

- Special elections
- CCRB

## **Charter Revision Commission Testimony**

May 9<sup>th</sup>, 2019 at City Hall in Manhattan

I know you're probably sick of hearing from me by now and after more than five hours of hearing testimony, I wouldn't blame you for being eager to get home and get a few hours of sleep. I do think it's important for me to make clear why I've come to all of these hearings- it's not because I have nothing to do or because I enjoy being referred to as a gadfly, by people that are tired of hearing me go over my allotted three minutes, it's because I genuinely care about many of the issues about many of the issues I've come before you to address, because I think in many cases, I have some unique insight or perspective to share. Additionally, the reason that I come here in meeting after meeting is because I try to focus my remarks on a narrow subject area, rather than list in one omnibus document or rant everything that's wrong with the city charter and how to fix it.

Lastly, it's my hope that even on the issues, which I realize the Commission isn't likely to take up this year, it's my hope that by talking about these issues before crowds of activists, journalists, good government advocates and by having these remarks preserved for future Commissions that perhaps I'm furthering awareness even slightly on some of these issues. Trust me, aside from my fiancé, there's no one, who appreciates how trying it can be to hear from me repeatedly, more than I do. So, I sincerely thank you for your patience.

### **Special Elections**

I wanted to begin by focusing on area, which the staff report does a great job exploring and analyzing some of the problems with how Special Elections are conducted currently. Because the current charter rules require officials, who are elected in a nonpartisan special election, to immediately stand for re-election in a partisan primary and general election that same year, it's virtually a guarantee that the entirety of a public official's first year in office will consist entirely of campaigning, fundraising and running for re-election. This is not only unfair to the elected official, but to his/her constituents. Additionally, because of the likelihood that a Council member could easily be elected in February and defeated that November, it creates a situation where through little fault of their own, New Yorkers could end up with a Councilmember with less seniority than most of his colleagues and all the hurdles that come with that.

Additionally, the short turnaround, consisting of three elections in one year, means that with three rounds of 8-1 matching funds for an elected office that's filled at a special election, it becomes enormously expensive for the taxpayers and allows political consultants, political operatives, attorneys and accountants to amass a small fortune working on a single political campaign in one calendar year.

Humbly, I would suggest that when an elected official is elected in a nonpartisan Special Election, that person should be able to serve for the remainder of their predecessor's term. This

would mean for instance in the case of the Public Advocate elected in February, that the incumbent wouldn't stand for re-election until 2021. If the Commission feels that this provides an insufficient opportunity for New Yorkers to weigh in, I'd suggest that at the very least, those elected in a Special Election, not be asked to stand for re-election until at least the following calendar year. The situation this year, where candidates were asked to petition beginning on the day of the election itself simply makes no sense and creates confusion for the voters, the party leaders and campaign volunteers. It's difficult to see any benefit of retaining the current system.

### **CCRB**

While I'm interested in all of the buckets the Commission has covered this year, the area where I've spent the most time researching, considering and commenting on, has been the Elections bucket. It's also the area, where I think I have the most expertise and experience. One can't simply ignore the enormous energy, activism and organization of the activists, who've come before you calling for an empowered Elected Civilian Complaint Review Board. While, I'm sympathetic to many of their arguments and have been moved, as I'm sure many of you have by the emotional stories profiling instances of purported police misconduct and/or mistakes, I think to reform the existing police CCRB process in such a manner, could prove disastrous for several reasons.

For starters, the issue of Elections and the CCRB are actually linked. The bottom line is that elections in this city are flawed for all the reasons that I and so many others have pointed out. They're exclusionary, dominated by special interests, encourage radicalization, foster divisive campaign behavior and are enormously costly. Until we fix the electoral process (ideally through nonpartisan elections or Proportional Representation, Ranked Choice Voting, Democracy Vouchers and modifying the petition requirements), adding more elected officials, would do little to address the real concerns New Yorkers have about holding police accountable. My fear is that the elections for a hypothetical ECRB would consist of candidates, who were little known and would produce little turnout, similar to the former Community School Board elections. In addition to my concerns about low voter turnout and potentially enormously expensive campaigns if the candidates for the ECRB were eligible for the matching funds program, because of the potential stakes involved, I fear that every race would become a bitter contest between candidates, acting as proxies for groups like "Black Lives Matter" and the law enforcement unions. I have a tough time seeing how this would produce more efficient results than the existing disciplinary procedures. The bottom line is, before that can be serious consideration of an ECRB, electoral reform needs to be implemented.

Additionally, I must take issue with how the police department has been portrayed throughout the course of these hearings. They've been called terrorists (literally), been accused of preying on communities of color and depicted as a group of trigger happy, uncaring brutes, with low IQs. This couldn't be further from the truth. The police department in this city is doing an amazing job. Not only have they brought crime down to a half century low, but on any given day, they're called upon to act as mental health aides, social workers, marriage counselors and legal experts, all while doing the standard work of policing. They're asked to demonstrate infallible judgment all the time, in an era, where being wrong even once, could be career ending (or life ending).

They do this, all while doing a job, where they could be targeted for murder on any given day, just for going to work. There are no protests in this city, where there are angry marchers chanting in the middle of Manhattan, “*WHAT DO WE WANT? DEAD GOVERNMENT ADMINISTRATORS! WHEN DO WE WANT THEM? NOW!*”

The police have done an amazing job in this city, protecting the very same protestors that call them racists, murderers and even worse. How they’re able to do this so effectively, should be a point of pride for our city and a model for police departments around the world. I’m not saying the police are perfect, of course they aren’t. When you have tens of thousands of human beings, there are going to be incidents of misconduct, as well as accidents, but is an ECRB really the best method for dealing with this? Every member of the police department answers to the Police Commissioner, they’re subject to oversight by the existing CCRB, as well as five District Attorneys, two U.S. Attorneys, the Department of Internal Affairs, a City Council that has oversight authority and a court appointed Federal Monitor. What other agency in this city is subject to this degree of scrutiny?? Why would an ECRB finally provide the answer to this? The cops aren’t terrorizing the community, they’re serving the community. The men and women of the NYPD aren’t preying “upon communities of color”, in fact it’s a Department that’s majority minority. If you aren’t happy with the way the police department is being run, the solution is to elect a Mayor, who will make the changes you desire. If he (or she) isn’t doing so, in my view, that only strengthens the case for electoral reform.

Lastly, for the reasons pointed out in the staff report, it’s not even clear that this Commission has the legal authority under state law to make the changes that the advocates are seeking. To push forward on legally questionable ballot referendums could potentially subject all of the questions you decide to put on the ballot to costly and lengthy legal challenges. For these reasons, I’d encourage you not to move toward an ECRB.

Sincerely,

Frank Morano

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May 9, 2019

Honorable Gail Benjamin  
Chair  
Charter Revision Task Force 2019  
250 Broadway  
New York, NY 10007

**Re: Community Board 7/Manhattan Charter Revision Task Force  
Testimony for the Charter Revision Commission**

Dear Chair Benjamin and Commissioners,

On May 7, 2019 at its regularly scheduled full board meeting, Community Board 7/Manhattan adopted a resolution to approve the following Testimony for the Charter Revision Commission by a vote of 35 in favor, 0 against, 7 abstaining, and 0 present.

**BACKGROUND:** The 2019 Charter Revision Commission was created by Local Law 91, passed by the New York City Council on April 11, 2018. Community Board 7/Manhattan appointed a Task Force to study the Charter and make recommendations. This was done in the summer of 2018. The Charter Revision Commission's staff published their preliminary report in April 2019 where they made "recommendations to the Commission concerning ideas and proposals that should be further explored and about which addition public feedback should be sought."

1. **ULURP** (Uniform Land Use Review Process): Provide for pre-certification notification to local Community Board of proposed ULURP items at least 60 days prior to certification. Do not count the month of August in the 60 day period for Board review during ULURP.  
Any analysis of environmental, transportation, project mitigation, shadow studies or other assessments that have been prepared must be circulated to the Community Board as part of the ULURP application. Any and all modifications made during the review period by the applicant, must be provided to the affected Community Board(S) to allow full disclosure of relevant facts and revision to allow a comprehensive review and transparency.

Rationale: The proposal will allow meaningful input at the Community level before the ULURP item is finalized. Community Boards are not required to meet in August and this will enable the Boards to meet the time constraints.

2. **BOARD OF STANDARDS AND APPEALS (BSA):** Provide that when the BSA rejects a resolution of an affected Community Board on any matter, the BSA must put their rationale in writing for the Community Board. If a preliminary determination is made at the Staff level of BSA, the affected Community Board(s) must be given two weeks' notice prior to the determination becoming effective.

Rationale: This proposal ensures that the Community Board's input will be considered by the BSA and the concerns of the neighborhood most impacted is considered.

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3. **DEPARTMENT OF BUILDINGS (DOB):** Provide that applications for building permits on projects in excess of 100,000 square feet.

A) Must be reviewed by a certified city planner at the buildings department; and  
B) All comments, modifications or other types of considerations along with the authorship of the commenting agency be forwarded to the affected Community Board at least two weeks prior to approval.

Rationale: The proposal is intended to avoid repeat of recent instances in which DOB either overlooked or misinterpreted aspects of the Zoning Resolution.

4. **197-A COMMUNITY DEVELOPMENT PLANS:** Provide that where a Community Board requests assistance in drafting a 197-A Plan or a Zoning Resolution amendment the City Planning Department must provide reasonable technical assistance and/or financial resources to enable the Community Board to fully develop the Plan. Once the Plan is presented to the City Planning Commission, the Community Board and the City Planning Commission will meet and confer concerning the adequacy and advisability of the Plan, and the Plan or any modification will be presented to the full Commission for review and public hearing.

Rationale: This proposal is intended to make 197-A a meaningful vehicle for planning at the Community Board level.

5. **COMPREHENSIVE PLAN:**

The Comprehensive Plan is not currently a coordinated plan per se but a series of multiple reports and documents that incorporate recommendations and revisions based on a variety of factors that are appropriate only to certain disciplines and document types. These reports that include sustainability, zoning and land use, flood mitigation, City Strategic Policy Statement, 10-year Capital Strategy, Statement of District Needs, Citywide Statement of Needs, Long Term Sustainability Plans, and any other plans developed by City Agencies and affecting land use

Once these documents and reports are finalized, they need to be collected and cross-referenced within one searchable, accessible on-line data base.

Rationale: Community Boards and residents will be able to reference and apply them for more effective planning for their community.

6. **EDUCATION:** NYC PANEL FOR EDUCATIONAL POLICY members should meet strict qualifications and accountability.

Rationale: This will ensure that the Panel members have the necessary skills to function effectively.

7. **BUDGET:** If the Mayor determines after the Budget is adopted that there is a deficit, the Mayor must resubmit to the City Council and does not have the right of a universal impoundment.

Rationale: This provision maintains a balance of fiscal responsibility

8. **BOROUGH PRESIDENTS' BUDGETS:** Provide independent budget for each Borough President.

Rationale: Maintains the independence of the Borough Presidents

Respectfully submitted,

A handwritten signature in black ink that reads "Roberta Semer". The signature is written in a cursive, flowing style.

Roberta Semer, Chair

CC: Honorable Gale Brewer, Manhattan Borough President  
Honorable Corey Johnson, Speaker and NYC Council Member, District 3  
Honorable Helen Rosenthal, NYC Council Member, District 6  
Honorable Mark Levine, NYC Council Member, District 7

My name is Katie Bornschlegel and I live in Washington Heights. I've always been interested in strategies increase the abysmal voter turnout rate in New York

With the current situation, folks can get elected into office with a very low number of votes -- which is contrary how a healthy democracy is supposed to function. It's especially problematic for special elections and run-off elections, where turnout is even lower, and elections with a large number of candidates. RCV is a terrific strategy to improve this problem – it's been used successfully in other US jurisdictions, and it can work here in NYC. Benefits of RCV:

- RCV can inspire more voters to come to the polls, because we will know that even if our first choice candidate doesn't win, our vote and our voice can still impact the final result.
- RCV can improve campaigns and our elections. RCV has the effect of reducing negative campaigning. Candidates are not only vying for to be first choice, but second as well.
- RCV can also save \$\$ by avoiding run-off elections – which are expensive and low turnout, and, voters don't have time to go to the polls so many times every year.

I'm so encouraged to see RCV in the Preliminary Staff Report. That's why I came yesterday, to testifying in support of Ranked Choice Voting, specifically a top 5

ranking model for all city offices in primary and special elections.

In summary: I urge this commission to recommend top 5 Ranked Choice Voting system for all city offices in primary and special elections!

Thank you very much for the opportunity to contribute my input.

Katie Bornschlegel



Ilya Schwartzburg  
State Committee Representative  
ischwartzburg@lpny.org

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May 10, 2019

**BY ELECTRONIC SUBMISSION**

Members of the NYC Charter Revision Commission

Re: Submission of the Manhattan Libertarian Party

Dear Honorable Members:

The following is a copy of my personal testimony from the Queens hearing held on May 2, 2019. Please find further commentary below.

My name is Ilya Schwartzburg and I am an officer with the Manhattan Libertarian Party and a committee member of the state Libertarian Party. The Libertarian Party is the third-largest party nationwide and after 46 years of fielding candidates, we attained official party status last year in New York State. We are a growing force in the state and in this city and hopefully I can offer the commission a unique and useful perspective.

First, we would ask that if you adopt ranked choice voting, you apply it to general elections. We agree with our colleagues in the Green Party that extending RCV to general elections makes eminent sense. It will reduce the element of fear-based voting and encourage ideological diversity. This will in turn lead to greater voter engagement.

We respectfully but forcefully disagree with Common Cause's new position not to extend RCV to general elections. RCV would have actually have greater force in generals because many voters would not automatically disengage after the primary--unlike generals today, they would again have real options to consider. Yes, fusion offers a logistical challenge, but this commission should not ignore that parties such as the Greens and Libertarians exert a lot of effort to offer real alternatives. To not extend RCV would be perceived as serving the interests of the Democratic and Republican duopoly instead. We would be encouraging friendly competition in primaries where a major party's overall interest is safe, but insulating major party candidates from third parties in general elections where a major party's interest would be at stake. The party can't lose in a primary, but it can in a general.

Second, on other policies being considered, we would generally endorse the idea of first do no harm. Our city has a housing crisis due to overly restrictive zoning and land use restrictions which we believe often violate property rights and demonstrably and obviously limit the amount of housing made available to New Yorkers. Any measures to enhance veto power and obstacles for new developments should be rejected. Streamlining ULURP would be welcome, but not a new veto or delays. Any centralized



plan should look to accommodate the market, not mandate a specific vision--it should have to accommodate growth, private planning and the interests of renters who benefit greatly when there is more housing supply.

Third, we support diversifying the authority of the CCRB away from the police commissioner to the maximum legal extent.

We oppose inscribing into the Charter a so-called Chief Diversity Officer. Under *City of Richmond v. J. A. Croson, Co.*, 109 S.Ct. 706 (1989), the M/WBE program is only constitutionally justified as a remedial program for past discrimination. To inscribe it permanently is antithetical to that temporary justification.

We advocate for the abolition of the Public Advocate and Borough President positions.

We oppose guaranteeing any agency's budget--whether independent or not.

Finally, we oppose democracy vouchers as compelled political speech.

Following this testimony, there has been debate on some issues that we would like to opine on.

First, we would like to assert our opposition to non-partisan elections. We have struggled for 46 years to earn the Libertarian Party's spot in the system. Changing the rules now is unfair to the party and our decades of effort petitioning and running candidates at great time and expense. Furthermore, I have consulted with my colleagues in San Francisco, California who operate in a jurisdiction with non-partisan races and ranked choice voting. The end result is contrary to ideological diversity--the truly unique voices are drowned out at the primary and the general becomes a face-off of very similar candidates from the one dominant party or ideological basis.

Second, we would like to clarify our position on "Democracy Vouchers." In our opinion, the policy would exacerbate the fundamental injustices of the campaign finance system. The policy depends on routing any and all political speech through a government program, which presents at least three problems: (1) it is contrary to individuals' fundamental right to express themselves especially regarding political matters; (2) it suppresses and further discourages candidates from running or volunteers from assisting by presenting numerous issues and liability regarding compliance; and (3) it dangerously inserts the state into election and campaign speech to a dangerous degree with possibilities for censorship and outrage when that publicly financed speech is not unreasonably perceived as the state's speech. In addition, taxpayers would be compelled to finance campaign speech, violating their First Amendment rights, and cost the taxpayers money that would be otherwise provided voluntarily by donors.

Thank you for your consideration,

Ilya Schwartzburg  
State Representative, Manhattan Libertarian Party  
Committee-member, New York Libertarian Party Interim  
State Committee

## Testimony of John D. Baldwin before the NYC Charter Revision Commission – 5/9/19

My name is John D. Baldwin. I'm a Green Party member and I support Ranked Choice Voting, *including* in general elections.

The plurality system of voting, the system that's currently in place in most of America, is a "fear-based" system. People very often don't vote for what they want, but only against what they *don't* want. A system in which voters vote *defensively* rather than freely distorts democracy.

Let's give an example of how the system as it now exists works. Say that there are three candidates in a local election: a third-party candidate, X, and the mainstream party candidates, Y and Z. Say that candidate X is fighting for innovative new policies, and African-American voter Tom Smith would very much like to vote for her, as those proposals would positively impact the low-income community in which he lives. But under the moribund plurality system, Smith doesn't dare give his vote to X, because candidate Y might lose to candidate Z, whose policy positions are furthest from what Smith wants. Because many people think like Tom, candidate Y wins, X gets only 2% of the vote, and her ideas, which deserve a proper hearing, get buried.

Now say that the election had happened with ranked-choice voting in effect. Under the RCV system, Smith votes for X as his first choice and Y as his second choice. X now receives 19% of the total vote and neither Y nor Z gets a majority. So all the votes for X, the least successful candidate, are transferred. Most of X's voters did what Tom did, and voted for Y as their second choice. So candidate Y easily wins the election on the *second* round.

Now a cynic might say, what's the difference? The same guy won in both scenarios. But it doesn't escape the winning candidate's notice that the third-party candidate received nearly a fifth of the total vote by championing her innovative proposals. So now that he's in office, Y embraces those proposals in order to capture the support of those voters.

Having RCV in primaries and special elections, but not general elections, doesn't make sense. To do so would be empowering the parties that already have power, and disempowering third parties and their innovative ideas. The Greens support RCV for *all* elections. It will not bring chaos, but true order, to the electoral process.

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Charter Revision Commission 2019  
City Hall, Council Chambers  
250 Broadway, New York, NY 10007  
Testimony of Teri Hagedorn  
5/9/2019

Good evening, and thank you for the opportunity to speak before you tonight. My name is Teri Hagedorn, and I'm a volunteer member of RepresentUs New York, a non-partisan anti-corruption organization.

One of our core platforms at the national level is election reform. And ranked-choice voting is a critical component of this reform.

There are myriad benefits to RCV from ensuring that candidates with the most votes and broadest support win to eliminating vote splitting, reducing negative campaigning and cutting the cost of elections.

One concern that has been raised about ranked choice voting is ballot exhaustion, which occurs when all the candidates a voter ranked have lost even though two or more other candidates remain in the race. When this happens, the ballot is considered exhausted and is no longer included in the tally of the winner. This can happen when the voter chooses not to rank all of the candidates or when the ranking is capped at three candidates.

Two points to consider:

1 - There is a difference between exhausted votes and exhausted voters.

Before Bay Area cities adopted RCV, the average decline in turnout was much greater in runoff elections than the proportion of ballots that came to be exhausted under RCV. On average, runoff elections saw a 23% decrease in voter turnout compared to a 12% average level of ballot exhaustion for RCV elections. Put another way - there were nearly twice as many "exhausted voters" with runoffs as "exhausted votes" under RCV.<sup>1</sup>

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<sup>1</sup> RCV Elections and Runoffs: Exhausted Votes vs Exhausted Voters in the Bay Area; FairVote [https://www.fairvote.org/rcv\\_elections\\_and\\_runoffs\\_exhausted\\_votes\\_vs\\_exhausted\\_voters\\_in\\_the\\_bay\\_area](https://www.fairvote.org/rcv_elections_and_runoffs_exhausted_votes_vs_exhausted_voters_in_the_bay_area)



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5/9/2019

And it was acknowledged in the Commission's own report that runoff turnout tends to decrease dramatically here in New York City. For example, there was a 61% decrease in turnout from the 2013 Democratic primary to the runoff for public advocate, and decreases of about 35% in the 2009 Democratic primary runoffs for comptroller and PA. Exhausted voters also tend to be those who can't afford to take more time off to vote again, meaning runoffs unfairly disenfranchise lower income people.<sup>2</sup>

2 - The second point to consider is that if the number of candidates a voter can rank is increased from 3 to 5 or even beyond, the risk of ballot exhaustion naturally declines.

Represent Us advocates for applying RCV to all elections and all offices and allowing voters to rank at least five candidates.

In closing, if New York City adopts RCV as many other cities and one state has already done, we will be that much closer as a country to using ranked choice voting for federal elections, a truly positive outcome for our democracy that this commission would be an invaluable part of. Thank you for your consideration of this important initiative.

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<sup>2</sup> Who Votes, Who Doesn't and Why; Pew Research  
<https://www.people-press.org/2006/10/18/who-votes-who-doesnt-and-why/>

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May 13, 2019

VIA EMAIL: [info@charter2019.nyc](mailto:info@charter2019.nyc)  
Charter Revision Commission 2019  
250 Broadway  
New York, N.Y. 10007

Re: Chief Diversity Officer

Gentlewomen and Gentlemen:

I submit this letter in lieu of a public speech, as I attended the City Hall Commission meeting on May 9<sup>th</sup> but had to leave at 9:30 p.m. before being called to speak. I focus this letter on the New York City Comptroller's proposal of city-wide and agency-wide positions for Chief Diversity Officers. Please note my tremendous respect for the courage and sincerity in the Comptroller's efforts to expose the economic disadvantage suffered by African Americans in this city, particularly women in the workplace. Nevertheless, I have questions concerning how the city-wide Chief Diversity Officer will be selected and what powers will be conferred upon that individual.

Notably, I am a former attorney of the Office of Corporation Counsel, City of New York, which is the City's legal watchdog agency and counsel to city agencies and officials. In addition, I was the first and only attorney of color when I joined its newly formed Special Litigation Unit (SLU) within its Torts Division in the spring 2004. SLU was a special unit that handled high media profile and catastrophic personal injury cases and was the only unit in the City that litigated lead paint cases.

Despite the fact that The Office of Corporation Counsel had an EEO team headed by a chief EEO officer, in addition to a diversity committee, headed by a chairperson, I personally knew at least thirteen African American and Latin American attorneys, 11 of whom women, including myself, and 11 were from the Torts Division who complained about race discrimination within a period of 3.5 years. Many of us complained to the Chief EEO officer, the Diversity Committee Chair, or its individual members. Yet, the complaints were met with denials presumably to protect the agency and its managers, permitting wrongdoers to continue to manage and inflict harm upon the careers and

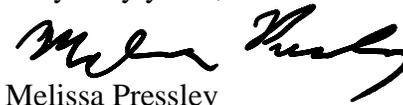
economic development of attorneys of color. This resulted in nearly all of us resigning by the time I left the agency in late 2007.

Despite a Chief EEO officer, a diversity committee, and a committee chairperson, the Office of Corporation Counsel was totally ineffective in addressing racial inequality and caused the City to lose the legal talent development of the Black and Latin American attorneys who had to ultimately resign and seek economic opportunities elsewhere.

Therefore, in order to prevent a city-wide Chief Diversity Officer from being just another well-paid or celebrated city bureaucrat, with her/his chief loyalty to an agency, commissioner, or mayor, but useless otherwise, I suggest the any such Officer be directly elected by and accountable to the citizens of NYC. Moreover, the Officer should have the authority to take action that can effectuate material changes in the economic opportunities for the disadvantaged. Otherwise, you will be just making government bigger and more costly.

Thank you for your consideration. If you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Melissa Pressley', written in a cursive style.

Melissa Pressley

**Testimony of G. Michael Parsons, Jr.**  
Acting Assistant Professor, New York University School of Law  
Adjunct Fellow, FairVote

Before the New York City Charter Revision Commission

May 9, 2019

Good evening, Commissioners, and thank you for the opportunity to speak today.

My name is Michael Parsons. I am an Acting Assistant Professor at NYU School of Law, where my scholarship focuses on the Law of Democracy and election law issues, and an Adjunct Fellow at FairVote, which advocates for ranked-choice voting (RCV). The Commission has heard about RCV's benefits, so today I'd like to focus on addressing any of your questions or concerns. I have submitted a presentation that addresses several, but for my remarks I'll focus on two: (1) ballot exhaustion, and (2) concerns that an unexpected or unpopular candidate could somehow win.

**(1) Ballot Exhaustion:**

As the Staff Report notes, New York City's primary run-offs entail steep drop-offs in voter participation: 61% in 2013, and 36% in 2009. These are voters who have no impact on the "final round" in our *current* runoff system. By comparison, RCV would perform substantially better. In Santa Fe's 2018 RCV mayoral race, only 4% of ballots were exhausted by the final round. In Maine's second congressional district race, this was only 3%. In short, RCV would ensure far more New Yorkers have their voices heard in the final round than under the current system.

The Staff Report does raise one outlier worth noting: a 2010 San Francisco Board of Supervisors race where 57% of ballots were exhausted by the final round. Interestingly, this race offers an example of RCV performing well under highly unusual circumstances that would have taxed the legitimacy of a traditional runoff. That race had twenty-one candidates, voters were only allowed to rank three, and there was a virtual tie among the top three candidates in the first round, with all earning roughly 12% of the vote.

Under a traditional runoff system, the third candidate – Malia Cohen, a woman of color who has since gone on to win higher office in California – would have been excluded from the runoff entirely despite earning comparable first-choice support in the first round. Instead, she went on to win in the final round.

A few points are worth emphasizing: Allowing voters to rank more choices – say, five or more – would have dramatically curtailed ballot exhaustion in that race. Moreover, the 57% exhaustion in that contest is the highest percentage ever recorded for an RCV race—and it is still less than the 61% drop in turnout in the City's 2013 Public Advocate runoff.

## **(2) Unexpected Outcomes:**

The San Francisco race is also a good example to address the second concern: that a candidate without widespread support might somehow prevail under RCV. The exact opposite is true. RCV produces winners that enjoy broader support than our current system. A candidate cannot win under RCV with fourth-, third-, or even second-choice rankings alone. A candidate must have strong first-choice support to win. Here are the numbers:

- In all multi-round RCV elections on record, the candidate who was leading in the first round won in the final round 86% of the time.
- In all but one of the remaining 14% of races, the candidate who was second in the first round prevailed in the final round.
- Only in the 2010 San Francisco race discussed before did a candidate who was ranked third in the first round go on to win. This result makes sense: each of the top three candidates in the first round got roughly 12% of the vote—each had an equivalent base of first-choice support.

In short, an RCV winner will always be a candidate who would have had a reasonable chance of prevailing in a traditional, plurality election.

Thank you again for the opportunity to speak today and for your service on the Commission. I'd be happy to address any questions that you might have.

Hello, my name is Jake Schmidt, representing Open New York, which is an all-volunteer group advocating for building more homes in New York, especially in high-opportunity neighborhoods.

I want to talk about land use, specifically the recommendation about comprehensive planning.

Regardless of the whether we recommend a comprehensive plan or not, it is **CRITICAL** that the planning process account for the fact that we have a housing shortage in New York. For five decades now, we have failed to build enough housing for everyone who wants to live in New York - and the humanitarian consequences have been disastrous. Our zoning pretends the city doesn't need to grow, which means we push people out. This exclusionary system **HAS** to change.

One of the earlier speakers talked about conflicts of interest in community boards and city planning. I want to talk about a type of conflict of interest that's absolutely endemic, and which seems to go unremarked in discussions like this. I hope this can help shape how you think about the issue, because I think it's under-discussed. The problem is the power of homeowners. Homeowners **OWN** real estate, but when we say "real estate lobby", we don't include homeowners, even when they're lobbying on real estate issues! And the problem with that is, people who own real estate have a financial interest in housing scarcity, because they own the scarce asset. Like anything else in high demand, if you restrict its production - which we have - the price goes up. Simple as that. Homeowners benefit, renters - like me - get screwed.

Against that background, the current system for land use in New York is, at its core, very tight zoning, coupled with ad-hoc exceptions approved by the local community board and city council member. Well, let me tell you, my group spends our time advocating for housing at community board meetings and in front of the city council, and it is wall-to-wall homeowners. We usually don't usually describe as such, but they form a real estate lobby, and we have to stop allowing them to restrict the construction of new homes.

To be clear, because I'm sure a lot of people are feeling pretty attacked right now, I don't think these homeowners are bad people - they're advocating for their interests, and everyone should be able to do that - but that's why this system of ad-hoc exceptions doesn't work. We need to ensure the charter sets up land use processes that actually produce enough housing for everyone who wants to live here, in the greatest city in the world. Because the current system privileges a very specific set of voices, and by any metric it's failing.

I have some specific recommendations for implementing this.

Any planning process has to be designed with several ongoing factors in mind:

The population is growing, and will continue to grow.

The world has been urbanizing for centuries, and will continue to do so.

Employment market trends are increasing the advantage of larger cities over smaller ones.

We can't legislate New York's growth out of existence; we have to take it into account, and actually plan to house these new people. Our zoning code puts a straitjacket on the city, and our

process for changing it is piecemeal and inadequate - neighborhoods feel like they're under attack, the amount actually built is tiny, and the results are wholly inequitable. Our system needs to BUILD IN the assumption that we will construct homes for all who want to live here.

The language of the staff recommendation has the building blocks we need for this: It mentions "specific indicators for measuring progress consistently throughout such documents and over time". Rental vacancy rates, market rents, and affordable housing wait-list lengths would all be excellent indicators of the success of our land use process. Right now, all 3 are so bad they qualify as an emergency.

The recommendation mentions "future planning challenges". A housing shortage is a planning challenge! Planning for adequate growth has to be built into the system, with specific actions that trigger if we fail to house our people. Let's change our charter to include housing growth as one of the challenges that we address, because the current system does not, and the results have been disastrous.

## Oral Testimony for NYC Charter Revision

Maggie Clarke, Ph.D., [maggie@maggieclarke.com](mailto:maggie@maggieclarke.com), Inwood Preservation, Unified Inwood, Inwood Legal Action Environment  
Comm.

Rezoning are straining the very limited air and water resources that we have. We cannot continue to pack more and more people into the limited land area that is NYC. We have been in violation of the federal Clean Air Act and Clean Water Acts since the beginning and the rezonings exacerbate this. We are in non-attainment for ozone, but adding thousands of new cars and congestion makes this worse, and adds to asthma rates. The health impacts in the future can't be undone once the buildings are in place and the gridlock is inevitable. Combined sewer overflow (CSO) violations caused by the new toilets, showers and sinks will be worsened by climate change and by addition of new population.

The Environmental Impact Statement process for each rezoning has been a sham and rules need to be changed so that the City Planning Commission and City Council cannot further abrogate the laws. Here are a few of the main issues:

1. Each of the City rezonings contravene federal law (e.g. Clean Air Act, Clean Water Act), and the City Planning Commission and City Council keep ignoring this and approving them. Rezoning adds many high rise buildings to low-rise neighborhoods, adding congestion, more ozone to the air that is already out of attainment for ozone, more sewage to the waters that are already out of compliance for combined sewer overflows. These are illegal and the charter should disallow this from happening AND should undo such rezonings has already happened. There are legally mandated limits to growth!

2. Cumulative impacts of the multiple rezonings across the city are not calculated. Yet the City continues to rezone. EPA requires that Environmental Impact statements review for cumulative impact. The City's EIS' NEVER DO. All the rezonings Never Do! This is illegal.

3. There is a lack of urgency of alarming information contained in EIS'. There is no law or charter provision that prevents the disabling of a community by a City action like a rezoning, and apparently nothing that can be done to UNDO such an action. In Inwood, at all of 45 intersections studied (some near a hospital) up to 10 minutes of delay was predicted. Most of the intersections become grade letter F where grade letter E is full capacity = gridlock of the neighborhood. This can cause deadly delays in fire and ambulance services. In other neighborhoods, rezonings without needed infrastructure, schools and other public works is done routinely. EIS' predicting the disabling a neighborhood should be prevented by the City charter.

4. The City's predictions of growth have been way off in the past. The rezoning of Long Island City said there would be 300 new apartments. There were 10,000. No new sewers or schools. Tourism, commuter factors are under-reported, under calculated. A third of Inwood is in a flood plain; half will be within a few decades. 30 story buildings are planned there. Can the charter protect New Yorkers from bad planning that endangers life and health?

5. Citizen proposals and alternative plans need to receive full consideration by city council, city planning commission, city agencies, borough presidents, community boards and anybody else involved with ULURP and CEQR. As it is now, some of these officials and agencies ask citizen groups to devise alternative plans, and when they do, their plans are ignored, rejected without consideration. Why should we bother to comment on EIS' and Draft Scopes of Work? Why bother to participate in these

pointless meetings drawing circles on maps in a charade for the City's developers? Unified Inwood's and Community Board 12's comments were rejected. Uptown United's alternative community plan was totally ignored.

None of these illegalities should be allowed by the City Charter and we hope that the Commission will recommend changes to the charter to correct this. We would be happy to share with you the Uptown United plan, our hundreds of pages of comments on the DEIS and DSOW for Inwood and answer any questions.

## Additional testimony:

This is how you increase democratization of local elections: increase the amount of TIME after petitions are certified and before the primary. Now a newcomer has a matter of a few weeks in the dead of summer to get their name out there & raise money. There's no time for candidate for the media doesn't cover the primaries at all compared with the ~~the~~ general election. But in NJ the primaries are more important. I am particularly referring to City Council. For example, in Inwood, the unknown challenger who vowed to stop the rezoning had maybe 6 weeks to campaign against the machine. He got half as many votes as the incumbent. Imagine if he had had twice the amount of time? The rezoning would have been stopped. The campaign period coincided with the time we had to review the Draft Scope of work. We couldn't help the campaign because it was such a short time.

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As a generality, can you please consider a charter revision that would ensure that no city government can break laws or cause laws already abrogated to be re-enacted? For state, local laws

## **Charter Revision Commission Testimony of Ruben Diaz Jr.**

**May 14, 2019**

Charter Revision is an important opportunity for the people of New York City to be able to change the basic rules that determine how our city is governed. This year's Charter Revision Commission is considering several important proposals that may be placed on the ballot this November for the voters' approval. As Borough President, I submit the following testimony on these proposed measures.

### **Land Use and Planning**

In order to improve community engagement in the land use process, I agree with the Charter Revision Commission's recommendation to "consider and solicit public feedback concerning a pre-certification engagement process to provide more time and an earlier opportunity for Community Boards and Borough Presidents to review and comment on applications that are likely to proceed through ULURP."

Community input in land use decisions is crucial in ensuring that New Yorkers' needs are met, and we must make the current process more inclusive. We must provide for a pre-certification public comment period to increase public input earlier-on in the ULURP process.

Further, the City's Environmental Quality Review process is insufficient. More comprehensive reviews are needed of open space, schools, community facilities and potential displacement. All stakeholders should get more comprehensive facts on socio-economic impact when a re-zoning occurs.

Typically, an area between 5 and 10 city blocks (0.25-0.5 miles) from a project site is assessed for socio-economic impact of a rezoning by City Planning. It typically takes 500 residents or 100 employees directly displaced to trigger an assessment of socio-economic impact of a rezoning by city planning. I propose that a lower threshold of estimated displacement triggers a mandated requirement for a comprehensive socio-economic impact assessment. In doing so there would be better transparency in the calculation of what a community needs, such as a school siting, and whether or not the proposed zoning could meet those goals.

The benefits of codification of these important matters in the city charter cannot be overstated.

Additionally, the following land use and planning proposals ought to be considered in addition to those currently under consideration:

1. In order to assure greater equity among the elected officials represented on the City Planning Commission, I recommend the Charter Revision Committee explore mandating that the Chair of the City Planning Commission be approved by at least 2/3 of the appointed Commissioners exclusive of the chair (i.e., 8 out of 12). Under this proposal, the Mayor would nominate a candidate prior to an anticipated vacancy. The sitting Commissioners would deliberate until the candidate was approved under supermajority decision. This would give the Borough Presidents and Public Advocate a greater voice in the ULURP process, and give the Chair greater accountability to all members of the City Planning Commission.
2. When siting major facilities, such as jails or waste transfer stations, in separate boroughs concurrently, the charter must dictate unequivocally that each borough's site must undergo a separate ULURP process, to avoid issues such as minimization of community input that is occurring in the jail siting process currently underway. For example, while I fully support the closure of Rikers' Island, the current process is unacceptable. This charter revision will eliminate any need or perceived need for legal challenges due to perceived ambiguity by any parties.
3. The CPC Borough Commissioner should have the ability to place a hold on certification of a borough item for 30 days if they believe additional consultation with CPC staff, the Borough President, the impacted community board or community needs to be conducted. This, too, puts power in the hands of our communities.

Much must be done to improve our planning and land use process as a city, and charter revision presents a unique opportunity for needed action.

### **Civilian Complaint Review Board**

The New York City Police Department performs an essential role in our communities – preserving order, preventing crime, and keeping residents safe and secure. The vast majority of police officers perform their duties with respect for both

the law and the people that they are serving in an extremely challenging environment. However, when officers do cross the line, we must ensure that they are held accountable. This is why it is important that New York City have a strong and independent Civilian Complaint Review Board that can hold bad actors accountable and help maintain the public's trust.

The recent staff report of the Charter Revision Commission made recommendations to strengthen the CCRB and make the NYPD even more accountable to the public. I believe that these proposals are a strong step towards ensuring that New Yorkers' voices are heard and that wrongdoers are disciplined properly.

The charter should ensure that the CCRB has the resources to do its job effectively. I support the effort to establish guaranteed funding levels for certain offices and agencies, including the CCRB. Setting the CCRB's funding level at one percent of the NYPD's budget will ensure that the CCRB will be able to conduct investigations as thoroughly as possible.

One of the largest failings of the CCRB as it currently exists is that the NYPD is not required to implement the discipline that the CCRB recommends when a complaint against an officer is substantiated. This results in disparities between what the CCRB recommends and what is implemented. In the first half of 2018, the NYPD only implemented the recommended discipline about half of the time when the board did not recommend "charges and specifications" (the most severe level of discipline).<sup>1</sup>

The staff report proposed creating a non-binding disciplinary matrix to make discipline for violations clearer and more consistent, as well as requiring the police commissioner to submit a memorandum to the CCRB every time the discipline imposed is different than what the CCRB recommended.<sup>2</sup> This transparency will help restore faith in the good women and men of the NYPD who work so hard to keep us safe.

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<sup>1</sup>[https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy\\_pdf/annual\\_bi-annual/20181221\\_Semi-Annual%20Report.pdf](https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/annual_bi-annual/20181221_Semi-Annual%20Report.pdf) pg. 46-47

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<https://static1.squarespace.com/static/5bfc4cecf7fde7d3719c06/t/5cc20da7085229f4fcd80ffc/1556221355492/Preliminary+Staff+Report.pdf> pg. 16-20

## **Codifying and Preserving the Budgets of Borough Presidents' Offices**

The city planning, policy, and constituent services work done in borough president's offices is crucial to the workings of our city, and these budgets must be protected in the city charter. Borough presidents' budgets ought to be set with the current total allocation as a floor that shall not be decreased either in total for all borough presidents' offices or for any individual borough president's office. Increases should factor in any increases to the Department of City Planning's budget.

The only exception to this should be in fiscal years in which the overall City's expense budget decreases. In the eventuality of a decrease in the City's expense budget, decreases to the borough presidents' offices' respective budgets must not exceed the percentage decrease to the budget for the Department of City Planning for that fiscal year.

These borough-based government offices elected with a borough-wide mandate have the unique ability to simultaneously act as conveners, constituent services providers, policy hubs, planning departments, and watchdog agencies, and we must protect their budgets from further diminution.

Thank you for your consideration in these important matters.