



**Post-Election Report,  
Prepared by the Staff of the  
2019 New York City  
Charter Revision Commission**

**December 31, 2019**

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## **About the Commission and This Post-Election Report**

The 2019 Charter Revision Commission (Commission) was created by Local Law 91 of 2018, which was passed by the New York City Council on April 11, 2018 and approved by the Mayor on April 30, 2018. The Commission consisted of 15 members appointed by nine separate elected officials: four members were appointed by the Mayor, four by the Speaker of the Council, and one each by the Comptroller, the Public Advocate, and the five Borough Presidents. This was the first charter revision commission in the City's history that was not either entirely appointed by the Mayor or appointed at the direction of the State Legislature. The Commission had not only the benefit of the wealth of City government experience amongst its members,<sup>1</sup> but also hearing different and unique viewpoints from all branches of the City's local government.

Throughout the course of its work which began in the Summer of 2018, the Commission conducted an extensive public engagement process and outreach effort throughout the City, both in person and through online platforms. The Commission held 23 public meetings and hearings throughout each of the boroughs, listening to and considering testimony from hundreds of members of the public, current and former City officials, experts (both local and across the country), community-based organizations, good government groups and other interested stakeholders. It received hundreds of ideas and proposals, adopted criteria to narrow the set of ideas and proposals for further study, and sought and received feedback and testimony from not only the public but also noted experts in the specific areas which advanced throughout the process.<sup>2</sup>

Ultimately, on July 24, 2019, the Commission voted to place five questions on the November 2019 ballot addressing the areas of Elections, Police Accountability, Ethics and Governance, City Budget, and Land Use.

This Post-Election Report is intended to inform City policymakers about what the Commission learned in three specific areas that, while not the subject of any of the proposed Charter amendments ultimately approved by the Commission, nonetheless garnered significant interest among members of the Commission: (1) comprehensive planning; (2) democracy vouchers; and (3) the role of the Borough Presidents in local service delivery. It is the Commission's hope that this information will prove helpful to City officials, policymakers, interested stakeholders, or a future charter revision commission that is considering reforms in these areas.

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<sup>1</sup> See 2019 Charter Revision Commission, [Final Report August 2019](#), at 12-16.

<sup>2</sup> See 2019 Charter Revision Commission, [Preliminary Staff Report April 2019](#), at 2-6; 2019 Charter Revision Commission, [Final Report August 2019](#), at 5-11.

## The November 2019 General Election Results

At the general election that occurred on November 5, 2019,<sup>3</sup> the voters of the City of New York adopted amendments to the City Charter that were proposed by the 2019 Charter Revision Commission in the form of five ballot questions in five general areas: Elections, the Civilian Complaint Review Board, Ethics and Governance, the City Budget process, and Land Use. The election results for each ballot question, as certified by the New York City Board of Elections on December 3, 2019, are listed below.<sup>4</sup>

### Ballot Question # 1 – Elections

<b>Total Applicable Ballots</b>	<b>796,253</b>
YES	510,153
NO	182,900
<b>Total Votes</b>	<b>693,053</b>
Unrecorded	103,200

Voters approved the following amendments to the Charter with respect to Elections:

- Give voters the choice of ranking up to five candidates in primary and special elections for Mayor, Public Advocate, Comptroller, Borough President, and City Council, beginning in January 2021. If voters still want to choose just one candidate, they can. A candidate who receives a majority of first-choice votes would win. If there is no majority winner, the last-place candidate would be eliminated and any voter who had that candidate as their top choice would have their vote transferred to their next choice. This process would repeat until only two candidates remain, and the candidate with the most votes then would be the winner. This proposal would eliminate the separate run-off primary elections for Mayor, Public Advocate, and Comptroller (*effective immediately, applicable to primary and special elections beginning January 1, 2021*);
- Extend the time period between the occurrence of a vacancy in an elected City office and when a special election must be held to fill that vacancy. Special elections would generally be held 80 days after the vacancy occurs, instead of 45 days (for Public Advocate, Comptroller, Borough Presidents, and Council Members) or 60 days (for Mayor) (*effective immediately*); and
- Adjust the timeline of the process for drawing City Council district boundaries so that it is completed before City Council candidates start gathering petition signatures to appear on the ballot for the next primary election (*effective immediately*).

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<sup>3</sup> For the first time in New York State history, pursuant to State legislation enacted in January 2019, all New Yorkers were given the opportunity to vote early for the November 5, 2019 general election. This early voting in New York City was administered by the New York City Board of Elections between October 26 and Nov 3, 2019. [See New York State, Early Voting in New York.](#)

<sup>4</sup> Board of Elections in the City of New York, [Election Results Summary.](#)

**Ballot Question # 2 – Civilian Complaint Review Board**

<b>Total Applicable Ballots</b>	<b>796,253</b>
YES	510,949
NO	173,368
<b>Total Votes</b>	<b>684,317</b>
Unrecorded	111,936

Voters approved the following amendments to the Charter with respect to the Civilian Complaint Review Board (CCRB):

- Increase the size of the Civilian Complaint Review Board from 13 to 15 members by adding one member appointed by the Public Advocate and adding one member jointly appointed by the Mayor and Speaker of the Council who would serve as chair, and provide that the Council directly appoint its CCRB members rather than designate them for the Mayor’s consideration and appointment (*effective March 31, 2020*);
- Require that the CCRB’s annual personnel budget be high enough to fund a CCRB employee headcount equal to 0.65% of the Police Department’s uniformed officer headcount, unless the Mayor makes a written determination that fiscal necessity requires a lower budget amount (*effective immediately, applicable to the Fiscal Year 2021 City budget*);
- Require that the Police Commissioner provide the CCRB with a written explanation when the Police Commissioner intends to depart or has departed from discipline recommended by the CCRB or by the Police Department Deputy (or Assistant Deputy) Commissioner of Trials (*effective immediately*);
- Allow the CCRB to investigate the truthfulness of any material statement that is made within the course of the CCRB’s investigation or the resolution of a complaint by a police officer who is the subject of that complaint, and recommend discipline against the police officer where appropriate (*effective March 31, 2020*); and
- Allow the CCRB members, by a majority vote, to delegate the board’s power to issue and seek enforcement of subpoenas to compel the attendance of witnesses and the production of records for its investigations to the CCRB Executive Director (*effective March 31, 2020*).

### **Ballot Question # 3 – Ethics and Governance**

<b>Total Applicable Ballots</b>	<b>796,253</b>
YES	520,656
NO	151,271
<b>Total Votes</b>	<b>671,927</b>
Unrecorded	124,326

Voters approved the following amendments to the Charter with respect to Ethics and Governance:

- Prohibit City elected officials and senior appointed officials from appearing before the agency (or, in certain cases, the branch of government) they served in for two years after they leave City service, instead of the current one year (*this change would be applicable to persons who leave elected office or City employment after January 1, 2022*);
- Change the membership of the Conflicts of Interest Board (COIB) by replacing two of the members currently appointed by the Mayor with one member appointed by the Comptroller and one member appointed by the Public Advocate (*effective immediately and applicable to new members starting on or after April 1, 2022*);
- Prohibit members of COIB from participating in campaigns for local elected office, and reduce the maximum amount of money that members can contribute in each election cycle to the amounts that candidates can receive from those doing business with the City (\$400 or less, depending on the office) (*effective immediately and applicable to new appointees only*);
- Require that the citywide director of the Minority- and Women-Owned Business Enterprise (M/WBE) program report directly to the Mayor and require further that such director be supported by a mayoral office of M/WBEs (*effective immediately March 31, 2020*); and
- Require that the City’s Corporation Counsel, appointed by the Mayor, also be approved by the City Council (*effective immediately and applicable to new appointees only*).

**Ballot Question # 4 – City Budget**

<b>Total Applicable Ballots</b>	<b>796,253</b>
YES	477,328
NO	193,200
<b>Total Votes</b>	<b>670,528</b>
Unrecorded	125,725

Voters approved the following amendments to the Charter with respect to the City Budget:

- Allow the City to use a revenue stabilization fund, or “rainy day fund,” to save money for use in future years, such as to address unexpected financial hardships. Changes to New York State (State) law will also be needed for this rainy day fund to be usable (*effective immediately, but requires State law change*);
- Set minimum budgets for the Public Advocate and Borough Presidents. The budget for each office would be at least as high as its Fiscal Year 2020 budget adjusted annually by the lesser of the inflation rate or the percentage change in the City’s total expense budget (excluding certain components), unless the Mayor determines that a lower budget is fiscally necessary (*effective immediately, applicable to the Fiscal Year 2021 City budget*);
- Require the Mayor to submit a non-property tax revenue estimate to the City Council by April 26 (instead of June 5). The Mayor may submit an updated estimate after that date, but must explain why the updated estimate is fiscally necessary if the update is submitted after May 25 (*effective immediately, applicable to the Fiscal Year 2021 City budget*); and
- Require that, when the Mayor makes changes to the City’s financial plan that would require a budget modification to implement, the proposed budget modification shall be submitted to the Council within 30 days (*effective July 1, 2020*).

**Ballot Question # 5 – Land Use**

<b>Total Applicable Ballots</b>	<b>796,253</b>
YES	505,926
NO	155,658
<b>Total Votes</b>	<b>661,584</b>
Unrecorded	134,669

Voters approved the following amendments to the Charter with respect to Land Use:

- For projects subject to the Uniform Land Use Review Procedure (ULURP), require the Department of City Planning (DCP) to transmit a detailed project summary to the affected Borough President, Borough Board, and Community Board at least 30 days before the application is certified for public review; and to post that summary on its website (*effective August 31, 2020*); and
- Provide Community Boards with additional time to review ULURP applications certified for public review by DCP between June 1 and July 15, from the current 60-day review period to 90 days for applications certified in June, and to 75 days for applications certified between July 1 and July 15 (*effective immediately*).

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Further information regarding these amendments can be found in the Final Report of the Commission.<sup>5</sup>

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<sup>5</sup> See 2019 Charter Revision Commission, [Final Report August 2019](#).

## Comprehensive Planning for the City

A topic area that garnered substantial public interest and in which the Commission received significant and varied ideas and commentary involves the subjects of “comprehensive” planning, strategic planning, and how the City now facilitates planning. The debate centered on how a City with a population of 8.4 million, projected to grow to more than 9 million by 2040,<sup>6</sup> should plan for its future growth in a fair, equitable, and orderly manner.

### What is “Comprehensive Planning”?

Urban planning professionals use the term “comprehensive plan” to describe a document that articulates long-term development goals related to transportation, utilities, land use, recreation, housing, and other types of infrastructure and services. These goals – which are expressed separately from municipal laws and regulations – are meant to direct legislative and administrative decision-making. Comprehensive plans are used in various places throughout the United States. In some jurisdictions, zoning and land use decisions are required or strongly encouraged to conform with comprehensive plans; in others, comprehensive plans simply serve as general policy guides.

Lawmakers and stakeholders have long debated the merits and drawbacks of comprehensive plans. Some prefer flexible, project-specific planning practices to a single, binding comprehensive plan. When a city is not constrained by a long-term plan, it is free to adjust plans, priorities, and policies according to evolving conditions and needs. Critics of comprehensive planning fear that a binding plan could never be designed to accommodate a large, diverse, and dynamic city. In critics’ view, comprehensive planning requirements stifle effective planning by limiting decision-makers to policies that are out of date as soon as plans are passed. However, other commentators believe that comprehensive planning improves municipal governance, promotes constructive planning, and prevents ad hoc decision-making. Proponents argue that adherence to a unified plan helps allocate necessary growth across a city according to planning principles rather than political or financial incentives.

Proponents of comprehensive planning often disagree among themselves about the ideal structure for a plan. Some advocate a “top-down” approach in which a mayor or city agency sets citywide goals and policies. This type of planning is designed to overcome local resistance to projects and regulations that promote broader goals. Other advocates prefer a “bottom-up” plan rooted in community concerns and priorities. This approach builds a citywide plan on a foundation of local input. Because these two visions of comprehensive planning reflect fundamentally different priorities, it is important for comprehensive planning proposals to clearly articulate which model they are pursuing.

### Planning in New York City

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<sup>7</sup> See State Charter Revision Commission for New York City, A More Efficient and Responsive Municipal Government: Final Report to the Legislature, (Mar. 31, 1977) (“The Charter requirement of an overall Master Plan . . . in 38 years, was never fully implemented, has been replaced in the new Charter by a less ambitious provision for ‘plans for the development, growth, and improvement of the city and of its boroughs and community districts.’ These plans may be as comprehensive as desired and could even include an overall Master Plan if that should ever seem practicable. Such plans now may be initiated not only by the City Planning Commission as formerly, but also by the Mayor and by a Community or Borough Board.”).

A “master plan” for New York City was required under the 1936 Charter; however, this requirement was repealed by referendum through New York State’s 1975 Charter Revision Commission, the cited reason being that such a plan was never adopted (though one was attempted in 1969) and that more flexible procedures would better fit the City’s needs.<sup>7</sup> Today, the City plans through an assortment of nonbinding documents, City initiatives, and amendments to the Zoning Resolution. State law requires that local land use regulation “accord with” a “comprehensive” or “well-considered” plan, but State courts have interpreted this language to require only that a municipality carefully consider community-wide benefits when regulating land use.<sup>8</sup>

The primary mechanism by which the City solicits input from communities and the public regarding individual discretionary land use decisions (e.g., rezoning, special permits, City land dispositions) is the Uniform Land Use Review Procedure (ULURP). Established in the Charter in 1975, ULURP specifies a timeframe and sequence for public review of land use applications by different government actors – Community Boards, Borough Presidents, Borough Boards, the City Planning Commission (CPC), and ultimately, the City Council. A goal of ULURP when it was created was to “give local communities a say in shaping important land use policies without granting them veto power over public welfare; in other words . . . to strengthen, not balkanize, the City’s neighborhoods and communities.”<sup>9</sup> ULURP seeks to achieve this goal with community-level review as the first step in the formal process, while reserving binding authority to the CPC and the City Council. Because ULURP considers individual actions, it is not designed to be a vehicle for holistic planning.

### Existing Charter-Mandated Planning Documents

The Charter establishes no fewer than 11 separate kinds of planning documents that could fairly be considered part of a “strategic” or “comprehensive” plan for the City.<sup>10</sup> But the Charter does

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<sup>7</sup> See State Charter Revision Commission for New York City, A More Efficient and Responsive Municipal Government: Final Report to the Legislature, (Mar. 31, 1977) (“The Charter requirement of an overall Master Plan . . . in 38 years, was never fully implemented, has been replaced in the new Charter by a less ambitious provision for ‘plans for the development, growth, and improvement of the city and of its boroughs and community districts.’ These plans may be as comprehensive as desired and could even include an overall Master Plan if that should ever seem practicable. Such plans now may be initiated not only by the City Planning Commission as formerly, but also by the Mayor and by a Community or Borough Board.”).

<sup>8</sup> See, e.g., *Asian Americans for Equality v. Koch*, 72 N.Y.2d 121, 131 (1988) (“A well-considered plan need not be contained in a single document; indeed, it need not be written at all.”).

<sup>9</sup> “Planning for Land Use: Recommendations,” State Charter Revision for New York City, 3 (Mar. 26, 1975).

<sup>10</sup> Prior to 2012, another planning document was required under the Charter. Known as the “Zoning and Planning Report” (ZPR) and required to be prepared every four years, its task was to describe the CPC’s “planning policy” and to include all significant plans and studies by the planning department in the preceding four years. It was also required to analyze zoning resolution and those parts merited review in light of the CPC’s planning policy, together with proposals for implementing that policy. See N.Y. City Charter § 192(f). On November 19, 2012, the Report and Advisory Board Review Commission (RABR Commission), acting pursuant to Charter § 1113, voted to “waive” the requirement that a ZPR be developed, finding it duplicative of other planning documents (e.g., PlaNYC required under Local Law 17 of 2008). Pursuant to Charter § 1113(d)(4) and (5), if the City Council does not, within 100 days of any given RABR Commission waiver of a report, vote to disapprove the waiver, then the impacted report is deemed no longer required. It does not appear that the City Council took any action with respect to this report; therefore, Commission staff believes that the ZPR is no longer required.

not always make clear how (and whether) these plans are intended to fit together, what they must address, how they relate to one another, how progress (or lack thereof) toward their goals is measured and assessed, and how the public can affect the content of these plans (if at all).

The Charter-required plans and similar documents are described below:

### ***Borough Strategic Policy Statements (Borough SPS)***

- **Summary:** Each Borough Strategic Policy Statement must include “(i) a summary of the most significant long-term issues faced by the borough; (ii) policy goals related to such issues; and (iii) proposed strategies for meeting such goals.”<sup>11</sup>
- **Process/Timing:**
  - By September 1 in every fourth year (next occurring in 2022), each Borough President must submit a Borough SPS to the Mayor, City Council, and Community Boards in the borough.<sup>12</sup> Each Borough President must “consult” with the Community Boards in the Borough President’s borough when preparing the Borough SPS.<sup>13</sup>
- **Progress/Success Indicators:** None specified in the Charter.
- **Affects the Following Plans:**
  - City Strategic Policy Statement
  - Ten-Year Capital Strategy
  - Zoning and Planning Report
  - Community development plans approved under Charter § 197-a (197-a plans)
- **Affected by the Following Plans:** None specified in the Charter.

### ***City Strategic Policy Statement***

- **Summary:** The City Strategic Policy Statement must include “(i) a summary of the most significant long-term issues faced by the city; (ii) policy goals related to such issues; and (iii) proposed strategies for meeting such goals.”<sup>14</sup>
- **Process/Timing:**
  - By November 15 in every fourth year (next occurring in 2022), the Mayor must submit a “preliminary” City Strategic Policy Statement to the Borough Presidents, City Council, and Community Boards.<sup>15</sup> While preparing this preliminary plan, the Mayor must “consider” each Borough SPS.<sup>16</sup>
  - By the start of the following February (about two and a half months after submission of the preliminary City Strategic Policy Statement), the Mayor must submit a “final” City Strategic Policy Statement to the Borough Presidents, City Council, and Community Boards.<sup>17</sup> This final statement must include revisions as

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<sup>11</sup> Charter § 82(14).

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> Charter § 17(a).

<sup>16</sup> Id.

<sup>17</sup> Charter § 17(b).

the Mayor deems appropriate after reviewing the comments received on the preliminary statement.<sup>18</sup>

- The Department of City Planning (DCP) is responsible for assisting the Mayor in developing the preliminary and final City Strategic Policy Statements.<sup>19</sup>
- **Progress/Success Indicators:** None specified in the Charter.
- **Affects the Following Plans:**
  - Ten-Year Capital Strategy
  - Zoning and Planning Report
  - 197-a plans
- **Affected by the Following Plans:**
  - Borough SPSs

### *Ten-Year Capital Strategy*

- **Summary:** The Ten-Year Capital Strategy must include “(1) a narrative describing the strategy for the developing of the city’s capital facilities for the ensuing ten years; the factors underlying such strategy including goals, policies, constraints and assumptions and the criteria for assessment of capital needs; the anticipated sources of financing for such strategy; and the implications of the strategy, including possible economic, social and environmental effects; (2) tables presenting the capital commitments estimated to be made during each of the ensuing ten fiscal years, by program category and agency. Where relevant the anticipated sources of financing for particular categories and projects shall be specified; and (3) a map or maps which illustrate major components of the strategy as relevant.”<sup>20</sup>
- **Process/Timing:**
  - By November 1 in every even-numbered year, the Office of Management and Budget and the DCP must submit to the Mayor, City Council, Borough Presidents, and the CPC a draft Ten-Year Capital Strategy.<sup>21</sup>
  - By the following January 16, the CPC must hold a public hearing on the draft Ten-Year Capital Strategy and submit its comments and recommendations to the Mayor, Borough Presidents, and City Council.<sup>22</sup>
  - By the following March 25, relevant City Council committees must, as part of their budget oversight hearings, hold hearings on the draft Ten-Year Capital Strategy and the City Council must submit its recommendations to the Mayor.<sup>23</sup>
  - By the following April 26, the Mayor must publish the final Ten-Year Capital Strategy.<sup>24</sup>
- **Progress/Success Indicators:** None specified in the Charter.
- **Affects the Following Plans:**

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<sup>18</sup> Id.

<sup>19</sup> Charter § 191(a)(6).

<sup>20</sup> Charter § 215(b).

<sup>21</sup> Charter § 228.

<sup>22</sup> Charter § 234.

<sup>23</sup> Charter § 247. Presumably, in years that do not require a new draft Ten-Year Capital Strategy, these hearings are not required.

<sup>24</sup> Charter § 248.

- Capital Budget<sup>25</sup>
- Four-Year Capital Program<sup>26</sup>
- 197-a plans<sup>27</sup>
- **Affected by the Following Plans:**
  - Borough SPSs<sup>28</sup>
  - City Strategic Policy Statement<sup>29</sup>
  - 197-a plans<sup>30</sup>
  - Previous reports required under Charter § 257 “comparing the most recent ten-year capital strategy with the capital budgets and programs adopted for the current and previous fiscal years”<sup>31</sup>

### ***Four-Year Capital Program***

- **Summary:** The Four-Year Capital Program must set forth “for both program categories and individual projects: (1) A statement for each of the three succeeding fiscal years of the total dollar amounts necessary to complete projects initiated in prior years and projects proposed in the executive budget, the amounts necessary for projects proposed to be initiated in future years and the amount necessary for amendments and contingencies; and (2) A statement of the likely impact on the expense budget of staffing, maintaining and operating the capital projects included in or contemplated by the capital program.”<sup>32</sup>
- **Process/Timing:**
  - The Mayor’s executive capital budget, due by April 26 each year, is required to include an “executive capital program.”<sup>33</sup>
  - When the City Council adopts the executive budget for the upcoming fiscal year (see further discussion below in “City Budget”), it also adopts the Four-Year Capital Program.<sup>34</sup> Similar to the veto and veto override provisions for the normal budget, if the Four-Year Capital Program differs from the Mayor’s executive capital program, the Mayor may veto the changes, and the City Council may, in turn, override that veto.<sup>35</sup> At any time after adoption, the City Council may amend the Four-Year Capital Program if the Mayor requests such an amendment.<sup>36</sup>
- **Progress/Success Indicators:** None specified in the Charter.
- **Affects the Following Plans:**
  - Future Ten-Year Capital Strategy<sup>37</sup>

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<sup>25</sup> Charter § 257 (“Not later than thirty days after the budget is finally adopted, the mayor shall prepare a statement of how the capital budget and program as finally adopted vary, if at all, from the ten-year capital strategy . . .”).

<sup>26</sup> Id.

<sup>27</sup> 62 RCNY § 6-04(b)(4).

<sup>28</sup> Charter § 215(c).

<sup>29</sup> Id.

<sup>30</sup> Id.

<sup>31</sup> Id.

<sup>32</sup> Charter § 214(b).

<sup>33</sup> Charter §§ 214(b), 249.

<sup>34</sup> See Charter § 254(a).

<sup>35</sup> Id.

<sup>36</sup> Charter § 216(a).

<sup>37</sup> Charter § 215(c).

- **Affected by the Following Plans:**
  - Past Ten-Year Capital Strategy<sup>38</sup>

***Community Development Plans (197-a plans)***

Section 197-a of the Charter authorizes various City entities – including Community Boards – to sponsor non-binding plans for the development, growth, and improvement of particular local areas. Known as “197-a plans” and adopted in 1975 (together with the creation of ULURP), they are intended to provide an avenue for community-based planning. However, the process can be onerous and is not widely employed. Adopted in a process similar to ULURP, only thirteen 197-a plans – 11 of which were sponsored by Community Boards – have been adopted, the most recent over a decade ago in 2009. The primary reason that so few plans exist is that most potential sponsors (e.g., Community Boards) lack the resources and expertise to successfully produce and advocate for plans.

- **Summary:**
  - A plan “for the development, growth, and improvement of the city and of its boroughs and community districts” which may be proposed by the Mayor, CPC, DCP, a Borough President or Borough Board (within the respective borough), or a Community Board with respect to land located within its community district.<sup>39</sup>
  - The plan may be a “comprehensive or master plan”<sup>40</sup> for the area or “a targeted plan which considers one or a small number of elements of neighborhood, community districts, borough or citywide problems or needs.”<sup>41</sup>
  - In either case, the plans must meet the following requirements:
    - “be presented in clear language and coherent form with elements, chapters or sections that are organized in logical sequence”;<sup>42</sup>
    - “state their goals, objectives or purposes clearly and succinctly . . . contain documentation and explanation of the data, analysis or rationale underlying each [policy statement or recommendation and] demonstrate a serious attempt to analyze and propose policies that address the problems they identify”;<sup>43</sup>
    - “contain, as appropriate, inventories or description and analysis of existing conditions, problems or needs; projections of future conditions, problems or needs; and recommended goals and strategies to address those conditions, problems or needs . . . [with the] information and analysis relied

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<sup>38</sup> Charter § 257.

<sup>39</sup> Charter § 197-a(a).

<sup>40</sup> 62 RCNY § 6-04(a)(1) (“A plan may take the form of a comprehensive or master plan for a neighborhood, community district, borough or other broad geographic area of the city. Such a plan would combine elements related to housing, industrial and commercial uses, transportation, land use regulation, open space, recreation, community facilities and other infrastructure and service improvements which promote the orderly growth, improvement and future development of the community, borough or city.”); see also Charter § 197-a(b) (requiring CPC to “adopt rules establishing minimum standards for the form and content” of 197-a plans).

<sup>41</sup> 62 RCNY § 6-04(a)(2) (“Such a plan shall have as its focus issues that are related to the use, development and improvement of land within the sponsor’s geographic jurisdiction and may give consideration to the provision of various city services necessary to support orderly growth, development and improvement of that area.”).

<sup>42</sup> 62 RCNY § 6-04(a)(4).

<sup>43</sup> 62 RCNY § 6-04(a)(5).

upon to support its recommendations [sufficiently] identified so that when the plan is later under review, the accuracy and validity of the information and analysis may be understood”;<sup>44</sup>

- “be accompanied by documentation of the public participation in their formulation and preparation, such as workshops, hearings or technical advisory committees”;<sup>45</sup> and
- “include discussion of their long-range consequences, their impact on economic and housing opportunity for all persons (particularly those of low and moderate income), their provision of future growth and development opportunities, their ability to improve the physical environment and their effect on the fair geographic distribution of city facilities.”<sup>46</sup>

- **Process/Timing:**

- The sponsor of a 197-a plan must notify the DCP least 90 days before submitting a proposed plan.<sup>47</sup>
- Within 90 days after submission of the plan, the DCP determines whether the plan meets the standards (discussed above) and, if so, presents the plan to the CPC.<sup>48</sup>
- Within 30 days after such presentation, the CPC determines whether the plan meets the standards. If the CPC determines that the proposed plan does not meet the standards, it sends the plan back to the sponsor with a statement explaining its deficiencies. If the CPC determines that the proposed plan does meet the standards, it directs the DCP to undertake any required environmental reviews.<sup>49</sup>
- The CPC then directs the DCP to distribute the plan to all affected Community Boards, Borough Presidents, and Borough Boards (and may also direct its distribution to other agencies whose operations are affected and City or State agencies with jurisdiction over elements of the plan).<sup>50</sup>
- Within 60 days of receipt, a Community Board must conduct a public hearing on the plan and submit a written recommendation to the CPC, with copies provided to the Borough President, City Council, and the sponsor.<sup>51</sup>
- Following receipt of the proposed plan, the Borough President of the relevant borough has 120 days to review the plan and submit written recommendations to the CPC, as well as copies to the City Council and the sponsor. The Borough President may choose to conduct a public hearing.<sup>52</sup>
- If the proposed plan affects land in two or more community districts in the relevant borough, the Borough Board conducts a public hearing on the plan.<sup>53</sup> The public

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<sup>44</sup> 62 RCNY § 6-04(a)(6).

<sup>45</sup> 62 RCNY § 6-04(a)(7).

<sup>46</sup> 62 RCNY § 6-04(b)(1).

<sup>47</sup> 62 RCNY § 6-02(a).

<sup>48</sup> 62 RCNY § 6-03(a), (b).

<sup>49</sup> 62 RCNY § 6-03(b).

<sup>50</sup> 62 RCNY § 6-06(a).

<sup>51</sup> 62 RCNY § 6-06(b).

<sup>52</sup> 62 RCNY § 6-06(c).

<sup>53</sup> If a plan affects an entire borough, a single borough-wide public hearing may be held in lieu of separate hearings held by the Community Boards. Any Community Board or Borough Board may make a request to the DCP to receive and review a proposed plan that does not involve land within its district or borough. Such a request must state the

hearing must take place and the Borough Board must transmit a report within 120 days of receiving the proposed plan.<sup>54</sup>

- Once the affected Community Board(s), Borough President(s), and/or Borough Boards have completed their review of any proposed plan involving land in their respective districts/boroughs, the CPC begins its review and holds a public hearing within 60 days.<sup>55</sup>
  - The CPC then votes to approve, approve with modifications, or disapprove the plan within 60 days following its public hearing<sup>56</sup> and accompanies with this resolution a report that describes its considerations and explains any determination.<sup>57</sup>
  - The CPC-approved plan is then filed with the City Council, which has 50 days to hold a public hearing and approve, approve with modifications, or disapprove the plan by a simple majority vote.<sup>58</sup>
  - If the City Council sends back a proposed modification of a plan, the CPC must review the proposed modification within 15 days, including an assessment of whether the modification must be subject to additional environmental review, and respond to the City Council with its findings and recommendations.<sup>59</sup>
  - If the City Council does not vote on the proposed plan, the CPC determination is final.
- **Progress/Success Indicators:** None specified in the Charter.
  - **Affects the Following Plans:**
    - Ten-Year Capital Strategy
    - Zoning and Planning Report
  - **Affected by the Following Plans:**
    - Borough SPSs
    - City Strategic Policy Statements
    - Ten-Year Capital Strategy
    - Zoning and Planning Report
    - 197-a plans “of a neighboring or superior jurisdiction”<sup>60</sup>

### ***Statement of Community District Needs***

- **Summary:** A statement prepared for the community district by its Community Board that includes “a brief description of the district, the board’s assessment of its current and probable future needs, and its recommendations for programs, or activities to meet those needs.”<sup>61</sup>

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reason why the plan affects the welfare of its district or borough. Upon receiving the plan, the Community Board or Borough Board may conduct a public hearing and may make a recommendation to CPC. 62 RCNY § 6-06(e).

<sup>54</sup> 62 RCNY § 6-06(d).

<sup>55</sup> 62 RCNY § 6-07(a).

<sup>56</sup> If the CPC finds that it is unable to vote within that time frame, it must provide a written explanation to the sponsor. 62 RCNY § 6-07(c).

<sup>57</sup> 62 RCNY § 6-07(d).

<sup>58</sup> Charter § 197(d).

<sup>59</sup> 62 RCNY § 6-08(a).

<sup>60</sup> 62 RCNY § 6-04(b)(4).

<sup>61</sup> Charter § 2800(d)(10).

- **Process/Timing:** Prepared annually by each Community Board (on a schedule set by the Mayor), but no further process established in the Charter.
- **Progress/Success Indicators:** None required by the Charter.
- **Affects the Following Plans:**
  - Citywide Statement of Needs
- **Affected by the Following Plans:** None required by the Charter.

### *Citywide Statement of Needs*

- **Summary:** The Citywide Statement of Needs must “identify by agency and program: (1) all new city facilities and all significant expansions of city facilities for which the mayor or an agency intends to make or propose an expenditure or to select or propose a site during the ensuing two fiscal years and (2) all city facilities which the city plans to close or to reduce significantly in size or in capacity for service delivery during the ensuing two fiscal years.”<sup>62</sup>
- **Process/Timing:**
  - By November 15 of each year, the Mayor must submit to the City Council, Borough Presidents, Borough Boards, and Community Boards a “citywide statement of needs” prepared in accordance with “Fair Share” criteria.<sup>63</sup>
  - The Citywide Statement of Needs is developed based on needs information submitted to the Mayor by each City agency, and, to prepare its needs information, each agency is in turn required to “review and consider” the district needs statements provided by the Community Boards (discussed above).<sup>64</sup>
  - After receiving the Citywide Statement of Needs, each Community Board must hold a public hearing on it, and each Community Board and Borough President may, within 90 days after receiving the Citywide Statement of Needs, submit comments to the DCP.<sup>65</sup> Borough Presidents may also suggest alternative sites for facilities listed in the statement, provided that those alternative sites are within the same borough and satisfy Fair Share criteria.<sup>66</sup> Agencies must “consider” all written statements submitted through this process when taking action on a matter addressed by the Citywide Statement of Needs.<sup>67</sup>
- **Progress/Success Indicators:** None specified in the Charter.
- **Affects the Following Plans:** None specified in the Charter.
- **Affected by the Following Plans:**
  - Statement of Community District Needs<sup>68</sup>

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<sup>62</sup> Charter § 204(a).

<sup>63</sup> Id.

<sup>64</sup> Charter § 204(e)(1).

<sup>65</sup> Charter § 204(f).

<sup>66</sup> Id.

<sup>67</sup> Id.

<sup>68</sup> Charter § 204(e)(1).

### ***Long-Term Sustainability Plan/Updates***

- **Summary:** Charter § 20(e) required the development of a “comprehensive, long-term sustainability plan,” formerly known as “PlaNYC.”<sup>69</sup> That plan was required to include “an identification and analysis of long-term planning and sustainability issues associated with, but not limited to, housing, open space, brownfields, transportation, water quality and infrastructure, air quality, energy, and climate change” and to establish long-term goals (to be achieved by April 22, 2030) in those areas together with a “list of policies, programs and actions” for the City to meet those goals.<sup>70</sup> Since 2015, plan updates (see below) must also address “the resiliency of critical infrastructure, the built environment, coastal protection and communities.”<sup>71</sup>
- **Process/Timing:**
  - The Office of Long-Term Planning and Sustainability<sup>72</sup> must update the Long-Term Sustainability Plan by April 22 in every fourth year (next occurring in 2023).<sup>73</sup>
  - The Office of Long-Term Planning and Sustainability is assisted in this effort by a “sustainability advisory board” appointed by the Mayor and comprising “representatives from environmental, environmental justice, planning, architecture, engineering, coastal protection, construction, critical infrastructure, labor, business and academic sectors.”<sup>74</sup>
  - Plan updates must take into account the long-term (21-year) and intermediate (10-year) population projections that the DCP is required to make by April 22 in every fourth year (next occurring in 2022).<sup>75</sup>
- **Progress/Success Indicators:** Plan updates are required to include “implementation milestones for each policy, program and action contained” in the plan (and a rationale for any changes to such milestones).<sup>76</sup>
- **Affects the Following Plans:** None specified in Charter.
- **Affected by the Following Plans:** None specified in Charter.

### ***Sustainability Indicators Report***

- **Summary:** The report shows the City’s performance with respect to a set of indicators developed by the Office of Long-Term Planning and Sustainability “to assess and track the overall sustainability of the city with respect to the categories . . . of housing, open space, brownfields, transportation, water quality and infrastructure, air quality, energy, and climate change; the resiliency of critical infrastructure, the built environment, coastal protection and communities; and regarding city agencies, businesses, institutions and the

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<sup>69</sup> See Local Law 17/2008.

<sup>70</sup> Charter § 20(e)(1).

<sup>71</sup> Charter § 20(e)(2).

<sup>72</sup> The Office of Long-Term Planning and Sustainability “may, but need not, be established in the executive office of the mayor and may be established as a separate office or within any other office of the mayor or within any department the head of which is appointed by the mayor.” Charter § 20(a).

<sup>73</sup> Charter § 20(e)(2).

<sup>74</sup> Charter § 20(g).

<sup>75</sup> Charter § 20(d), (e)(2).

<sup>76</sup> Charter § 20(e)(2).

public,” as well as any additional categories identified by the Office of Long-Term Planning and Sustainability.<sup>77</sup>

- **Process/Timing:** By December 31 of each year, the Office of Long-Term Planning and Sustainability must publish this report.<sup>78</sup>
- **Progress/Success Indicators:** (See discussion above.)
- **Affects the Following Plans:** None specified in the Charter.
- **Affected by the Following Plans:** None specified in the Charter.

### ***Comprehensive Waterfront Plan***

- **Summary:** The plan must describe the “planning policy” of the DCP with respect to the City’s waterfronts and must include “an assessment of waterfront resources for the natural waterfront, the public waterfront, the working waterfront and the developing waterfront.”<sup>79</sup> The plan must also include “proposals for implementing the planning policy of [the DCP] whether by amendment of the zoning resolution, development of plans or otherwise.”<sup>80</sup>
- **Process/Timing:** By December 31 in every tenth year (next occurring in 2020), the DCP must file the plan with the Mayor, City Council, Public Advocate, Borough Presidents, and Community Boards.<sup>81</sup>
- **Progress/Success Indicators:** None specified in the Charter.
- **Affects the Following Plans:** None specified in the Charter.
- **Affected by the Following Plans:**
  - Borough SPSs
  - City Strategic Policy Statement
  - Ten-Year Capital Strategy
  - Four Year Capital Program
  - 197-a plans

### ***Agency Plans***

- **Summary:** The Charter provides that agencies must “prepare and submit to the mayor and other appropriate government authorities short term, intermediate, and long range plans and programs to meet the needs of the city.”<sup>82</sup>
- **Process/Timing:** None specified in the Charter.
- **Progress/Success Indicators:** None specified in the Charter.
- **Affects the Following Plans:** None specified in the Charter.

### Fair Share

Another prominent citywide planning concern is whether City facilities are fairly distributed among communities. It is argued by some that locally unwanted land uses (e.g., waste treatment/transfer facilities, sanitation garages) tend to be disproportionately located in low-

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<sup>77</sup> Charter § 20(b), (c).

<sup>78</sup> Charter § 20(c).

<sup>79</sup> Charter § 205.

<sup>80</sup> Id.

<sup>81</sup> Id.

<sup>82</sup> Charter § 386(a).

income communities of color. The 1989 Charter Revision Commission attempted to address this problem with a citywide planning process (Fair Share) to “further the fair distribution among communities of the burdens and benefits associated with city facilities.” Fair Share is codified in sections 203 (“Criteria for Location of City Facilities”)<sup>83</sup> and 204 (“Citywide Statement of Needs”) of the Charter.<sup>84</sup>

Section 203 requires the CPC to promulgate rules establishing criteria to promote the fair distribution of City facilities. These criteria (Fair Share Criteria) are meant to reflect community needs, City cost considerations, the benefits and burdens associated with City facilities, and the social and economic impacts of facilities. In 1991, the CPC adopted criteria including neighborhood character, existing facility distribution, site suitability, adequacy of local infrastructure, cost-effectiveness, and consistency with existing neighborhood plans. These criteria have not been updated since they were first adopted.

Section 204 requires the Mayor to submit an annual Citywide Statement of Needs (described above and referred to here as SON) identifying all facility sitings, expansions, reductions, or closings planned for the next two fiscal years. The SON must explain why each site was selected, with reference to the Fair Share Criteria and information submitted to the Mayor by City agencies (e.g., Department of Environmental Protection, Department of Sanitation) in departmental statements of needs. Each agency, when preparing a departmental statement of needs, must consider district needs statements submitted by Community Boards. Each Community Board and Borough President may review and comment on the SON. Whenever an agency submits a ULURP application to locate a City facility, the agency must submit a “Fair Share Statement” explaining (1) whether the proposed action is consistent with the most recent SON and (2) how the proposed action satisfies the Fair Share Criteria.

Critics argue that Fair Share has been ineffective due to a lack of detail, transparency, agency compliance, and legal force. In practice, the City’s Statement of Needs includes only a small fraction of relevant City projects, available public data does not allow for meaningful evaluation of Fair Share claims, and Fair Share Statements are often difficult to access. Many agencies routinely site facilities through emergency contracting, which is exempt from Fair Share.<sup>85</sup> According to a City Council report, in the nearly 30 years since the Fair Share Charter provisions went into effect, the distribution of some municipal facilities has actually become less fair. For example, the five community districts that experienced the largest increase in residential beds-to-population ratios between 1999 and 2015 were all communities of color (residential beds include typically unwanted uses such as correctional facilities, inpatient mental health treatment centers, and homeless shelters).<sup>86</sup>

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<sup>83</sup> N.Y. City Charter § 203.

<sup>84</sup> N.Y. City Charter § 204.

<sup>85</sup> New York City Council, [Doing Our Fair Share, Getting Our Fair Share: Reforming NYC’s System for Achieving Fairness In Siting Municipal Facilities](#) (Feb. 2017), at 3.

<sup>86</sup> Id.

## Case Studies Outside of New York City

To better understand how a comprehensive planning process might address plan cohesion, facility siting parity, and community-level plans, Commission staff spoke with teams of planning professionals in advisory roles in Minneapolis, Seattle, Philadelphia, Denver, Los Angeles, Washington D.C., Arlington, Boston, and Oklahoma City, each of which have undertaken various forms of comprehensive planning processes. Commission staff reviewed planning practices with a focus on the interaction between planning documents and zoning in particular jurisdictions, approaches to equitable plan creation and implementation, public and stakeholder engagement, capital improvement programming in plans, and the scalability of plans (i.e., how the plans guide land use actions at different scales for neighborhoods, boroughs, etc.).

Overall, this research confirmed that approaches to comprehensive planning around the country vary in a multitude of different ways and that successful approaches are tailored to the specific needs and characteristics of each city and region. There are a wide variety of approaches to comprehensive planning across the country; some are detailed below.

- **City of Los Angeles (population 3,792,621):**<sup>87</sup> California law requires local land use regulations to be consistent with a “general plan.”<sup>88</sup> As a chartered city, Los Angeles is required to have one. The city’s general plan, which is approved by its planning commission and adopted by its city council, establishes goals and regulatory schemes for housing, conservation, open space, mobility, and other factors. The city is currently developing a 20-year plan setting targets for 2040. State law requires Los Angeles to demonstrate that it has adequate zoning capacity to accommodate projected population growth.<sup>89</sup> The general plan identifies parcels and geographical areas suitable for development by use. Applicants pursuing a zoning change inconsistent with the general plan must apply for a plan amendment, as well. A plan amendment is more cumbersome, expensive, and time-consuming than the process of applying for a zoning change consistent with the general plan, thereby creating an incentive to comply with the stated general plan. The general plan is now being used to inform a rewrite of Los Angeles’s zoning code, titled *re:code LA*.
- **Denver (population 600,158):**<sup>90</sup> Colorado statutes require each municipality to have a “master plan” (often referred to as a comprehensive plan) prepared by its planning commission.<sup>91</sup> It is an advisory document that guides land development decisions, but with sufficient detail it may be made binding by inclusion in adopted land use regulations. The plan for Denver, titled *Denverright*, ties together numerous other plans, including other city plans, to form more detailed goals and implementation actions. Two of those other plans, Blueprint Denver and Game Plan for a Healthy City, were adopted by the Denver City Council as supplements to the Denver comprehensive plan due to their broad, long-term visions. Neighborhood plans and small area plans are also adopted by the

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<sup>87</sup> United States Census Bureau, [American FactFinder, 2010 Census Total Population Data](#).

<sup>88</sup> Cal. Gov. Code § 65300.

<sup>89</sup> Cal. Gov. Code § 65030.1.

<sup>90</sup> United States Census Bureau, [American FactFinder, 2010 Census Total Population Data](#).

<sup>91</sup> Texas Stat. § 213.002.

city council as supplements to the Denver comprehensive plan. The planning effort in Denver is led by its Community Planning and Development Office. The plan is updated every 20 years.

- **Minneapolis (population 2,849,567):**<sup>92</sup> Under Minnesota’s Metropolitan Land Planning Act, Minneapolis’ Department of Community Planning and Economic Development must write a comprehensive plan and update it every 10 years.<sup>93</sup> The city’s plan must be consistent with *Thrive MSP 2040*, a regional development guide produced by the Metropolitan Council, a regional planning agency with 16 members, each appointed by the governor. This local comprehensive plan must be adopted by the Minneapolis city council after the Metropolitan Council makes its determination that the plan is consistent with the regional *Thrive MSP 2040* plan.<sup>94</sup> The engagement process for the drafting *Thrive MSP 2040* plan was led by a steering committee, took three years, and resulted in a regional plan that was organized into 11 topic areas: parks and open space, public services and facilities, technology and innovation, arts and culture, heritage preservation, public health, environmental systems, land use and built form, transportation, housing, and economic competitiveness. Goals included “climate change resilience,” “eliminat[ing] disparities,” and “affordable and accessible housing,” among others.<sup>95</sup> One of the most notable components of the most recent comprehensive plan that was adopted by the Minneapolis city council in 2018<sup>96</sup> (*Minneapolis 2040*<sup>97</sup>) was the provision to eliminate single-family residential zoning, thereby making way for additional density in residential neighborhoods.<sup>98</sup>

There are some who argued that the adoption of the *Minneapolis 2040* comprehensive plan was facilitated by the state law that delegates planning authority to the region-wide Metropolitan Council.<sup>99</sup> As mentioned above, the Metropolitan Council has only 16

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<sup>92</sup> Metropolitan Council, [2010 Census Data](#).

<sup>93</sup> Minn. Stat. § 473.864(2).

<sup>94</sup> Minn. Stat. § 473.145.

<sup>95</sup> See Metropolitan Council, [Thrive MSP 2040](#), at 58, 40, 43.

<sup>96</sup> Miguel Otárola, [Minneapolis City Council Approves 2040 Comprehensive Plan on 12-1 Vote](#) (Dec. 7, 2018).

<sup>97</sup> Minneapolis 2040, [Welcome to Minneapolis 2040: The City’s Comprehensive Plan](#).

<sup>98</sup> It is also worth noting that outside the context of local comprehensive planning efforts, state legislatures have used their authority to implement, or attempt to implement, laws to direct a municipality to plan for its development. For example, similar to Minneapolis, in June 2019, the Oregon (population 3,831,074; United States Census Bureau, American FactFinder, [2010 Census Total Population Data](#)) state legislature voted to eliminate single-family zoning statewide in municipalities with more than 25,000 residents (or within Portland-area municipalities with more than 1,000 residents). While the changes will not be fully effective until 2022, lawmakers and advocates are looking to the new law’s potential to provide affordable housing options and reduce systemic inequality. See Jeff Mapes, [Oregon Strikes Exclusive Single-Family Zoning, But Effects May Take Years](#), OPB (July 3, 2019). On the other hand, recent attempts by California lawmakers to implement a similar ban on elimination of single-family zoning were defeated in 2019, in the face of lobbying efforts by suburban homeowners. Nonetheless, California has sought to increase housing supply by requiring municipalities to allow homeowners to build small houses in their yards and to convert their garages to residential space. While other provisions of state and local law continue to strictly limit development in California, these new measures show how region-wide policy goals (e.g., increasing housing supply) can be achieved when imposed by a governmental body with region-wide binding authority. See Liam Dillon, [How Lawmakers are Upending the California Lifestyle to Fight a Housing Shortage](#), Los Angeles Times (Oct. 10, 2019).

<sup>99</sup> Metropolitan Council, [Who We Are](#).

members, each appointed by the governor to represent a large geographic area.<sup>100</sup> These regional council members do not need to tailor their planning choices to satisfy local interest groups because they are not elected from small districts. Instead, these council members – organized by a motivated governor<sup>101</sup> – may craft a binding plan to address long-term, region-wide needs. State law requires subsequent local zoning decisions to conform to the Metropolitan Council’s plan.<sup>102</sup> Some argue that this governmental structure facilitates a meaningful region-wide plan that may have been impossible in many local jurisdictions.

- **Austin (population 790,390):**<sup>103</sup> In Texas, any city that has adopted a comprehensive plan must zone in accordance with that plan. However, cities have some latitude to decide whether a plan is advisory or mandatory. Austin’s Charter stipulates that its comprehensive plan has the force of law.<sup>104</sup> *Imagine Austin*, the comprehensive plan adopted by the Austin City Council in 2012, is based on topic areas that include land use and transportation, housing and neighborhoods, the economy, conservation and the environment, city facilities and services, society, and creativity. The Austin Department of Planning and Zoning directs the planning effort. The Planning Commission reviews the comprehensive plan annually and may recommend amendments to the Austin City Council. The plan is organized into five chapters, which include background on comprehensive planning, needs assessments and future projections, an action framework for realizing city goals, and a growth concept map that shows in general terms where new development over a 30-year timeframe should be located. Recently, Austin attempted to do a complete zoning code rewrite.<sup>105</sup> The rewrite was scrapped in part because the Mayor believed that it did not fit the “vision” of the comprehensive plan.<sup>106</sup>
- **Detroit (population 713,777):**<sup>107</sup> In 2010, Detroit convened a working group to develop a master plan for the city’s development in a post-industrial economy.<sup>108</sup> The resulting “Detroit Future City” plan reassessed the city’s fundamental structure and vision: The plan first evaluated the capital and civic assets of an insolvent jurisdiction and then developed strategies to rebuild a sustainable tax base, protect cultural assets, and attract new businesses and residents to a derelict core.<sup>109</sup> Detroit experienced an impressive economic and social resurgence after the plan’s adoption in 2012.<sup>110</sup> Buoyed by tax incentives, investment poured into Detroit’s neglected downtown.<sup>111</sup> Abandoned buildings became

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<sup>100</sup> Id.

<sup>101</sup> See Peter Diamond, [Governor Walz and Mayor Frey Talk 2040 Housing](#), Mpls St. Paul (June 28, 2019).

<sup>102</sup> 2019 Minn. Statutes § 473.858.

<sup>103</sup> United States Census Bureau, [American FactFinder, 2010 Census Total Population Data](#).

<sup>104</sup> Austin City Charter Article X, § 6.

<sup>105</sup> See Audrey McGlinchy, [After More Than a Yearlong Hiatus, Austin’s Code Rewrite Returns. How Did We Get Here?](#) KUT (Oct. 4, 2019).

<sup>106</sup> See Austin Sanders, [Austin’s Land Use Debate Returns to the Spotlight](#), The Austin Chronicle (Oct. 11, 2019).

<sup>107</sup> United States Census Bureau, [American FactFinder, 2010 Census Total Population Data](#).

<sup>108</sup> [Detroit Future City: 2012 Detroit Strategic Framework Plan](#), at 3 (2012).

<sup>109</sup> See id. at 8 *et seq.*

<sup>110</sup> Quinn Klinefelter, [Detroit’s Big Comeback: Out of Bankruptcy, A Rebirth](#), NPR News (Dec. 28, 2018).

<sup>111</sup> Mary Childs, [New Money is Driving a Revival in Detroit. Can it Stick?](#) Barron’s (Mar. 8, 2019).

affordable offices for information-economy businesses, and new developments offered urban housing and premium services to young and educated workers.<sup>112</sup> A new downtown basketball arena near existing football and baseball stadiums consolidated Detroit's professional sports facilities and brought lucrative events and fans to the urban core.<sup>113</sup> While it is impossible to know how Detroit might have developed without this comprehensive plan, Detroit's recent success closely tracks the plan's efforts to redirect investment and rebuild the city's cultural identity.

### Testimony Received by the Commission

The Commission heard a good deal about the City's land use and public infrastructure planning processes. Many individuals and organizations raised concerns about the City's current approach to planning. Some expressed a desire for a Charter amendment that would require the City to develop a "comprehensive plan" to address these and other concerns (though not necessarily agreeing on what such a plan would look like), while others argued that such a requirement would not improve the City's approach to planning or could be to its detriment; still others spoke in support of how the City currently plans.

Some of the testimony the Commission received relating to whether or not the Charter should contain a provision to require the development of "comprehensive plan," and suggestions for such a provision, are listed below by organization and individual. Note: The summaries below are not meant to be exhaustive of each person's/entity's views or ideas on the issue of how the City should plan. Readers of this report are encouraged to read the complete written testimony of the cited persons/entities, which are attached hereto as Appendix A.

#### **The New York City Council<sup>114</sup>**

- Require production of a comprehensive plan for the City once every 10 years to serve as the basis for land use, zoning, and capital planning decisions, and to serve as a strategic framework and vision for growth and development.
- Development should be rationally and equitably distributed across the City because ad hoc selection of particular neighborhoods for growth-oriented rezoning plans is inefficient and an acrimonious process.
- A citywide strategic planning framework could allow community-based proposals and private development proposals to move forward with an accelerated process if it comports with the comprehensive plan.
- The comprehensive planning process should include an Existing Conditions analysis studying citywide demographic, economic, infrastructure state of repair and capacity, housing, land use, sustainability, resilience, and environmental data (including climate-change impacts) over the prior 20 years and growth/needs projections for the next 20 years, undertaken by one central agency or mayoral office.

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<sup>112</sup> See id.

<sup>113</sup> See Sarah Cwiek, [It's Go Time for Little Caesar's Arena and District Detroit](#), Michigan Public Radio (Sept. 5, 2017).

<sup>114</sup> Report to the 2019 New York City Charter Revision Commission, New York City Council, Jan. 29, 2019, at 24-29 (see Appendix A, attached hereto, at pages A1 to A4).

- There should be participatory workshops throughout the five boroughs to examine the Existing Conditions analysis and implications at the local-level.
- A Draft Plan should include quantifiable targets for growth, city facilities, and investment at the borough and community district level; and should be subject to community review and feedback.
- The Charter should be amended to authorize the City Council to modify the quantifiable targets set forth in the plan through the ULURP process.
- The City’s Fair Share criteria must (1) be regularly updated with binding rules and authorize the City Council to initiate future reviews of the rules and (2) require a higher bar for sitings in highly over-concentrated districts.
- Reform the Citywide Statement of Needs to be a more thorough and useful planning document.

### **City Council Progressive Caucus<sup>115</sup>**

- The City should be required to put together a comprehensive plan every 10 years through a data driven and inclusive process, in accordance with the following principles: (1) equity and fairness; (2) affordability; (3) responsive and proactive planning; (4) inclusiveness; (5) sustainability and resilience; and (6) transparency and accountability.
- Make the Ten-Year Capital Strategy real rather than notional and tie it to the comprehensive plan.
- Make actions that are aligned with the plan able to move more quickly through ULURP.
- Create a comprehensive planning framework that includes an analysis of Fair Share Criteria.
- Make CPC independent and create a long term planning office.
- Establish a proactive, rather than reactive, planning process that sets shared goals at the beginning through dialogue, data gathering, and “cross-acceptance” of plans from different groups.
- The City needs a larger vision based on equity, a vision in which low-income communities do not have to solely bear the brunt of the City’s every housing or infrastructure need. The City needs to envision a land use process in which communities are empowered and the equitable distribution of City resources, facilities, and new developments is prioritized.
- The following steps are needed to produce a meaningful comprehensive plan based on updated data and community input: (1) evaluate existing conditions and establish citywide strategic goals; (2) set community district goals in partnership with community organizations; (3) produce scenario plans balancing local and citywide priorities, and provide opportunities for public input; (4) approve the final comprehensive plan; and (5) facilitate compliant development and discourage projects that do not comply.

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<sup>115</sup> See Testimony of the New York City Progressive Caucus in Appendix A, attached hereto, pages A5 to A28. Members of the Caucus are Ben Kallos, Co-Chair, (testified Sept. 27, 2018 and May 9, 2019); Diana Ayala, Co-Chair, (testified Sept. 12, 2018); Keith Powers, Vice Co-Chair (testified Sept. 27, 2018); Carlos Menchaca, Vice Co-Chair; Margaret S. Chin; Carlina Rivera; Corey Johnson (testified Sept. 27, 2018); Helen Rosenthal (testified Sept. 27, 2019); Mark Levine; Bill Perkins; Ydanis Rodriguez; Jimmy Van Bramer; I. Daneek Miller; Adrienne E. Adams (testified September 20, 2018) ; Donovan J. Richards; Stephen T. Levin; Antonio Reynoso (testified Mar. 21, 2019); Brad Lander (testified Sept. 17, 2018 and May 2, 2019); Alicka Ampry-Samuel; Justin Brannan; Deborah Rose (testified Sept. 24, 2019).

### **Comptroller Scott Stringer<sup>116</sup>**

- An Independent Long-Term Planning Office should be established to conduct comprehensive planning for the City and the resulting plan should be ratified by the City Council through a public process.
- 197-a plans should be strengthened in the Charter to require agencies to integrate the plans into their policies and that any deviation from the plan by either a private actor in public review or an agency should be justified in writing.
- The Charter should require that Community Boards be given the necessary resources to have dedicated support and expertise to fulfill their purpose of conducting community-based planning (e.g., through a qualified urban planner, architect, public policy professional, or professional from a similar discipline), including the necessary budget appropriations.

### **Manhattan Borough President Gale Brewer<sup>117</sup>**

- A citywide comprehensive plan should be created every 10 years, with a process that ensures new developments are equitably distributed across the City.
- The Zoning Resolution itself could be reviewed every 10 years, and then the City could include use group reform and other issues that people want.

### **Thriving Communities Coalition<sup>118</sup> (Coalition testimony)<sup>119</sup>**

- The Charter should require a comprehensive plan that articulates a vision for equity and inclusion; aligns budgeting, policy, programming, and land use decisions; and sets broad goals and specific planning principles.
- The plan should require a community-district level assessment of existing unmet needs and citywide projections for future needs and growth. This assessment will factor into an overall “equity index” that will help drive goal setting and project prioritization.
- This planning process should be led by a Citywide Steering Committee and include borough committees to ensure a transparent process that includes meaningful public engagement.

### **Pratt Center for Community Development (Paula Crespo, Senior Planner<sup>120</sup> and Elena Conte, Deputy Director)<sup>121</sup>**

- A comprehensive planning framework can meet numerous challenges faced by the City and set goals toward creating a more equitable City. For example:

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<sup>116</sup> See Testimony of Comptroller Stringer, Sept. 27, 2018 (Appendix A, attached hereto, at pages A29 to A38).

<sup>117</sup> See Testimony of Manhattan Borough President Gale Brewer, Sept. 27, 2018 (Appendix A, attached hereto, at pages A39 to A49).

<sup>118</sup> The Thriving Communities Coalition includes the Association for Neighborhood and Housing Development; Brooklyn Legal Services Corp A; CASA – Community Action for Safe Apartments; Chhaya CDC; Churches United for Fair Housing; Cypress Hills LDC; Good Old Lower East Side; Los Sures Lucha; Municipal Art Society of New York; New Economy Project; New York Appleseed; Northwest Bronx Community & Clergy Coalition; Pratt Center for Community Development; Regional Plan Association; Southside United HDFC - Los Sures; and United Neighborhood Houses. Association for Neighborhood & Housing Development, [Thriving Communities Coalition](#).

<sup>119</sup> See Testimony of Thriving Communities Coalition, additional testimony, May 24, 2019 (Appendix A, attached hereto, at pages A50 to A64).

<sup>120</sup> See Transcript of Sept. 27, 2018 Manhattan Borough Hearing, at 260-64.

<sup>121</sup> See Testimony of Elena Conte, Mar. 21, 2019 (Appendix A, attached hereto, at pages A65 to A67).

- Address rampant residential displacement for which there is no official measure of risk across the City, with current projection methods being egregiously flawed.
- Improve the City's Fair Share policy, which is falling far short of protecting disproportionately burdened communities from new threats to health and safety.
- Meaningful public participation should be at the heart of any planning process, with the goal of advancing the participation of low-income communities of color.
- The current ad hoc land use system is dominated by as-of-right land use actions and reviews that are ineffective, polarizing, and disempowering to most communities.
- Comprehensive planning creates the opportunity to participate in and co-create the citywide equity-based collective goals that guide the City's framework; and can repair the City's broken piecemeal system by integrating and aligning planning, policymaking, and the budget in an intentional way to achieve the City's equity goals.
- A comprehensive planning framework must be community-based, not a master top-down plan.

**Regional Plan Association (Maulin Mehta Senior Associate, State Programs and Advocacy)<sup>122</sup>**

- Create a citywide comprehensive planning framework in collaboration with communities and local elected officials that will consider community and citywide targets for things like increasing the affordable housing supply and identifying infrastructure needs.
- Create clear and comprehensive "fair share" requirements and guidance to site amenities and undesirable facilities in an equitable manner.
- The framework should serve to anticipate displacement concerns and protect vulnerable communities as the City continues to grow.
- Establish an equity index that evaluates infrastructure services, economic conditions, and growth opportunities across the City. This index should be tied to the planning process and used in a way to prioritize investment. Such an index could be used to place neighborhoods on a spectrum, looking at the comprehensive nature of what makes communities thrive and assets that need to be protected, assessing factors like diversity, people, sustainability, community centers, parks, etc. Development of the index could also include community engagement in a process to evaluate more nuanced measures, such as social networks. The index could in turn be used to identify areas for City initiatives to improve access to opportunity.

**United Neighborhood Houses (JT Falcone, Policy Analyst)<sup>123</sup>**

- Create a comprehensive plan based on the following elements: a single coherent plan, equity principles, citywide and localized analysis, balancing of citywide needs with local needs through bottom-up community planning, equitable distribution of resources and future development, coordination with the capital budget, creation of a future land use map, and incentivized alignment with the plan.

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<sup>122</sup> See Testimony of Maulin Mehta, Sept. 12, 2018, Sept. 20, 2018, Mar. 21, 2019, and May 9, 2019 (Appendix A, attached hereto, at pages A68 to A76).

<sup>123</sup> See Testimony of J.T. Falcone, May 9, 2019 (Appendix A, attached hereto, at pages A77 to A80).

**Association for Neighborhood Housing and Development ((Emily Goldstein, Director of Organizing and Advocacy)<sup>124</sup>**

- A comprehensive plan must spell out clear goals of reducing neighborhood-based racial and socioeconomic inequality.
- There must be a separate assessment of existing residents' needs from projected future needs of residents. Without this clarity, less powerful communities will continue to risk having their existing needs met only in exchange for future growth or in relation to planning for future populations.
- The City's existing needs statements, policy statements, budget documents and processes, agency plans, future land use and development plans, and spending plans should be coordinated, and the City should take stock of indicator reports when planning.
- A single clear and coherent plan should include equity principles and citywide and localized analysis as well as balance citywide and local needs, with equitable distribution of resources and future development, coordination with the capital budget, and incentivizing with the plan.

**Tom Angotti (Professor Emeritus of Urban Policy and Planning at CUNY Hunter College and Graduate Center)<sup>125</sup>**

- Comprehensive planning is long overdue in New York City and should be mandated and coupled with a mandate for community-based planning. Every Community Board should have a community plan that is regularly updated and reviewed by the Community Board and the CPC.
- The plan should be both long-term (decades into the future) and middle-range (5 to 15 years), be inclusive and exhaustive, consider multiple scenarios, and balance growth and preservation. Environmental and public health concerns should be at the heart of the plan.
- Zoning is not planning; it is a weak tool for land use control and housing production.
- ULURP should be restructured to require consistency with comprehensive and community plans.
- The mission, structure, and culture of the CPC and DCP should be transformed. CPC should be an independent commission under the City Council and oversee the comprehensive and community planning processes. DCP should remain a mayoral agency, required to update zoning rules every five years.

**Open New York (William Thomas, Jake Schmidt, Members)**

- Create a comprehensive plan to address population growth and the attendant need for new housing. Housing targets should be measured against population changes. If neighborhoods are not meeting growth targets, then the DCP should be mandated to rezone or otherwise allow for more housing growth in that neighborhood.<sup>126</sup>

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<sup>124</sup> See Testimony of Emily Goldstein, May 9, 2019 (Appendix A, attached hereto, at pages A81 to A83).

<sup>125</sup> See Testimony of Tom Angotti, March 21, 2019 (Appendix A, attached hereto, at pages A84 to A86).

<sup>126</sup> See Transcript of Apr. 30, 2019 Queens Borough Hearing, at 95-97.

- More comprehensive planning will allow the City to plan its growth in an equitable manner. Development as a whole will be seen as much less toxic when rich neighborhoods take on their fair share of, if not most, growth.<sup>127</sup>
- Planning for adequate growth has to be built into the system, with specific actions that act as triggers if housing growth is insufficient for City residents.<sup>128</sup>
- Environmental reviews should require an affordability, gentrification, and racial impact analysis for all zoning changes.<sup>129</sup>

**John Shapiro (Professor at Pratt Institute)<sup>130</sup>**

- DCP and the Office of Long Range Planning, at the direction of the Mayor, should prepare a comprehensive plan that is subject to the approval of CPC and the City Council. This is the norm in the United States: executive preparation followed by legislative adoption, and could result in a politically articulate and popular plan that leads to participatory methods at least at the citywide level. Differences between the Mayor’s draft and the City Council could be subject to a reconciliation methodology.
- 197-a plans should be official addenda (not advisory) to a comprehensive plan, provided they are approved ultimately by the City Council and subject to the veto of the Mayor, in which case there should be a reconciliation process.
- This “cross-acceptance” method of comprehensive planning would be best achieved in concert with the following:
  - Return of capital budget planning to the DCP/Office of Long Range Planning.
  - Enhancement of Community Board staff and member expertise
  - Removal of the mayoral majority of CPC appointments
  - Removal of the local council member “veto” power for the comprehensive planning document
  - Revision of CEQR to ease the adoption of the comprehensive/197-a plans.
  - Creation of a reconciliation entity comprised of people without obligation to the appointers (only people who are mutually agreed upon by multiple appointers)
  - Changes to the Fair Share rules to (1) redress accumulated City disinvestment, (2) address environmental justice, and (3) fully consider the risk of secondary displacement, with countermeasures.
- DCP/CPC should function mainly as a regional planning entity with more authority than usual; Community Boards should function as typical municipal planning boards with less authority than usual; the shared authority of the Mayor and City Council, with the reconciliation methodology, generally assures transparency, accountability, and reasonableness.

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<sup>127</sup> See Transcript of May 9, 2019, Manhattan Borough Hearing, at 267-70.

<sup>128</sup> See Testimony of Jake Schmidt of Open New York, May 9, 2019 (Appendix A, attached hereto, at pages A87 to A88).

<sup>129</sup> See Testimony of Open New York, additional testimony (Appendix A, attached hereto, at pages A89 to A92).

<sup>130</sup> See Testimony of John Shapiro, May 9, 2019 (Appendix A, attached hereto, at pages A93 to A94).

### **Municipal Art Society**<sup>131</sup>

- Genuine consideration needs to be given by the City to community-based land use plans, including but not limited to 197-a plans, rather than the City focusing primarily on private development application-based decision-making.
- An office of community-based planning should be established with oversight provided by the Public Advocate's office, and there should be revisions to the Charter that require Community Boards to present district-wide plans at regular intervals.
- Land use proposals submitted by private applicants should be required to conform to local 197-a plans or district-wide community plans.
- A citywide planning framework should be created, including a shared set of citywide development priorities, which local 197-a plans and district-wide community plans should both help shape.

### **Manhattan Community Board 8 (Alida Camp, Chair)**<sup>132</sup>

- Community Board 8 recommends a stronger, more robust community-based land-use planning process, with greater emphasis on community assessment of social and environmental factors in considering land use plans.
- Community Boards should have a greater role in the planning process, including policymaking, to ensure that all community concerns are heard and considered.

### **Community Service Society of New York (Oksana Miranova, Policy Analyst)**<sup>133</sup>

- Develop local targets for housing and economic development, displacement protections, public facility siting, and sustainability benchmarks, among others, underpinned by a consideration of racial and economic inequities between neighborhoods. Include a process for aligning the City's long-term capital strategy with the resulting framework. Include a process for aligning future land use changes and agency plans with the resulting framework.

### **Department of City Planning (Marisa Lago, DCP Director/CPC Chair; Anita Laremont, DCP Executive Director; Howard Slatkin, DCP Deputy Executive Director of Strategic Planning)**<sup>134</sup>

- Rather than thinking about imposing a new comprehensive planning requirement, the City should articulate how it wants to enhance the mechanisms that it already has to be better and more effective at articulating what it is that it wants to do.
- As-of-right development is critical to the City. Over 80% of new housing produced in the City since 2010 has been built as-of-right.
- ULURP is a sound process that is indispensable to creating the capacity for future as-of-right development and to supporting the production of permanently affordable housing. To ensure that land use decisions promote a more equitable City, local community

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<sup>131</sup> See Testimony of Municipal Art Society, Sept. 27, 2018, and May 24, 2019 (Appendix A, attached hereto, at pages A95 to A98).

<sup>132</sup> See Testimony of Alida Camp, September 27, 2018 (Appendix A, attached hereto, at pages A99 to A100).

<sup>133</sup> See Testimony of Community Service Society, Sept. 27, 2018 (Appendix A, attached hereto, at pages A101 to A103).

<sup>134</sup> See Testimony of Marisa Lago, Mar. 21, 2019; Anita Laremont, Mar. 21, 2019; and Howard Slatkin, Mar. 21, 2019 and May 9, 2019, (Appendix A, attached hereto, at pages A104 to A133, and A135 to A136).

perspectives must be balanced with broader, citywide views, such as the need to site necessary infrastructure and to meet the housing needs of future generations of City residents.

- The current balance of power was struck in part to ensure that the City executive has the ability to, taking a citywide view, fairly site locally unwanted land uses.
- A “master plan” – then required under the Charter – was attempted in 1969 in part to enable the City to qualify for federal public housing funds, but was outdated by the time it was complete, widely criticized, and ultimately never adopted.
- In 1989, the City’s Charter was amended to establish a strategic planning function to help prevent the land use decision process from becoming overly politicized and driven by short-term considerations. Instead of a master or comprehensive plan, strategic planning uses facts, analysis, and consistent objectives to help anchor decisions in clear planning rationales.
- There is no comprehensive plan that could be adopted that would obviate the need for informed decision-making based on detailed consideration of specific facts and local conditions. In implementing the objectives of current plans such as OneNYC or of any plan of such scale, goals and objectives often have inherent intentions and must be balanced. A nimble and practical approach to citywide strategic planning can support timely and equitable decision-making.
- It is important to enable newly elected mayors and borough presidents to articulate their priorities for the direction of policy and the issues that they see as pressing and important in order to enable actions to be taken to advance addressing those issues.

**Sandy Hornick (former Deputy Executive Director for Strategic Planning at the Department of City Planning)**<sup>135</sup>

- A comprehensive plan that takes years to accept by one administration, assuming there is consensus, is not necessarily going to be accepted as a guide by the next one.
- The 1976 Charter revision that created ULURP to formally involve communities in planning removed the unfulfilled Charter mandate for a comprehensive plan.
- Past Charter revisions filled this space by requiring reports and statements and creating a Fair Share process, but the public and elected officials have ignored these.
- The Charter Fair Share mandate does not really end up distributing things in a way that some people would like. It merely provides an explanation of the other options and why particular choices were made.
- There should be fewer planning documents required by the Charter, and they should focus on identifying important issues and priorities for planning as well as broad strategies to address them, rather than detailed prescriptions of specific actions. The documents cannot be expected to detail specific proposals that do not yet exist, such as what future rezonings are needed or where specifically they should occur. Even if this were possible, it would impede meaningful local engagement, which informs the Commission's consideration of the pre-ULURP process.
- Fewer and more flexible Charter-mandated documents offer the best guidance without unwanted and unworkable control.

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<sup>135</sup> See Testimony of Sandy Hornick, Mar. 21, 2019, and May 2, 2019 (Appendix A, attached hereto, at pages A137 to A142).

**Vicki Been (Former Boxer Family Professor of Law at New York University School of Law, Faculty Director of NYU Furman Center, former Commissioner of Housing Preservation and Development)<sup>136</sup>**

- Comprehensive planning is meaningless unless it specifies in detail what is required – but this level of detail is not appropriate for the Charter.
- Comprehensive planning processes vary dramatically across the country – some states mandate detailed requirements; others provide only vague guidance. It is irresponsible to submit such an ambiguous concept to a vote, as different people have different definitions for the term.
- A discussion of the Fair Share Criteria regarding what fairness actually means and how things get distributed equitably would be incredibly controversial, hard-fought, and difficult. And there is no reason to believe that comprehensive planning would actually make any progress on these questions.
- Comprehensive planning can foster NIMBYism and be an exclusionary tool. There is little evidence that comprehensive planning leads to equitable growth, more affordable housing, and better housing affordability.

**Eric Kober (former director of Housing, Economic and Infrastructure Planning at DCP)<sup>137</sup>**

- It is beneficial for the Charter to require DCP to identify in a broad sense the areas of the City in which growth should take place and the amount and type of growth that needs to take place over a reasonable timeframe of not more than 10 to 20 years. To go beyond this and have a comprehensive plan for every neighborhood is not realistic because the resources will never be available, and it is not really necessary because most neighborhoods are not going to change in the foreseeable future.
- Rationalizing the various existing planning requirements of the Charter is laudable, but there are no penalties for disregarding those requirements. Thus, the Charter can at best give a nudge toward good planning but cannot mandate it. Any planning provisions in the Charter should be high-level and provide the flexibility to adapt to specific times and conditions.

**Citizen’s Housing and Planning Council (CHPC), Jessica Katz (Executive Director)<sup>138</sup>**

- The City’s ULURP and land use process is by no means perfect, but it has stood the test of time and forces developers, City agencies, and community activists alike to arrive at a compromise position.
- Any improvements to the existing land use process should meet the following goals that CHPC has identified: 1) balance local and citywide perspectives; 2) incorporate accurate data; 3) address the needs of both current and future residents; 4) be decision-driven; and 5) provide better ways for neighbors and communities to participate and stay informed. The CHPC does not believe that a comprehensive plan would help achieve these goals. Any such plan would be outdated before the ink was dry, and the City is already replete with plans.

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<sup>136</sup> See Testimony of Vicki Been, Mar. 21, 2019 (Appendix A, attached hereto, at pages A143 to A151).

<sup>137</sup> See Testimony of Eric Kober, Apr. 30, 2019 (Appendix A, attached hereto, at page A152).

<sup>138</sup> See Testimony of Jessica Katz, Mar. 21, 2019, and May 9, 2019 (Appendix A, attached hereto, at pages A153 to A158).

**Vishaan Chakrabarti (Professor at Columbia University, former Director of the Manhattan Office of the New York Department of City Planning)<sup>139</sup>**

- Opposes the calls for significant revisions to ULURP, including the proposal for additional layers of so-called comprehensive planning. The authority to plan for the City's growth firmly rests with the Mayor's office and should continue to do so.
- While the intention of comprehensive planning is laudable, it would actually exacerbate the social and environmental problems impacting equity and affordability of housing by further limiting the City's capacity to address population growth and diversify the economy. Even a limited strategic comprehensive plan to combat climate change would not be agile enough to deal with the dynamic needs of the City.
- Production of affordable and market rate housing units must increase to combat the affordable housing problem, and a comprehensive plan would stifle the ability to build more housing.

**Andrew Lynn (former Executive Director of the DCP, counsel to 1989 Charter Revision Commission)<sup>140</sup>**

- The more inclusive the decision-making, the more difficult it becomes for City leaders to advance or define vision and for voters to hold leadership accountable.
- The function of depoliticized planning rests with the City's elected executive branch, which is already obligated under current law to solicit local input and obtain binding City Council approval.

Issues for Further Consideration

The City's population is projected to grow to over 9 million people by 2040.<sup>141</sup> This growing population will require, among other things, an adequate housing supply, together WITH the siting and construction of new City projects to provide adequate sanitation facilities, schools, and other City services.

Many suggested to the Commission that a comprehensive plan could equitably allocate necessary development throughout the City and ameliorate local opposition to individual projects and thereby facilitate necessary growth; however, there was no agreement on what such a plan would consist of or address, or how it would operate. Others posited the opposite, that a City as large and diverse as New York would not benefit from a single comprehensive plan, as the City requires the ability to be nimble in its planning to address critical needs on a timely basis. No one argued that the current system of planning is perfect.

The debate on whether the City should produce a comprehensive plan, and what form it should take, will undoubtedly continue. As City officials, policymakers and other interested stakeholders consider how best to plan for the future orderly growth and development of the City, whether under the current system (or improved version of the current system) or through an entirely new system

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<sup>139</sup> See Testimony of Vishaan Chakrabarti, Mar. 21, 2019 (Appendix A, attached hereto, at pages A159 to A160).

<sup>140</sup> See Transcript of Mar. 21, 2019 Land Use Expert Forum, at 13-16.

(e.g., some form of a “comprehensive” citywide plan), the testimony received by the Commission (including those outlined above) should be used to inform this discussion, and should thoughtfully consider the following factors:

- How to balance local community concerns with citywide needs and policy goals;
- How to engage local communities in a meaningful way in the City’s overall growth plan;
- How to address the effects of new development on local communities, including the displacement of existing residents;
- The advantages and disadvantages of a “top-down” versus “bottom-up” planning approach, and whether the two approaches must be mutually exclusive;
- How to allocate and distribute the City’s resources and services in an equitable manner; and
- How to improve the Fair Share Criteria to enable the fair distribution of City facilities across communities.

## Democracy Vouchers

The influence of private money in politics has concerned policymakers for decades, who have responded by implementing a variety of measures designed to regulate the financing of political campaigns. At their most basic level, these regulations take the form of contribution limits, such as those that govern campaigns for federal office. Some jurisdictions, including New York City, go a step further and operate a system for public financing of campaigns – for those candidates which choose to opt in – via a small-dollar contribution matching system coupled with spending limits for candidates. A more recent development in public campaign financing is a voucher system, in which voters are given public-funded contribution vouchers to donate to their chosen candidates for office, which candidates can then redeem in exchange for public funding for their campaign. In exchange, as in most matching systems, candidates are generally held to a higher financial reporting standard and have to meet designated public support standards in order to qualify to receive funds.

### New York City Public Matching Funds Program

New York City municipal elections are currently governed by a robust campaign finance law that includes a small-dollar public matching funds program, administered by the Campaign Finance Board (CFB).<sup>142</sup> Under the public matching funds program, candidates who choose to participate are eligible to receive a substantial match in public funds for the first \$250 or \$175 raised (depending on the race) from each qualified City resident. Recent changes to the system by the 2018 Charter Revision Commission mean that candidates for elections through 2021 can either opt into the new program, where contributions are matched 8:1, or the old program, where contributions are matched 6:1.<sup>143</sup> After the 2021 elections, all contributions to the program participants will be matched at 8:1.<sup>144</sup> In return, these candidates agree to a spending limit and an extensive post-election audit to ensure compliance with the Campaign Finance Act.<sup>145</sup>

New York State has recently made significant progress in establishing a statewide public financing system, with the State Legislature approving the creation of a New York City-type system in January 2019. In November 2019, the New York State Public Campaign Financing Commission recommended that a matching funds program be structured similarly to the City's, with candidates able to receive public matching funds for contributions up to \$250.<sup>146</sup> The first \$50 of every contribution will be matched at 12:1, the second \$100 will be matched 9:1, and the last \$100 will be matched 8:1. For State Assembly and Senate candidates, only contributions from contributors within the candidate's district will be matchable.<sup>147</sup> Los Angeles, San Francisco, and Washington

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<sup>142</sup> Charter §§ 1051-§1057-f; N.Y. City Administrative Code § 3-702(3)(g).

<sup>143</sup> New York City Campaign Finance Board, [Limits and Thresholds: 2021 Citywide Elections](#).

<sup>144</sup> New York City Campaign Finance Board, [What's New in the Campaign Finance Program](#).

<sup>145</sup> New York City Campaign Finance Board, [How It Works](#).

<sup>146</sup> Samar Khurshid, [State Commission Approves New Campaign Finance System, Raises Bar for Political Party Ballot Access](#), Gotham Gazette (Nov. 25, 2019).

<sup>147</sup> [Id.](#)

D.C. in 2018, among other local jurisdictions, have also modeled their campaign finance systems on the City’s matching funds program.<sup>148</sup>

The City’s public matching funds program has a high rate of participation. Across four municipal elections between 2001 and 2013, 91% of primary candidates and 67% of general candidates participated in the program. In the 2017 election cycle, the CFB distributed \$17.7 million in public matching funds to candidates in 10 open-seat City Council elections and one competitive citywide election for Mayor.<sup>149</sup> The City Council regularly makes amendments to the Campaign Finance Act through passage of local law,<sup>150</sup> and in November 2018, voters approved significant changes to the program, as proposed by the 2018 Charter Revision Commission.<sup>151</sup>

### Seattle’s Democracy Voucher Program

Seattle, Washington (population 744,955<sup>152</sup>) is currently the only jurisdiction in the United States to have implemented a campaign finance voucher system, created by voter initiative in 2015.<sup>153</sup> Before implementing what it calls “democracy vouchers,” Seattle had operated without a public campaign financing system since 1992.<sup>154</sup> A 2013 ballot proposal to revive a more traditional matching program narrowly failed.<sup>155</sup> Proponents of democracy vouchers in Seattle cited a desire for more competitive elections, a more diverse candidate pool, and a reduction in influence for political action committees and large dollar donors.<sup>156</sup>

Under Seattle’s current program, each adult resident (regardless of whether registered to vote) can receive four \$25 democracy vouchers to assign to candidates running for local office.<sup>157</sup> Candidates qualify to receive public financing by meeting a minimum signature and contribution support threshold, which varies by office.<sup>158</sup> The maximum yearly budget for democracy voucher program funding and administration is \$3 million, due to how the program was set up to be funded over 10 years by a special property tax.<sup>159</sup>

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<sup>148</sup> Los Angeles City Ethics Commission, [Campaigns](#); City & County of San Francisco Ethics Commission, [Public Financing Program](#); Rachel Chason, [D.C. Council Unanimously Votes to Create Public Campaign Finance Program](#), The Washington Post (Jan 9, 2018).

<sup>149</sup> New York City Campaign Finance Board, [Keeping Democracy Strong: New York City's Campaign Finance Program in the 2017 Citywide Elections](#), at 30.

<sup>150</sup> Local Law 17 of 2006 (regulating the contributions of lobbyists to candidates and closing corporate donation loopholes); Local Law 116 of 2013 (allowing text messaging contributions to be made to candidates in the matching program); Local Law 181 of 2016 (require donor disclosure for all non-governmental entities controlled by a local elected official or their agents).

<sup>151</sup> [Final Report of the 2018 New York City Charter Revision Commission](#), Sep. 6, 2018, at 47-50.

<sup>152</sup> United States Census Bureau, [Quick Facts: Seattle City, Washington: United States](#).

<sup>153</sup> Seattle Ethics and Elections Commission, [Democracy Voucher Program: About the Program](#).

<sup>154</sup> Mike O’Brien, [Seattle Public Financing Going to the Voters](#), Seattle.gov (Jun. 24, 2013).

<sup>155</sup> Jim Brunner, [Huge Win for Seattle Council Districts; Narrow Loss for Public Financing](#), The Seattle Times (Dec. 2, 2013).

<sup>156</sup> Bob Young, [Seattle’s Democracy Vouchers Haven’t Kept Big Money out of Primary Election](#), The Seattle Times, Jul. 30, 2017.

<sup>157</sup> Seattle Ethics & Elections Commission, [Democracy Voucher Program: How to Qualify as a Candidate](#), at 1.

<sup>158</sup> *Id.* at 1-2.

<sup>159</sup> Seattle Ethics & Elections Commission, [How Is the Democracy Voucher Program Funded?](#)

In 2017, democracy vouchers were mailed to nearly 500,000 Seattle residents.<sup>160</sup> Residents could assign vouchers to candidates running for two at-large city council seats and one City Attorney seat. Overall, 79,923 vouchers were returned from over 20,000 unique contributors.<sup>161</sup> To be considered valid, a voucher must be signed and dated by the contributor and be returned to the Seattle Ethics & Elections Commission (SEEC) directly by mail, dropped off at a drop-off location, or provided directly to a campaign.<sup>162</sup> Then King County Elections validates a contributor's signature based on their voter registration, and SEEC staff distributes funds to qualified candidates who have not yet exceeded their spending limit.<sup>163</sup> To qualify to receive funds, candidates must meet a threshold of 400 verified contributions of \$10 or more from Seattle residents.<sup>164</sup> Only five of the 12 city council candidates participating in the voucher program qualified to receive funds.<sup>165</sup> Of the two candidates running for City Attorney, only one candidate chose to participate in the voucher program and also qualified to receive funds.<sup>166</sup>

Before the November 2019 municipal elections, the SEEC introduced the Democracy Voucher Online Portal, which gives residents the ability to assign vouchers to candidates online, not just by mail.<sup>167</sup> In the November 2019 election cycle, all 13 participating city council candidates qualified to receive democracy vouchers for the seven district council seats up for election.<sup>168</sup>

In June 2017, two Seattle property owners brought suit against the City of Seattle under 42 U.S.C § 1983, challenging the constitutionality of the city's Democracy Voucher program, arguing the property taxes funding the program burden First Amendment rights and unconstitutionally compel speech.<sup>169</sup> Seattle countered that the program was a constitutionally valid method of public campaign finance approved by the United States Supreme Court in *Buckley v. Valeo*, 424 U.S. 1, 96 S. Ct. 612, 46 L. Ed. 2d 659 (1976).<sup>170</sup> The superior court upheld the constitutionality of the Democracy Voucher Program, finding that the city “articulated a reasonable justification” for the program that was consistent with United States Supreme Court precedent: “an increase in voter participation in the electoral process.”<sup>171</sup> On appeal, the Supreme Court of Washington affirmed the decision of the superior court, similarly finding that the program did not violate the First Amendment.<sup>172</sup> In reaching its decision, the court held that the “program does not alter, abridge, restrict, censor, or burden speech, nor does it force association between taxpayers and any message conveyed by the program.”<sup>173</sup> On November 11, 2019, plaintiffs filed a petition for a *writ of*

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<sup>160</sup> BERK Consulting, [Democracy Voucher Program Evaluation](#), at 5.

<sup>161</sup> *Id.* at i, 10-11.

<sup>162</sup> *Id.* at 5.

<sup>163</sup> *Id.* at 9.

<sup>164</sup> Seattle Ethics & Elections Commission, [2017 Allocated Funds](#) (see link to Democracy Voucher Data - 01\_05\_2018).

<sup>165</sup> BERK Consulting, [Democracy Voucher Program Evaluation](#), at 13-14.

<sup>166</sup> *Id.* at i, 14.

<sup>167</sup> Seattle Ethics & Elections Commission, [Democracy Voucher Online Portal](#).

<sup>168</sup> Seattle Ethics & Elections Commission, [2019 Participating Candidates](#).

<sup>169</sup> *Elster v The City of Seattle*, No. 17-2-16501-8, 2017 WL 11407502 (Wash.Super., King County Nov. 02, 2017).

<sup>170</sup> *Id.* at \*1.

<sup>171</sup> *Id.* at \*4.

<sup>172</sup> *Elster v. City of Seattle*, 444 P.3d 590, 595, 193 Wash.2d 638 (Wash., 2019).

<sup>173</sup> *Id.* at 646.

*certiorari*, which is currently pending before the United States Supreme Court (Case No. 19-608).<sup>174</sup>

### Other Jurisdictions – Public Voucher Programs

Seattle’s Democracy Voucher program is the only public financing voucher program currently operating. However, two other municipalities have considered adopting a program similar to democracy vouchers:

- **Albuquerque, New Mexico:** In November 2019, voters rejected the ballot question that would have created a Democracy Vouchers-style program for local elections.<sup>175</sup> Prior to the ballot initiative, Bernalillo County Commissioners had voted twice against adding a campaign public voucher financing question to the ballot.<sup>176</sup> Albuquerque currently has a public financing system that utilizes matching funds for certain local participating candidates.<sup>177</sup>
- **Austin, Texas:** A 2017 Charter Review Commission recommended creating a voucher-style program.<sup>178</sup> A charter amendment is expected to be placed on the ballot in time to implement the program for the 2022 city elections.<sup>179</sup>

At the federal level, in March 2019, the House of Representatives passed H.R. 1, the “For the People Act,” which seeks “to expand Americans’ access to the ballot box, reduce the influence of big money in politics, and strengthen ethics rules for public servants.” It includes numerous campaign finance-related provisions, including both a small-dollar matching program and funding for a pilot voucher-style system in three states.<sup>180</sup> H.R. 1 has not been made into law and is therefore not in effect.

Some 2020 Democratic presidential candidates have also supported creating a voucher-style public financing program for federal elections. Senator Kirsten Gillibrand proposed giving \$200 worth of “democracy dollars,” split between federal primary and general elections, to each eligible voter in America to be distributed to candidates for the United States House of Representatives and Senate.<sup>181</sup> Senator Bernie Sanders has also included a public voucher program among a larger slate

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<sup>174</sup> Petition for Writ of Certiorari, *Elster v. City of Seattle*, No. 19-608 (filed Nov. 12, 2019).

<sup>175</sup> Matthew Reichbach, [Democracy Dollars’ Voted Down, but Other Public Financing Improvements, Bonds Pass](#), NM Political Report (Nov. 5, 2019).

<sup>176</sup> Andy Lyman, [Democracy Dollars Second Attempt Fails](#), The NM Political Report, Common Cause New Mexico, (Aug 22, 2018).

<sup>177</sup> City of Albuquerque, [Election Matching Funds](#).

<sup>178</sup> Emma Freer, [Austin Weighs \\$1.5 Million Democracy Dollars Voucher Program](#), Community Impact Newspaper (Oct 24, 2018).

<sup>179</sup> Mark Lisher, [Seattle “Democracy Dollars” Case that Could Influence Austin Goes to State High Court](#), The Texas Monitor (Jan 9, 2019).

<sup>180</sup> H.R. 1 2019. Title V. Small Dollar Financing of Congressional Election Campaigns.

<sup>181</sup> David Gutman, [Presidential Hopeful Kirsten Gillibrand Wants to Take Seattle’s Public Campaign Finance System Nationwide](#), The Seattle Times (May 17, 2019).

of election-related reforms, and Andrew Yang has proposed a “democracy dollars” program which would give \$100 to every American to give to each person’s favored candidate.<sup>182</sup>

### Testimony Received by the Commission

The Commission received testimony from members of the public and various experts in the campaign finance field regarding Seattle’s democracy vouchers program, which testimony is summarized below. Note: The summaries below are not meant to be exhaustive of each person’s/entity’s views or ideas on the issue of democracy vouchers. Readers of this report are encouraged to read the complete written testimonies of the cited persons/entities, which are attached hereto as Appendix B.

#### **Wayne Barnett (Executive Director of the Seattle Ethics & Elections Commission (SEEC)):**

The SEEC spent a lot of time and energy educating the public on the benefits of democracy vouchers, and then a huge part of the actual process was tracking and verifying vouchers so they could be converted into campaign funds for participating candidates. Because Washington State has universal voter registration and vote by mail, Seattle has a very high voter registration rate and therefore most eligible voters are on the list to mail democracy vouchers. Mr. Barnett expects that improvements to the voucher program ahead of the 2019 elections, including online vouchers and a larger pool of candidates who could potentially qualify to use vouchers, would make the 2019 round even more successful than the 2017 one.<sup>183</sup>

**Alan Durning (the Executive Director of the Sightline Institute in Seattle):** As a main proponent of the democracy voucher program, Mr. Durning noted that Seattle studied the New York City matching funds program when considering how to construct its Democracy Voucher Program and that the initial preference of reformers was to establish a 6:1 matching program, although voters eventually rejected the ballot question. Mr. Durning believes that the Democracy Voucher Program is the most democratizing and egalitarian method of public campaign financing that has so far been invented. He noted that while the program is the first of its kind in the world, for Seattle residents, who primarily vote absentee by mail, it was largely second nature to receive vouchers in the mail and to mail them back, which made implementing the program easier for the SEEC.<sup>184</sup>

**Dr. Jennifer Heerwig (Assistant Professor of Sociology at Stony Brook University):**<sup>185</sup> Dr. Heerwig and her colleague, Brian McCabe, conducted a study<sup>186</sup> that examined the effects of the 2017 Seattle Democracy Voucher Program, which is the first public campaign finance program of its kind in the United States. The study found that Seattle’s Democracy Voucher Program had

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<sup>182</sup> Ella Nilsen, [Bernie Sanders Takes Aim at the DNC with his New Anti-Corruption Plan](#), Vox.com (Oct. 7, 2019); Yang2020, [Policy: Democracy Dollars](#).

<sup>183</sup> See Transcript of Feb. 25, 2019, Elections Expert Forum, at 80-82.

<sup>184</sup> See Transcript of Feb. 25, 2019, Elections Expert Forum, at 78-80, 112, 114, 117-19.

<sup>185</sup> See Testimony of Dr. Jennifer Heerwig, February 25, 2019 (Appendix B, attached hereto, pages B1 to B31); Transcript of Feb. 25, 2019 Elections Expert Forum, at 82-85, 110-11, 114.

<sup>186</sup> Brian McCabe and Jennifer Heerwig, [Diversifying the Donor Pool: How Did Seattle's Democracy Voucher Program Reshape Participation in Municipal Campaign Finance?](#), Election Law Journal: Rules, Politics, and Policy (Sept. 24, 2019). See Appendix B, attached hereto, pages B10 to B31.

dramatically increased the number of participants in the local campaign finance system by over 300% and had helped to reduce the overrepresentation of wealthy campaign donors from the donor pool. However, the study observed that voucher usage was still lower among communities of color, younger voters, and those with lower levels of income.

**Jerry Goldfeder (Adjunct Professor of Election Law at Fordham Law School and election attorney):**<sup>187</sup> The current New York City public matching funds program already allows “candidates of modest means” to run viable campaigns, but there is always room for improvement. While there are complications to implementing democracy vouchers in conjunction with the existing matching funds program, the City should consider whether it would force candidates to talk to more constituencies to raise money.

**Dr. Michael Malbin (Professor of Political Science, University at Albany):**<sup>188</sup> Professor Malbin highlighted that New York City’s matching funds program has been and should continue to be a model for the nation. The City should analyze whether the democracy voucher system adopted in Seattle will truly yield better results than the City’s newly adopted 8:1 matching funds program or other public financing systems. Malbin noted that while he was “intrigued by the Seattle experiment, which has been implemented in a very impressive way,” he encourages further study of the issue to fully analyze the Seattle program’s impact and results after the Seattle mayoral race in 2021. Professor Malbin recommends that the City Council set up a new commission dedicated entirely to comparing the strengths and weaknesses of public financing systems; such a commission should be made up entirely of scholars and should focus on the election results of Seattle and New York City in 2021 and report back to the City Council.

**New York City Campaign Finance Board (CFB) (Richard Shaffer, Chair, and Amy Loprest, Executive Director):**<sup>189</sup> In testimony to the 2018 Charter Revision Commission, the CFB recommended lowering campaign contribution limits, increasing the matching rate, and increasing the amount of public funds that campaigns can receive through the existing New York City public matching funds program to help transform the ratio of big dollar contributions to small dollar ones, especially in local elections. The 2018 Commission proposed substantially similar changes to the program, and these changes received overwhelming voter support in the 2018 election; under the new program, the average contribution amount is getting smaller while the donor base is increasingly diverse. CFB emphasized that the board’s independence and non-partisan status are critical to maintaining the effectiveness and integrity of the matching funds program. The existing program is regarded as a success and a model for cities nationwide.

**Frank Morano:**<sup>190</sup> The City’s matching funds program has worked well for individuals and incumbents who are more easily able to raise funds, and the newly adopted 8:1 match will help “level the playing field” for insurgent candidates. Nonetheless, the matching funds program is flawed and the Campaign Finance Act has fallen short of its original expectations. Mr. Morano

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<sup>187</sup> See Testimony of Jerry Goldfeder, February 25, 2019 (Appendix B, attached hereto, pages B32 to B33); Transcript of Feb. 25, 2019 Elections Expert Forum, at 85-89.

<sup>188</sup> See Testimony of Michael Malbin, Feb. 25, 2019 (Appendix B, attached hereto, pages B34 to B35).

<sup>189</sup> See Testimony of Frederick Schaffer and Amy Loprest, Feb. 25, 2019; Transcript of Feb. 25, 2019 Elections Expert Forum, at 74-77, 108 (Appendix B, attached hereto, pages B36 to B40).

<sup>190</sup> See Testimony of Frank Morano, May 7, 2019 (Appendix B, attached hereto, pages B41 to B43).

argues that a democracy voucher model should be presented to the voters, as the issue will not likely be taken up by elected officials that “enjoyed the benefits of our current campaign finance system.”

**John F. Manning:**<sup>191</sup> Democracy vouchers are a “viable, realistic alternative” to the current issues that the City and State face involving “legalized bribery,” corruption, and fraud. Elected officials must be responsive to private interests and lobbyists because they rely on these same actors for campaign donations. Mr. Manning believes democracy vouchers would open up the political process and allow more non-wealthy individuals to run for office and for support for less well-connected candidates.

**The Manhattan Libertarian Party (Ilya Schwartzburg):**<sup>192</sup> The Manhattan Libertarian Party opposes the democracy voucher model on the basis that it is “compelled political speech.” Ms. Schwartzburg believes that democracy vouchers are fundamentally flawed given that “any and all political speech” would be routed through a government program. As such, democracy vouchers would compel taxpayers to finance campaign speech, thus violating their First Amendment rights.

#### Issues for Further Consideration

While some believe Seattle’s experience is promising in that it is attracting new, small-dollar contributors to engage in campaigns, further research and analysis would be needed regarding the impacts of Seattle’s program and how such a system could or should be implemented in New York City, especially given the City’s extensive existing public matching program. As it rolls out its system for more races, particularly for its mayor’s race in 2021, Seattle’s experience will likely prove useful if the City Council or a future charter revision commission chooses to consider adopting such a system in New York City. Presented below are questions for further study:

- Would a potential democracy vouchers program replace the current public matching funds program?
- Would a potential democracy vouchers program supplement the current public matching funds program? What would a potential hybrid system look like?
- How would democracy vouchers be funded and would there be a limited number, as in Seattle?
- How many vouchers would be distributed to City residents?
- Who would be eligible to receive vouchers (e.g., residents versus registered voters)
- Could the program be implemented with the assistance of the City Board of Elections in confirming contributor signatures with their voter registration?

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<sup>191</sup> See Testimony of John F. Manning, Sept. 17, 2018 (Appendix B, attached hereto, pages B44 to B47).

<sup>192</sup> See Testimony of Ilya Schwartzburg, May 9, 2019 (Appendix B, attached hereto, pages B69 to B70).

## The Role of the Borough President

Throughout the course of its work, the Commission heard and received testimony regarding the appropriate role of the City's Borough Presidents – ranging from significant additions to their powers to the need for the offices altogether. Several Commissioners themselves articulated the importance of the office and the need to explore ways to enhance the office's efficacy. The evolution of the office is instructive. Upon consolidating the existing City of New York, Brooklyn, the East Bronx, western Queens County, and Staten Island into a single city in 1898, the City created the offices of the Borough Presidents<sup>193</sup> to assuage concerns that boroughs would become irrelevant in a more centralized government.<sup>194</sup> Borough Presidents are elected by the voters of their respective boroughs. They are elected at the same time and serve the same term as the Mayor.<sup>195</sup>

From 1901<sup>196</sup> to 1990, Borough Presidents served on the Board of Estimate, a powerful governing body that had significant authority in budget, land use, contracting, and other areas.<sup>197</sup> In many ways, the offices of the Borough Presidents and their powers were the impetus for the 1989 overhaul of the City Charter. Each Borough President had one vote on the Board of Estimate (citywide elected officials each had two).<sup>198</sup> However, under this voting structure, some boroughs were more represented than others due to significant differences in borough population and this system was declared unconstitutional by the United Supreme Court in 1989.<sup>199 200</sup>

Elimination of the Board of Estimate resulted in Borough President powers being significantly diminished after 1989.<sup>201</sup> Borough Presidents retained control over some intra-borough affairs,<sup>202</sup> with a number of historical powers remaining in some form (e.g., maintain a topographical bureau<sup>203</sup>) and others added (e.g., monitor service delivery in the borough,<sup>204</sup> introduce legislation,<sup>205</sup> train and provide technical assistance to community boards<sup>206</sup>).

The 1989 Commission chose not to eliminate the offices of the Borough Presidents largely if not mostly due to the historical importance of boroughs, significant public testimony urging a meaningful borough role, and concerns that without a role for borough voice the 1989

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<sup>193</sup> Frederick A.O. Schwarz, Jr. and Eric Lane, The Policy and Politics of Charter Making, at n.1.

<sup>194</sup> Gregory Perrotta, [A Case for and Against the Borough President in Twenty-First Century New York City](#), 58 N.Y.L. SCH. L. REV. 193, 194 (2013-2014).

<sup>195</sup> Charter § 81(b).

<sup>196</sup> Schwarz, Jr. and Lane, The Policy and Politics of Charter Making, at 766.

<sup>197</sup> Perrotta, [A Case for and Against the Borough President in Twenty-First Century New York City](#), at 194. See Linda Greenhouse, [Justices Void New York City's Government; Demand Voter Equality in All Boroughs](#), The New York Times (Mar. 23, 1989).

<sup>198</sup> Schwarz, Jr. and Lane, The Policy and Politics of Charter Making, at 740.

<sup>199</sup> Id. at 739-740.

<sup>200</sup> Id. at 765.

<sup>201</sup> Perrotta, [A Case for and Against the Borough President in Twenty-First Century New York City](#), at 194.

<sup>202</sup> Id.

<sup>203</sup> Charter § 82(3).

<sup>204</sup> Charter § 82(10).

<sup>205</sup> Charter § 82(11).

<sup>206</sup> Charter § 82(12). Other added powers can be found in Charter §§ 82(8)-(9) and (13)-(15).

Commission's proposals would be voted down.<sup>207</sup> At the same time, the 1989 Commission did not want to give Borough Presidents a true legislative role because the 1989 Commission believed this would dilute the City Council's power and would not create opportunities for minority politicians (one of its primary goals).<sup>208</sup> The 1989 Commission was also reluctant to give Borough Presidents significant executive power, as the 1989 Commission could not identify issues sufficiently local in scale to reserve for Borough President control rather than mayoral control.<sup>209</sup> Only a few years after the 1989 revisions, the Borough Presidents faced calls for abolishment of their offices and questions regarding their purpose.<sup>210</sup>

### Powers of the Borough Presidents

Currently, Borough Presidents' limited powers include making non-binding recommendations for capital projects,<sup>211</sup> having legislation introduced in the Council,<sup>212</sup> appointing community board members,<sup>213</sup> appointing one member each to the City Planning Commission,<sup>214</sup> and allocating funds within their respective boroughs (5% of the City's capital budget is distributed to Borough Presidents),<sup>215</sup> among others. Borough Presidents are also empowered to hold public hearings.<sup>216</sup> For example, Borough Presidents often hold hearings on land use topics<sup>217</sup> and various other issues.<sup>218</sup>

Borough Presidents are required to chair their borough board,<sup>219</sup> make recommendations regarding their borough to the Mayor and other officials,<sup>220</sup> maintain a planning office for the borough,<sup>221</sup> monitor service delivery in the borough,<sup>222</sup> propose a borough capital budget,<sup>223</sup> and recommend executive budget modifications to the Mayor and Council.<sup>224</sup>

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<sup>207</sup> Schwarz, Jr. and Lane, The Policy and Politics of Charter Making, at 810-811.

<sup>208</sup> Id. at 813-814.

<sup>209</sup> Id. at 815.

<sup>210</sup> Perrotta, A Case for and Against the Borough President in Twenty-First Century New York City, at n. 87.

<sup>211</sup> Charter § 82(4).

<sup>212</sup> Charter § 82(11).

<sup>213</sup> Charter § 2800(a)(1).

<sup>214</sup> Charter § 192(a).

<sup>215</sup> Charter § 211(a); MNN Blog, What Does the Manhattan Borough President Do?, MNN: Manhattan Neighborhood Network (Jan. 12, 2017).

<sup>216</sup> Charter § 82(5).

<sup>217</sup> Office of the Brooklyn Borough President Eric L. Adams, Uniform Land Use Review Procedure Public Hearing, Office of the Borough President Eric L. Adams (last visited Feb. 12, 2019).

<sup>218</sup> Gale Brewer – Manhattan Borough President, 9/11 Town Hall for Downtown Community, Gale Brewer – Manhattan Borough President (last visited Oct. 15, 2018).

<sup>219</sup> A Borough Board is a body comprised of the Borough President, Council Members from the borough, and the chair of each Community Board in the borough; it holds regular public hearings and reports to the City Council, Mayor, and City Planning Commission on borough programs and capital projects (Charter § 85(a)). Additionally, a Borough Board has binding approval power in the leasing or selling of City property within the respective borough (Charter § 384(4)) and makes Uniform Land Use Review Procedure (ULURP) recommendations when the application affects multiple community districts within the respective borough (Charter § 197-c(f)).

<sup>220</sup> Charter § 82(7).

<sup>221</sup> Charter § 82(9).

<sup>222</sup> Charter § 82(10).

<sup>223</sup> Charter § 211(c).

<sup>224</sup> Charter § 251.

Borough Presidents also play a role in the City’s land use process. In addition to appointing community board members and a member each to the City Planning Commission, they have authority to issue non-binding recommendations concerning the approval, disapproval, or modification of land use applications under the Uniform Land Use Review Procedure (ULURP).<sup>225</sup>

Each Borough President also chairs a “borough service cabinet,” which must include one or more designees of “senior officials” of each City agency that delivers services to the borough. The purpose of the cabinet is to coordinate at the borough level service delivery functions and programs of agencies that provide services in the borough; consider interagency problems and impediments to the effective and economic delivery of services in the borough; and plan and develop programs addressed to the needs and priorities of the borough and its residents.<sup>226</sup>

### Testimony Received by the Commission

The Commission heard testimony from former Borough Presidents, academics, and veterans of City government regarding the appropriate role of the office of the Borough President, its place in the balance of power in the City’s local government, how to ensure that the voice of a borough continues to be heard, and the importance of a borough’s identity to City residents. Some recommended that Borough Presidents’ powers be strengthened, others stated that they be left alone. The written testimonies of the persons identified below can be found in Appendix C, annexed hereto.

**Ruth Messinger (former Manhattan Borough President)**<sup>227</sup>: Ms. Messinger encouraged structural changes that would allow Borough Presidents to convene with local and citywide bodies to reach agreements on issues affecting their borough.<sup>228</sup> The Borough President draws its strength from having a less narrow focus than individual City Council representatives. The ability to more consistently convene such meetings would give a Borough President the opportunity to present borough proposals to the Mayor, commissioners, and the City Council.

**Virginia Fields (former Manhattan Borough President)**: Ms. Fields suggested that the Mayor should be required to have more consistent and formalized communications with the Borough Presidents, and that Borough Presidents should have binding votes in the ULURP process.<sup>229</sup>

**Eric Lane (Dean of Hofstra University School of Law and former Executive Director of the 1989 Charter Revision Commission)**: People in New York City identify strongly with their borough, so a referendum that seeks to eliminate Borough Presidents would likely not pass. The goal of the 1989 Charter Revision Commission was to give Borough Presidents partial executive power because their role on the Board of Estimate was eliminated.<sup>230</sup>

**Doug Muzzio (Professor, Baruch College, City University of New York)**: The Borough Presidents ensure effective City service delivery and represent an important borough voice in the

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<sup>225</sup> Charter § 197-c(h).

<sup>226</sup> Charter § 2706.

<sup>227</sup> See Testimony of Ruth Messinger, Mar. 25, 2019 (Appendix C, attached hereto, pages C1 to C2).

<sup>228</sup> See Transcript of Mar. 25, 2019 Public Meeting, at 5.

<sup>229</sup> See Transcript of Mar. 25, 2019 Public Meeting, at 9-12.

<sup>230</sup> See Transcript of Mar. 25, 2019 Public Meeting, at 73-74.

affairs of the City. The Borough Presidents are important to the City's political opportunity structure and incorporate their multi-dimensional diversity in governance. Their power to act on behalf of the boroughs should be enhanced while not fundamentally reducing the power of the Mayor or the City Council, particularly by requiring borough agency heads and commissioners to attend meetings headed by the Borough Presidents. For example, the Commission should create independent budgets for the Borough Presidents and increase their influence in the ULURP process.<sup>231</sup>

**Stanley Brezenoff (former Deputy to the Koch Administration, former head of NYC Health + Hospitals, Special Assistant to the de Blasio Administration, former Interim Chair and CEO of NYCHA):** Borough President power should not be expanded at the expense of the Mayor. Historically, Borough Presidents have not excelled at balancing various interests and this can result in policy stalemates.<sup>232</sup>

**Allan Cappelli (City Planning Commission, Attorney and Borough Advocate):** The office of the Borough President is a unique position with the ability to advocate for the borough by focusing on issues at a borough level, and strengthening the position should be considered. This could be done by making certain appointments subject to the recommendation of the Borough President, such as positions that handle transportation and other local issues.<sup>233</sup>

#### Issues for Further Consideration

30 years after the 1989 changes to the structure of City government, the delicate but important balance between local control and centralized administration of City services continues to be a significant topic of discussion and debate. As just one example, as noted in the Commission's Preliminary Staff Report and referenced above, the Charter empowers the Borough Presidents to chair a borough service cabinet consisting of borough-level representatives from various City agencies, but it does not clearly delineate City agencies' responsibility for attending any meetings or providing information. If policymakers, or a future charter revision commission, choose to further examine the role that Borough Presidents play in advocating for the interests of their constituents on local service delivery matters, the extent to which they are empowered to convene with and receive information from City agencies is one potential area for further discussion.

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The three areas outlined above generated a great deal of interest by the Commissioners, as reflected by the amount of research and discussion to which they were subject. In addition to the discussion of these areas by public speakers and related submissions by individuals and advocacy groups, these areas were debated by the Commissioners at a number of public meetings and continued to be discussed throughout the Commission's tenure. At its final meeting, when the five ballot questions – consisting of 19 proposed amendments to the Charter – were approved for the

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<sup>231</sup> See Testimony of Doug Muzzio, Mar. 18, 2019 (Appendix C, attached hereto, pages C3 to C10); Transcript of Mar. 18, 2019 Governance Expert Forum, at 102.

<sup>232</sup> See Transcript of Mar. 18, 2019 Governance Expert Forum, at 95-98 and 110-13.

<sup>233</sup> See Transcript of Mar. 25, 2019 Governance/Land Use Expert Forum, at 12-15.

November 2019 election, these three ideas continued to have currency. The Commissioners requested that these ideas be presented to the elected officials who had appointment power under Local Law 91 of 2018 to ensure that these topic areas have visibility beyond the Commission and considering the possibility that they might be revived by a future charter revision commission or considered by other City officials.