

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

NEW YORK CITY CHARTER REVISION COMMISSION

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March 11, 2019
Start: 6:08 p.m.
Recess: 9:38 p.m.

HELD AT: Borough of Manhattan
Community College (BMCC)

B E F O R E: GAIL BENJAMIN
Chairperson

COMMISSIONERS: Sal Albanese
Dr. Lilliam Barrios-Paoli
Lisette Camilo
James Caras
Eduardo Cordero, Sr.
Stephen Fiala
Paula Gavin
Lindsay Greene
Alison Hirsh
Rev. Clinton Miller
Sateesh Nori
Dr. Merryl Tisch
James Vacca
Carl Weisbrod

A P P E A R A N C E S (CONTINUED)

Panel 1

Daniel Symon, Acting Chief Procurement Officer & Director of the Mayor's Office of Contract Services (MOCS)

Lisa Flores, Deputy Comptroller for Contracts

Marla Simpson, Former Director of MOCS

Janelle Farris, Executive Director of Brooklyn Community Services. Among many previous positions in nonprofits and City government, she worked on the 1989 Charter Revision Commission.

Michelle Jackson, Deputy Executive Director of the Human Services Council a coalition of nonprofits in the human services sector.

Panel 2

Francisco Brindisi, Representative from the Office of Management and Budget (OMB)

Chuck Brisky, Deputy Director for Expense and Capital Coordination, Representative from the Office of Management and Budget (OMB)

Preston Niblack, Deputy Comptroller for Budget and former director of the Council Finance Division

George Sweeting, Deputy Director of the New York City Independent Budget Office (IBO)

Jon Kaufman, Chief Operating Officer at the Department of City Planning (DCP) and oversees DCP's Capital Planning Division Staff

Carol Kellerman, former President of the Citizens Budget Commission and has held numerous other positions, including Deputy Commissioner of the NYC Department of Finance

Panel 3

Mark Page, former Director of OMB and former Deputy Nassau County Executive of Finance

Andrew Rein, President of the Citizen's Budget Commission

Anthony Shorris, Professor at Princeton University, former First Deputy Mayor, Finance Commissioner and Deputy Director of OMB

Emily Goldman, Director of Organizing and Advocacy at the Association for Neighborhood and Housing Department

2 CHAIRPERSON BENJAMIN: Good evening and
3 welcome to tonight's meeting of the 2019 New York
4 City Charter Revision Commission. I'm Gail Benjamin,
5 the Chair of the Commission, and I'm joined by the
6 following Commission Members. On my right I have the
7 Honorable Jim Caras, the Honorable Sal Albanese, and
8 the Honorable Paula Gavin. On my left I have the
9 Honorable Merryl Tisch, the Honorable Carl Weisbrod,
10 the Honorable Lisette Camilo, and I have seen the
11 Honorable Steve Fiala and Ed Cordero, but they are
12 absent without need at the moment, and here we have
13 the Honorable Steven Fiala, and Mr. Cordero is here,
14 but he is shortly behind Mr. Fiala and he will be
15 entering the room. With those members present, we
16 have a quorum. Even without counts—even without Mr.
17 Cordero, we have a quorum. Before we begin, I will
18 entertain a motion to adopt the minutes of the
19 Commission's meeting on March 7th at City Hall, a
20 copy of which has been provided to all of the
21 Commissioners. Do I hear a motion?

22 COMMISSIONER: I make a motion.

23 CHAIRPERSON BENJAMIN: Second?

24 COMMISSIONER: Second.
25

2 CHAIRPERSON BENJAMIN: Discussion? All
3 those in favor? Aye.

4 COMMISSIONERS: [in unison] Aye

5 CHAIRPERSON BENJAMIN: Opposed? The
6 motion carries. Today we'll continue the
7 Commission's--and we have Mr. Cordero right here. We
8 will continue Commission's hearings of expert quorums
9 formed on the focus areas we adopted in January.
10 This evening we are privileged to be joined by a
11 distinguished set of panelists put together in
12 consultation with my fellow commissioners through who
13 have generously agreed to speak to us about the very
14 important topic of finance. The budget is one of the
15 most important policy document tools the city has,
16 and we have received many proposals aimed at
17 increasing transparency and accountability in the
18 budget process. Similarly, we have heard from many
19 people about the need to improve the city's
20 procurement process in particular the need to speed
21 up payments to contractors that can currently take an
22 extremely long time. We very much look forward to
23 diving into these important topics with our panelists
24 who are seated in front of me. With that, let's get
25 started. Each panelist will have three minutes to

2 introduce themselves, and provide brief opening
3 remarks and then we will have 30 minutes for
4 Commissioner questions. If 30 minutes ends up not
5 being quite enough time to get to your question, let
6 Seth know and they will arrange a follow up. For
7 brevity's sake, the witnesses are here, and I'll each
8 one of them to introduce themselves. On this first
9 panel we have Daniel Symon, Lisa Flores, Marla
10 Simpson, Janelle Farris and Michelle Jackson. Mr.
11 Symon, would you like to start?

12 DANIEL SYMON: Good evening,
13 Commissioners. My name is Dan Symon, and I am the
14 Acting Director of the Mayor's Office of Contract
15 Services, and City's Chief Procurement Officer. Thank
16 you for inviting me share my views on procurement
17 reform. As I have publicly shared in the past
18 including at Council Committee hearings, I agree that
19 New York City procurement must be overhauled. I am
20 glad that this matter is receiving the level of
21 attention it deserves by the Commission and various
22 stakeholder groups. My first-hand experience is both
23 the beneficiary of and leader in procurement for well
24 over a decade reinforces the need for the changes I
25 am now charged to implement using best in class

2 technology and bold process reforms. I have overseen
3 programs at city agency, served on its Executive
4 Leadership Team, and held the position of Agency
5 Chief Contracting Officer before moving onto citywide
6 transformation projects. Reliance on paper, a
7 patchwork of siloed agency systems and is sometimes
8 necessarily risk-averse culture combined to limit
9 achievable results. We have, however, been able to
10 show successful results with reforms brought about
11 through HHS Accelerator, reducing paper and costs by
12 moving RFP management online and lowering review
13 times for invoices drastically. We are also seeing
14 the results achieved through Phase 1 of Passport.
15 Cycle times for vendors filing required disclosure
16 data has gone from one month down to hours. Because
17 agencies are now on a shared platform for their work,
18 responsibility determination now take roughly eight
19 days when they typically took six to seven weeks
20 before Passport, and we're not done. We are moving
21 full steam ahead through the remain phases of
22 Passport, which will bring online the full end-to-end
23 procurement process for all industries establishing
24 ground breaking-ground breaking transparency into the
25 process and transaction status for everyone involved.

2 To truly solve our decades old procurement issues, we
3 need radical new thinking and modern tools that
4 enable transparency among stakeholders. Easy access
5 to actionable data for agency leadership and a
6 predictable, efficient set of clear processes for
7 everyone. We are actively engaged in conceptual
8 design for the most comprehensive days of the
9 procurement transformation efforts, which will be
10 implemented through Passport next March. The
11 transparency we will create will bring speed and
12 establish new baselines for what to expect from
13 procurement. We have seen results from this approach
14 with an end-to-end process captured in quality change
15 management to drive adoption, we will achieve our
16 shared goals. Thanks.

17 CHAIRPERSON BENJAMIN: Thank you very
18 much, Mr. Symon. Next we have Ms. Flores.

19 LISA FLORES: Thank you. Thank you to
20 the members of the Charter Revision Commission for
21 the opportunity to submit testimony and answer
22 questions.

23 CHAIRPERSON BENJAMIN: Now, you're going
24 to have to speak up.

25 LISA FLORES: Louder?

2 CHAIRPERSON BENJAMIN: Yes, or maybe just
3 into the mic.

4 MALE SPEAKER: [interposing] Here.

5 CHAIRPERSON BENJAMIN: Try again, honey.

6 LISA FLORES: Can you hear me?

7 CHAIRPERSON BENJAMIN: Yes.

8 LISA FLORES: Perfect. Still rising.

9 CHAIRPERSON BENJAMIN: Uh-hm.

10 LISA FLORES: Thank you to the members of
11 the Charter Revision Commission for the opportunity
12 to submit testimony and answer questions about the
13 city's procurement processes. Having served as
14 Deputy Comptroller for Contracts and Procurements for
15 the past five years and previously seven years at the
16 Mayor's Office of Contract Services, I've seen our
17 contracting system from both side of the spectrum,
18 and I'm excited to be here today and provide some of
19 our recommendations from the Comptroller's Office.
20 Let me begin by providing some context on the city's
21 procurement system. In Fiscal Year 2018, New York
22 City entered into contracts for goods or services or
23 construction valued at over \$19.3 billion. Despite
24 the critical role procurement plays in keeping the
25 city running, the procurement system can be

2 notoriously slow, bureaucratic and opaque. Our
3 inefficiencies hurt the vendors with which we
4 contract, and hurt the city's bottom line. Contract
5 delays often drive up projects costs and potentially
6 cause real financial harm particularly for not-for-
7 profits, MWBEs and smaller firms. Vendors end up
8 passing those costs right back to us as expenses
9 increase over the life of a project, or before a
10 project even starts and submitting an infinite cost
11 estimate to the city and anticipation of a protracted
12 contact or registration process. The city is aware
13 of their procurement problems and as Dan mentioned
14 they're working really hard to streamline the process
15 and solve in addressing inefficiencies with a new
16 system Passport. However, if the system does not
17 include accountability and transparency measures we
18 will not get to the heart of the problem. The
19 exceeding long amount of time it takes to solicit
20 award, negotiate, execute, review and submit a
21 contract registration and the lack of visibility the
22 vendors have and the public. Currently, there are no
23 timelines for our numerous city agencies involved in
24 the contract oversight process to complete their
25 work. It can take months or even years from the

2 beginning to the end of a process before a vendor can
3 even get paid. There are many contracting agencies in
4 the oversight part of the process, but no other
5 agency has to perform their duties within a specific
6 timeframe as our office does, and there's no
7 visibility to how long each takes. As a result, the
8 process lacks organization (sic) and there's no way
9 to learn how long it might take for particular
10 contracts to be registered. We've documented this
11 problem in recent reports. In FY18 96% of the
12 contracts registered by our office or registered
13 within the initial 30-day review window. However, we
14 found that at 80% of all new and window contracts
15 submitted to our office registration came arrived
16 after their start date had already passed. Forty
17 percent of the contracts will wait by six months or
18 more. We're looking at Human Service contracts, the
19 sector that's particular hard hit by contract delays,
20 the number increased 89% with 52% of those contracts
21 arriving for registration more than six months, and
22 when looking at MWBEs we also found that 68% of new
23 or renewal contracts arrived after the contract's
24 start date. While the time has run out, I'm happy to
25 answer questions about our specific recommendation

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2 and particularly about instituting time frames for
3 all the other oversights involved in the process, and
4 instituting more transparency in the process. Thank
5 you.

6 CHAIRPERSON BENJAMIN: Thank you very
7 much, Ms. Flores. Ms. Farris.

8 JANELLE FARRIS: Okay. Is this good?
9 Don't start the clock. [laughter]

10 FEMALE SPEAKER: [off mic] I won't until
11 you speak. (sic)

12 CHAIRPERSON BENJAMIN: Okay. [laughter]

13 JANELLE FARRIS: Good afternoon. Thank
14 you for this opportunity to speak to you
15 representatives of the 2019 Charter Revision
16 Commission. My name is Janelle Farris, and I'm the
17 Executive Director of Brooklyn Community Services.
18 We were founded just after the Civil War and have
19 been providing services for 153 years in New York
20 City. We have always worked to support low-income
21 children, families and adults including those with
22 developmental disability and mental health concerns.
23 We're funded primarily by city government contracts,
24 and we have 30 different sites across the city, and a
25 staff of over 600 employees. We are challenged as

2 many of our brethren nonprofits are. You know, basic
3 economic education teaches that the rule of the
4 nonprofit sector exists to primarily fill the gap
5 between what for-profit organizations cannot do
6 based on economic viability, and what the government
7 does not have the capacity to do due to limited
8 resources. It's simple then to understand that leap
9 between why so many of the services provided to low-
10 income families and children are provided by non-
11 profits, and it's also no leap to understand why
12 strong cities thrive when their non-profit sector is
13 strong. We've entered an era for nonprofits that is
14 very dangerous. In the distant past society looked
15 at nonprofits as agencies that perform God's work.
16 Money came freely from city, state, federal, and
17 individuals because they've understood the importance
18 of giving. Over time we became agents of government.
19 We became part of the entity that strove to fill this
20 gap. Now, we're considered businesses, and that is
21 to in the many degrees a great outcome. It's
22 important that we prove our worth, but the challenge
23 that the sector is not looked at as a business.
24 We're underfunded. We are asked to do more with
25 less, to work on contracts that pay less than the

2 cost of doing business, to do business that would-

3 that produces data to demonstrate our results, and

4 the effect of the current environment is one that

5 raises a red flag. Imagine the city where there are

6 no nonprofits, a bill able to provide the services

7 that so many of the under privileged people need.

8 This charter is not an--an entity that is designed to

9 set salaries, but it an entity that is designed to

10 demonstrate that the city has a concerted effort and

11 to demonstrate the willingness of the city to support

12 the sector that enables it to thrive. I'm happy to

13 answer questions afterwards, and I thank you for this

14 opportunity.

15 CHAIRPERSON BENJAMIN: Thank you very

16 much, Ms. Farris. Ms. Jackson. Sorry, Marla.

17 You're last. [background comments]

18 MARLA SIMPSON: [laughter] You amazed me

19 in the middle on the first thing. So, that's in the

20 middle.

21 CHAIRPERSON BENJAMIN: If you could just

22 move on.

23 MICHELLE JACKSON: Right. I got it.

24 Thanks. [laughs]

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2 MARLA SIMPSON: I mean it's different.

3 [laughter]

4 MICHELLE JACKSON: Good evening. My name
5 is Michelle Jackson. I'm the Deputy Executive
6 Director--

7 CHAIRPERSON BENJAMIN: [interposing]
8 You're going to have to put that--

9 MICHELLE JACKSON: [interposing] Really
10 close?

11 CHAIRPERSON BENJAMIN: Closer than you
12 would want it to be.

13 MICHELLE JACKSON: No one ever tells me
14 I'm quiet.

15 CHAIRPERSON BENJAMIN: Okay, perfect.

16 MICHELLE JACKSON: I'm Michelle Jackson.
17 I'm the Deputy Executive Director for the Human
18 Services Council. We're a membership organization
19 comprised of about 170 Human Services organizations
20 in New York City, and we represent our members on
21 city and state issues including procurement. I want
22 to thank you for this opportunity to testify, and
23 also thank you for your service in doing this. This
24 is really in the weeds stuff, and it's nice to be
25 among peers who are procurement nerds and we like to

2 call ourselves. [laughs] So, thank you for that. My
3 recommendations are really clear in my testimony and
4 there's a lot in my testimony. I think some of it's
5 been touched upon so I'll just kind of—I will
6 summarize. I also want to talk about why the
7 procurement reform that we've listed in our
8 recommendations matters particularly Human Services.
9 \$6.5 billion is spent by the city on Human Services
10 every year, and on top of that we leverage state,
11 federal, private giving and philanthropic dollars.
12 We're an economic engine. [background comments]
13 Thank you. I appreciate that. This sector
14 nationally is larger than the airline industry, and
15 yet we do not treat non-profits the same way we treat
16 airline executives. Eighty-nine percent, as Lisa
17 demonstrated in the Comptroller's Report, 89% of our
18 contracts are registered late. Slightly less than
19 that if you account for discretionary. Where are the
20 consequences of that? Our organizations take out
21 lines of credit that they cannot reimburse those
22 expenses for. Some of my providers have reported
23 \$100,000, \$60,000 a year that they pay on lines of
24 credit when their contracts are registered late.
25 That's money that does not go to services. Instead,

2 it goes to bankers, and to pay these fees. We have
3 organizations who are owed millions of dollars at any
4 one point. We have a couple of organizations who are
5 owed \$40 million on their city contracts, which seems
6 crazy, but it's true. This sector is an economic
7 engine, and we all lose when we take money out of
8 services when we have executive directors who are
9 trying to track down contracts instead of providing
10 services. This is a Charter issue. The procurement
11 section really outlines a couple of ways that we can
12 fix this issue. We support the recommendation around
13 having city agencies have a timeframe to submit
14 contracts to the Comptroller's Office the Comptroller
15 already has a limit. So, we believe 60 days or we're
16 happy to look into that. There definitely needs to
17 be a penalty for registering contracts late. We
18 support a recommendation to strengthen current PPB
19 rules around interest on late payments including
20 those made—a contract when a registration is late,
21 and we also support more accountability in the
22 Charter so that the Mayor's Management Report has to
23 report out on where contracts are, and how delayed
24 they've been across city agencies. Finally, because
25 my organization, I have to mention the under-funding

2 of this sector. It cuts across all city agencies
3 I've been at this for 11 years. There's plenty of
4 people who have been in it much longer than me. The
5 way the city procures Human Services is fundamentally
6 broken, and one way that the Charter can address that
7 issues is by requiring city agencies to provide
8 sample budgets in their procurements. They have to
9 give some of that background information now and
10 determine based on the Charter why, you know, how
11 much certain things are going to cost and why it
12 should be procured competitively, and it would be
13 very helpful if that analysis was included in their
14 RFPs because the city contracts just simply don't pay
15 the full cost, and wait on just in that way, and I'm
16 happy to answer any questions that you have. Thank
17 you.

18 CHAIRPERSON BENJAMIN: Thank you very much
19 and last on this panel, but not least Marla Simpson.

20 MARLA SIMPSON: Thank you for inviting
21 me. In 1989, I was an attorney specializing anti-
22 gentrification work. I organized a Charter Reform
23 Coalition. So, it-it gives me great pleasure to be
24 invited back 30 years down the road to discuss an
25 equally scintillating topic of procurement. But it's

2 also was remembering for me that 30 years ago as a
3 young lawyer, one of the things I did was to lobby
4 the Board of Estimate and I became a surrogate at the
5 Board of Estimate for the Manhattan Borough President
6 during its last eight months of existence. My
7 experience with that process was illuminating, and
8 shaped in part views that I now hold on procurement.
9 It was also life changing since I met my husband
10 there, but that's different story. In 2003--
11 [background comments] Yes. [laughs] In 2003, I
12 became the City Chief Procurement Officer, which the
13 there's a sale convention by its lovely shorthand
14 term "the Cheepo." I served longer than anyone else
15 since MOCS was set up, and I'm the only Cheepo who
16 came to the position having already had experience as
17 a vendor. My take-away from the nine years is that
18 good procurement demands a laser focus on
19 accountability. Solving our most vendoring problems
20 requires the executives in charge of contracts to
21 aggressively manage that process with fierce
22 legislative scrutiny. Having served also six years
23 with my friend Janelle and the prior president of
24 Brooklyn Community Services, I'd love it if the
25 Charter could amend--amendments to the Charter could

2 fix a lot of our contracting problems, but I'm afraid
3 it ain't necessarily so. I very strongly support
4 public tracking system, which is one of the proposals
5 that's before you. As Cheepo, I knew that the
6 agencies often claimed that their contracts are
7 struck in oversight agencies when they're really
8 still at that original agency. I've often joked with
9 MOCS' staff about whac-a-mole, the process that we
10 call for finding those bottlenecks. Transparency
11 would—would demystify this for—for everyone and I
12 think that's a very important reform. I'm afraid
13 that interest on [bell] payments and penalties will
14 not solve the problem. Just from a practical
15 standpoint I—I remember many instances where you're
16 trying to make a July payroll. You've got a half a
17 million dollar payroll that you're trying to make in
18 July and you've got \$100,000 contract that's not
19 coming to you on time. Paying you \$132 in interest
20 in October is not going to solve that problem. [bell]
21 And I—I don't know that penalties can be invented
22 that will actually address it. I think that
23 transparency and sunlight is actually a much more
24 important cure, and I think there's some other ideas
25 that we could discuss during Q&A. Turning to some of

2 the other proposals, I actually don't think
3 oversight conference—I think that that's an
4 impractical idea because oversight is not a linear
5 process. It's interactive. If MOCS finds a scoring
6 error in an RFP, the willing vendor changes, and the
7 work in the other oversights also has to pivotally
8 start in many cases. Again, I think having a public
9 transparency system to shame agencies into better
10 behavior is probably a better solution. Similarly,
11 [bell] as part of Comptroller Stringer's Transition
12 Team, I advocated very strongly for strategic use of
13 the existing audit powers as well as expanded efforts
14 to directly engage vendors, right, to draw problems
15 to-to-before registration, but I remain convinced
16 that accountability in the mayoralty is the
17 significant touchstone of the 1989 Charter, and
18 should be continued.

19 CHAIRPERSON BENJAMIN: Thank you very
20 much, and now I open the floor for questions.
21 Honorable Stephen Fiala followed by Paula Gavin,
22 followed by Sal Albanese, followed by Lisette.

23 COMMISSIONER FIALA: Is it on?

24 CHAIRPERSON BENJAMIN: Yes. It's all
25 yours, Steve.

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2 COMMISSIONER FIALA: Thanks, Madam Chair.

3 CHAIRPERSON BENJAMIN: [interposing] Hold
4 on one second. We are joined by Commissioner Nori,
5 and would you like to cast a positive vote on the
6 minutes from the last meeting.

7 COMMISSIONER NORI: Yes.

8 CHAIRPERSON BENJAMIN: So recorded. It's
9 all yours, Steve.

10 COMMISSIONER FIALA: Thank you very much,
11 and thank you to the panel. It's a diverse panel. I
12 guess I would call all of you experts, which is very
13 helpful for us. It seems to me that in this city the
14 more things change, the more they stay the same. I
15 was in the City Council 20 years ago, and I can tell
16 you we were having the same discussions, right. I
17 suspect the situation since that time has become more
18 and more frustrating, and my questions relate
19 specifically to those areas of the vendor contracts
20 that deal with Social Service duties that the city
21 has evolved to these not-for-profit entities whether
22 they be Catholic Charities or the Council of Jewish
23 Organizations or a host of the thousands of smaller
24 shops that provide a myriad of services. I looked at
25 this then, and I've looked at it since then, and I

2 have read the briefing materials now. There's a
3 diversity of viewpoints among the panel, and there's
4 an even larger diversity of viewpoints out there
5 among the non-profits, but there's—despite diversity
6 of the service that all of these institutions provide
7 for the city on behalf of the eight million people,
8 there's not a diversity of opinion when it comes to
9 one big problem and that is the timely payments for
10 services rendered or to be rendered. Now, we've
11 heard a lot of people suggest that interest or
12 penalties would be the way to go, and I've had a lot
13 of experts tell that's not the way to go. I'm
14 disinclined, quite frankly, both as an official and
15 at taxpayer. But that doesn't mean we can't find
16 another vehicle. Is there any thought amongst you
17 about other avenues that exist to recognize that we
18 live in an imperfect world. Our contracting
19 processes are imperfect right now. They're probably
20 going to remain a little bit imperfect,
21 notwithstanding all of the reforms that have taken
22 place and all of the good things that are about to
23 come. There's always going to be some—some concern
24 for—for this area. Did anybody speak to the idea of
25 advanced payments, partial payments that could bridge

2 that gap, and is there a way to make that happen? I—
3 I look at these agencies not as one monolithic
4 entity. It's a big center—big-big sector providing
5 thousand of jobs, and more importantly providing very
6 critical services across the spectrum. There's a big
7 difference in my mind's eye from me providing, and
8 I'm going to get in trouble for saying this, maybe a
9 good or a product to government. You know I'm a
10 stationary provide. There's a distinction with a
11 difference between those types of services of those
12 types of—of vendors and Catholic Charities, Council
13 of Jewish Organizations, and again all of those
14 others. The latter group or our day-to-day partners,
15 right, it's a little bit different from just having a
16 profit motive to come in and sell goods to the
17 government. How do we reconcile this issue, and at
18 least take care of the partners as opposed to those
19 traditional vendors that we think of. How do we make
20 sure that services are going to be delivered among
21 those groups? How can we ensure that there's some
22 mechanism in existing law and under the existing
23 construct that doesn't require a big Charter
24 amendment, and just get a group like Catholic

2 Charities of the Council among the Jewish
3 organizations, get the money to them-

4 CHAIRPERSON BENJAMIN: Right.

5 COMMISSIONER FIALA: --so that they could
6 provide the services that they're providing on behalf
7 of us.

8 CHAIRPERSON BENJAMIN: Okay, thank you.

9 MARLA SIMPSON: I will say one thing. I
10 think the--the city has moved to a much more liberal
11 policy on advance payments of upfront at the
12 beginning of the contract. The problem behind that
13 policy, and I think it's a great one, that--that came
14 out of the resiliency work that has been done by HSC
15 and City Hall, but you can't make an advance payment
16 on a contract that isn't registered. It's not legal.
17 There's no mechanism that can be created to do it.
18 It's been quite a while since the city increased the
19 size of the Loan Fund that does exist and that does
20 support unregistered contract vendors. To your point
21 about how it's different from other private sector
22 vendors versus Human Services vendors, the biggest
23 difference, and I can tell you this from experience
24 is that if a--if a private vendor, a supplier of goods
25 or--or construction isn't paid, they stop. They just

2 stop, and then the city has to figure out what it's
3 going to do to get that moving again. Now, in Human
4 Services because we care about our clients, and
5 because we have large staffs that are already
6 employed to deliver that program and we don't want to
7 lay them off. Getting to July and having a contract
8 lapse is—is not an option. You can't—you can't just
9 stop. There are circumstances, and I remember having
10 such an issue with—with Dan's old agency at one point
11 when we were starting up a large Cornerstone program
12 for DYCD, you can negotiate to say, Well, wait a
13 minute. I'm not going to start on July 1st full tilt
14 when you can't give me a registered contract until
15 September. I'll—I'll put a barebones staff there.
16 I'll still comply with my contract mandate, but no
17 I'm not going to spend a million dollars until you
18 get me, and I think it's hard for non-profits. We
19 think of ourselves as being, and I still say we, even
20 though I've left BTN, but I—we think of ourselves as—
21 as—as the—the safety net that's (coughing) supporting
22 our clients and we don't want to threaten to walk
23 away, but—and that's a big piece of it. You're
24 absolutely right, and I—and I feel very strongly
25 that—that interest is—is a problematic solution. It

2 comes out of the budget of the agency. It's going to
3 come out of services. It's going to come out of tax
4 dollars, and it's not enough money to matter, and it
5 doesn't get to you at a time when you need it. And
6 frankly, the—if there's an individual employee that's
7 behind the problem, it's not penalizing them. So,
8 all in all I—I—let's—I really want to illustrate why
9 sunlight works, and I'll illustrate it in a
10 circumstance where I wasn't able to—to do full
11 sunlight. When we built the city's Internal Tracking
12 system for procurement, I want to add scope to it
13 then that would ultimately have allowed us to open it
14 so that the public could see where contracts were.
15 Not every agency in city government shared my
16 enthusiasm for transparency so I lost that fight
17 internally in the anaerobic digestion. However, I
18 used a version of that once we had a tracking system
19 that allowed us to see where contracts were
20 internally. I developed a shaming process for
21 agencies in the Human Services arena, and I sent
22 weekly and sometimes bi-weekly lists to the Deputy
23 Mayors saying to them—comparing the performance of
24 one agency to another and saying this one is—is on
25 track to get 70% of their July 1 contracts registered

2 in time, and this one is only on track to do 40% and-
3 and I would give examples of what organizations were
4 caught up in that, and that's a really powerful tool.
5 I had Commissioners calling me to beg me to, you
6 know, to not put them in the-the weekly transmittal.
7 I had people finally focusing on-

8 COMMISSIONER FIALA: [interposing] To
9 focus on--

10 MARLA SIMPSON: --what it was that-that
11 they needed to do, and-and doing that in a public
12 setting where if you actually had a public
13 transparency and advocates like-like HFC could-could
14 sere where the contracts were stalled, I think that
15 would have an enormous impact in getting it to move
16 quicker.

17 CHAIRPERSON BENJAMIN: I think Dan would
18 like to address that.

19 DANIEL SYMON: Yes. So, first let me say
20 I'm sort of honored and humble to be here with Marla.
21 I wouldn't be here without Marla. She got me out of
22 that agency ten years ago to work on a project called
23 HHS Accelerator, and I really do feel like MOCS is
24 standing on her shoulders doing exactly what she was
25 just talking about. I remember receiving those

2 shaming amounts and it worked. No doubt about it,
3 and that in a sense, though maybe just pulling the
4 shame out of it, the sunlight is what we're working
5 on with the Passport system. There's not reason why
6 city agencies' oversights and vendors should be well
7 aware of all of the steps in the procurement process.
8 Whether 5, 15 or 50, they should know where they are,
9 where they stand and that—that process should be
10 predictable for vendors. That I think will create a
11 lot of speed, and that's what we're focused on. I
12 just want to echo what Marla had to say. [background
13 comments]

14 LISA FLORES: Also, as person on the
15 panel who worked for Marla and was responsible for
16 putting those shaming emails to the agencies and
17 collecting that data, you know, as Dan said, I think
18 we all agree that sunlight in the process does speed
19 things up. In addition to that having timeframes.
20 Again, everyone knows when a contract is at our
21 office or registration. It's not a mystery, and when
22 we get calls or someone wonders or believes that
23 their contact is with us, which again is the end of
24 the process after sometimes many, many, many months
25 of developing the scope, doing solicitation,

2 negotiating with the vendor, getting the public
3 hearing going for the responsibility process. It's a
4 very-it's a-it's a fraction of the time in the total
5 process. Having that transparency, whether than you
6 use a shaming technique or not, along with some
7 metrics by with--which to basic-to know whether or
8 not the city the agencies, the oversights are meeting
9 a timeframe that is one that the city decides is
10 acceptable in terms of getting through the whole
11 procurement process. Those two things go hand in
12 hand, and in terms of payment I agree that, you know,
13 the rules currently allow for interest payments for
14 late contracts. You know, that the Cheepo is
15 responsible for. We're planning on that at least
16 twice a year in an agency that's determined to be
17 substantially out of compliance, automatically any
18 contracts submitted to our contract-to our office
19 late should or could have interest payments. But you
20 don't want everyone running around spending all their
21 time trying to track down interest payments. And to
22 Marla's point that may not end up really making a
23 dent in what the problem is, right, which is having
24 the constant cash flow to continue the program at
25 100% and not have to limit services because you're

2 not getting paid, and you don't know when you will
3 get paid. I think the procurement process after
4 registration in terms of invoicing, having the
5 invoicing process also be electronic, which I know
6 MOCS has built into the scope of services for their
7 Passport Program, and having that also again at a
8 high level metric available to the public. When
9 everyone can see where something is or isn't,
10 everyone knows who to go to make things move, things
11 move faster, right. It shouldn't be some secret
12 process where an agency gets an invoice. It's in the
13 mailroom. By the time someone gets it's out of the
14 mailroom, stamps it and determines that, you know,
15 weeks after asking questions that it's been accepted
16 that then the clock starts for 30 days to get paid.
17 It's already too late. People have missed payroll.
18 So, again, you know, technology solutions are a piece
19 of—of how you make things better, how you make things
20 faster, but holding accountable and having metrics by
21 which to know when something needs to be resolved,
22 and lots of things change.

23 CHAIRPERSON BENJAMIN: Thank you.

24 JANELLE FARRIS: And I'll very briefly
25 just add that within the work time, is in addition I

2 did not work for Marla. I advocated to Marla before
3 I started, and particularly I think we definitely
4 appreciate the timeframes. I think are also an
5 important part because some unashamedly (sic) work
6 with people can be shamed, and if there's someone
7 like a Marla or a Dan, you know, who are at those
8 positions, and you can't guarantee that. And then I
9 want to just build that, but to your question
10 directly what other things could be done. Council
11 Member Rosenthal has an interesting recommendation
12 around paying vendors before the contract is actually
13 registered, and the State has some-something kind of
14 similar, and so especially vendors who are entering
15 into these contracts if they have them for 30, 40
16 years, that's something that-that could be looked at,
17 too, as a system to pay vendors who have kind of a
18 storied history and are clean to get those payments
19 before a contract registration. So, you can look at
20 her recommendations for that.

21 CHAIRPERSON BENJAMIN: Okay. Thank you
22 very much. I think Paula you're next. I Have Paula
23 and then Sal.

24 COMMISSIONER GAVIN: So, sorry.
25 [background comments] So this is again about

2 Passport. Having been a non-profit executive and
3 worked for the city both, I-I know how important it
4 is to be paid. So, I wanted to just confirm with
5 Passport that we will be looking at tracking
6 registration timeframes by agency, and that that
7 information will be available to others.

8 DANIEL SYMON: For sure. I wish I could
9 do a PowerPoint presentation and show you what we're
10 designing, but it is meant to lay out the process not
11 just from a screen-by-screen transactional way, but
12 also each milestone in a workflow. The workflow
13 would be transparent. Who had it for how long and
14 how long that process took. One of the problems that
15 we have today is there's no easy for us to identify
16 if there is a-a-a clog in the system. There's no way
17 for us to pinpoint exactly where it is, which is why
18 you only-you-yeah, you-you can only rely now on
19 shaming techniques and sort of, you know, a broad
20 type of efforts, right? There's no way for us to
21 pinpoint where the problem is. Passport will allow
22 us to do that. I just want to say that maybe one
23 thing about the-the time frames as well. You know,
24 what I don't want to do is start with a-an arbitrary
25 timeframe when we don't know how fast it can be.

2 Right? Responsibility determinations before Passport
3 and just to be clear, Passport is already live with
4 Release 1. Release 2 in a few weeks. Release 3 will
5 be the big end--end process next year, but we've
6 already seen things that take six and seven weeks
7 reduced to days. We've seen the Vendex process. For
8 those who know what Vendex is, that's all gone and
9 it's now online, right. It used to take about a
10 month for us to get that data into the system. It is
11 now down to hours for most vendors, and so we're
12 focused on bringing speed and efficiency to every
13 piece of the process and when we have a full end-to-
14 end process we think that things will be much
15 quicker. But the surefire way to make sure that
16 something takes 30 days is to put a 30-day clock on
17 it. Right? What about if it could take one or two
18 days? Right? That's what we want to achieve. We
19 don't want to set the boundaries too high before
20 we're able to have a system that could manage this
21 work.

22 FEMALE SPEAKER: Thank you.

23 CHAIRPERSON BENJAMIN: Thank you. Sal.

24 COMMISSIONER ALBANESE: Thank you.

25 [coughs] Good evening. The recommendations are all

2 great. I—I think we're moving in the right direction
3 with all those. As Commissioner Fiala pointed, this
4 has been a discussion that's been ongoing for years
5 and years, but transparency and—and speed and
6 efficiency is so important and many of the
7 recommendations are—are excellent. I have a
8 different concern especially as it relates to OTPS
9 Contracts. We saw what happened at City Time under
10 the Bloomberg Administration where there was
11 tremendous inefficiencies, corruption and all kinds
12 of problems. So, we—we—the Police Department, for
13 example, lets contracts for technology on a regular
14 basis spending a ton of money, and some of those
15 coups maybe effective. Some may be not effective.
16 The question I have is: How do we air out these large
17 OTPS contracts so we can figure out if we need them,
18 are they effective? Do we need a City Council
19 oversight hearing before we enter into these
20 contracts before the vendor is finally selected? I—I
21 raise it with either the Comptroller's Office or the
22 Procurement Office.

23 MARLA SIMPSON: I think there are lots of
24 ways that the city can get a handle on first deciding
25 whether or not to move forward with a contract in the

2 IT or IT related area. You know, there's—there's
3 opportunity to perhaps with the Charter the PBD allow
4 for more testing of IC solutions prior to entering
5 into a very long-term expensive contract. So, it has
6 some threshold that everyone is comfortable with.
7 That, you know, it doesn't have too much risk where
8 for a short period of time you can test the solution
9 and see if it achieves some of the outcomes before
10 you do a 10-year contract for, you know, a \$100
11 million. But some of what we're getting at, which
12 will come up in the next panel is about how the
13 budget is tracked, and how projects are tracked
14 against contracts and budget codes, right. So, you
15 can do a very large project for a City Time or for
16 any IT solution even for a construction project, and
17 for instance on the capitally eligible, capitally
18 funded projects, there might be one or two capital
19 codes or multiple codes that end up translating into
20 10, 20, 30 contracts, and there's really not an
21 efficient easy way in an electronic format that you
22 can data mine easily to continue an oversight of how
23 much was the project originally budgeted for? How
24 much is it over budget at, you know, [bell] three
25 months in and a year in. How much is it over budget

2 and how much is over, you know, over its original
3 timeline? So, some of what your--what your concerns
4 are need to go hand-in-hand with sort of transforming
5 the way that a budget is tracked in the city's
6 Financial Management System, which I believe will--
7 will be talked about and maybe to our next panel.

8 COMMISSIONER SAPIENZA: But what I'm
9 saying is an agency decides that they want to--they
10 want to advance this major OTPS Contract, right. Does
11 anyone at City Hall--is--is there any kind of oversight
12 over that agency to see if that's really needed or is
13 there any oversight over the vendor who is selected
14 for that--for that?

15 CHAIRPERSON BENJAMIN: Can I--

16 MARLA SIMPSON: [interposing] There is
17 existing coder (sic) language.

18 CHAIRPERSON BENJAMIN: Can I ask a
19 clarifying question, Sal. Are you talking about
20 whether there is already guidelines about what the
21 appropriate OTPS versus PS might be, or are you
22 talking about whether a contract is necessary for the
23 city at all?

24 COMMISSIONER ALBANESE: Well, that would
25 be about.

2 MARLA SIMPSON: Right. Well, there is
3 existing coder language that addresses the issue of
4 whether existing city work is being outsourced to a
5 vendor, and that comes up on some technology issues
6 and that process is actually pretty rigorously laid
7 out in the Charter now. The caution is if you have a
8 type of—of use that historically has always been
9 contracted, then you're not going to figure that
10 section. There are evaluations that get done prior to
11 deciding to go for a contract, but quite frankly, one
12 of the issues that I think shapes the difficulty the
13 city has with technology in particular is that we are
14 hamstrung by State Law in a very restrictive
15 procurement environment relative to what the State
16 itself is allowed to do. The state-reservations
17 (sic) is what state solutions don't often work for
18 the city is that out statutory scheme is controlled
19 in Albany in—and—and we a—basically, it's
20 grandfathering law. It—it—the way it works to be
21 blunt is that is says if you weren't doing it in
22 procurement in 1953, you can't do it now. That's
23 sort of what the state play work is for—for New York
24 City contracting. So, as an end run around
25 particularly for technology, city agencies have

2 historically used this one provision that it did
3 exist in 1953 and, therefore, they can do it—that
4 allows them to procure off the state OTS contracts
5 and the federal GSA contract, and the vast majority
6 are city technology. It's not procured through a
7 regular city RFP or a city process, and a lot of
8 cities in for that is locked into the state statute
9 in the first place. So, it's—it's something in which
10 perhaps you as the Charter Commission might be able
11 to, you know, address the report although it's not
12 something that particularly the city itself can
13 change. It requires change in Albany.

14 COMMISSIONER ALBANESE: I would
15 appreciate some recommendations and some feedback on
16 that. Just two quick brief follow-ups.

17 MARLA SIMPSON: Brief.

18 COMMISSIONER ALBANESE: But do I come
19 back?

20 CHAIRPERSON BENJAMIN: Can you come back?

21 COUNCIL MEMBER ALBANESE: Well, I can
22 come back.

23 CHAIRPERSON BENJAMIN: Okay.

24 COUNCIL MEMBER ALBANESE: I've got—I have
25 two more questions.

2 CHAIRPERSON BENJAMIN: Let me just—
3 Commissioner Camilo?

4 COMMISSIONER CAMILO: Thank you so much
5 for your testimony. A lot of my questions have
6 already been asked. So, I will—I'd like to know from
7 the panel, I know that time frames have been
8 discussed, but many of the proposals that we've heard
9 in other unrelated topics, you know, sound like a
10 good idea, but the unintended consequences aren't
11 necessarily laid out, and I—I suspect that the
12 timeframe proposal would have some, and I wanted to
13 open it up to the panel to see if we can dive a
14 little deeper into what those would be. Initially at
15 first blush times frames can be manipulated, and-and,
16 you know, we see that in—in other areas of
17 procurement. So, I was hoping to—to get some feedback
18 on—on that in that particular proposal.

19 MARLA SIMPSON: I would just say that to
20 Dan's earlier point our recommendation isn't that
21 every oversight agency has 30 days, that that's the
22 magical number, right. The State Comptroller has 90
23 days, and they can extend that by 15 days with
24 certain circumstances. So, I mean I would say that
25 that's too long for the city in terms of

2 registration. So, I-I-the Charter Commission and-and
3 changes to the Charter can institute that time frames
4 need to be established that they could either renew
5 it annually or every other year, and that in
6 informed, as Dan said, by the data that will be
7 available with Passport. So, I don't think that
8 it's-it's useful, to your point to have some number
9 that agencies may end up taking longer in certain
10 circumstances of mission, or not do their due
11 diligence in order to get through a particular stage
12 of a process within the prescribed time frame. But
13 at this point there is no structure to any other part
14 of the procurement process. So, it's the first step
15 of-of requiring that there is a structure and it's
16 not a structure that has to be set in stone. That
17 would be, you know-it would be nimble enough to grow
18 and mature as the technology solutions allow.

19 LISA FLORES: Yeah, and I would just add
20 that we thought about this and we were trying to
21 think beyond sunlight, there needs to be more, and
22 the time frame seems to be, yeah, the Comptroller's
23 Office has 30 days. It's the only thing that's starts
24 with a period. (sic) And why I'm sure there are
25 issues, and things like that, I think-I think-I do

2 think that it—it does help that part of the process,

3 and that's really important. I think secondarily,

4 you know, to Dan's point I appreciate that we

5 wouldn't want to put a timeframe that then the city

6 could exceed but meet, but we would take 60 days.

7 Right, and so this again would be one--30 days for

8 every little part of it. We suggest that the

9 Administration and the city agency from award—from

10 the announcement of the award to when it sends it to

11 the Comptroller's office they would have 60 days.

12 So, because there's so many parts that can be done

13 contemporaneously, and that would create a much

14 different environment for nonprofits to operate

15 and/or, you know and other vendors as well, and

16 similarly the Comptroller's Office is able to get

17 their part done in 30 days. So, the city agencies

18 may need more time than that, but its time frame, you

19 know, would be a big step in the right direction, and

20 I'm sure there will be other things within this that

21 would come up and needs to be fixed, but considering

22 how late based on the Comptroller's Report, these

23 contracts are--40% are register six months or more

24 after their start date, and some of those awards are

25 announced six months before the contract or longer

2 before the contract starts. I think we do need to
3 implement time frames to cut down on that year, year
4 and a half before the contracts are registered.

5 CHAIRPERSON BENJAMIN: Thank you very
6 much.

7 MARLA SIMPSON: I-I do want to add
8 because I-there are examples that I can give like I
9 can take a form in particular when we were dealing
10 with the Child Welfare RFP. The-it-30 days doesn't
11 or 60 days. Pick a number. It's-it's a one-size-
12 fits-all. You have vendors who are coming through
13 this process who are incredibly fragile. It doesn't
14 mean that we don't want to do business with them, but
15 there are vendors that will have major issues on the
16 integrity side or furious financial viability issues
17 having nothing to do with whether their contracts are
18 paid. And then there are vendors that have had
19 historical, you know, 30, 40 years of-of
20 uninterrupted well regarded business with the city,
21 and the oversight that it takes to get each of those,
22 and you've got to RFPs that are coming with 500
23 awards, and-and the oversight that it takes to get
24 each one of them through the process has to be
25 calibrated to what the chore is, and which is part of

2 why again I—I agree with Dan that we ought to really
3 look at it for awhile before we start trying to
4 willy-nilly pick a number because again that will be
5 manipulated if the issue—if it measures from the time
6 of award, well the only solution in that situation
7 will be for the (a) to take—delay the award
8 announcement as well as they possibly can while doing
9 the groundwork to see if their potential awarded is
10 okay. And I just—I don't think that solution—and
11 again it's not at all comparable to what the
12 Comptroller—the Comptroller has a much more focused
13 role. It's not done with business terms. It's not
14 the—the, you know, the Comptroller is looking to see
15 if there's money in the budget, and if there's
16 corruption, and that's his—that—that is a different
17 task.

18 DANIEL SYMON: And—and I would just add
19 that I—I think the—the time frames would be a poor
20 managerial operational choice because the deadline on
21 those time frames cause a dynamic between the person
22 one side and the other of that time frame to not work
23 collaboratively with one another. The—the time
24 frame—I mean, you know, I think I wouldn't be too far
25 off to say that at times the Comptroller's

2 relationship with agencies in the contract
3 registration process can border on dysfunctional.
4 Where the 30-day clock is used as leverage to get
5 certain information and if not, then the contract
6 gets rejected. That is no way for agencies and
7 oversights and vendors to collaborate. You know, I
8 could imagine scenarios where the—the processes for
9 what—for what—for whoever—whoever's fault it is, it
10 prolongs up against that deadline, and now the agency
11 might kick it back to the vendor over some problem in
12 the minutia of that contract. There's an "I" not
13 dotted or a "T" not crossed, and it gets returned. I
14 don't want folks that are supposed to work together
15 to be—have these artificial barriers and walls
16 amongst each other to try and throw these things
17 over, and I think—I just think that would be a
18 terrible choice.

19 CHAIRPERSON BENJAMIN: Thank you, Dr.
20 Tisch.

21 COMMISSIONER DR. TISCH: So, my question
22 is a little bit different. I don't know what the
23 number is, but it seems to be clear that the city
24 through all of its agencies is spending an awful lot
25 of money on consultants across the board, and I am

2 just really curious as we talk about procurement,
3 transparency, sunlight. What is that we are doing to
4 ensure the integrity of the contracting process
5 particularly as it relates to the hiring of
6 consultants and their contracts? And does anyone
7 keep track of agencies, consultants and those
8 contracts now? [background comments]

9 LISA FLORES: Just one quick point to
10 Dan's statement earlier. I just want to note
11 obviously at the Comptroller's Office, we're a
12 separately elected official and—and we're sort of a
13 checks and balance to the Mayor's Office, and the
14 relationship is—is different and I would hope that
15 all of the parties on the mayoralty side that are
16 working together will not have an opportunity to have
17 sort of what Dan describes as dysfunct-dysfunctional,
18 but to your question in terms of technology and—and
19 consultants—

20 COMMISSIONER DR. TISCH: [interposing] I
21 didn't ask about technology and consultants.

22 LISA FLORES: Well—

23 COMMISSIONER DR. TISCH: I asked about
24 ensuring the integrity of the hiring and procurement
25 of consultants because it is a major number in the

2 city. It is growing every day agency by agency and
3 every time there is coverage of procurement and
4 consultants it seems to be a bad story.

5 LISA FLORES: So, I would say that from
6 our perspective we see unlike the mayoral—the Mayor's
7 Office, we see all of the contracts that are entered
8 into for consultants that are not connected
9 necessarily to a larger contract for—for a project.
10 So, what are technically called bonny shop contracts.
11 As Marla mentioned earlier, many of those consultants
12 are—are purchased off of—or entered into agreements
13 off the State's OTS contracts. We see a lot of
14 problems in those contracts. Often times agencies do
15 what appears to be a false competition to select the
16 consultant, and if you look at their resume, they've
17 been sitting at that agency for 10, 15, 20 years
18 working at that project, but at different—at
19 different vendors. And often times, when they do
20 that what appears to be a false competition those
21 vendors also end up costing more than a vendor who
22 may not have been sitting there for—for 10 years,
23 then—then he may choose. There are—there are systems
24 in place as Marla mentioned Local Law 63 and—and
25 contracting out where they're supposed to get at some

2 of this, you know, analysis before an agency
3 contracts out for—for something that could be a
4 displacement or it could be addressed by hiring some
5 new staff, but it—it definitely is—is constantly
6 increasing, constantly for more money and many times
7 to vendors it's individuals who are not MWBEs. So,
8 you know, I—I don't have, you know, obviously and I'm
9 sure that the mayoralty has ideas of-of solutions,
10 but it's something you bring up a good point that
11 really should be addressed outside of just the—the-
12 the pressures on the non-profit sector.

13 MARLA SIMPSON: The responsibility part
14 of that in terms of looking at the vendor is also an
15 issue. I mean it is looked at during the contracting
16 process, but again, because the city sidesteps city
17 rules to use the state OGS contracts so often, it-it
18 shorts—it gives short shrift to that issue because we
19 buy off the state's contract on the theory that they
20 already did that. [background comments]

21 COMMISSIONER DR. TISCH: You know on
22 behalf of the Mayor.

23 DANIEL SYMON: Sure. So maybe just one
24 last plug for Passport. [laughter] One of the things
25 that we're looking for incent--

2 COMMISSIONER DR. TISCH: And that's not
3 the.

4 DANIEL SYMON: I know, I know. I am
5 answering your question.

6 COMMISSIONER DR. TISCH: I really want—I
7 really want to stay on this consultancy.

8 DANIEL SYMON: Yeah, it's what I'm
9 saying.

10 COMMISSIONER DR. TISCH: Because the
11 agencies that I worked with hand-in-hand for years—
12 [background comments] really were hiring consultant
13 after consultant and no one was keeping track of it.

14 DANIEL SYMON: [interposing] And that's
15 my whole--

16 COMMISSIONER DR. TISCH: [interposing]
17 And the costs were ballooning, and I want to know as
18 part of this Charter Revision is there anything that
19 we can do to put in place a process that requires
20 agencies within the city to really go through a
21 process, which you are really trying to build with a
22 lot of integrity and a lot of thought, and a lot of
23 consultation to really curb the abuse of these
24 consultancies, and how these contracts are given out.

25 DANIEL SYMON: So, I think--

2 COMMISSIONER DR. TISCH: Does anyone even
3 know how much money the agencies spend on consultants
4 every year?

5 DANIEL SYMON: Yes.

6 COMMISSIONER DR. TISCH: Did anyone keep
7 track of that?

8 DANIEL SYMON: Sure, of course, it's kept
9 track of, right and so does the Comptroller.

10 COMMISSIONER DR. TISCH: So, what's the
11 number?

12 DANIEL SYMON: So, there's—I think what
13 we do have to do first is get our hands around what
14 the problem is. One of the things that we don't have
15 at our fingertips on a daily basis is good analytics
16 across the city, and so agencies are very much
17 siloed. Right? You have Agency 1 using a consultant
18 for something, and what they don't know is an agency
19 wide has that same exact service that they can do in-
20 house, and there isn't a lot of information sharing
21 across the city. That is one of the things that
22 we're trying to do with this new system is to bring
23 silos down.

24 COMMISSIONER DR. TISCH: So, the reason
25 for my interest is very specific. I was associated

2 with an agency. It was part of the not-for-profit
3 world, which ran a great scam for 20 years, and as a
4 member of that board we filled out Vendex forms and
5 everything and for 20 years they were washing money
6 through consultancies that were approved city
7 contracts. So, I would like to know as part of this
8 if this-if this is a problem, and people seem to
9 think it is a problem, is there something that we can
10 do as part of this Charter review that would help you
11 build the system that you really want rather than the
12 best that you can do? That's it.

13 LISA FLORES: Yeah, I-I would just add
14 that in addition to contracting for consultants,
15 again to your point specifically, which can't the
16 Charter look at again in-in the next pane. Again it
17 goes to how you're-you're tracking expenditures in
18 the city's Financial Management System. I guess more
19 specific units of appropriation, which are not
20 necessarily as specific as they should be or-or used
21 correctly in order to get to the question of how much
22 does the city spend on consultants, right and a very,
23 very specific financial survey. (sic) Some of the
24 recommendations regarding-that are-that are used to
25 be into the appropriation of the budget in order to

2 track those expenditures not only against one
3 contract, but against multiple contracts and across a
4 city budget. Where these help size the box of the-
5 the problem.

6 COMMISSIONER DR. TISCH: Thank you.

7 CHAIRPERSON BENJAMIN: Thank you. Carl
8 and then Sal and then Jim and then we're going to-
9 we're running a little behind. So, we need to-

10 COMMISSIONER WEISBROD: I'll try to be
11 very quick, but I-I guess four quick questions. One,
12 I don't quite understand, and I'll get them all out
13 and then you can answer them all. Why there's such a
14 stark difference between the Human Services contract
15 delays and all other contract delays. I would think
16 that the Human Services contracts for the most part
17 are less complex than-than other contracts, and-but
18 the difference in delays and registration is stark.
19 That's one question. The second question is: Can-
20 could-could the problem of payments be alleviated to
21 some extent by at least providing a big down payment
22 upon registration that the contracting agency can in
23 effect catch up. The third question is: Why can't
24 there be a fast track system the way we have a global
25 entry system or a TSA system where agencies and

2 contractors that have performed well over a certain
3 number of years get to go through the fast lane
4 instead of being tied up with everybody else and then
5 my final question is: In terms of Charter revision
6 itself, are there institutional issues between the
7 Office of the Mayor on the one hand and the Office of
8 the Comptroller on the other hand that could be eased
9 by Charter reform in a way that could help alleviate
10 delays.

11 MARLA SIMPSON: Well, on the difference
12 of the Human Services and others, as I said,
13 basically others if they aren't being paid, they
14 stop, and so an agency that needs to have its
15 supplies, not available to it, will somehow manage to
16 get that supplier contract done so that their
17 supplier does the stop. That's—that's one issue.
18 Also, there is a manipulation that occurs sometimes
19 with a consultant, they have parties where the start
20 date of a contract it's not entered into his contract
21 made then in effect go backwards to pick up. And
22 then there are rules about when they can do that,
23 and—and how far back they go, but sometimes they're
24 quite deliberate. Construction is an example where
25 this happens all the time where the start date is

2 months before the actual, what you and I would think
3 of as the time when visible work is starting. And so
4 it's a little deceptive to look at the start date and
5 say oh, that was retroactive contract. How did they
6 do that? It was a date chosen in negotiation between
7 the parties, and it's—it's a date that works for both
8 of them. Human Services is essentially a—a part of
9 government services being delivered through the
10 vendor, and it has a staff, and it has a, you know, a
11 payroll and—and everything that, you know, it needs
12 to move. I don't know whether a fast track process
13 would work. I think that's an interesting concept.
14 There's—you know, there has not been a provision for
15 that in the past, but that's why the Human Services'
16 number is a problematic as it is.

17 DANIEL SYMON: So, I—I see different
18 industries complaining about very—very much the same
19 problem that non-profits do. You have construction
20 vendors that, you know, have change orders that don't
21 get paid for years. Not that we're going to be
22 sympathetic necessarily I this form to construction
23 vendors, but they do experience some of the same
24 things. [coughing] In terms of advances in down
25 payments, that's something we're going. We

2 instituted policy last year the nonprofit contracts
3 upon July 1st will get a 25% advance. So, essentially
4 for everything registered, right, we are issuing a
5 25% advance upfront and then we recoup those through
6 invoices of the—over the remainder of the year.

7 Obviously, the problem there is if the contract is
8 not registered, we can't advance the money on it, but
9 that that policy is in place for contracts over and
10 over. I think one of the big problems in the non-
11 profit sector at least right is there was a—a flood
12 of funding into the sect or through cost of living
13 adjustments, the raise—raising of the minimum wage,
14 funding the indirect rate to a floor of 10% and so
15 all of those things over the course of the past few
16 years are all done through contract amendments,
17 right, and think of, you know, you have roughly 1,500
18 nonprofits with contracts in the city, 3, 4000
19 contracts. Times that by the number of amendments,
20 and that's how many amendments have had to processed
21 and registered over the past few years. In a—in an
22 already inefficient system, right that we all—we
23 fully acknowledge has problems, that—that cause a log
24 jamb, and that is part of what we're going through
25 right now on the nonprofit side. In terms of Fast

2 Track, so I think one of—one of the things that we're
3 doing is doing some sharing of work in the vetting
4 process, and so what Passport Release 1 has allowed
5 us to do is if Camba of BCS—if DYCD does a contract
6 with BCS and does a responsibility determination,
7 that information is available to ACS and HRA and DHS
8 if they go to contract with BCS. That was the case.
9 Everyone sort of did their own work, started from
10 scratch, and now all of the agencies are able to
11 leverage the work that other agencies have done on
12 that particular vendor. We've also agreed—this is
13 very in the weeds, but we've agreed with DOI on being
14 able to leverage what they call the vendor name
15 check, and so they're doing checks on contracts and
16 awards for us. They submit a memo to us. That memo
17 is now leverageable by any agency that goes to
18 contract with that vendor. That's not—that's
19 something new that we've done, and that's sped up the
20 process for responsibility determinations. That was
21 the six weeks down to about eight days right now.
22 And in terms of the Mayor and Comptroller, you know,
23 Lisa and I share I think a very good relationship.
24 We work well together, but I think the dynamic
25 between them and agencies and us sometimes in

2 between. I don't know how to fix that necessarily,
3 and I don't know that the Charter is the solution
4 here, but I would love to have the Comptroller's
5 Office working in the system, right, where those
6 contracts and those—and those procurement processes
7 that they have oversight over are. I would love to
8 see them working within the system, and I think Lisa
9 will respond to that.

10 COMMISSIONER WEISBROD: Can—can I just
11 say just in terms of that, I'm not—I assume there's
12 good working relationships. Sometimes there aren't
13 good working relationships, and a lot of what you've
14 all talked about are procedural improvements, and we
15 are a Charter Commission. So, for—for what, I guess
16 what I'm trying to drive at is are there Charter
17 changes that institutionally transcends individual
18 working relationships that would make the process
19 work better? That's all. I'm not asking you to
20 respond. I'm just saying this is not a matter of
21 personalities or current office holders.

22 DANIEL SYMON: Got you.

23 LISA FLORES: Well, I'm not going to
24 answer that question, but I am going to just say and
25 hats off to the Resiliency Committee. This is the

2 first year July 1 where the advances on our contracts
3 enable us to have a very smooth start. I am
4 grateful, and I thank you for all the work you did to
5 make that happen.

6 CHAIRPERSON BENJAMIN: Sal, you're next--

7 COMMISSIONER ALBANESE: Yes.

8 CHAIRPERSON BENJAMIN: --and then Jim is
9 the last person.

10 MARLA SIMPSON: Can I just respond to two
11 of the issues that you--that you raised because--

12 CHAIRPERSON BENJAMIN: Can--can you hold
13 it?

14 MARLA SIMPSON: Absolutely.

15 CHAIRPERSON BENJAMIN: Thank you.

16 COMMISSIONER ALBANESE: Two quick
17 questions. One--one is probably related to what
18 Commissioner Weisbrod just pointed out in terms of
19 the Charter, we have seen two instances this--this
20 year--this--these--these last seven years where the--the
21 Comptroller refused to register a contract. One
22 involving Pre-K and one involving legal fees, and a
23 Comptroller plays a viable role in all this. He's--
24 the checks and balances, which are important to
25 institutions. Yet, he--he asked for information. He

2 wasn't provided with the information, and the
3 contract was approved any way. So, if that's the
4 case, why do we need a Comptroller if the Mayor can
5 just go out and—and if he—the Comptroller says no go,
6 he ignores it, and then moves on and approves the
7 contract. So, my—my—my point is, is there something
8 that we can do as—in this Charter to plug that hole
9 that—to make sure that that doesn't happen and the
10 viability of the checks and balance existing. The
11 second question is how did you justify a 34-year
12 contract for animal care and control? Thirty-four
13 years. Those are my two questions.

14 LISA FLORES: I'm not going to—I'm sure
15 that Dan will answer the 34-year contract question.
16 In terms of the—the dynamic between the Comptroller's
17 Office and the Mayor's Office I mean this is an issue
18 that not only did the 1989 Charter Revision
19 Commission dealt with, but in the 1974 Charter
20 Commission as well there's always been for many year
21 this dynamic, and it's exactly for what you
22 mentioned. There needs to be a separate—a separate
23 elected official that is checks and balances, making
24 sure we're rooting out waste and fraud, but the 1989
25 Charter Revision Commission rightly so when they

2 abolished the Board of Estimate made the Mayor
3 strictly accountable and responsible for procurement.
4 So the, you know, I don't think there needs to be any
5 plug that would eliminate the ability for the city to
6 once they've heard the Comptroller' Office is
7 concerned to then forward with that--with that
8 contract because again they're accountable. They're
9 the ones who make the decision whether or not to move
10 forward with a contract or not.

11 COMMISSIONER ALBANESE: But you were
12 saying--

13 LISA FLORES: [interposing] However, I
14 think--

15 COMMISSIONER ALBANESE: You're saying
16 you're okay with that?

17 LISA FLORES: Well, I think there--I think
18 the structure that's in place now is the appropriate
19 structure. I think with Passport and more
20 accountability into this--into the process, many of
21 the reasons we return contracts are things that are
22 avoidable, right. The majority of the contracts that
23 are--are rejected may be because the con--a vendor--an
24 agency forgot to actually include the contract in the
25 submission, something that we need. It may be we find

2 many times where an agency has maybe done a
3 computation error in the budget. In some cases we
4 found things like a \$14 million budget error just in
5 their analysis of the budget documents, but a lot of
6 that to Dan's point should be corrected when you have
7 a system that doesn't allow for all that--that human
8 error, and in those rare cases where we have
9 questions about whether or not the contract was let
10 appropriately in terms of possible corruption, or
11 integrity issues with a vendor, those are far and few
12 between in the current structure, and that's really
13 all we should be focusing on once we have an ability
14 to eliminate those errors that happen now.

15 COMMISSIONER ALBANESE: The Comptroller
16 raised two very important issues. In the Pre-K area
17 he said that there was--

18 CHAIRPERSON BENJAMIN: [interposing]
19 You're not talking into the mic.

20 COMMISSIONER ALBANESE: --they were--they
21 were safety hazards.

22 LISA FLORES: Yep.

23 COMMISSIONER ALBANESE: And the second
24 area he requested information whether the millions of
25 dollars that were going to be--that were going to be

2 awarded to a legal firm to pay for the legal fees.

3 He asked the question, it was: What percentage of

4 that work was—was governmental work, and what

5 percentage wasn't, and those are important questions.

6 Those are public policy issues, and the Mayor and it

7 could—this Mayor and maybe the next Mayor whoever,

8 it's not about the individuals. It's about the

9 process, can just basically ignore these major—these

10 are macro issues. We're not talking about errors.

11 CHAIRPERSON BENJAMIN: I agree, Sal, but

12 I think Ms. Flores has answered as much as she is

13 going to answer that question.

14 COMMISSIONER ALBANESE: I wasn't pleased

15 with the answer, but that's okay.

16 CHAIRPERSON BENJAMIN: You may not be,

17 but I think she has answered as she has answered and

18 Jim, it's all up to you now.

19 COMMISSIONER CARAS: The 34-year contract

20 for ACC, a 34-year contract?

21 DANIEL SYMON: I don't have the specifics

22 of the contract. I know of the contract that you're

23 talking about. I mean I can talk to DOHMH and get

24 back to you with their justification for the length

25 of time for that contract.

2 COMMISSIONER CARAS: And maybe you can
3 shed some light on this now. Maybe this is something
4 you could all--

5 CHAIRPERSON BENJAMIN: [interposing] Jim,
6 you get--you get--

7 COMMISSIONER CARAS: -- get back to us
8 on. Is there a body of data that we--that you guys
9 have that we could have that shows like what types of
10 contracts, what type--what steps in the contracting
11 process tend to cause the most delays. I mean sort
12 of picking up on what Commissioner Weisbrod said, it
13 seems that a contractor who's been providing the same
14 or similar services for 20 years, you know that there
15 shouldn't be delays in those contracts. So, I guess
16 I'm having a hard time understanding what exactly
17 we're talking about when we talk about these delays.
18 When do they occur? What step do they occur in?
19 What types of contracts do they occur in? And,
20 without that information I'm not sure what we can do.

21 DANIEL SYMON: And I--and I'd love to have
22 that answer, too. That's part of the problem in my
23 role. I don't have a good answer to that because we
24 don't have a system that allows us to track each one
25 of those steps. To Marla's point before, she wasn't

2 able to go far enough in the internal system, right.

3 The—the system that we currently have is internal

4 facing only and not external facing. It doesn't have

5 that external accountability, and the—and each and

6 every step is not tracked appropriately, and so what

7 I would say is the—the systemic problem we have is

8 that the work is and the operations are very manual,

9 very sequential, and so when you hit a snag on step

10 7, you're—you're undoing step 1 through 6 in order to

11 rectify it, and then you have to go back again.

12 Those are the kinds of things that we're addressing.

13 I wish I had a good dataset.

14 COMMISSIONER CARAS: Internally, you guys

15 never got that information?

16 DANIEL SYMON: I would say it's spotty at

17 best because the way the system—the—some of the

18 systems work now is it doesn't—it doesn't trigger a

19 start date when someone takes an action. The start

20 date is what someone types in is the start date,

21 right. So, as you could imagine, that's not a very

22 reliable source of the start of a process. The start

23 of the process should be when I click start, and not

24 a data entry issue.

25

2 COMMISSIONER CARAS: If I can just
3 mention--

4 DANIEL SYMON: [interposing] That's just
5 one small example of one of the problems.

6 COMMISSIONER CARAS: You know, but these
7 improvements that you're implementing like where
8 everyone can share the DOI check, and, you know, how
9 long have we seen a measurable impact from those? Do
10 the not-for-profit organizations think there's been
11 measurable impact from those changes?

12 DANIEL SYMON: They should answer that,
13 but I don't think they would actually see that
14 measureable difference. What we've seen is a process
15 that used to take about 42 to 48 days is now down
16 below 10. It's around eight days.

17 COMMISSIONER CARAS: [interposing] What
18 days--days that you've had?

19 CHAIRPERSON BENJAMIN: So new--

20 DANIEL SYMON: So, the overall process
21 beginning to end, right, they still are almost all
22 manual right. We're--we're fixing piece by piece in a
23 chronological way.

24 COMMISSIONER CARAS: Okay.

2 MICHELLE JACKSON: And I would from the—
3 you know, I speak for membership organizations, but
4 not, you know, specific providers. Janelle can
5 provide her insight, but our providers are reporting
6 that these are the worst they've been, and these are
7 executives who have been with their organizations for
8 a significant amount of time, and it may be a variety
9 of issues, and they don't have sunlight into where.
10 A lot of times the answer is at the Comptroller's
11 Office [laughs] and we know that's not true, and I
12 think that's why our main recommendation is really
13 pushing for the transparency. Just on my cashflow it
14 would be great for transparency but something in the
15 Charter would mean that that transparency would be
16 available for everyone all the time regardless of
17 where we are in ten years in technology because
18 providers say it's really—it's the worst they seen it
19 in terms of delay, and often not being able to
20 identify were their contract is in the process, and
21 so that's, you know, that sunlight is really
22 important here.

23 LISA FLORES: Can I—so to your point—
24 question earlier regarding the non-Human Services
25 industry and the delays there, and what's the

2 difference? As mentioned earlier, the construction
3 industry is a perfect example. A new contract to
4 build a building the vendor is not going to mobilize
5 and have their-their staff come on site and bring
6 their equipment until the contract is registered and
7 they know they going to get-bet paid. However, I
8 don't-I don't want to leave tonight without noting
9 that there are a large amount of contracts especially
10 existing contracts where there are changes to those
11 contacts and construction change orders specially
12 where there are a-there are many delays. In some
13 cases we see over a year delay from when the vendor
14 indicated that there was a problem that required a
15 change order to when it came to our office, and
16 sometimes those delays we're seeing are not because
17 of a procurement issue, it's because there are two
18 contractors out there doing work on the same street
19 for two to three agencies and no one talked to one
20 another. One contractor started work. The other one
21 had to do the work, and the administration wants to
22 have the work to happen faster. So, Contract A-
23 Contractor A is told to stop work in some cases over
24 a year. So, they have to demobilize. We pay for
25 that demobilization. When Contractor B submissions

2 are at work, and the city tells Contractor A to go
3 back, then you have to pay them again to mobilize
4 once again, and all of that again on the construction
5 side don't want to lose sight of time costs money,
6 and the construction industry right now is very hot
7 in the city of New York, and we are not the hottest
8 game in town. Vendors who can do the work the best,
9 and for the best price and we get the best value for
10 our—for our city taxpayer funds, are not bidding on
11 city work because they know it takes too long.

12 MARLA SIMPSON: And it isn't the best
13 value contract because state law doesn't let it be in
14 construction.

15 CHAIRPERSON BENJAMIN: Okay, thank you
16 very much. I'd like to thank this panel for being
17 here and sharing your perspectives, and I hope that
18 if you have additional thoughts or proposals for us
19 or a further explanations for us that you will get
20 back to us. You know where we live, and [laughter]
21 how to get in touch with us, and I would to let you
22 know of my appreciation for all that you've done so
23 far, and for what you shared with us. Thank you so
24 much.

25 MARLA SIMPSON: Thank you

2 CHAIRPERSON BENJAMIN: We will now move
3 onto our second panel for which we'll be joined by
4 Francesco Brindisi, Chuck Brisky, Preston Niblack,
5 Georg Sweeting, Jon Kaufman, and Carol Kellerman.
6 [background comment/pause] Now that you're all
7 seated, I'd like to thank you for-for being here.
8 Please go ahead and introduce yourselves, and share
9 our initial comments. Each person will have five-
10 will have three minutes. I'm sorry and we'll start
11 with Mr. Brindisi.

12 FRANCESCO BRINDISI: Yes. I'm Francesco
13 Brindisi. I'm the Deputy Director of the OMB for
14 city revenue.

15 CHAIRPERSON BENJAMIN: So, you're going
16 to have to pull that mic right up to you.

17 FRANCESCO BRINDISI: It's not enough I
18 guess.

19 CHAIRPERSON BENJAMIN: And make sure the
20 green light is on.

21 FRANCESCO BRINDISI: The green light is
22 on. It's right. I'm the Deputy Director at OMB for
23 City Revenues. This is my colleague Chuck Brisky.

24

25

2 CHAIRPERSON BENJAMIN: No. You're going
3 to have to speak up louder. We can't—we can't again,
4 again and again.

5 FRANCESCO BRINDISI: Okay. Hello.

6 CHAIRPERSON BENJAMIN: That's it.

7 FRANCESCO BRINDISI: That's right. Okay.
8 I'm Francisco Brindisi, the Deputy Director of OMB
9 for City Revenues.

10 CHARLES BRISKY: And I'm Charles Brisky,
11 Deputy Director for Expense and Capital Coordination.

12 CHAIRPERSON BENJAMIN: Do you have any
13 initial comments?

14 CHARLES BRISKY: Yes. We want to read
15 testimony, please. Does this mic work?

16 CHAIRPERSON BENJAMIN: Yes.

17 CHARLES BRISKY: Thank you members of the
18 Charter Revision Commission for inviting me to speak
19 today. My name is Charles Brisky. I am the Deputy
20 Director for Expense and Capital Budget Coordination
21 for the Mayor's Office of Management and Budget. I
22 am joined by Francesco Brindisi, OMB's Deputy
23 Director for city revenues, economics and policy.
24 The Charter Commission's proposals must be evaluated
25 in light of the New York City's financial history and

2 the potential impact on our fiscal stability. After
3 the fiscal crisis of the 1970s, the State Legislature
4 passed the Financial Emergency Act to impose fiscal
5 discipline on the city. The city followed by
6 enacting changes to the Charter that strengthened the
7 role of the Executive, yet maintained the balance of
8 power between the Mayor and the City Council. In
9 part rather to intended to increase mayoral
10 accountability. These changes are based on
11 principles of sound fiscal management that have been
12 proven over 40 years of practice, and led to 39
13 consecutive balanced budgets. Fiscal monitors and
14 rating agencies all agree. For example, last month
15 Moody's investors increased our General Obligation
16 Bond Credit Rating to a double A flag, their second
17 highest level citing strong governance, financial
18 best practices including conservative revenue
19 forecasting test through periods of fiscal cross-
20 stress—excuse me—and strong liquidity. Changing our
21 fiscal discipline practices will cause unintended and
22 perhaps adverse consequences. A good example is
23 shift responsibility for making the city's revenue
24 forecast. The Mayor must be able to set realistic
25 revenue estimates without negotiation. Because the

2 Mayor is legally responsible for balancing the
3 budget, and accountable to the systems if vital
4 services are not delivered, he must be responsible
5 for the revenue forecast. Shifting responsibility to
6 deliver a cautious revenue forecast will cause a
7 structural imbalance leading the Mayor accountable to
8 an external and possibly flawed process, and the
9 consequences are severe. For example, if the budget
10 is imbalanced by even one-tenth of one percent at
11 current revenue and spending level, the city could
12 lose control of its finances to the Financial Control
13 Board under the Emergency Financial Act. My
14 comparison when many states have adopted consensus
15 revenue estimates, they can change tax law, and do
16 not have the city's stringent budget and accounting
17 standards. Also, altering the Mayor's authority to
18 impound city funds severely limits his ability to
19 implement short-term fixes in response to the
20 shortfalls. To conclude, I want to emphasize that
21 the Charter Commission's governing the city's fiscal
22 management have been tested over decades, and have
23 served us well. Making fundamental changes now puts
24 financial stability and progress at risk, and will be
25 critically received by both the DISCO monitors and

2 rating agencies. Thank you and I look forward to
3 taking your questions, and please note that—that I
4 will be submitting written testimony after this
5 meeting. [coughs]

6 CHAIRPERSON BENJAMIN: Thank you very
7 much, Mr. Brindisi. Do you have your own comments?

8 FRANCESCO BRINDISI: No.

9 CHAIRPERSON BENJAMIN: Okay. Preston

10 PRESTON NIBLACK: Thank you. Thank you,
11 Chair Benjamin and Commissioners. I'm Preston
12 Niblack, Deputy City Comptroller for Budget. So,
13 the—I'm not submitting written testimony at this
14 time. You all should have received a copy of his for
15 you from the Comptroller's Office, which contains
16 some specific proposals that we've made, many which
17 are echoed by the proposals that you are considering.
18 Rather than getting into a lot specifics, let me take
19 a step back and sort of address the point that Chuck
20 just made, and sort of the—what the broader goal is
21 here of the Charter Revision Commission. I
22 absolutely agree that this sort of fiscal regime that
23 we have in place, the laws, the practices, the
24 systems, the norms by which we have balanced and—and
25 managed our budget process over the last three plus

2 decades has resulted in very strong fiscal management
3 that has been a hallmark of the city's for all that
4 time. The challenge I think for you all is to find a
5 way to improve the budget in its second dimension,
6 which is to make it a vehicle for an open allocated-
7 discussion about the allocation of public resources
8 to the various ends that the city and its elected
9 officials want to achieve and to allow for oversight
10 of how the money is being spent effectively. So, I
11 think a lot of that boils down to right now in my-So,
12 I come from the background of obviously 2-1/2 years
13 now as Deputy City Comptroller for Budget. Prior to
14 that, I was Director of the Finance Division at the
15 City Council for 5-1/2 years, and nearly a decade at
16 the Independent Budget Office. The one thing that
17 left out of me at the very beginning of my
18 involvement with the city budget process was that it
19 was very hard to understand exactly what you were
20 getting for your money. Very basic function of a
21 budget. Here's what we're buying. Here's what we're
22 spending this year and this is what we're getting for
23 it. Here's what we propose to spend next year, and
24 this is what we will get for it. That is obscured
25 for a couple of reasons. One is that the

2 presentation of the budget is largely on a Financial
3 Plan, the Financial Plan basis not a year-to-year
4 basis. So, you're comparing the plan for this year
5 against the plan—the next plan rather than—or the
6 previous plan, rather than necessarily against the
7 current year. The other problem I think is that that
8 we've separated basic service delivery information,
9 non-financial information from the budget process,
10 and there's the Mayor's Management Report. There's a
11 provision that requires that there are links to units
12 of appropriation for the different measures that are
13 reported in the Mayor's Management Report that's just
14 not effective. The most effective presentation I
15 believe is it would incorporate service measures,
16 performance measures, measures of levels of service
17 and outputs into the budget presentation. You're
18 spending this much money. Last year you spent X.
19 You had 18,000 cops on patrol on average everyday.
20 This year you're going to spend Y and you'll have
21 that same amount. It's gone up because salaries went
22 up, et cetera. So, I think that's at the core of
23 sort of the—the difficulty that exists now for
24 members of the City Council and members of the public
25 and even I would say there is the Administration to

2 fully understand exactly what the consequences are of
3 the decisions that you make in the budget when you
4 are adopting the budget every year.

5 CHAIRPERSON BENJAMIN: Thank you. Mr.
6 Kaufman.

7 JON KAUFMAN: Hi. My name is Jon
8 Kaufman. Since 2014, I've been the Chief Operating
9 Officer at Department of City Planning. Prior to
10 taking this position, I had an extensive career in
11 the private sector. I was a partner in a global
12 management consulting firm, but I focused on helping
13 large corporations pursue performance improvement and
14 organizational effectiveness opportunities. In my
15 current role I have a variety of responsibilities,
16 but most relevant to today's panel is my direct
17 supervision of two agency divisions essential to our
18 collaboration with other agencies and citywide
19 planning more generally. The first of these is the
20 division called Planning Coordination. This division
21 is responsible for helping disseminate City Planning
22 data, expertise and tools to other agencies, planners
23 and the public at large. Some of you may be even
24 familiar with DCP's Community District Profile
25 Portal, which is an online one-stop shop for the

2 public to easily understand that community districts
3 and city activity occurring within that—this site was
4 a creation and—and was created to maintain by
5 Planning Coordination. In conjunction with OMB,
6 Planning Coordination is also responsible for
7 soliciting and synthesizing all 59 community boards'
8 statement of needs, and budget request submissions
9 and sharing it effectively with the 29 agencies that
10 get request almost every year. The second division I
11 oversee is our Capital Planning Division. In this
12 Administration City Planning has made substantial
13 contributions to approving capital planning processes
14 based on recommendations around Capital Planning I've
15 seen from the Charter Review process, I wanted to
16 share some of the city's normal Capital Planning
17 practices. With a limit on time and we have like five
18 area of contributions and solid planning that the
19 public may not be aware of is already taking place.
20 Firstly, with our partners at OMB we've revamped the
21 10-year Capital Strategy, which makes much more plain
22 now the principles and priorities of how city capital
23 agencies plan their capital investment. Previous
24 additions did not do justice to the detailed
25 coordination and the consideration of relevant

2 planning inputs in major capital agencies. Secondly,
3 DCP now convenes a Quarterly Capital Planning Forum
4 with the six largest capital agencies where we share
5 planning practices, identify opportunities for
6 coordination or cost synergies, and evaluate the
7 portfolio of city investments in specific
8 neighborhoods. Thirdly, we have dedicated capital
9 planners that work within our borough teams, and
10 sister agencies to consider capital infrastructure
11 investments needed in each of our neighborhood wide
12 studies helping ensure that we financially plan for
13 infrastructure and public amenities concurrent to the
14 planning for additional growth and density broadly
15 would increase the upper end and frequency of
16 occurring planning sessions with the two largest
17 capital agencies, SCA and DEP such that they're more
18 easily able to plan for growth with the most current
19 views on development and demographic trends. Lastly,
20 among the many public data tools Capital Planning has
21 launched recently with several ones geared towards
22 capital planners. One example of this the
23 aforementioned community district profiles and other
24 facilities explore, which maps 36,000 public
25 facilities or program sites across the five boroughs

2 that are funded or licensed by the city, state or
3 federal government. With respect to the handful of
4 proposals in front of the Charter Revision Commission
5 on the topic of Capital Planning, reducing to
6 intimate that we're not considering future growth
7 while planning infrastructure. I can assure you
8 there's a deep consideration of growth in every
9 capital agency we work with, and they all have
10 Capital Plan to be a strong partner in providing
11 perspectives on that. I don't think additional
12 Charter mandates ageing to lead to materially
13 increase collaboration. Lastly, the notion that City
14 Planning should develop the budget instead of OMB is
15 a little confusing. We are planners, not budgeters.
16 We do look to strengthen our partnership with OMB to
17 ensure we are planning collectively to meet each
18 neighborhood's future needs, but give our best views
19 as budget advisors rather than budget creators. I
20 look forward to collaborating on any of this with the
21 Commissioners as are both. (sic)

22 CHAIRPERSON BENJAMIN: Thank you very
23 much. Ms. Kellerman.

24 CAROL KELLERMAN: Good evening. Hi. Can
25 you hear me?

2 CHAIRPERSON BENJAMIN: I think a little
3 louder. Yes.

4 CAROL KELLERMAN: It's not usual to have
5 trouble hearing me. I'm Carol Kellerman. I very much
6 appreciate being here to testify, and it's nice to
7 see some old friends on the panel. I just stepped
8 down from serving as President of the Citizens Budget
9 Commission for the past the 11 years. For those who
10 are not familiar with CBC, it's a non-profit, non-
11 partisan organization dedicated to assure the rise in
12 effective expenditure of taxpayer dollars in New York
13 City and New York State. I also served as an
14 Assistant and Deputy Commissioner in the City Finance
15 Department, and as the CEO of a number of non-profit
16 organizations in New York that provided a variety of
17 services to the city from homelessness to disaster
18 recovery. So, I'm—I'm bringing all those
19 perspectives to bear. I'm speaking here today as an
20 individual not officially for CBC. You'll hear from
21 my excellent successor on the next panel. You've
22 booted in a very broad assignment as the Charter
23 Commission, and with respect to budget and finance as
24 well as your other activities, I urge you to keep two
25 principles in mind. First, do no harm. As Preston

2 said in particular with regard to finance and
3 budgeting, the city is under unique controls pursuant
4 to the Emergency Financial Act that was created after
5 the Financial Crisis, and because of it, we have the
6 most transparent professional and sound fiscal
7 management and budget of any city or state in the
8 country. We are subject to many more controls and
9 requirements than any place else, and we should be
10 very careful about disrupting the assignment of
11 responsibilities or changing a system that has worked
12 very well for 30 years. Second, don't use the
13 Charter to do things that can be done by Local Law.
14 It's already fettered with hundreds of irrelevant,
15 outdated provisions and things that the City Council
16 should do itself. We have lots of complaints about
17 city government. They all do not need to nor should
18 they be rectified in the Charter. The Charter as it
19 says is to be used for core powers, structures and
20 procedures, and so I urge you to keep that in mind as
21 you go through the many proposals that have been and
22 will be presented to you. So, I now am going to talk
23 very briefly--I've used up all my time--on the--the
24 broad-bush proposals that I have seen with respect to
25 the Budget and Finance. First of all, a Rainy Day

2 Fund. There should be a Rainy Day Fund for the city
3 to set aside funds in the event of an economic
4 downturn or a crisis. So, that you don't have to
5 dramatically reduce spending or increase taxes in the
6 event of a shortfall. I urge that the Charter
7 include a Rainy Day Fund. It will require state law
8 to amend the Financial Emergency Act to that, but I
9 think that the Charter could set forth the right
10 criteria for when money should be deposited and when
11 it can be taken out that could be then adopted in the
12 state law. I also urge you to continue the Retiree
13 Health Benefits Trust. It is already adopted. It is
14 being used quite frequently as a de facto Rainy Day
15 Fund, and it, too, should have standards for when
16 money is deposited and when it can be taken out
17 because we really do need to build it up to deal with
18 the \$100 million of unfunded liability for retiree
19 healthcare that New York City has. The second,
20 tactical budgeting. There's a lot of talk about how
21 do they get more transparency, how they monitor it
22 more effectively. The one thing that I would urge
23 you to do that has been suggested is to require that
24 the assessments of needs, which is called the Ames
25 Report that's required via Charter be expanded to

2 include all city and city controlled public authority
3 capital assets and to require that everything that
4 has at least a five-year useful life, and it's all a
5 value that's less than the \$10 million, which is now
6 in the Charter. Because that by this, you know, we
7 don't really know what all the assets are worth that
8 the city owns or is responsible for, and we don't
9 know how much money is required to keep them in a
10 state of good repair, and we should have that to
11 assess against the Mayor's Ten-Year Capital Plan to
12 see what we are doing to protect the assets that we
13 have. So, that's very important. Revenue
14 estimating. I agree with Chuck and Francisco that
15 the Mayor has the responsibility for estimating
16 revenue and should be and is cautious in doing it,
17 and that—it should not become a negotiation. There
18 are many other revenue estimates that come out at the
19 same time as the Mayor's. IBO does a revenue
20 estimate, the State Office of Special Deputy
21 Comptroller does a revenue estimate, and the City
22 Comptroller do, and everyone involved in the budget
23 including the City Council looks at all of those
24 revenue estimates and takes them into account part
25 of the budget negotiation process, and there's no

2 reason to create some sort of a formal comment and
3 response, which really I—I know some people have said
4 that that will make the revenue estimate less
5 political, I fear it will make them more political as
6 indeed is what's happening with the State Legislature
7 right now where they have such a process. Finally,
8 you—I do have to—it's not listed on my—it's listed
9 more in governance, but really is a finance and
10 budgeting issue. There are suggestions for a number
11 of agencies and officials to have set budgets by
12 formula sort of percentage of another agency's budget
13 that is just set without the discretion of the Mayor
14 to change them into his Executive—his or her Expense
15 Budget. IBO has this now. IBO is a very unique
16 situation, and I think it is dangerous to start
17 giving other elected officials their own authority
18 over the budget. The budget process is designed so
19 that the Mayor and the Council make decisions about
20 which agencies and which functions need money, and
21 which ones are of a higher priority, and that should
22 not be disrupted by having certain elected officials
23 in particular basically have their own budgets that
24 are not subject to the regular budgeting process.

2 CHAIRPERSON BENJAMIN: Thank you very
3 much. Mr. Sweeting.

4 GEORGE SWEETING: Good evening,
5 Commissioner. My name is George Sweeting. I'm the
6 Deputy Director of the Independent Budget Office.
7 IBO's Director Ronnie Lowenstein had planned to be
8 here, but she is—is a bit under the weather. So,
9 you're stuck with me. IBO--

10 CHAIRPERSON BENJAMIN: [coughs]
11 [interposing] Did she break your arm to make you
12 come? [laughter]

13 GEORGE SWEETING: She twisted my arm a
14 bit. [laughter] IBO does not normally take positions
15 on policy issues. With one—one exception, and that's
16 on matters of budget process and transparency. So
17 with these exceptions in mind, earlier this month we
18 submitted a letter to Chair Benjamin and the
19 Commission providing comments on a number of the
20 budget related proposals that you've received from
21 different groups, and I'll take my allotted time to
22 highlight four of them. We also raised a number of
23 other issues that specifically concern IBO. I'd be
24 happy to discuss them during the question and answer
25 period if you're interested. So, as many have

2 already noted particularly Preston here tonight, the
3 City Charter calls for a lot more clarity on
4 programmatic spending and performance in this—in the
5 city's Operating Budget than we actually see in real
6 practice. Units of appropriation often do not
7 correspond to a particular program. This makes it
8 very difficult for IBO, for the City Council and
9 other elected officials and the public importantly to
10 readily determine the amount of spending on
11 particular programs and to link that performance to
12 the spending. So, you can see are you actually
13 getting your money's worth from—from the
14 appropriation and, therefore, that prompts proposals
15 to further strengthen the requirement that units of
16 appropriation cover individual programs. We'd
17 suggest thinking about one middle ground approach to—
18 to address some of this, and that's to extend
19 something that already exists in the City Budget,
20 which is referred to as the Budget Function Analysis,
21 and it covers about 15 agencies. The—they could be
22 extended—that's produced by OMB for each of the major
23 financial plans, and it could be extended to
24 additional—with additional agencies, and these are—
25 these are units of appropriation. Usually they cover

2 things that are probably a little bigger than a
3 program, but they get at some of the basic functions
4 of each agency, and if we just had additional
5 information available on that level, I think that
6 would—that would be one way of—of addressing this—
7 this concern. You would have to change Project
8 Administration Reporting to better integrate the
9 function analysis with the existing budget documents.
10 I'm going to—I'll skip over in the interest of time
11 where I was going to say on the Capital Budget that's
12 been discussed already. I would just further the
13 comments that Carol has made regarding the Rainy Day
14 Fund. It's—it's also something that, you know, we-we
15 understand that there would be limits on how far you
16 could go right now. The city has required, as you
17 all know, to—it is subject to that Budget Balance
18 Rules, and that's required in the current—that's
19 currently required in the City Charter, and because
20 we have these regulations, the city winds up
21 developing—has developed a set of work rule grounds
22 that obscure the city's fiscal condition. It's very
23 difficult for most people untangle exactly where we
24 are. It also bumps into complications that stem from
25 the State Constitution's operating limit, which

2 constrains what-what the property tax rate can be.

3 Even if the Charter is amended, we-it's our

4 understanding that covenants in outstanding bonds

5 likely preclude any near term adoption of a-of a Rain

6 Day Fund. However, we would recommend that the city

7 begin to lay the groundwork for a true Rainy Day Fund

8 by making some of the necessary changes in the

9 Charter now while-while the Charter is open on the

10 table for discussion. An interim solution that-that

11 might be worth looking at is to alter the-the Retiree

12 Health Benefits Trust Fund in ways that sort of make

13 it sort of a training vehicle for the city to begin

14 getting used to how you would do a true Rainy Day

15 Fund, the setting up rules for when deposits have to

16 be made and when withdrawals can be made. I would

17 note that regarding the-the issue of revenue

18 estimating that if you had a true Rainy Day Fund, it

19 would put a greater premium on more realistic revenue

20 forecasts because if you're consistently under-

21 estimating your revenues, you're going to wind up

22 making bigger deposits than is probably desirable

23 into Rainy Day Fund. So, that's something to think

24 about, and then finally the City Charter giver IBO

25 and some other agencies substantial access to

2 information from city agencies, but generally that's
3 done in the context of mayoral agencies, and it
4 excludes some of the off budget entities such as
5 Economic Development Corporation, the Industrial
6 Development Agency, Health and Hospitals, NYCHA, HDC.
7 There's a long list, and if something could be done
8 in the Charter to clarify that if you're an entity
9 that's effectively controlled by the city through
10 receiving city funding that the requirements for
11 providing information and providing answers to
12 questions from offices like IBO but also the City
13 Council, the Comptroller, I think we—you know we
14 would like—we would request that that be considered.
15 So, thank you and I'd be happy to take any questions.

16 CHAIRPERSON BENJAMIN: Thank you very
17 much and Mr. Caras, you are the first.

18 COMMISSIONER CARAS: Thanks. The first
19 question id for OMB. When is there like a new
20 estimate provided to the Council, the Final Revenue
21 Estimate?

22 FRANCESCO BRINDISI: The—the Final
23 Revenue Estimate is determined through the budget.
24 So, on the day of the adoption there is a statement
25 from Mayor on the final Revenue Estimate.

2 COMMISSIONER CARAS: Okay. I have
3 another question. If a teacher said to you "You're
4 term paper must be submitted to me immediately upon
5 my latest lecture, and your take-home final exam must
6 be turned in not later than June 5th, when would your
7 take home final exam begin?

8 FRANCESCO BRINDISI: It's an excellent
9 question. However, the Revenue Estimate needs to be
10 submitted as part of the adoption process.

11 COMMISSIONER CARAS: Okay, but that's not
12 what the Charter says. The Law Department can tell
13 with your interpretation of when the revenue estimate
14 is due?

15 FRANCESCO BRINDISI: Section 1515, I
16 cannot state for the Law Department, for that—the Law
17 Department.

18 COMMISSIONER CARAS: Okay.

19 FRANCESCO BRINDISI: Section 1515 says
20 that the—the Revenue Estimate needs to be submitted
21 as part of the Budget process, and it relates to
22 Section 240.

23 COMMISSIONER CARAS: What if it is not
24 later than June 5th?

2 FRANCESCO BRINDISI: Yes, but it also
3 says that the budget should not adopted later than
4 June 5th, but as a matter of fact, the Budgets are
5 adopted later than June 5th.

6 CHAIRPERSON BENJAMIN: Well, isn't it
7 usually because the Mayor asks for a delay?

8 FRANCESCO BRINDISI: Whatever it is, the
9 outcomes of the negotiation is—it is—it is what
10 happens that—that there is—until there is an
11 agreement, there is no fixing of the tax rate for the
12 purpose of debts or finalizing or the decision on the
13 size of the budget, and that can happen after June
14 5th. Right.

15 COMMISSIONER CARAS: But in the case of
16 statement of the budget in this same paragraph it
17 says that is due upon adoption of the budget. So, if
18 they had wanted the revenue estimate to be due upon
19 adoption of the budget they could have used the same
20 language. They didn't have to say no later than June
21 5th. I mean it just— Okay. That's also why we're
22 having the Law Department in in the future as well.
23 Units of appropriation do—what—again for OMB. Do you
24 think it's within the guidelines of the Charter? I'm
25 looking at the Department of Homeless Services, and

2 it has a \$2 billion budget, and \$1.9 billion for all
3 contracts for transitional residential services, all
4 supplies, all materials and all other services, \$1.9
5 billion of the \$2 billion is in one unit of
6 appropriation. Is that particularized the way the
7 Charter says it should be?

8 CHUCK BRISKY: We have consulted with the
9 Law Department, and they do believe that Charter's
10 definition of a programs purposer activity is a unit
11 of appropriation that we are in compliance. With
12 that said, I will say that we recognize that some of
13 these appropriations are larger, and in good faith we
14 have negotiated with the City Council and each
15 adoption to change these appropriations and to break
16 them into smaller parts. For example, during this
17 Administration, we had changed 28 units of
18 appropriation. During that Mayor de Blasio set a
19 tenure and it's a process we do at every adoption
20 where we highlight which areas we think are most
21 right for change. One of the things that's very
22 technical that you should know is that when we do
23 change units of appropriation, it can be very
24 disruptive to agencies. For example, if you have a
25 Human Service contract you're providing and you have

2 that contract registered in the current year, you now
3 create a unit of appropriation for the next year.

4 You will have a break in service as the Comptroller
5 tries register-re-register that contract for the next
6 year. So, what we've been trying to do is create a
7 mechanism where there's not a break in service, and
8 that usually means doing it at the beginning. You
9 trade (sic) Exec and Adopt in the City Council.

10 CHAIRPERSON BENJAMIN: Mr. White. (sic)

11 MALE SPEAKER: So, I--okay, I wanted--could
12 the other panelists weigh in on the--

13 CHAIRPERSON BENJAMIN: Jim.

14 CAROL KELLERMAN: Can I--can I--

15 CHAIRPERSON BENJAMIN: Yes.

16 CAROL KELLERMAN: Say something? I think
17 there's general agreement that units of appropriation
18 are in many cases much too large and don't tell you
19 anything about that is going on, and that they all
20 should be made more specific. There is already a
21 provision in the Charter. This is one of those, you
22 know, things are set there already that this Council
23 and OMB should negotiate with different units of
24 appropriation. The Council really needs to insist
25 more on doing this not just on a few every year, but

2 across the board, but that the--the definition in the
3 Charter is already clear that it should be more
4 specific than they are, and it needs to be adjusted,
5 but you--other than putting specific titles of Us--U of
6 As in the Charter, which I don't think you would want
7 to do, this is a matter of Public Council and the
8 Mayor's Office having the wherewithal to actually go
9 through with advising that.

10 COMMISSIONER CARAS: Actually the
11 language in the charter says that the Council can
12 allow broader units of appropriation not that they
13 can require narrower units of appropriation, and we
14 have--when I was--thank you--at the--the Law Department,
15 and I, like I said, that's why they're coming in on
16 the panel repeatedly indicated that terms and
17 conditions and other things that the Council had the
18 power to do could not be used to make units of
19 appropriation smaller. So, that's why it is a
20 Charter issue.

21 CHAIRPERSON BENJAMIN: Preston, any
22 comments?

23 PRESTON NIBLACK: I'll just say to go
24 back to my earlier point [coughs] about this is a
25 presentation of the budget, and I'm trying to align

2 the—the gist of our proposal and the Comptroller's
3 set of proposals was—and it's always—the language is
4 difficult, right, because we all think we know what
5 the people who wrote the 1989 Charter meant, and we
6 all, most of us, at least seem to think that it's not
7 quite what happens. So, the question is how do you
8 write the language that makes it happen when you
9 think you think you want to have happen? I mean
10 we've—the language that we put in was to try and
11 align with the management. Submit the service
12 delivery structure of the agency. I think one
13 impediment to understanding the budget and the, I you
14 will, the production function for what does service
15 or a program cost is the separation of the personnel
16 services and OTPS units of appropriation. It strikes
17 me as kind of artificial and unnecessary. If you
18 didn't have that distinction, you would automatically
19 obviously cut in half the existing number of units of
20 appropriation roughly, which means that you could
21 then have smaller units of appropriation without
22 going—the more you use appropriation than you
23 currently have. And I think it would make a lot more
24 sense in terms of understanding sort of what a
25 program or service actually costs to deliver. If

2 you've lined out those cost objects rather than
3 having them in separate units of appropriation where
4 they're often literally separated by hundreds of
5 pages in the supporting schedules of the budget.

6 CHAIRPERSON BENJAMIN: Steve.

7 COMMISSIONER FIALA: Thank you. Ms.
8 Kellerman, my very first remarks to this body
9 [coughs] when we convened our organizational meeting
10 was our charge is to do no harm, right? That we
11 should view ourselves as civic surgeons, and we have
12 a largely sound document, a sound local Constitution
13 in place that has served us well now for almost 30
14 years. Having said that, there are a few areas or I
15 should say there are fewer areas that cause more
16 aggravation among the principal players namely Mayor
17 and Council in this regard than budgetary, and
18 despite the 89 framers putting together what I think
19 is excellent language, and in 2005 we imported into
20 the Charter a previous Commission, many of the
21 practices that so that they would be made permanent
22 after the expiration on the financial control end.
23 You touched on a Rainy Day Fund. If you wouldn't
24 mind expounding on that. I tried to do that when I
25 was in the Council. I tried to do it in the 2005

2 Charter. The big impediment was well, you got to
3 wait until the expiration of the app. So, getting to
4 specifics, what could we do with respect to a Rainy
5 Day Fund in the Charter now knowing that we're
6 probably 10, 12, 15 years before that expiration I
7 think is due, and I have a follow-up for Mr. Niblack?

8 CAROL KELLERMAN: Well, I think the way
9 you're posing the question you're right that it would
10 be very difficult. My premise is that we should try
11 to get the Control Act, and not wait until it expires
12 in 2033 and that there would be receptivity
13 especially if a Charter amendment was adopted by the
14 population of New York—by the voters of New York City
15 that sends a message to the Legislature that the city
16 want us to have a Rainy Day Fund. So, I'm not—my—my
17 advocacy is not to do something symbolic, but I think
18 actually propose a specific Rainy Day Fund, and then
19 go to the Legislature and have the Council and the
20 members of the Legislatures from New York City and
21 say supportive of doing that. So—so that's—Now, what
22 George is saying is that since if we accept that we
23 can't have our own Rainy Day Fund, that we should
24 more openly use the Retiree Health Benefit Trust in
25 that way by putting some standards on it, and say you

2 could—you must put money into the Retiree Health
3 Benefit Trust under certain financial conditions
4 meaning when there's enough money, and you can only
5 take out money under certain conditions, i.e. when
6 there's a shortfall and there are different ways that
7 that has been structured. You know, if there are
8 four quarters of decline in revenue, you can take the
9 money out. There are standards that you can impose
10 around it. So that it is more structured than it is
11 now, which is we put money in the Retiree Health
12 Benefit Trust when we have money, and we say it can
13 only be used to pay for the cost of retiree health
14 insurance, and then when we want to do something
15 else, in effect we draw down some money from that
16 trust, and we say it's going to pay part of the
17 insurances, which frees up money to do something
18 else. But there are no standards around this, and so
19 it is treated by lots of people. In fact it's often
20 referred to as the de facto Raise Age Fund. My
21 position would be that that should not be the case.
22 That we need to be building that Rainy Day Fund up to
23 pay for retiree health insurance the way we pay every
24 year into the pension fund whether we like it or not
25 or whether we have to make other accommodations in

2 the budget to pay it or not because we need to build
3 it up not be taking money out when we need it for
4 other purposes. But I certainly agree that that
5 should have withdrawal and deposit standards in the
6 same way a Rainy Day Fund would, and there's nothing
7 to preclude the City Charter from doing that now.
8 The state law would not preclude that.

9 COMMISSIONER FIALA: So this is an
10 interesting--this is very interesting. Did I hear you
11 right that--that just gauging the temperature of the--
12 the public at large with respect to the question of
13 should there or should there not be a Rainy Day Fund?
14 That in and of itself, could--could then be the moral
15 authority for the Mayor and the Council to go to the
16 State Legislature and say what the excitement (sic)
17 it's had and the people voted.

18 CAROL KELLERMAN: That would be my
19 argument.

20 COMMISSIONER FIALA: It's very--it's very,
21 very interesting. Do you think that--Now, in '89 we
22 didn't have term limits? They came in after. In a
23 post-term limit era do you think that--that these
24 types of--of mechanisms are missing from the Charter
25 when they're needed more now than ever because the

2 idea of managing for the long-term is out the window.
3 The long term is the next election. So, nobody cares
4 about what's going to happen ten years from now let
5 along 50 years from now. This city has over \$250
6 billion in outstanding liabilities, right, and there
7 is no long-term horizon any longer. So, the '89
8 Charter is great. We shored it up in 2005, but in a
9 post-term limit era, should be doing more to ensure
10 for the long-term? The great German Theologian said
11 essentially that the—the moral authority of any
12 civilization rests upon how and what it does in terms
13 of the legacy we leave to our children. In this area
14 this city, this nation we're about as moral people as
15 I think exists.

16 CAROL KELLERMAN: Well, without agreeing
17 or disagreeing with anything specific that you said--

18 COMMISSIONER FIALA: [laughs]

19 CAROL KELLERMAN: --sir, I do think and
20 I—I don't—I don't know that the term limits
21 exacerbated this any more than it's just the nature
22 of the political process that people don't think
23 about the long term or they think, and it's
24 understandable in New York that the long-term will

2 always work out, and everything will be fine, and it
3 will—we'll worry about it later and that is something

4 CHAIRPERSON BENJAMIN: [interposing] Do
5 you think people still think that?

6 CAROL KELLERMAN: I think that people
7 have seen what happens when we're not prepared, and
8 that that I think means that there would be more
9 receptivity to things like a Rainy Day Fund proposal
10 than there might have been in the past. I think the
11 2008 is still very prominent in people's minds, and
12 2001, and so I think there's more receptivity to
13 these types or proposals, but it's still in general,
14 and that's why this is something that I think might
15 be appropriate for the Charter is that it's very hard
16 for any particular public official to advocate for
17 something that will basically say money is going in
18 the Rainy Day Fund. It's not going to, you know, a
19 number of immediate needs that constituents want, and
20 that it's something that, you know, the entire
21 population of voters might be more receptive to than
22 expecting individual people who are elected officials
23 to take leadership on.

24 CHAIRPERSON BENJAMIN: Thank you and then
25 after you speak George, then Carl.

2 GEORGE SWEETING: I would just add that,
3 you know, in recent months there's been a lot of
4 discussion about what's the appropriate level of
5 reserves the city should have, and there have been
6 many different estimates. I'm not going to
7 necessarily—I'm not going to pick any one of them,
8 but I think it's safe to say that virtually all of
9 the proposals that are there or the suggestions that
10 are out there, that it would actually be pretty hard
11 if not impossible--although OMB is very good--to find
12 ways of actually moving. If you've accumulate
13 reserves on the scale that people have talked about
14 with our current system it would be virtually
15 impossible to actually move that money year over year
16 because you'd be approaching \$5--\$6 billion at least,
17 and you would run into various other statutory and
18 State Constitutional issues. Whereas a Rainy Day
19 Fund gives you a much cleaner and manageable way of
20 actually accumulating reserve, having it there under
21 the very defined rules about when the money goes in
22 and when the money can come out, and it—it certainly
23 would—would also have the benefit of increasing
24 transparency about what's the actual fiscal condition
25 of the city.

2 COMMISSIONER WEISBROD: Commissioner, if
3 I—I just—I had a question for Mr. Niblack. I think
4 I've know you for a long time, and you—you've
5 operated from a number of different purchase so you
6 have a very unique perspective on the players
7 involved. Commissioner Caras talked about units of
8 appropriation. This is an area that could lend
9 itself to greater transparency, and enhance the
10 ability of the Council to exercise its oversight
11 authority. Is there any thing that you could
12 envision? You alluded to it in your opening remarks
13 and in your—in your response to Jim, but is there
14 anything you could envision in terms of a charter
15 reform specifically within the area of units of
16 appropriation?

17 PRESTON NIBLACK: Well, specifically, I,
18 you know, I guess in my kind of ideal world—George—
19 George mentioned the Budget Function Analysis, and
20 that was actually an exercise that I and my colleague
21 Frank Basilica started when I was in IBO. The Council
22 picked up and then OMB then [coughs] implemented for
23 those agencies that it does it for, and which now is
24 an exercise--that I wonder why they bother—to
25 continue since agencies can't. You know, no

2 commissioner can come in and speak to the numbers in
3 the Budget Function Analysis. It's not their budget.
4 If you wanted to have a programmatic budget that was
5 actually, you know, aligned with service delivery to
6 which you could attach some service delivery
7 statistics that were not dollar numbers, but, you
8 know, people or home delivered meals or senior center
9 hours of whatever the right metric is, do you have a-
10 -[coughs] excuse me—a budget that looked like the
11 Budget Function Analysis currently, and that I think
12 would be sort of the- And again, would be presented
13 on a year-over-year comparison basis not a financial
14 plan over financial plan. And I don't—and I think we
15 could do year over year basis without sacrificing the
16 sort of rigor of the financial planning process, and
17 I certainly wouldn't get rid of the four-year
18 Financial Plan of anything like that. So, I think
19 there's, you know, a major kind of rethink of how you
20 present the budget in order to enhance everybody's
21 ability to participate in the decision making about
22 how—what—what kind of—what are our priorities? What
23 are our values? What then do we want to reflect in
24 the Budget is really necessary, and that's sort of-

2 that's that direction that I would take us in if I
3 were king. [laughs]

4 COMMISSIONER WEISBROD: Thank you. Thank
5 you, Madam Chairman.

6 CHAIRPERSON BENJAMIN: You're welcome.
7 Carla.

8 COMMISSIONER WEISBROD: Thank you.
9 [coughing] First, I just want to underscore what Ms.
10 Kellerman and Mr. Fiala said that our first
11 obligation obviously is to do no harm, and to say
12 that certainly as someone who goes back to the fiscal
13 crisis of the '70s, the record of OMB and assuring
14 that we do no harm has been enviable, and we should
15 be quite cautious about—about undermining that in any
16 way, but I want to focus, and we've treated this, and
17 to an extent is what Mr. Fiala also said about term
18 limits and the limited horizon and focus a little on
19 particularly the Capital Budget, and starting with
20 what Ms. Kellerman said, which is that to me the
21 Capital Budget really has two major functions. One
22 is to assure that our capital assets are in—kept in a
23 state of good repair and the other is to plan
24 efficiently for growth. So, in the first, Ms.
25 Kellerman mentioned the Ames Report and enhancing the

2 role of the Ames Report, and to assure that we do
3 have a robust and accurate assessment of the state of
4 our Capital Plan, and the cost of replacement, and
5 when it has to be replaced, and when and-and what is-
6 what is currently at risk? And that's a good chunk
7 of the existing Ten-Year Capital Plan. So, one
8 question to OMB is-is do you support the expansion of
9 and making the most use of the Ames Report and
10 expanding its role in capital planning, and my second
11 is with respect to planning for growth, which is not
12 that I think City Planning should be supplanting
13 OMB's budget authority, but it does seem to me that
14 as we are in a city that is growing and where
15 neighborhoods are concerned about the investment in
16 infrastructure keeping pace with that growth that a
17 closer collaboration between OMB and the Department
18 of City Planning is called for and really almost
19 requiring a joint creation of the Ten-Year Capital
20 Plan. So, I ask all of you to respond to both bills.

21 CHARLES BRISKY: So on the Ames Report,
22 we use the Ames Report now to put together a Ten-Year
23 Capital Strategy. That's one of the inputs that go
24 into it. As you know if you look at our Ten-Year
25 Capital Strategy, one of our goals is to maintain our

2 current assets in a state of good repair. We have a
3 little pie chart in the Ten-Year Capital Strategy
4 that looks at how much goes to state of good repair,
5 how much goes to pro-new programs. Most of the money
6 goes to state of good repair because our
7 infrastructure in New York City is so vast and so
8 old. So, we do take the data from Ames, and we—we do
9 use that to make decisions in the Ten-Year Plan. It—
10 I would say to your comment about—about how it's used
11 it's not explicit in the Ten-Year Plan. There—there's
12 not a statement per se next to each capital asset,
13 but I think it is used for every single agency that
14 is in Ames.

15 COMMISSIONER WEISBROD: Quickly can I
16 just—just—I mean I think the—the issue with the Ames
17 Report that it is not nearly doing what it should be
18 doing. It's—it's—it is—it is—it is frankly fairly
19 anemic right now compared to what it could be doing
20 and should be doing especially given—especially given
21 what a large component capital program is State of
22 Good Repair projects, and so that's— My question
23 isn't whether you utilize it. My question is really
24 whether it should be expanded to dramatically.

2 CHARLES BRISKY: I think that's something
3 we can look at. I think one—one—one thing that you
4 have to do is you have to look at the tradeoffs. The
5 Ames System is a big system. It's costly. We have to
6 contract our with consultants to go out and look at
7 our assets, look at bridges, look at our roads, look
8 at our buildings. So, we can look at that, but then
9 one has to trade off the cost in doing that versus
10 something else. It's something we're willing to
11 engage in the conversation on.

12 COMMISSIONER WEISBROD: And the second
13 part of my part my question. Which is connected to
14 planning and growth. [background comments/pause]

15 JON KAUFMAN: You know, as I alluded to
16 previously, we do—the partnership with OMB is—is
17 strong and it's stronger than it been in some time.
18 Here from my perspective, we have a willing partner
19 and someone who looks to our advice and how to think
20 about the strategy we'll spend over the next ten
21 years. I think the link between the strategy and the
22 budget chain is still, you know, in a formative phase,
23 and I think that OMB's responsibilities are vast, and
24 require a lot of intense work with the agencies
25 directly to understand the precise priorities at a

2 cost level. I think that nexus between the—what is
3 the strategy and then translate the out to ten years
4 of numbers is a really detailed task that is—is still
5 formative and it will be in their stewardship of the
6 budget because it's been excessive for decades. It
7 maintains ownership of that estimation working with
8 the agencies.

9 GEORGE SWEETING: May I.

10 CHAIRPERSON BENJAMIN: Yes.

11 GEORGE SWEETING: I just have one quick
12 comment. Mr. Brisky says that the Ames Report is
13 used in making budgetary decisions in the Ten-Year
14 Strategy. I have to tell you what it's worth.

15 CHAIRPERSON BENJAMIN: He said it
16 informed the--

17 GEORGE SWEETING: Informed.

18 CHAIRPERSON BENJAMIN: The budgetary
19 decisions.

20 GEORGE SWEETING: I have to take him at
21 his word because nowhere in the Capital Budget or in
22 Ames or anywhere else do I know what the state of
23 good repair of capital assets actually is in any
24 given moment or what the goal is from the investment
25 envisioned in the Ten-Year Plan.

2 CHAIRPERSON BENJAMIN: Thank you. Ms.
3 Gavin.

4 COMMISSIONER GAVIN: Thank you. Thank
5 you all for being here. Given we've had 30 years of
6 balanced budget my question is other than the Rainy
7 Day Fund Proposal, which of the proposed changes do
8 you think would strengthen our financial performance
9 over the next 30 years?

10 CHAIRPERSON BENJAMIN: I you want to
11 thank about it and get back to us?

12 CAROL KELLERMAN: I have one. Creating a
13 business friendly environment, but you have to
14 balance those.

15 CHAIRPERSON BENJAMIN: Okay, then I—

16 CHARLES BRISKY: I think we'll get back
17 to you on that. I have a few ideas, but I'd like to—
18 to put it together in one coherent document okay.

19 CHAIRPERSON BENJAMIN: Okay, thank you.
20 We look forward to hearing from you about that, and
21 if any of the others have ideas about that that are
22 not in documents they've already submitted or the
23 Comptroller's document, we would really like to hear
24 about that. We then have Sal and then Jim and that's
25 it on my list.

2 COMMISSIONER ALBANESE: Thank you, Madam
3 Chair. One of the your points here that—that I'm
4 particularly encouraged about is the fact that a
5 capital plan has to be monitored, and we have to know
6 what whether the city is investing enough money to
7 keep the city in good shape. Your structure (sic) is
8 a disaster. So, one of the areas that I hope we can
9 galvanize around as a commission is putting that into
10 effect, and putting something in the Charter that
11 this is not a frivolous—frivolous item. This is an
12 important item for the city of New York for the
13 future of the city, but this capital, that our
14 infrastructure is in good shape. We—we know the
15 story about subways and our bridges and what have
16 you. This is not something that should be taken
17 lightly. So, I'm—I am encouraged by some of the
18 proposals. As far as the IBO is concerned, I'm a big
19 booster of the IBO. I was in the City Council when
20 we—when we created it, and I—I was one of the ardent
21 supporters of it. Just I wanted to know that—that
22 the issue of pension obligations was—was raised, and
23 that's only going to get bigger and as Baby Boomers
24 retire. We're already—the city I believe is
25 contributing almost \$10 billion, and I think it's

2 going to only increase, and I was wondering if the
3 IBOs looked at other proposals? I've got a—I've got
4 a proposal based on the Canadian model that would
5 overhaul our pension plan in the city so that
6 performance will be significantly better, and I know
7 it's—I don't know if it's in your purview, if you
8 looked at it, but I think it's important that New
9 York City, which is the financial capital of the
10 world has the best and most up to date pension system
11 not a clunker. Because that's what we have right
12 now. We have five clients. No need for plans. We
13 combined those plans. We have consultants up and
14 down. It's really ridiculous. While other—other
15 cities, actually other countries, the Canadians do a
16 superb job with their plan, and then we are—we are in
17 the backwoods here. So, I was wondering if the IBO
18 has any—and by the way, this going to be the subject
19 of another hearing probably next week. If the IBO
20 has any ideas on this.

21 GEORGE SWEETING: We haven't done formal
22 work in the last couple years. We have a document
23 that we produce each year called the Budget Options,
24 which are options for closing a budget tap if the
25 city had one, and in there we—all the items in that—

2 in that document they're ideas. We don't endorse
3 them, and we provide—we try to provide a balance
4 between pros and cons for each one. One way of
5 starting that—one of the options that we've—we've had
6 is for a number of years is looking at consolidating
7 the number of—of pension funds and—and you would have
8 to make some adjustments with the boards and whatever
9 so, we—we do have some estimates on the savings that
10 would be generated from that, and I can get them for
11 you.

12 COMMISSIONER ALBANESE: I'd like to see
13 that. I mean just on—on a final comment that if—if
14 we can—if we—if we perform as well as the Canadians
15 over the last five years, we would save about \$2
16 billion a year. So, it's—it's a lot of money. It's a
17 hot button machine, but we look to look at it.

18 GEORGE SWEETING: If I could just follow
19 up with one observation. I mean we were—several of
20 us here have been talking about changes you might
21 make to the Retiree Health Benefits Trust Fund.
22 That's in a—the liabilities there in addition to the
23 pension liabilities they were facing. Right now
24 there's no obligation that they be funded. We do
25 have to report them now on—in your financial

2 statements. Someday there may very well be a funding
3 requirement there, and building up that Retiree Trust
4 Fund, that would-- You know, if its function does a
5 Rainy Day Fund and I'm suggesting we might continue
6 to do that under some--some more stringent rules, but
7 the main purpose it's there for is to begin making at
8 least small payments towards that actuarial liability
9 that we have, and it's--it's--because it's--it's largely
10 unfunded now, it's actually a much bigger issue than
11 that underfunded. (sic)

12 COMMISSIONER ALBANESE: Thank you.

13 CHAIRPERSON BENJAMIN: Thank you, Jim.

14 You are the last Commissioner with a question, and
15 you're next. (sic).

16 COMMISSIONER CARAS: I miss--I miss when I
17 actually agree with OMB, but--

18 CHAIRPERSON BENJAMIN: It was fine.

19 COUNCIL MEMBER CARAS: --but I was

20 Finance Counsel for seven or eight years at the
21 Counsel and Acting Finance Director for close to a
22 year. So, I've had these fights but I've known you
23 guys for a long time. Empowerment. I agree that
24 empowerment should be a tool to, you know, the
25 Mayor's tool to make sure the budget stays in balance

2 and for, you know, financial reasons to keep the
3 budget in balance. Do you think—did anyone on the
4 panel that there should be a—some kind of negative or
5 prohibition on the Mayor using the empowerment power
6 for policy or political reasons like for a second
7 bite of the apple. We've negotiated this budget or
8 we haven't negotiated the budget and the council has
9 passed a budget and the Mayor is impounding money
10 because he's mad at the Speaker and wants to keep the
11 speech—the Council's pet (sic) property, you know,
12 are—are important for going forward. I mean that.
13 [laughter]

14 GEORGE SWEETING: This an issues that we
15 gave some—you and I actually gave some thought to in
16 the 2010, and I think—I thought then and I think now
17 that the—the kind of power in the Charter is
18 currently awfully open-ended, and probably should be
19 restricted to certain contingencies, and, you know,
20 exactly what those contingencies are is a matter of
21 just, you know, it can be a matter of discussion, but
22 I right now it's open-ended [coughs] and it doesn't—
23 it—it can be misused, and it has—has been misused.
24 You know, generally the process has unrolled and with
25 good faith on both sides with rare exception [coughs]

2 but-but it is a tool out there that is subject to
3 misuse as it is crafted in the Charter and probably
4 should be restricted to situations where there's
5 really a need.

6 CHARLES BRISKY: I would say that this is
7 a tool that the Mayor needs to maintain fiscal
8 stability in the city. I think one has to keep this
9 in the context of where we've come from. So, in the
10 '70s we had the Fiscal Crisis, and we lost access to
11 the credit market. We can't ever have that happen
12 again, and so we need a strong executive branch to be
13 able to manage the budget, make quick decisions so
14 that the budget can be balanced. Just in-in recent
15 times when you look at things like Super Storm Sandy,
16 9/11, the Great Recession. We needed a mayor who
17 could react quickly so that the budget could be
18 balanced-put back in balance. You can't wait weeks,
19 months for a bunch of bodies. (sic) You have to make
20 immediate decisions to get the budget in balance
21 especially if you take into account if you're well
22 into the Fiscal Year, remember we're under the Gaap
23 Accounting. Generally it's set for the Gaap
24 Principles. Current year expenses and current year
25 revenues must be balanced. So, if we get to let's

2 Maya and we have calamity that happens, we still have
3 to balance the budget. That still has to be done.
4 So, the Executive Branch must the power of
5 impoundment to able to put the budget in balance and,
6 as I stated in my opening remarks if we—if we
7 overspend the budget by one-tenth of one percent,
8 which is \$100 million, the—the Financial Control
9 Board when they meet annually could recommend a
10 control period to the Legislature, and that would the
11 worst thing that could ever to the city of New York
12 to have it for the second--

13 CHAIRPERSON BENJAMIN: [interposing] Are
14 you really saying that any limitation at all on the
15 impoundment power would result in—possibly in
16 complete and utter disaster? Any limitation?

17 CHARLES BRISKY: No, what I'm saying is
18 that you have to be very careful in how you—you craft
19 this.

20 CHAIRPERSON BENJAMIN: So there could be
21 some way to craft that?

22 CHARLES BRISKY: Yes, but I—I don't know
23 how you can craft it without—not tying the Mayor's
24 hands in terms of how he responds to something of an
25 emergency that happens at the end of the year, an

2 allow Senior Mayor (sic) to balance that budget at
3 the end of the years.

4 COMMISSIONER CARAS: I-I guess to respond
5 to that, you know, I mean the-the situation there it
6 actually happened. It was the first month that the
7 budget was adopted that the Mayor started not
8 spending the Council's money because he was mad at
9 them. So, it was pretty obvious. I think again like
10 that point, I think there are ways of crafting
11 something in negative. Again, not to have-to have the
12 Mayor's powers or to-to tie the Mayor's hands in the
13 case of any financial or emergency reasons, but
14 reasons that clearly are not financial, and then just
15 to sort of play it out together with the units of
16 appropriation, if, you know, the-the Council is
17 tasked, the Council is supposed to be the policymaker
18 in the budget, and set budget policy, and if every
19 agency has one unit of appropriation, so that the
20 Council can't say well, we think more funding should
21 go to this type of housing, and less funding should
22 go to that type of housing or more funding should go
23 to these types of social services and less to those
24 types of social services. If they lose the ability
25 to do that, and they lose the ability to-and then

2 they mayor has the ability to undo policy agreements
3 or policy decisions that have been made in the budget
4 by not spending Council allocated money, then there
5 really—the budget policy set in name only and—and not
6 in practice.

7 CHAIRPERSON BENJAMIN: And with that—with
8 that, I'd like to thank all of you. I didn't think
9 you were expecting a response. Were your, Jim.

10 COMMISSIONER CARAS: No.

11 CHAIRPERSON BENJAMIN: I didn't think so.

12 COMMISSIONER CARAS: I have one thing.
13 Could I ask it? If—if you guys have like best
14 practices from other jurisdictions, like what our
15 budget looks like that has been praised as one people
16 can understand and built on reasonable types of
17 units. I think I would love to see that. That would
18 be great. Thank you.

19 CHAIRPERSON BENJAMIN: I'd like to thank
20 this whole panel, and if you have any further things
21 you would like to share with us or comments that you
22 wanted to take a chance to think about and then get
23 back to us, we would love to hear from you. Thank
24 you very much for participating with us, and we
25 appreciate your time and your expertise. [background

2 comments/pause] For our final panel we'll be joined
3 by Mark page, Andrew Rein, Anthony Shorris, and Emily
4 Goldstein. [background comments/pause] Now that we
5 have you all here, you'll have three minutes to make
6 your comments and introduce yourselves and then we'll
7 pepper you with all our questions. Mr. Page.
8 There's—oh, we took the clock away.

9 MARK PAGE: Thank you for having me here
10 this evening.

11 CHAIRPERSON BENJAMIN: We can't hear you.
12 You're going to have move that mic all the way up.

13 MARK PAGE: Well, it is.

14 CHAIRPERSON BENJAMIN: Well, you're going
15 to have to move closer to that.

16 MARK PAGE: [background comments] So, if
17 one party can't move, the other one needs to.

18 CHAIRPERSON BENJAMIN: One needs most.

19 MARK PAGE: [distorted audio] Yes. When
20 I started working OMB, New City OMB, the New York
21 City OMB, I think the staff was hired at the end of
22 '77, and continued through 2013. I was 12 years a
23 Budget Director and throughout was very closely
24 involve in New York City's evolving relationship
25 investors and rating agencies. When I through the

2 door, the city had just failed to sell a new issue in
3 the fall of 1977. Nobody would take it, and I think
4 that that's my primary focus right now is the
5 question of revenue forecasting. On the structuring
6 of an expense budget, and you can—they—they said to
7 look into the potential (sic) which people tend not
8 to be too great at. They're forecasting whether to
9 know let alone economic events and social events over
10 the next or four years or ten years. But we're just
11 are putting together a—an expensive Capital Budget,
12 you're authorizing spending and you're limiting it,
13 and you actually have a—a conferment (sic) university
14 dealing with revenue forecasting. It's nice, but
15 changing the forecast has absolutely no effect on how
16 much money you're actually going to collect in the
17 period that you're looking, and New York City had
18 revenue forecasting right through the 1970s. It's not
19 a problem at all. The difficulty was that the things
20 forecasted wasn't showing up quite consistently for
21 an extended period of time, and the—one of the really
22 motivation issues were the financial, the emergency
23 at the Financial Control Board and the housekeeping
24 positions that I participated in putting together in
25 1978 was to put substance behind revenue forecasting

2 for New York City. The Control Board was certifying
3 the revenue as what's—that was a-a foundational
4 issue, and obviously this sort of uncontrollable side
5 of needing a balance requirement. [laughs]

6 CHAIRPERSON BENJAMIN: But, no. We'll
7 give you back the time. [laughter] I just didn't
8 want you to compete with the motorcycle.

9 MARK PAGE: Thank you. So, meeting this
10 balance requirement was a matter of the strength of
11 the revenue forecasting effort by the city, and a
12 continuous watching. We've been talking about a
13 revenue estimate at the beginning of June, but the
14 fact of the matter is that revenue estimation is
15 something that goes on continuously, and it relates
16 to this question of impoundment, which can obviously
17 been-be abused. On the other hand, you need a way of
18 reacting quickly on the spending side of the equation
19 when you find as time passes that you may have been
20 wrong as you inevitably will be one way or another in
21 forecasting what resources you have available to you,
22 and just to trespass further on my overtime, I think
23 that we can all agree on many things in concept, but
24 you're trying to legislate words, which will
25 implement concepts Rainy Day Fund being one example.

2 You can say the concept and it's great. When you get
3 down into the actual words that you are going to use
4 to dictate when you put money in and when you take
5 money out, I think it gets much more complicated, and
6 you're instantly up against the wall as a practical
7 matter we live in, which is that the political
8 equations and pressures of the moment will generally
9 find ways around whatever detailed provisions you
10 have tried to enact. I think notwithstanding the
11 lack of a Rainy Day Fund if you look at New York
12 City's experience since the early '80s, in fact, it
13 has been notably resilient in managing most recently
14 the recession 2008 and so forth, and its ability to
15 actually manage funds in ways which will deal with
16 the political as agencies of the moment, but also
17 stabilize the city's ability to deliver the services
18 that its got that exists to deliver. That's, you
19 know, why there is a—I guess I've spent a lot of time
20 on this. So, I look forward to your questions, and
21 I'd like the opportunity to respond in writing--

22 CHAIRPERSON BENJAMIN: [interposing]

23 Absolutely.

24 MARK PAGE: --after this session. Thank
25 you.

2 CHAIRPERSON BENJAMIN: Okay. Absolutely.
3 Who would like to go next? Tony. Emily. Mr. Ruth.
4 (sic)

5 EMILY GOLDSTEIN: Thank you. Can you
6 hear me? Okay. So, thanks for the opportunity to
7 testify. My name is Emily Goldstein. I'm the
8 Director of Organizing and Advocacy at the
9 Association for Neighborhood and Housing Development.
10 We are a coalition of community groups across New
11 York City who work to build community power to win
12 affordable housing and thriving equitable
13 neighborhoods for all New Yorkers. We believe our
14 current land use and budgeting processes must be
15 updated to meet the urgent need to promote equity and
16 to ensure that lower income communities and
17 historically marginalized populations have the
18 services, investments and access to opportunity that
19 we all deserve. An equitable approach to budgeting
20 requires directing resources based on people's needs,
21 and investment to address the existing needs of
22 populations and communities must be distinguished
23 from investment to accommodate future needs or
24 growth. A community should never feel that—the
25 pressure to accept higher density or increase growth

2 simply in order to get their existing needs met.

3 That's not an anti-density or anti-grow argument, but

4 it is a sentiment that a lot of communities have

5 expressed in recent rezoning efforts. My written

6 testimony includes recommendations across a variety

7 of topics including comprehensive planning, but the

8 reason I'm here tonight and what I'll focus my

9 remarks on is the budgeting aspect of comprehensive

10 planning, which is one of the topics you all posed

11 that, which I appreciated seeing. So, we think that

12 there—if there is going to be comprehensive planning,

13 it's really important that the budgeting process be

14 in alignment because a plan cannot simply be land

15 use. The plan has to be a comprehensive plan.

16 Although I'd note that as we sought thought through

17 our budgeting recommendations we hope that

18 comprehensive planning passes, and we have a

19 recommendation on it, but we do think that the

20 budgeting recommendations we're making could stand on

21 their own if the other parts don't move with a little

22 bit of tweaking. So, first and foremost we believe

23 the Charter needs to more clearly lay out equity

24 principles such as reducing disparities by race and

25 require that budgeting adhere to those principles in

2 the same way that other parts of the planning process
3 should adhere to those principles. In order to
4 direct resources based on need, we then need to
5 rigorous assess what our needs. This should happen
6 first and foremost at the community district level,
7 and my written testimony includes a lot of detail
8 about our recommended process, which goes above and
9 beyond the current community–community district needs
10 assessment process. Out of those district
11 assessments, we think the city could identify the
12 community districts of greatest need and draw out
13 patterns of disparities both across neighborhoods and
14 across populations. Every city agency should then be
15 required to set goals to reduce identified
16 disparities, and address the existing needs found in
17 the assessment process. The Charter should require
18 that the city's Ten-Year Capital Plan respond to the
19 goals set through the Comprehensive Planning process,
20 or if necessary separately. Community Boards,
21 borough presidents and agencies should then all be
22 required to explain how their budget recommendations
23 advance those comprehensive planning goals. For
24 example, one sort of process that could be enacted
25 currently when most agencies prioritize capital

2 projects there is a matrix of a variety of factors,
3 revenue costs, timing, et cetera. Progress towards
4 equity goal could be incorporated into those types of
5 matrixes, and given real weight, and then assessed
6 later. In addition, the Charter should require that
7 the city engage in longer range planning for expense
8 budgeting. The Charter could mandate a new four-year
9 expense program similar to what exists on the capital
10 side to align city contracts for services with areas
11 and populations that have the greatest identified
12 needs. Right before your Capital Program, the Four-
13 Year Expense Program would set forth a detailed
14 vision for several years allowing investments and
15 critical-critical programming to be rolled out over a
16 longer period and with a greater deal of thought. We
17 also proposed that each year's contract budget
18 include a certain percentage set-aside for the
19 communities with the greatest identified needs. The
20 Equity fund as we like to call it, would have help to
21 guarantee that a share of each year's budget go to
22 the places and people that need it most above and
23 beyond any other budget considerations. This
24 requirement would parallel the current requirement in
25 the Charter that allocates 5% of each year's Capital

2 Budget among the five boroughs based specifically on
3 population and geographic area. Finally, progress
4 must be tracked in an accessible and transparent
5 nature-manner. Agencies should be require to collect
6 and dispose expenditures designed to advance the
7 equity goals set forth, and track and map this
8 information in a way that would allow community
9 members to understand the investments happening in
10 their neighborhoods or not happening in their
11 neighborhoods. A lot of agency reporting is not
12 organized this way today making it very hard for most
13 people to understand what is going on in their
14 community, and how their tax dollars are being spent.
15 The city would also track and disclose data related
16 to the quality of life outcomes for different
17 marginalized groups across the city keeping track of
18 this information over time to highlight process and
19 service areas of ongoing need.

20 CHAIRPERSON BENJAMIN: Thank you very
21 much. Mr. Shorris.

22 TONY SHORRIS: Uh--

23 CHAIRPERSON BENJAMIN: Hi.

24 TONY SHORRIS: I just set up?
25

2 CHAIRPERSON BENJAMIN: Good. [squawking
3 mic]

4 TONY SHORRIS: So, my name is Tony
5 Shorris—my name is Tony Shorris. It sounds so much
6 better.

7 CHAIRPERSON BENJAMIN: Yes.

8 TONY SHORRIS: I—I think you all have
9 written copies of the testimony.

10 CHAIRPERSON BENJAMIN: Yes.

11 TONY SHORRIS: Yes?

12 CHAIRPERSON BENJAMIN: We do.

13 TONY SHORRIS: Okay, good. So, I'm going
14 to skip over the first part where I go through my 40
15 years of doing the signing off (sic) because it's
16 boring and embarrassing. [squawking mic] I've been
17 here too long. Let's just talk about the work of the
18 Commission. So the Commission has before it a series
19 of notions that many of which are worthy of
20 consideration, and I applaud the work you're all
21 doing. As you go through it, I want to suggest a few
22 factors that I think should shape your thinking.
23 First to somebody who is not a strict
24 constructionist, not a regional list, I actually
25 believe the City Charter should be subject to

2 periodic and comprehensive review. The reason is
3 clear. The world changes and unless the structure of
4 the government changes will the—the New Yorkers risk
5 being disadvantaged? Just like we don't want
6 outdated physical infrastructure or a deteriorating
7 physical infrastructure, we don't want outdated
8 governmental infrastructure, and that is what we and
9 many others suffer from. Today, we see New York City
10 operating in an environment that's changed in several
11 major ways from the context in which it was subject
12 to the last revision. The city now competes in a
13 more globalized environment. That's not just true in
14 its economic context. We all know about national and
15 global firms dominating our business structure. It's
16 also true, as our people and our culture have become
17 increasingly international and more so than any time
18 in the last 100 years. Equally familiar to all of us
19 is that the road of technological change facing the
20 government and our peoples dramatically faster than
21 ever before, and that means the shifting nature of
22 economic activity demands new regulatory and policy
23 approaches as well as operational changes at a pace
24 we have not had to manage before, and finally and
25 closely related to both of those we have an economy

2 that's become extraordinarily successful for some
3 while failing many others creating indefensible gaps
4 in opportunity that can and should be driving more
5 and more of the public mission. We need a government
6 that reflects in context. That means a government
7 that responds more rapidly than ever to changing
8 economics circumstance, which adapts to constantly
9 shifting globalized population and business
10 structure, and most of all, it means an empowered
11 government that can tackle the core issues of
12 inequality with strength and passion and that that
13 means we must contribute more. So in doing so that
14 means that we need to talk honestly and directly
15 about some of the core tensions of the governmental
16 structure in this context. I want to mention two.
17 We're always testing the balance between the needs of
18 communities and the needs of the city as a whole.
19 Most of the time they're coterminous. Great
20 communities are what make a great city and local
21 neighborhoods don't prosper in a weak urban
22 environment. But from time to time the needs of
23 individual communities may not align with the needs
24 of the greater city, and the stewards of the greater
25 public trust in the end have to side with the most

2 vulnerable who need housing they can afford, jobs
3 with wages they support their families and transit
4 systems that connect them to the that opportunity.
5 Not every community can have every amenity nor can
6 every community be devoid of every disamenity.
7 That's what makes us part of a great metropolis.
8 We're also testing the balance between executive and
9 legislative roles. Of course, no one wants an
10 unchecked executive, but neither does anyone want a
11 gridlock that's paralyzed so many other Democratic
12 governments, especially in the context of those
13 changes we talked about. Governmental paralysis is
14 not a neutral force. It benefits those with
15 privilege. When it puts the parochial before the
16 universal it weakens the faith of voters and the
17 efficacy of the democracy itself, and that paralysis
18 can foster anti-democratic forces overseas and even
19 here in America. Democracy has to show it can work
20 especially in a time when alternatives to democracy
21 are asserting themselves. For these reasons, I'd
22 urge the Commission to consider carefully how various
23 changes under consideration would perform in that
24 shifting environment. As has been noted, we have a
25 pretty good structure in many ways. The city is

2 economically strong. It's operationally sound, and
3 trying to move albeit way too slowly in a progressive
4 direction. We survived terrorism, economic crashes,
5 and natural disasters, and we know we could surely do
6 better. But as we seek to make changes to the
7 governments forming ways that are designed to last
8 for decades to come, modesty about the risk of
9 unintended consequences has to frame our thinking.
10 We can't afford to impede the growth of opportunity,
11 the pace of our response to change or shared
12 commitment to social justice. I look forward to your
13 questions, and wish you the best of the work ahead.

14 CHAIRPERSON BENJAMIN: [off mic] Thank
15 you, Tony. Mr. Rein.

16 ANDREW REIN: Hello. I'm Andrew Rein,
17 President of the Citizens Budget Commission, and
18 thank you to the Commissioners for allowing me the
19 opportunity to be here today. CBC believes that the
20 Commission would serve New Yorkers best by focusing
21 on and proposing only those recommendations that are
22 central to the Charter's purpose, which is to define
23 the core structures, powers and processes of New York
24 City government. As we've noted in prior testimony
25 here, the Charter has become bloated with

2 administrative facilities not appropriate for the
3 Charter with digital elements, and the Commission
4 would do well to clean up some of those along the way
5 in that process. Now, you—many of you are familiar
6 with the CBC, and we've probably had our share of
7 criticisms in financial management, administration in
8 and administration out, but generally, the budgeting
9 and management practices laid out in the Charter have
10 served the city well, and improvements should be made
11 selectively. The bar should be set very high. Then I
12 present five recommendations for improving the City
13 Charter, four areas that should not be changed
14 because they serve the city well, and three fiscal
15 management areas that should be—need to be addressed
16 but outside of the Charter. Since I've submitted
17 testimony, hopefully you all have, and you've sat
18 through a lot of testimony about these issues today,
19 why don't I just hit the highlights of these, and
20 then we can go into questions, which I'd love to
21 answer. One, the recommendation for improvements the
22 Charter should be amended to allow and create a Rainy
23 Day Fund since it will reduce need in a downturn for
24 damaging service cuts or counter-productive tax
25 increases. Two, The Charter should mandate the

2 Retire Health Benefits Trust, and structure it so it
3 cannot be used as a Rainy Day Fund. Three, the
4 Charter Cap-Capital Asset Inventory requirement
5 should be expanded to include all capital eligible
6 assets in the city and city controlled authorities.
7 Four, the Charter should focus the Board President
8 Capital Planning Budget role on identifying needs,
9 providing recommendations to the Mayor and the City
10 Council, and with that the 5% borough (sic) allocation
11 should be eliminated so that the whole capital pie
12 could be distributed efficiently and effectively, and
13 fifth to improve citizen input, which is certainly of
14 concern to this commission. The Charter should
15 require that the city solicit resident feedback on
16 quality of life and city service delivery every four
17 years to produce statistically significant results at
18 the community district level. The four areas under
19 consideration we understand that should be
20 maintained. The current process for projecting non-
21 property tax revenue should be remain-should remain
22 as was discussed in the last panel. The Mayor and the
23 City Council's flexibility and authority to set
24 budgets for special entities should be preserved.
25 The process and authorities for proposing and

2 adopting budget modifications should be maintained
3 since they provide significant legislative authority
4 during the budgeted option process while balancing
5 oversight and management flexibility throughout the
6 year. And finally, the Comptroller's role in
7 procurement and registering contracts should not be
8 expanded since additional steps are unlikely to speed
9 a process that is already slow and cumbersome. And
10 finally, we've heard today discussion about improving
11 units of appropriation, improving capital project
12 needs assessment and management and speeding the
13 procurement process. These are all areas that can be
14 fixed, and should be improved outside of the Charter
15 process, and we've had heard some good discussion
16 about budget function analysis, and transparency, and
17 I think those, pursuing those would have a
18 significant effect. As we've looked at the Charter,
19 it's really challenging to redefine some of those
20 elements within the Charter. Management matters and
21 doing those cooperatively outside would probably have
22 the most effect. Thank you very much, and I'd love
23 to answer any questions you have.

24 CHAIRPERSON BENJAMIN: Sateesh.

2 COMMISSIONER NORI: Thank you all. I
3 know it's a late hour. I appreciate you spending the
4 time with us. Mr. Page, when you started at the OMB,
5 I was three years old. [laughter] So, I fully
6 recognize, and I defer to your wisdom, and the wisdom
7 of everyone else that we've heard from today. You
8 mentioned briefly your view on the Rainy Day Fund.
9 We've heard that recommendation numerous times today.
10 The gist of what I got from your testimony is that we
11 should leave well enough alone. Can you apply that
12 philosophy or that view to the particular
13 recommendation of the Rainy Day Fund? And Professor
14 Shorris, as well. I mean the law of unintended
15 consequences is a great thing to-to-to rely on, but
16 it's a dangerous prohibition on making positive
17 change. Can you apply that-that kind of
18 recommendation, that view to the Rainy Day Fund in
19 particular? Because it's something that I've heard
20 over and over again here today.

21 MARK PAGE: I-I think that the idea of
22 having [coughs] financial management that can
23 stabilize tax burden, and service to the delivery or
24 at least cushion the changes that you inevitably get
25 in economic cycles makes a lot of sense. The thing

2 that has always baffled me, and I've thought about
3 this for a long time, is how are you actually going
4 to formulate standards that are going to make sense
5 and serve in circumstances that you can't predict for
6 when you actually put the money in and when you take
7 the money out, and I—I don't know how you do that. I
8 mean you can say you should have a Rainy Day Fund,
9 but when it really comes down to it, I suspect that
10 each person in this room would formulate the details
11 differently, and each one would be dodgeable, and
12 manipulatable differently depending on the political
13 will at that moment. I mean this Gaap balance thing
14 that we've gotten stuck with is a very crude way of
15 trying to address sustained service basically. The
16 hole the city fell into was as soon as you start
17 spending more then you're taking in, not only are you
18 used to that level of spending, you start owing the
19 stuff that you overspent I the past, and you go on
20 down. The Gaap standard is painful, but it's
21 actually kept us out of that for a really long time,
22 and when you—you can say you should put money aside
23 for the OPED liability. That's a nice idea, but it's
24 a challenged tradeoff because that's an enormous
25 liability facing us. Now, use it as a way of

2 manipulation money off the table and back onto it
3 depending on the politics of the moment. I think
4 that that's the practical way government works and I
5 think to try to exactly formulate your way out of it
6 with words, you know, you hear the story about the
7 U.S. Army Standards for your basic percolator, which
8 means it costs \$125 when you can go around the corner
9 at the hardware store and get it for \$12.95. I think
10 that you—you can trip yourself up in words and
11 process procurement. You know, angels save us from
12 hazards, too. I just think we can work better,
13 people who have been trying forever. It just—I—I
14 don't think the concept is bad. I just don't know
15 how you fluently hit to save us from lack of
16 foresight, for instance. I mean lack of foresight,
17 that's a huge problem, but you're really going to
18 rescue it by coming up with, you know, the 11th
19 Commandment in a form that's going to work. I—I
20 don't know how you do it.

21 TONY SHORRIS: [off mic] So, I don't—

22 CHAIRPERSON BENJAMIN: [interposing]

23 Microphone, you got to--

24 TONY SHORRIS: [on mic] Hey. [coughs] So,

25 I didn't mean in—in the notion of being—raising the

2 notion that if I had any consequences to believe that
3 meant don't make any changes ever. I would never
4 argue that. That's not a law to counsel. That's all
5 it is, and it—it argues for some modesty in our
6 ability to do that. Mark's caution is well placed.
7 We've all been the budget manipulation business at
8 various points in our lives, and have found—they're
9 not marked I'm sure, but others—others may have been,
10 and have found ways around all of these. Now, that's
11 not to say there—there are states with Rainy Day
12 Funds. There are states that have them where they
13 worked well. There are states where they have worked
14 less well. I don't mean to diminish anybody's
15 ability to put forward one that might be the best
16 operational, and by the way, we could make a mistake
17 and we could fix it, right. It's not also beyond our
18 capacity to do that. The principle I think is
19 strong, and I don't think anything in Mark's caution
20 would say it's not the right principle. The question
21 is: Can we execute against the principle in a way
22 that isn't self-defeating? So, I would urge on the
23 Rainy Day Fund, which I—I, too, believe is a sound
24 underlying concept is that we be extremely cautious
25 about it, and that we avoid perhaps getting to deep

2 into detail as if detail will protect us. The reason
3 we have 3,000 sections in the City Charter that it's
4 350 pages long is the effort of people before us to
5 use words to protect themselves against futures they
6 could not imagine and it never works. The New York
7 State Constitution is 45 pages long. I won't even
8 bring up the national Constitution. There's no reason
9 why it should look like this. It's just because too
10 many people tried to protect against the future
11 through language that they—that wasn't sufficient.
12 So, there may be approaches given that caution that
13 was good, and I'd support them.

14 CHAIRPERSON BENJAMIN: Okay. Lisette,
15 you're next.

16 COMMISSIONER CAMILO: Thank you.
17 Actually to—to get back to me a little bit on the
18 unintended consequences [squawking mic] I was hoping—
19 I know that you mentioned that that should be
20 something that we should take heat on—and—and become—
21 -

22 TONY SHORRIS: That what? I'm sorry.

23 COMMISSIONER CAMILO: That we should be
24 modest in our approach to the work that we're doing.
25 But there have been a number of proposals that we've

2 discussed today that particularly talk about budget
3 and finance. Are there any specific proposals that—
4 that you're aware of that we should be mindful in
5 particular of unintended consequences?

6 TONY SHORRIS: [off mic] Yes. I mean I
7 could be like cautious [on mic] about attempting to
8 use the Charter to negotiate to interfere in the
9 budgetary negotiation between Council and Mayor. I—I
10 do think the whole units of appropriation
11 conversation is more obscure to most people than it
12 is actually substantive. It's fundamentally if you
13 pull all the way back, the city has one of the
14 highest credit ratings in the country. It's one of
15 the most financially sound municipalities in the
16 country. It's not weakened by its current budgetary
17 structure. If anything, it's a pretty strong one.
18 There are improvements to be made, as we just talked
19 about one the Rainy Day Fund, but I'd be—I would be
20 cautious about that. Similarly, I'd be very cautious
21 about the impoundment issue. This is a particular
22 issue to all the things I just raised, financial
23 crashes, the natural disasters, terrorism attacks.
24 Those are exactly the reasons you have impoundments
25 in place. If they're used excessively by an

2 executive, there are punishments available both in
3 the next budgetary cycle with a Council that could
4 exact its own punishment, and ultimately there's
5 electoral punishment. So, I-I think exec (sic) it is
6 that we've had conservator mayors and aggressive
7 mayors over the years since the Financial Crisis that
8 Mark talked about. Some of those things I'm sure I
9 will disagree with, but fundamentally have they
10 weakened the city or derailed public policy in a
11 meaningful way? It makes for bad tabloid story here
12 or there, but they're not fundamentally important.
13 What is fundamentally important is rapid response to
14 exigencies that we can't forecast or control.

15 CHAIRPERSON BENJAMIN: Did you want to
16 add something?

17 MARK PAGE: Yeah. I-I-I think that, you
18 know, be generous on a great time, but just one
19 further observation. The standards that we have in
20 place that have worked for us that credit rating
21 issues for New York City it literally took us decades
22 to get out of the instant reaction from 1975 that you
23 screwed me, and this from rating agencies as well as
24 investors, and—and I'm not going to let you get away
25 with it for a long time. And we've now—we've flipped

2 the other way. They actually believe in this, and I
3 just think you want to be very careful how you rock
4 the sort of basic. This--this Gaap balance standard
5 is a nightmare to figure out how to housekeep around,
6 but it is actually given a surprising value over
7 time.

8 CHAIRPERSON BENJAMIN: Merryl and then
9 Sal, Jim, Steve then Carl.

10 COMMISSIONER TISCH: So, I have a question
11 for Andy. One of the proposals that you have is
12 about a health fund, right?

13 ANDREW REIN: Yes, we have it.

14 COMMISSIONER TISCH: One of the proposals
15 from CBC is about creating this health fund or-or
16 reserve?

17 ANDREW REIN: It's the Retiree Health
18 Benefits Fund. Yes.

19 COMMISSIONER TISCH: Right. It already
20 exists, right. So, I'm trying to understand exactly
21 what you mean.

22 ANDREW REIN: So, right now the fund is
23 enacted in law and is not in the Charter. Because of
24 the requirements in law and flexibility of those
25 requirements, it can be used to--as a Rainy Day Fund.

2 What we're proposing is to put it in the Charter
3 mandating the deposit to equal either the pay as you
4 go cost, which is on an annual basis or a little
5 more. So, you start building up over time, and then
6 the only thing you could—and requiring that deposit
7 every year, and then you could only use it as it is
8 now to pay the annual cost of the Retiree Health and
9 Welfare benefits. What would happen in this proposal
10 is that you couldn't use it as a Rainy Day Fund
11 because of that mandated deposit. How it has been
12 used in the past is if you—if you need some money,
13 you don't put the rainy—you don't put in the deposit,
14 you just spend the money.

15 COMMISSIONER TISCH: So, I'll go to Mr.
16 Page's point. Let me ask you. So, I sat through a
17 Citizens Budget Commission meeting a couple of years
18 ago when I think it was Mr. Lynn came in and gave us—
19 maybe Dean was there—gave us a whole story about all
20 of those savings that we were going to have as a
21 result of the renegotiated union contracts and health
22 fund. Those didn't—I don't think those materialize
23 for a variety of reasons. Would you be able to then
24 use the Rainy Day Fund if you had real parameters?

2 ANDREW REIN: They're--they're two
3 separate parts.

4 COMMISSIONER TISCH: [interposing] I
5 think you're all confused.

6 ANDREW REIN: Yeah. No, they're two
7 separate parts. This is about the Retiree Health
8 Plan Benefits Fund--

9 COMMISSIONER TISCH: [interposing] Yes.

10 ANTHONY REIN: --which are especially
11 generous in New York. Those savings and--and Tony who
12 was probably part of that can speak to us. Those
13 savings were for regular health benefits, and they
14 were negotiated over time and many of those savings
15 were realized.

16 COMMISSIONER TISCH: They were realized?

17 ANTHONY REIN: Many of--may of them--

18 COUNCIL MEMBER TISCH: [interposing] I
19 heard they Mayor did. (sic)

20 ANTHONY REIN: --and we can have a
21 discussion about how they were realize, but many of
22 those were realized.

23 COUNCIL MEMBER TISCH: Really. Okay,
24 okay, okay you understand my confusion. Okay.

2 ANTHONY REIN: Yeah, yeah. No, I can
3 understand. Thank you.

4 COUNCIL MEMBER TISCH: You got it, got
5 it. Thank you for the clarification.

6 CHAIRPERSON BENJAMIN: Mark.

7 MARK PAGE: Yes. [muffled audio] To
8 explain the health benefits, we need to fund it on a
9 basis comparable to the way the city funds its
10 pensions. [clear audio] is an enormous liability to
11 take on, and you just have to keep in mind that for
12 each thing you pay for you don't pay for someone
13 else—for something else or you raise taxes, and it's
14 just— I mean, there's always tension in terms of
15 you'd—you'd like to spend more than you've got, and
16 is that—is that where you want to put it? Maybe you
17 should but it's—but it's a hand (sic) number.

18 COUNCIL MEMBER TISCH: I thank you for
19 that.

20 CHAIRPERSON BENJAMIN: Sal. Oh.

21 ANTHONY REIN: [interposing] Can I
22 qualify that?

23 CHAIRPERSON BENJAMIN: Yes. [buzzing
24 audio/[audio clear]

2 ANTHONY REIN: We were proposing to
3 require the deposit to be as the pay-go amount and
4 not-nothing more than that, which I understand
5 Mark's-Mark's point. Since we have \$104 billion
6 liability to actually fund that like the pensions
7 would add \$2 billion a year of spending. We're
8 actually are you talking about depositing the amount
9 that we really do spend now.

10 CHAIRPERSON BENJAMIN: [off mic] Thank
11 you for qualifying that.

12 ANTHONY REIN: Yes. Thank you.

13 CHAIRPERSON BENJAMIN: Okay, Sal.

14 [distorted mic]

15 COMMISSIONER ALBANESE: I'm telling you
16 that this-you-[mic clear] I-I share your view that we
17 should be monitoring and reviewing the Charter on a
18 regular basis. Things change all the time. Are you
19 recommending that we include that in the Charter
20 where a periodic review kind of mandating that the
21 city looks at this maybe once every two years or once
22 every three years?

23 CHAIRPERSON BENJAMIN: Once very 30
24 years.

25 COMMISSIONER ALBANESE: No.

2 ANTHONY REIN: Well, the—the State
3 Constitution requires that the periodic question as
4 to whether there will be a state constitutional
5 gathering every 10 years I believe it is on the state
6 side. So, I don't—I actually don't think that's a
7 bad idea to require a regular one. We tend to—I
8 don't know if that would preclude would preclude the
9 periodic additional ones that we have had and have
10 for various reasons, but the notion of a step back
11 periodically I don't think is a bad idea for any-any
12 body like that, and I don't think the stat's notion
13 is a bad one. If we haven't done it, we passed this
14 last time at the state level. I think we're too
15 afraid to tinker with it, and it's complicated and
16 political and all that. But I think if you're going
17 to address these kinds of questions that I'm raising,
18 I don't think it's unhealthy or the exercise you're
19 going through now, but I do think if you're going to
20 do it, then it should be a comprehensive one, and
21 whether or not you want a 350-page Charter I think
22 actually is a fair question to pose.

23 COMMISSIONER ALBANESE: So, in other
24 words, setting a—a floor to—and then including in the
25 Charter that we review it on a regular basis, and it

2 doesn't preclude the--the Mayor or someone else
3 calling for Charter review?

4 ANTHONY REIN: I mean it's at least a
5 thought for your consideration.

6 CHAIRPERSON BENJAMIN: Jim.

7 COMMISSIONER CARAS: Thank you all.

8 Mark, do--do you know if during your tenure at OMB
9 they ever took the position that the Council could
10 either subdivide or unilaterally create new units of
11 appropriation.

12 MARK PAGE: I don't know. I think as a
13 practical matter it has happened. This is certainly
14 not at a gross level, and whether it's--it's an
15 explicit rate, I guess--I would guess no because it
16 hasn't really happened, but beyond that, I don't
17 know.

18 COUNCIL MEMBER CARAS: So, you know, I
19 mean I'm--I'm trying to get at this notion that agency
20 budgets shouldn't be a single unit of appropriation.
21 It's sort of all their programs and--and--and anything
22 else. You know, some of them are literally and other
23 things or other supplied materials. In the '89
24 Charter Commission, they had said during the course
25 of the--of actually voting on some of the budget

2 provisions that there would be a transitional
3 provision that required the Mayor to submit a new
4 scheme of units of appropriation prior to the first
5 Preliminary Budget, and that the Council and the
6 Mayor would have to somehow negotiate those out into
7 the types of units of appropriation they were talking
8 about, which they clearly envisioned to be smaller
9 than what they currently are now. If-if-I-I know
10 there's been a lot of concern expressed about, you
11 know, trying to change the words of the Charter, what
12 would you all think if we forced that to happen in
13 the Charter? [pause]

14 MARK PAGE: I think there's a whole lot
15 to be said about the raising the money to the
16 program, and the affect on how best to do it. I
17 think that one of the-I mean generally they've
18 expressed regardless of the need to get more detail.
19 I think there needs to be more thought about what
20 information is actually telling because it's very
21 easy to drown in details, and New York City has an
22 enormous complicated service agenda, multi-faceted,
23 vast amounts of money, and I don't think that just
24 detail is the answer, and I think that-I mean it
25 would be great to do a comprehensive job. This is a

2 huge job. If you could see how—figure out how to
3 step into it progressively I mean that would be—

4 FEMALE SPEAKER: You or a capital P.

5 MARK PAGE: I'm a small P, which could be
6 a capital P. I mean so it is possible. One hopes
7 for progress in the world. I just—I—I—I think that
8 part of the reason that section--and it's already in
9 the Charter--hasn't been implemented, is that it's--
10 it's moon-breaking, you know, cloud shapes for next
11 week or something. It—it gets to a point where the
12 concept is great, but it's so difficult to get from
13 here to there in the iterations and still get the
14 daily business done that it—that it defeats itself,
15 and it—to me it's—it's, you know, trying to figure
16 out some practical housekeeping but not trying to
17 reform—well not trying to bite off more than you
18 would chew because it won't happen.

19 CHAIRPERSON BENJAMIN: Uh-hm.

20 MARK PAGE: I'm sorry.

21 CHAIRPERSON BENJAMIN: Steve.

22 COMMISSIONER FIALA: Thank you. I have
23 two questions. The first for—for Mr. Rein. Do you—?
24 I'll ask the question first, and then you guys can
25 answer. The second is for the First Deputy Mayor and

2 then Director Page. The first question relates to
3 your testimony. You offered a proposal that at least
4 I heard involved reforming the role of the borough
5 presidents in the budget process and changing the 5%
6 formula. If you wouldn't mind expanding on that
7 issue, and the question—I'll just pose the question
8 some then you can get right into it, the First Deputy
9 Mayor and-and Director. Deputy Mayor, you—you talked
10 about unintended consequences helping to inform and
11 to frame our-our discussion here. I'd be curious to
12 know your thoughts and the Director's thoughts on the
13 unintended consequences that would come when it
14 showed the Charter mandated fixed independent budget
15 for let's say the Public Advocate, the borough
16 presidents and the CC or the Civilian Complaint
17 Review Board? And Mr. Rein.

18 ANTHONY REIN: So, the Capital Budget
19 should be-is-is-is best determined by a comprehensive
20 needs assessment--and we've discussed that over
21 tonight--indirect from community needs, and then
22 allocation to address all those needs based on-based
23 on both the needs in the capital assets and the needs
24 of communities. We think that the borough presidents
25 are well situated to identify the needs on a borough

2 basis. Of course, the Council members also have
3 their role, and they assess the needs on a Council
4 district basis. The borough presidents are in an
5 ideal position to advise the Mayor and advise the
6 Council on those needs. The challenge is with five-
7 person borough allocation, basically it siphons off
8 some of the funds that could be allocated through the
9 budget process like the rest of monies on the Expense
10 Budget is allocated through the budget process. By
11 not having the full pot at their disposal, it's not
12 necessarily going to be allocated to the needs that
13 they have identified in the capital assets in the
14 communities. So, we think that the central
15 allocation is the best, efficient and effective way
16 to do that, but with the input from the borough
17 presidents.

18 COMMISSIONER FIALA: If you—if your
19 organization wouldn't mind providing maybe some
20 language, my interpretation and I've been wrestling
21 with this particular issue for about 25 years,
22 believe it or not. Borough presidents—opponents of
23 this would argue they already have it. They can
24 already suggest a lot of things for that.

25 ANTHONY REIN: Yes, but you—you

2 COMMISSIONER FIALA: You talked about
3 linking into a form of the five percent. So, if you
4 have any specific language that you could forward to
5 the Charter Revision Commission, I think--

6 ANTHONY REIN: So, we'll it. We
7 certainly will--will follow up.

8 COMMISSIONER FIALA: Thank you.

9 TONY SHORRIS: So, I--I am as a general
10 rule no in favor of fixed allocations for any part of
11 the budget. I think for the very reasons I describe:
12 Changes in technology may change the nature of the
13 mission, and the nature of the way they execute
14 against any of their functions. A fixed percentage
15 fixed today might very well look different depending
16 on how those offices operate in the future. That
17 could pertain to anything from their office space and
18 their materials to their computers they use to the--
19 The second thing is the fiscal context obviously can
20 change, and whether or not we believe that that fixed
21 percentage makes sense in any fiscal context Mark
22 lived through, I lived right after a very severe
23 fiscal problem that the city ran into. I'd be very
24 cautious about locking us into any fixed allocation
25 given what that could be, and obviously, we've all

2 lived through the post-9/11, 2008 and so on. So, I
3 generally think that's not sound principle, and
4 frankly as a practical matter, although again on the
5 margin and during those long nights we sometimes have
6 there's a lot of fussing on the margin about some of
7 these. I don't think any major governmental function
8 has been impaired in the course of the last 20 or 30
9 years based on that--what that would intend to
10 address. So, I don't think it's necessary, and I
11 think the razor here should be for changing, it
12 should be addressing a clear problem that we know we
13 have, and it should be robust in any circumstance,
14 and it should be subject to change. I don't think it
15 meets those tests.

16 COMMISSIONER FIALA: Thank you.

17 CHAIRPERSON BENJAMIN: Carl.

18 COMMISSIONER FIALA: Director.

19 CHAIRPERSON BENJAMIN: Oh, I'm sorry.

20 COMMISSIONER FIALA: He's not--they--they--I
21 basically agree with Tony. I think that when you put
22 in--when you get--take in the Charter a formula for
23 resource allocation, you are saying I now know that
24 this is the priority of this purpose, and I know
25 better than future government. And, you know, you

2 may have opinions about good or bad in the future for
3 how a government is going to go, but ultimately it's
4 what we rely on. It's—it's how you replace thinking
5 and keep the thinking going to meet circumstances as
6 they come up, and I don't think you're supposed to
7 try to prevent that structurally any more than you
8 can possibly avoid, and I think that the—the budget
9 percentages should be avoidable. I think you still
10 have to pay debt service and things like that.

11 COMMISSIONER FIALA: Thank you all.

12 CHAIRPERSON BENJAMIN: Hello. Sorry.
13 Carl and then Paula.

14 COMMISSIONER GAVIN: Yes.

15 COMMISSIONER WEISBROD: So, I have the—so
16 the more fundamental question about just going to Ms.
17 Goldstein's testimony, where if I understand it
18 basically, she advocates for I think three things:
19 (1) A much closer tie between the Capital Budget and
20 (2) Land Use Planning to a decided shift in values
21 with respect to the Capital Budget, and (3) while I
22 recognize that this is always a matter to agree and
23 not of time, a—a basic fundament shift from a more
24 centralized Capital Budget planning to a more ground-
25 up Capital Budget planning, and so I would as you,

2 Mr. Page and Professor Shorris—I love saying
3 Professor Shorris. It gives great—

4 TONY SHORRIS: It doesn't come cheap. I
5 know it, and it's good.

6 COMMISSIONER WEISBROD: What—your—as—as—
7 as two people have put together the Capital Budget
8 repeatedly, what your—what your sense of that is and—
9 and what is in your view the appropriate balance
10 between what should done at a city—central city
11 level, and what should be done from the ground up?
12 Well, you're smiling? Do—so—

13 TONY SHORRIS: I—I hope I represented
14 your views reasonably fairly.

15 EMILY GOLDSTEIN: Can I comment? It—it
16 was reasonably fairly. I would clarify that I—I
17 think the—so, certainly what—yes, I think you
18 represent—represented it reasonably fairly, but to be
19 clear, the—the primary piece that's happen at the
20 local level is the needs assessment, right? And so,
21 there will then be a city level process to look at
22 right, the 59—like to—to assess all of those versus
23 the borough level than at the citywide level, and to—
24 to look at how to balance citywide and local needs
25 and—and of that, and then still have ultimately a

2 centralized budgeting process, but that would have a
3 more clear response to and direction from the locally
4 and far needs. (sic)

5 COMMISSIONER GAVIN: Okay, what of age
6 before beauty. [laughter]

7 MALE SPEAKER: Yes. [laughter]

8 COMMISSIONER WEISBROD: Okay, now how-how
9 do you-how do you-how do you allocate capital
10 resources? How do you balance what you allocate in
11 capital and pay for it over a period of time versus
12 what you're paying for currently, and if you're
13 always intentioned between everything you want to pay
14 for? I mean would you like, you know, a more-I know,
15 better Parks payments or better Social Services or
16 what have you in capital? And you went up against
17 this thing the-you can get credit for the ribbon
18 cutting and you want to bring it on for the next 29
19 years while the taxpayers pay for it, and if you
20 think about that in terms of grown-up development of
21 program, I agree that figuring out the need from the
22 ground up. It's-it's an important factor, but how do
23 you edit for the-the glory when it opens, so it's
24 nice having a new school versus the long-term burden
25 and the sort of less popular stuff of, you know, that

2 some road is just going to permanently collapse or
3 which—which—I mean we're all interested in it, but
4 it's nobody's particular baby. A lot of the capital
5 needs and do you—how do you protect those interests
6 and should balance that against—there is a role for a
7 certain amount of ribbon cutting as well, quite
8 honestly. It's—it's part of sort of what makes
9 people happy about the places, to have something new
10 now and then. How do you weigh those things against
11 each other, necessarily (sic) and politically in a
12 small piece.(sic)

13 TONY SHORRIS: So, look, I—I don't—I
14 think it's hard to argue with the notion that there
15 should be a better connection between infrastructure
16 and the planning for the city. We've all gone around
17 on ways to do that. I think we're imperfect on that
18 and can do a better job. Whether it's a Charter
19 question, however, for me one I want to be very
20 careful about. This is again an area partly of
21 unintended consequences and partly of meaningless
22 gesture. Too many cities have plans that make some
23 nod in that direction. You look at Seattle has a
24 plan, right? It's 650 pages. It has 300 planning
25 principles incorporated in it. Everybody feels

2 better when it's done because everyone can find their
3 planning principle in it. It's actually meaningless
4 because all the individual decisions still have to be
5 made. It's not—it's not a terrible notion. We all
6 would have a good time putting all our principles
7 down on paper, but at the end of the day, they can be
8 with each other and somebody makes a judgment s to
9 how to weigh them. I don't think you can take that
10 judgment away, and I don't think amending the Charter
11 in some way to automate that is actually a meaningful
12 exercise. I do think ways to encourage community
13 participation in more meaningful ways than we have
14 it, and this is where one other factor I just want to
15 put on the table I think is important. Just like I
16 mentioned paralysis is not a neutral in the sense
17 that it tends to leave power in the hands of the
18 powerful, complexity is also not neutral, and if we
19 make things too complicated, then what we're doing is
20 we're locking out the people without access to the
21 complexity. That's what the entire legal system is,
22 is locking out people who don't have access to
23 counsel and so on to what the tax system does by
24 rewarding people who know how to manipulate, and in
25 may ways it's what land use system does, is it

2 rewards the people who know how to gain that. And
3 our increasing complexity to that system is something
4 we should be very careful about because it locks
5 people out of participation except for those who are
6 powerful enough to afford access to the tools. So, I
7 do believe we need more participation. One of the
8 ways I think we could foster that is simplifying and
9 opening up and reducing. That's why I don't think
10 300 principles of planning is a helpful way to
11 encourage that as Seattle has done. I think actually
12 slimmer, clearer, more fixed processes that everybody
13 can understand is a better way to get people to
14 participate. So—

15 CHAIRPERSON BENJAMIN: Which one do you
16 think should do that?

17 TONY SHORRIS: You mean?

18 CHAIRPERSON BENJAMIN: If not a Charter
19 revision, who—who do you think does that?

20 TONY SHORRIS: I think that's—first of
21 all, some of it can be Local Law. I don't think it
22 can't be done through Local Law, but I think these
23 are complicated mechanisms that the executive is
24 going to have a prime role in the execution of.
25 That's what executives do is execute. I think a

2 Charter or even a Local Law could set objectives and
3 policies and instruct the executive on what it wants
4 to see accomplished, but coming up with pages of
5 process and rule particularly in a Charter that's
6 already filled with more junk than anybody can ever
7 imagine. That's where I would want to be careful.

8 CHAIRPERSON BENJAMIN: Paula. Oh, I'm
9 sorry.

10 COMMISSIONER WEISBROD: I think that
11 it's—its part of this thing trying to figure out
12 what—what are the fewer significant issues that you
13 want to highlight, you know, in presenting what
14 you're doing as a budget matter, capital. What are
15 you actually doing? What are the costs and
16 consequences of it? If you could actually spend the
17 time and thought to answer those questions, and then
18 figure out how to express them in a way that the
19 general public could actually absorb, I think that
20 you would have done yourself a tremendous favor.
21 It's hard do formulate, and truly I think it is as—as
22 Tony has been saying at the Charter level in detail
23 how to do it, but there's been a lot of talk this
24 evening about sort of clear expression of—of what
25 you're getting for your money, and by the way, you et

2 things-- I mean money is good, but money doesn't
3 necessarily do it. I mean writing a check is great,
4 but the execution needs to be in there, too,
5 somewhere. And again, how--how do you--how do you get
6 started? How do you--how do you make--how do you make
7 steps because if--if you're going to collect it
8 between now and June, you're not.

9 ANTHONY REIN: May I just add to this
10 discussion just briefly. We struggled and had a lot
11 of discursion about whether having a resident survey
12 was a Charter--was appropriate for the Charter, and
13 when we looked at the duties, powers, obligations,
14 the Citizens were not necessarily fairly represented,
15 and we thought--getting to Tony's point--look, what
16 was going to be the way in a egalitarian democratic
17 statistically significant at the neighborhood level
18 way, and the city did the survey once and we did a
19 survey that certainly could be expanded to capital.
20 We talked about quality of life and services and tie
21 in the MMR, and you'll see it in our proposal, but
22 there really is an important citizen roll, and it's
23 important to get at it if it's going to be in the
24 Charter in a mean way that is democratic and--and
25 really represents everyone.

2 COMMISSIONER WEISBROD: Thank you.

3 COMMISSIONER GAVIN: [off mic] It's a
4 powerful thing. (sic) I mean and I appreciate all
5 this discussion. I—I think the piece that needs to
6 be in there, though, is not just—is that the
7 information goes in. If that has to come back out,
8 right, and come back out in a way that people see it
9 reflected. So, whether it's a survey, whether—like
10 whatever the specific methodology, and I'm happy to
11 think through option, and whatever the aspects of the
12 process that go in the charter versus, right, it
13 commanded that that whole process be done, and then
14 the details get sorted out later. I think—I
15 appreciate the—the agreements it seems on the —the
16 need to really do the Needs Assessment piece more
17 thoroughly and at that local level. The thing I hear
18 often as a criticism of what currently exists is that
19 there's a million hearings, right, and then most
20 people do not see anything they say or anything their
21 neighbors say reflected in the outcomes, and whether
22 everyone agrees that it's their criticisms. But like
23 that is how the majority of people feel, and I think
24 it goes to your point those who are not particularly
25 powerful are not well served by the current process.

2 And so I think that goes for land use and I think it
3 goes for the corresponding budgeting aspect as well.

4 CHAIRPERSON BENJAMIN: Anyone else? Then
5 I thank you and hope that we can continue to talk
6 with you about little ideas that may be will
7 percolate now or in the future, or little ideas or
8 big ideas that you have that are percolating, and
9 would help us in determinations or in how we look at
10 it, and I thank you for being a part of our panel
11 tonight and for being a part of our increase in
12 knowledge and thought, and with that, you're free to
13 flee. [laughter]

14 COMMISSIONER: May I make a motion to
15 adjourn, Madam Chair.

16 CHAIRPERSON BENJAMIN: You may make a
17 motion if somebody would like to second it.

18 COMMISSIONER GAVIN: Second.

19 COMMISSIONER NORI: Second.

20 CHAIRPERSON BENJAMIN: Discussion?

21 CHAIRPERSON BENJAMIN: I think I'd like
22 to discuss it. [laughs] All in favor.

23 COMMISSIONERS: [in unison] Aye.

24 CHAIRPERSON BENJAMIN: Opposed? This
25 meeting is adjourned?

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date April 8, 2019