-a Plans

To create a 197-a plan requires intense dedication over many years and comes at considerable cost. When completed, the City should recognize these efforts by Community Boards to improve their neighborhoods by adopting the plans and taking measurable steps to act on them. It is



telling that only 13 [197-a plans](#) from 12 community boards have been adopted since 1992, the last of which in December 2009. Given the cost of producing these plans, the amount of time it takes for adoption, and the City’s history of ignoring the plans in whole or in part, it is no wonder our community boards have all but ceased producing them. The 2010 City Council Charter Commission Report suggested requiring City Planning Commission to meet with a Community Board following a successful 197-a. The Commission must go further making these plans binding and requiring the Department of City Planning and applicable city agencies to return within one year with zoning or other changes to and further report on compliance with applicable 197-a in any subsequent land use decisions.

D. Reform 197-c and 197-d

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

G. Fair Share

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

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

The city’s plan for hundreds of thousands of new and preserved units of affordable housing has resulted in targeting low-income communities of color for a vast majority of these units and nearly every rezoning. Meanwhile, affordable housing is a citywide issue. From the wealthiest to the poorest neighborhoods, there is a problem when residents of every socio-economic level share the same concern. Each and every day someone contacts my office because they can no longer afford to stay in the neighborhood. If negotiations with their landlord fails, they must look to other neighborhoods, usually outside of Manhattan, because that is the only place affordable



housing now exists. Displacement in a moderate income community, can force residents into a low-income community, only to displace that low-income community into a very low-income community, and so on into what has become the opposite of a virtuous circle. This Commission must examine how we as a city can achieve fair housing goals and build affordable housing in every community district.

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

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

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

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

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

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

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

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



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

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

The Franchise and Concession Review Committee is tasked with, among other powers, selecting franchises and is made up of six members, the Mayor as chair, the Director of the Office of Management and Budget (appointed by the Mayor), the Corporation Counsel (appointed by the Mayor), an additional appointment of the Mayor, the Comptroller, and the Borough President for the borough in which a franchise is located and shared among the borough presidents citywide, under Charter Chapter 14 Section 373. This gives the Mayor four out of the six seats on the board, two of which are directly employed by the Mayor, with the addition of the Mayor's appointment, there is no way for the Mayor to lose a vote of the FCRC. As with other boards, commissions, and committees, the Franchise Concession Review Committee (FCRC) should have fewer mayoral appointments and more from other elected officials. The composition of the FCRC should be rebalanced to include appointees from the Public Advocate and the Council, and the borough presidents, who currently share one vote depending on which borough the franchise is located within, should be allowed one vote each for any multi-borough franchise matters. Consideration should be given to including the Commissioner of the Department of Information Technology and Telecommunications.

B. City Council Member Participation Following Authorizing Resolution

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

XI. Contracting

A. Collective Bargaining

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



York or the City of New York that applies to private sector employers giving new rights or protections to private sector employees must be made immediately available to public sector city employees as a minimum benefit. Doing the right thing should not be a negotiation.

**B. Stop Government from Overpaying**

It often seems that it is more expensive for the city government to purchase everyday items like trash cans that [skyrocketed in price](#) from some \$545 dollars to nearly one thousand. The Procurement Policy Board is comprised of five members, three appointed by the Mayor and two by the Comptroller, under Charter Chapter 13 Section 311. This Commission should give the Mayor five appointments, maintain the Comptroller's appointments, along with adding five appointments for the City Council and consider providing Borough Presidents with appointments. Furthermore, if the procurement process yielded bids or even an award that exceeded the cost to purchase on the open market at retail or if in sufficient quantity wholesale then the city should be free to do so at the lowest rate. This would expand the elected officials with a representative at the table and enable the city to keep our costs low and ensure government is spending tax payer dollars wisely.

**C. In-Source Over Out-Sourcing**

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

**D. Engage Public in Contracting and Awards**

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



affects property in only one Community District, Council District or Borough, the hearings should occur where effected and if possible as part of a regularly occurring monthly meeting.

## XII. Empower Residents in the Budget Process

### A. A Transparent and Accountable Budget

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

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

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

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

### B. Transparency to Spot Light Hidden Funds

Billions of dollars in expenditures are omitted from the city's budget. EDC capital items are "on budget" because the city funds them as a contractor. However, because EDC is a non-profit and not a City agency, not all of its revenues and expenditures are transparently included in the city budget, despite the EDC board being appointed by city elected officials. EDC's activities are largely funded from revenues generated by EDC. These "off budget" expenditures are misleading and create difficulties in city oversight. Similarly, HPD and HDC spend hundreds of



millions of dollars each year to subsidize the development of affordable housing. The public serves to know where this money is coming from and the dollars must be included in the budget section for each entity.

#### C. Scope Capital Projects to Prevent Overruns

The capital expenditure process is fundamentally broken, leading to frequent cost overruns and projects that proceed in fits and starts, resulting in projects that are rarely completed on time. This pain point has only grown worse with the introduction of Participatory Budgeting, where members of the community can see firsthand how broken the process is. The cost estimate increases are primarily related to the larger scale items. Smaller things like laptop carts or bus timers are fairly predictable since they are known items scoped in advance. The primary cause of these cost increases is because the projects are inadequately scoped and many cost estimates are averages without regard to site specific concerns. More time for scoping is needed.

The process for larger more challenging projects in a nutshell:

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

#### D. Fiscal Impact Tracking

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



E. Expand Budget and Performance Oversight Requirements

The [Wall Street Journal](#) covered my concerns that the [Mayor’s Management Report](#) (MMR) was “setting the bar too low” on important issues like public safety, public health, or helping homeless off the streets. The MMR is the annual public report card on City government and is critical to managing and evaluating the City’s performance. Unfortunately, according to my analysis, the MMR failed to set performance targets more than half the time, and when it did, 35% of the time targets were set below current performance standards. In other words, if we followed the goals of the report, we would make conditions in our city worse. [The New York Post](#) covered an [oversight hearing](#) that I chaired on the report noting the city had planned for an [increase in homelessness](#). Thanks to this hearing and the attention brought to the issue, the Mayor’s administration made a commitment to address the situation and work together in upcoming MMRs. To ensure that this and future administrations produce meaningful MMRs and Preliminary Mayor’s Management Reports (PMMR), we should add to Section 12(e) that the Council must conduct hearings on the MMR in addition to the existing requirement for PMMR hearings.

XIII. Conclusion

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