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Testimony Before the New York City Charter Revision Commission
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My name is Gale Brewer and I represent the Upper West Side, parts of Clinton and all of Central Park in the City Council.

I strongly believe that a Charter Revision Commission (CRC) should be a serious constitutional process that provides legitimate ways to improve government policy through significant review and public engagement. Recent CRCs, especially the one in 1989 and the one that I sponsored in 2018-2019, have taken their time to promote democracy by meaningfully engaging the public in the process. This CRC is rushing to alter the city's constitution in less than two months.

With then Public Advocate Leticia James, I had the experience of passing a law to create a CRC whose members were selected by a range of elected officials including at the time Mayor Bill de Blasio; Corey Johnson, the City Council speaker; Ms. James; Scott M. Stringer, the comptroller; myself as Manhattan Borough President; and the four other borough presidents. Intro 1830-2017 was introduced December 19, 2017, became Intro 0241-2018, had a hearing before the Governmental Operations Committee on March 16, 2018, passed the committee on April 10, 2018, was voted on positively by the full Council on April 11, 2018. The mayor signed the bill, which became Local Law 11 of 2018. The CRC's recommendations were not put on the ballot until November 2019.

Local Law 11 authorized a top-to-bottom review of the charter, which, as you know, is New York City's equivalent of a constitution. The review was slated to take up issues such as whether or not to increase public participation in land-use decisions, alter the way budget decisions are made, and to question the checks and balances between the mayor and the Council. The last time such a broad review had occurred was in 1989.

However, in February 2018, Mayor de Blasio announced in his State of the City address that he would appoint his own Charter Revision Commission for proposals to be included on the November 2018 ballot. The Council-created CRC would take more time and its proposals would go to voters in November 2019.

Mayor de Blasio's CRC was supposed to have a narrow mandate, limited to charter changes aimed at improving the city's campaign finance system — including lowering the maximum levels of campaign contributions to candidates — and encouraging voter participation in elections. Mayor de Blasio made the announcement of his panel on April 12, 2018, one day after the Council voted for their CRC. The Council invited the mayor to participate fully in the more democratic panel, but he insisted on his own CRC. (One outcome was the establishment of the Civic Engagement Commission, which I think duplicates what other agencies do and is a waste of precious government dollars. Many people in city government agree with me. I tried to keep this referendum off the ballot but was not successful.)

This year, Mayor Eric Adams appointed his own Commission. I believe that this Commission is in place to initiate a power grab from the City Council. Similar to Mayor de Blasio's timing in 2018, this mayor announced the panel two weeks before the City Council passed a bill on June 6, 2024 that would expand its oversight over more mayoral appointments through advice and consent. Any such bill has to go to voters who could ultimately decide whether or not to diminish the authority of the mayor. Changes to the balance of power in government must be made through a citywide referendum. A mayoral Commission's recommendations take precedence on the November ballot over any bills passed by the Council, such as advice and consent of Commissioners.

Public Safety

The Preliminary Staff Report, released on June 24, 2024 soon after this CRC went into existence, discusses public safety at length and the need for more hearings on any City Council legislation pertaining to public safety. The City Council has extensive hearings on many topics but did so particularly on Local Law 43-2024, known as the How Many Stops Act.

I know that the mayor does not support Local Law 43-2024, which requires the NYPD to report on common and low-level encounters with the public. This Commission may in part be the result of the administration wanting to control the City Council's processes on determining public safety legislation. That should not

happen; the Council has extensive public hearings on all legislation, but on this topic in particular.

Thanks to an invitation from NYPD, I went with officers on a late night, several borough ride along in January to see how the law would be implemented, and I hope to go again now that the law is in effect. I think it is broad enough that the implementation will not be a challenge in terms of the listing of who is involved from the public; the problem is the amount of paperwork to be filled out as opposed to digital record-keeping. I am working with NYPD to address this concern, but it should not be the focus.

And what about addressing concerns about mental health? Public safety in the preliminary report lists the obvious but does not mention mental health. The public wants to know how we are going to address the problem of random subway pushing, knifing, gunshots, as well as drug abuse, alcoholism, suicide, talking to oneself, street homelessness, domestic violence, and much more that involve social services. I sat for almost all budget hearings from March through June, and the approach to mental health concerns is very disjointed. Many agencies are focused on their own tasks, but any coordination is not clear to me or to the public. Where are the hospital beds that are supposed to be an alternative to Rikers Island? The Manhattan DA has allocated \$12 million to focus on individuals on the street and at arraignment who need support; the public will hopefully see results. Addressing crime has to include addressing mental health issues. As the mayor has said, the public is not safe if they do not perceive themselves to be safe.

The Civilian Complain Review Board (CCRB) must also be a part of public safety. It seems that CCRB recommendations are being ignored by the Police Commissioner, more now than in the past. That is a breach that undermines public safety as well as faith in government.

The CCRB was created by the 1989 CRC to ensure accountability when police officers abuse their authority or engage in misconduct. Unless the City Council increases the CCRB budget year after year, they do not have enough funding to investigate all of the complaints within their jurisdiction. It is crucial to shift the CCRB's budget model from a "guaranteed headcount" to a "guaranteed dollar amount" based on the NYPD budget. In some cities, the funding for oversight is guaranteed to be at least 1% of the budget for the police department that they oversee. This model has been successful with the Independent Budget Office (IBO) whose budget is tied to the budget of the Office of Management and Budget (OMB). (The IBO was also created by the 1989 CRC).

Fiscal Impact Statements

This Commission is also focused on telling the Council how to develop Fiscal Impact Statements. I know that some people have testified in support of monetary impact analysis prior to voting on a bill, but that request for transparency should also apply to the administration agreeing to Units of Appropriation (U/As) for all of the agencies.

I suggest a charter amendment that ensures adherence to the mandate that U/As correspond more closely to the various functions, activities or programs of each agency as the framers of the charter intended. Under current law, the charter states that each Unit of Appropriation represents an amount allocated for a particular activity and that it be for just one purpose. It is my experience that in the Expense Budget submitted by the mayor, many of the U/As are broad and wide-ranging. The Council and the public need smaller, programmatic units of appropriation so as to enable oversight of city agencies, to better understand the administration's priorities, and to adjust program funding as a result.

Each year, the Council has to negotiate with the administration for more clarity. U/As should be more particularized to make budgetary decisions more transparent and less broad. For example:

NYPD Unit of Appropriation 001 ("Operations"): Responsible for coordinating all enforcement operations throughout the department. The primary responsibility includes the protection of life and property, responding to emergency calls, especially of crimes in progress, investigation of reported crimes, apprehension of violators, and addressing conditions that affect the quality of life in the city. This mission is accomplished through the following bureaus: the patrol services bureau maintains patrol of all public streets, highways, parks, parkways and thoroughfares. The detective bureau investigates crime complaints and criminal offenders, locates missing and wanted persons, recovers stolen property, and coordinates gang, narcotics and vice efforts. The support services bureau and the communications division provide logistical, communication and transportation support.

FDNY Unit of Appropriation 002 ("Fire Extinguishment and Emergency Response"): Responsible for all uniform tactical and operational decisions. Resources provide for the protection of lives and property from fires, hazardous materials incidents and non-fire emergencies. The operating field units include: headquarters, divisions, battalions, special operations

command, engine and ladder companies, squad companies, rescue units, marine companies and the hazardous materials unit. These field units are also responsible for yearly inspections of all major structures in order to identify and issue notice of violation summonses for all fire code violations. Also included are the dispatchers, emergency engineers and electricians responsible for the maintenance and operation of the communication network.

Further, getting data out of this administration is so difficult that the council is passing bill after bill to obtain data that should be given to the public as a matter of course. Data requests as basic as organizational charts for mayoral offices or the names and addresses of padlocked unlicensed cannabis businesses have been denied. Providing the information on a timely basis should be routine and then would not be costly.

Another fiscal issue is that the administration does not share information about every penny of what they get from the state and federal government that was not disclosed to the Council or the public. Previous heads of OMB have told me that they have “money in the drawer” when it is convenient to use state and federal allocations.

Additional Comments and Recommendations

There were many debates throughout the 2018-2019 charter revision process. Members of the Commission had very different viewpoints from one another—from the Republicans representing Staten Island to Sal Albanese, who represented then-Brooklyn Borough President Eric Adams—but they reached an agreement. One of the consensus outcomes was that the mayor’s pick for Corporation Counsel should be determined through advice and consent.

Then-City Council Speaker Christine Quinn and I testified before the 2010 CRC, convened by Mayor Michael Bloomberg, that the following must be considered for every public review: 1). Providing communities with greater opportunity for input into government decision; 2). Making each branch or office of government more accountable; and 3). Increasing transparency in government. These are the issues that the CRC should be addressing.

The first rule of a Charter Revision Commission is “do no harm.” Major changes to the budget and legislative processes should not be determined in a two month period with insufficient exploration of unintended consequences.

Lastly, I offer the following items for the Commission to consider:

- 1. Implementation of Local Laws.** In all administrations, laws that are passed are sometimes not implemented. For example, the Council passed reforms to CityFHEPS July 2023 that went into effect on January 9, 2024, but have not been implemented. Former Council Member Lou Fidler, may he rest in peace, said to the 2010 Bloomberg Commission that the charter should require all laws passed by the City Council go into effect unless the mayor sues to stop them. His recommendation would go a long way toward communities knowing that what's passed into law is implemented. In other words, the duties of the mayor to enforce laws enacted by the Council should be made clear and explicit in the charter. If a mayor believes that a law is not valid, the charter should place the burden on the executive branch to go to court and have the law declared invalid.
- 2. Revenue Estimates.** There is a lack of trust in the administration's revenue estimates and no consequences for getting it wrong. This Charter Revision Commission should recommend joint revenue estimates, also known as consensus estimates, between the City Council and the mayor. For the new Fiscal Year, the Council and other entities such as the IBO were correct in their analysis as to a higher revenue estimate than that of the administration. That is how budget cuts were restored, but they were not needed in the first place. Libraries did not have to relinquish the Sunday service. That was not an example of transparency in government.
- 3. Funding Formulas for Oversight Agencies.** As mentioned above, the model for funding the IBO mandates that it "shall not be less than ten percent of the appropriations available to pay for the expenses of OMB." This should be considered for all other oversight agencies such as Department of Investigation, Board of Correction, Civilian Complaint Review Board, and Special Commissioner for Investigation for the city school system.
- 4. Transparency at NYC Health + Hospitals Corporation.** H+H is a quasi-public agency and, as such, is not subject to all city procurement policies and procedures. Given their expanded role into housing, feeding, and case managing for migrants, H+H should follow standard procurement rules.
- 5. Destruction of Landmarked Buildings.** The Landmarks Law includes an unfortunate loophole which allows the Landmarks Preservation Commission, without any City Council oversight, to let developers destroy

existing, individually designated landmarks based on alleged financial hardship. This is inconsistent with the intent of the Landmarks Law, and the loophole should be closed.

- 6. Mayoral Appointments to Boards and Panels.** The mayor has too much control over the makeup of bodies such as the Rent Guidelines Board, the Board of Correction, and the Advisory Committee on the Judiciary. The City Council, Borough Presidents, and/or Public Advocate should have more spots to fill so these bodies are not simply pass-throughs for the mayor.
- 7. Law Department Representation and Settlements.** Corporation Counsel has too much discretion to represent current and former members of the NYPD, including the mayor and members of the administration, when they are accused of wrongdoing. Further, the voters should decide if the city enables bad policing by aggressively defending against misconduct claims instead of demanding changes to NYPD practices.
- 8. Review the Unit of Appropriation Structure.** As stated above, large, unspecified U/As make the budget opaque and make it difficult for the Council to adjust priorities. For example, the New York City Law Department and the Landmarks Preservation Commission have only two units of appropriation: PS and OTPS. The city's budget has never fully reflected the notion that each U/A would represent a discrete purpose or program as opposed to a set of programs.
- 9. Make the Land Use Process More Representative of Community Perspectives.** Potential reforms include: require public documentation to be posted online for all ULURP applications once an application is noticed for certification; enable the Council to compel certification of applications that advance the Fair Housing Framework; and provide Community Boards additional technical expertise that is beyond, and does not include, Department of City Planning staff.

Other CRCs have taken their time over many months to promote democracy by meaningfully engaging the public in the process. This Commission is rushing to alter the city's constitution in less than two months. Very few people know of its existence, and even fewer are testifying. Many more members of the public turn out at City Council hearings. The Commission should wait until 2025 – and it can, legally – to put any referendum on the ballot.