

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON ENVIRONMENTAL
PROTECTION

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February 16, 2021
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HELD AT: Remote Hearing (Virtual Room 3)

B E F O R E: Costa Constantinides
CHAIRPERSON

COUNCIL MEMBERS:
Dharma Diaz
Stephen Levin
Carlos Menchaca
Eric Ulrich

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

Kate Gouin, Acting Director
Mayor's Office of Sustainability

Michael DeLoach, Deputy Commissioner of
Public Affairs
Department of Environmental Protection

Michael Yaki, Senior Vice President and
Senior Counsel of Policy and Programs
Petros PACE Finance

Andrew Webber
Twain Financial

Laura Rappaport, Managing Partner
Northridge Opportunities

Alyssa Roth, Senior Director of Policy
Greenworks Lending

Terrence O'Brien, Senior Director
Plumbing Foundation

2 SERGEANT-AT-ARMS: Computer recording
3 started.

4 SERGEANT-AT-ARMS: Cloud recording all set.

5 SERGEANT-AT-ARMS: Backup is rolling.

6 SERGEANT-AT-ARMS: Thank you. Sergeant
7 Polite, you may begin with your opening statement.

8 SERGEANT-AT-ARMS: Thank you. Good morning
9 and welcome to the remote hearing on the Committee on
10 Environmental Protection. Will Council members and
11 staff please turn on their video at this time? Once
12 again, will Council members and staff please turn on
13 their video at this time? Thank you. To minimize
14 disruption, please place all cell phones and
15 electronics to vibrate. You may send your testimony
16 at testimony@Council.NYC.gov. Once again, that is
17 testimony@Council.NYC.gov. Chair, we're ready to
18 begin.

19 CHAIRPERSON CONSTANTINIDES: Thank you very
20 much. Good morning, everyone. My name is Costa
21 Constantinides. I am Chair of the Committee on
22 Environmental Protection and today we will hear
23 Intros 1576 which calls for increasing penalties for
24 failure to comply with backflow prevention
25 requirements and Intro 2170 in relation to

1 sustainable energy loan programs. From 1981 to 1998,
2 the CDC documented 57 waterborne disease outbreaks
3 related to backflow incidents through the cross
4 connections, resulting in close to 10,000 illnesses.
5 These include 20 outbreaks caused by microbiological
6 contamination, 15 outbreaks, about 680 cases, of
7 illness caused by chemical contamination, and 22
8 outbreaks, about 2700 and them, that caused illness
9 from where the contaminant was not reported.

10 Backflow devices prevent cross connection between
11 potable and non-potable water. NYC RR section 5-1-31
12 directs the supplier of water to protect the public
13 water supply from potential contamination within the
14 premises of the water user. In order to carry out
15 the responsibility, pursuant to the public health
16 law, the Department of Environmental Protection, or
17 DEP, as the supplier of water, must determine if a
18 facility does pose a hazard due to its operations.
19 If so, the Commissioner is required to direct the
20 owner to install and approve backflow prevention
21 device. However, if the building owner fails to
22 comply with the directive of the Commissioner, he or
23 she is subject to enforcement actions such as cease
24 and desist orders, similar criminal actions, fines,

2 penalties, and even, ultimately, termination of water
3 supply of the building or any portion of the
4 facility. Despite New York City's local laws
5 requiring the installation of backflow devices on
6 certain properties, many building owners simply have
7 not complied with the laws. In contrast, in Boston,
8 Massachusetts, the backflow prevention program
9 performs 11,000 site inspections per year. All
10 surveys go to the last free-flowing outlet regardless
11 of whether a facility is considered high or low
12 hazard, as required by state cross connection control
13 regulations. Under this program, 100 percent of all
14 high hazard sites have installed protections. This
15 high level of testing ensures the city's potable
16 water supply is protected from backflow related
17 contamination events. If potable water is mixed with
18 non-potable water, the results can be disastrous.
19 That is why the penalty for failure to install
20 backflow device must be increased. Potable and non-
21 potable water must never be mixed in the cities
22 potable water network distribution. In 2019, as part
23 of the Climate Mobilization Act, New York City passed
24 local law 96 of 2019, creating a sustainable energy
25 loan program intended to assist property owners who

2 wish to implement energy-efficient and renewable
3 energy projects at their properties. The Property
4 Assessed Clean Energy program or we will call it ACE
5 today-- it's not to say all that-- offered
6 affordable financing that allows property owners to
7 pay for upgrades that improve energy efficiency,
8 harness renewable energy, and conserve water.
9 Without energy efficiency and renewable energy, we
10 have no path to a sustainable future. PACE allows a
11 property owner to finance the upfront costs of energy
12 for eligible improvements on a property and then pay
13 the costs back over time through a voluntary
14 assessment. The unique characteristic of PACE
15 assessments is that the assessment is attached to the
16 property rather than the individual. PACE programs
17 enable property owners to avoid high up front costs
18 related to installing clean energy technologies such
19 as solar panels or energy-saving retrofits. The PACE
20 financing program allows access to low interest and
21 long term loans. Property owners may also see
22 reduced energy bills. PACE programs allow property
23 owners to pay for these improvements over time
24 through assessment on their property tax bills. Once
25 a property owner opts into a PACE financing program,

2 the property remains subject to the PACE arrangement,
3 even if it is sold, transferred, or a foreclosed
4 upon. The remainder of the assessment is a lien on
5 the property. 2170 would amend the previously
6 enacted sustainable energy loan program to permit
7 energy efficient improvements to be incorporated into
8 real property as an improvement or a component of a
9 new or existing building. Before I begin, I want to
10 thank all of our staff. I want to thank our city
11 Council, Samara Swanson, our policy analyst, Nadia
12 Johnson and Ricky Chala, our financial analyst,
13 Jonathan Seltzer, my legislative counsel, Nicholas
14 Wasowski, for all of their hard work. I want to
15 welcome my good friend, Jumaane Williams, who I
16 believe also has a-- our Public Advocate who has an
17 opening statement, as well. So, Mr. Public Advocate,
18 at this time, [inaudible 00:05:57] your statement.

19 PUBLIC ADVOCATE WILLIAMS: Thank you so
20 much, Mr. Chair. And thank you for your leadership
21 on these issues throughout the years. I appreciate
22 it. As was mentioned, my name is Jumaane Williams.
23 I am the Public Advocate for the city of New York.
24 Once again, thank you, Chair Constantinides, for
25 holding today's hearing. Our city must do more to

2 address environmental injustice. The longer we wait
3 to correct these problems, the worse off
4 communities-- particularly communities of more
5 color-- will be-- I'm proud that one of my first
6 four bills in my first term actually had to do with
7 environmental justice and I'm glad to see, in these
8 communities, getting even stronger in pushing for
9 these kinds of concerns. Therefore, we need to be
10 aggressive and proactive in offering solutions. The
11 bills before the community today are examples of
12 that. My bill, Intro number 1576, first introduced
13 by Queens Borough President Donovan Richards, would
14 increase penalties for a building owner or an
15 operator failing to install and report on water
16 backflow prevention devices. Failure to either
17 install the device or annually report on tests could
18 mean either a significantly higher civil penalty or a
19 criminal fine. Backflow prevention devices stop
20 contamination from entering New York City's water.
21 Without them, bacteria, such as salmonella, can
22 spread into water pipes. For businesses such as
23 laundromats, food processing plants, supermarkets,
24 and large residential dwellings, this is pretty
25 dangerous. Anyone can experience serious harm, so

contamination must be avoided at all costs. This is both an environmental issue and a public health issue. In 2019, the New York City Department of Environmental Protection estimated that there was 76,472 facilities in the city that require one or more backflow prevention devices. Notably, 45,093 or roughly 59 percent are considered hazardous facilities. Therefore, a device must be installed and annually reported on with no excuse, otherwise the risk can be severe for occupants, customers, workers. There were 1540 violations in 2018 for failure to install a backflow prevention device, according to DEP. The number of violations for not filing a report is even higher at 8780. This is why the legislation is necessary. This prevention devices are vital for New Yorkers. This cannot be done out of convenience. It is a requirement. There are steep penalties for those who do not follow this law. There is an additional concern with the existing penalties and fines. At the Committee's June 25th, 2018 hearing, it was said that these prevention devices can cost anywhere between 3000 to 20,000 dollars. Therefore, fines are lowered and the owner operator can just accept the fine is the

2 cheaper option, but legislation would eliminate that
3 with steeper penalties and fines. New Yorkers must
4 be guaranteed protection and this bill assures that.
5 I anticipate the administration's support for the
6 bill today to send a message of accountability. We
7 cannot accept failure to submit an annual report or
8 failure to install these prevention devices. New
9 Yorkers must be given assurances that their health is
10 being prioritized. Finally, I just want to join in
11 supporting the Chair's Intro number 2170 to amend the
12 sustainable energy loan program to improve energy
13 efficiency in New York City. Any opportunity to do
14 so is useful and reiterates the city's commitment to
15 make a greener New York City. Energy efficiency may
16 be costly for some building owners, so there must be
17 assistance for everyone who was interested in energy
18 efficiency. Overall, the bills represent our
19 commitment for a cleaner, safer New York City. I
20 thank the Chair, again, for both allowing me to speak
21 and for cosponsoring my legislation and, of course,
22 for his leadership on all of these issues. I look
23 forward to today's testimony.

24 CHAIRPERSON CONSTANTINIDES: Thank you, Mr.
25 Public Advocate. I always appreciate your work and,

2 both in the Council and now as Public Advocate, your
3 commitment to making New York City more green and
4 more sustainable and a better place for all. Thank
5 you, Mr. Public Advocate. Samara, it's-- please
6 take over.

7 COMMITTEE COUNSEL: Okay. Thank you.

8 I am Samara Swanson, counsel to the Environmental
9 Protection Committee of the New York City Council.
10 Before we begin, I want to remind everyone that you
11 will be calling on-- you will be on mute until you
12 are called on to testify when you are on muted by the
13 host. I will be calling on panelists to testify.
14 Please be aware that it could be a delay in muting
15 and un-muting you, so please be patient. Please
16 listen for your name to be called. I will be
17 periodically announcing who the next panelist well-
18 being. We will begin with testimony from the
19 administration which will be followed by testimony
20 from members of the public. During the hearing, if
21 Council members would like to ask a question, please
22 use the zoom raise hand function. We will be
23 limiting Council member questions to the four minutes
24 including responses. I will call on you when it is
25 your turn to speak. During the hearing, if Council

2 members would like to ask a question, use the zoom
3 raise hand function and I will call on you in order.
4 We will be limiting Council member questions, as I
5 said before, to four minutes. And now, I will
6 deliver the oath to the administration and call on
7 each of you individually to be followed by your
8 testimony. Please raise your right hands. We will
9 begin with MOS acting director Kate Gouin. Would
10 you please raise your right hand? Do you swear or
11 affirm to tell the church, the whole truth, and
12 nothing but the truth before this committee and to
13 respond honestly to the Council member questions?

14 ACTING DIRECTOR GOUIN: I do.

15 COMMITTEE COUNSEL: Thank you. And
16 now, Deputy Commissioner Mike DeLoach of public
17 affairs and communication. My goal, do you swear or
18 affirm to tell the truth, the whole truth, and
19 nothing but the truth before this committee and to
20 respond honestly to the Council member questions?

21 DEPUTY COMMISSIONER DELOACH: I do.

22 COMMITTEE COUNSEL: Thank you. You may
23 begin to testify when ready.

24

25

2 DEPUTY COMMISSIONER DELOACH: Samara,
3 do you want Kate or I to start or does that make a
4 difference?

5 COMMITTEE COUNSEL: Well, you can start
6 if you would like can then be followed by Kate.

7 DEPUTY COMMISSIONER DELOACH: Great.
8 Good morning, Chair. Good morning, Public Advocate.
9 Councilman Manchaca. It's good to see everybody. My
10 name is Michael DeLoach. I am the deputy
11 commissioner of public affairs at the Department of
12 Environmental Protection. Thank you for the
13 opportunity to testify today.. Intro 1576 which
14 reinforces the importance of water backflow
15 prevention devices. These devices, also known as
16 cross connection control, prevent potential
17 contamination within premises from entering the
18 public water supply. The possibility of
19 contamination is caused by various kinds of plumbing
20 configurations and or equipment that use water under
21 pressure. If the water pressure in the internal
22 system in, say, a medical facility like a hospital is
23 greater than the pressure in the public water supply
24 system, dangerous chemicals can be inadvertently
25 forced back into the public supply unless a properly

1 functioning backflow prevention devices in place to
2 keep that from happening. Protection of our drinking
3 water through the mandated cross connection control
4 program, which is required by the New York State
5 sanitary code. The code, containing the public
6 health law, mandates that public law-- that public
7 water supply as such as DEP require certain users to
8 install cross connection controls for which they must
9 submit plans for the installation of the devices.
10 And they must do annual testing and reporting once
11 the devices have been installed. This program is
12 approved and reviewed annually by the state and the
13 city Department of Health and is reportable to the
14 United States Environmental Protection Agency and the
15 New York State health department is one of the
16 filtration avoidance determination deliverables. The
17 bill today strengthens this program by raising the
18 fines for failing to comply with the law so that the
19 following is comparable to the cost of installation.
20 DEP supports this bill and we look forward to talking
21 about it today, testifying, and discussing the
22 importance of this bill. I am happy to answer any
23 questions that you have. Thank you so much.

2 CHAIRPERSON CONSTANTINIDES: Thank you.

3 Before Kate-- before you go, I just want to
4 recognize that we've been joined by both Council
5 member Dharma Diaz and Carlos Menchaca from Brooklyn.
6 Thank you.

7 ACTING DIRECTOR GOUIN: Great. Thank you,
8 Chair Constantinides and members of the Committee on
9 Environmental Protection. My name is Kate Gouin and
10 I am very excited to join you for the first time in
11 my new role as acting director of the Mayor's Office
12 of Sustainability. I will offer testimony today in
13 support of Introduction 2170 which would expand the
14 previously authorized property assessed clean energy
15 or PACE financing program to include newly
16 constructed buildings. Local Law 96 of 2019, part of
17 the Climate Mobilization Act, authorized what has
18 called CPACE or commercial PACE lending here in New
19 York City. As Chair Constantinides mentioned, CPACE
20 financing is private financing that can be secured to
21 pay for energy efficiency upgrades to a multi-family
22 or commercial building that is tied to the property,
23 not to the person securing the financing. And that
24 is payback for the property tax bill. This financing
25 provides an essential tool to help building owners

1 acquire the capital they need to upgrade their
2 buildings to comply with local law 97. These
3 upgrades will also help buildings function more
4 efficiently I will make them more comfortable and
5 healthy for residential and commercial tenants.
6 Since local law 96 was passed, we have been working
7 closely with the New York City Department of Finance
8 and the law department to establish the rules and
9 structure for our program and we anticipate that
10 building owners will be able to seek PACE financing
11 for their projects in the coming months. In 2020,
12 the New York State legislature expanded the statewide
13 authorization for PACE to make new construction
14 eligible for PACE financing. Introduction 2170 would
15 provide the necessary local authorization for us to
16 be able to expand the city's PACE program to include
17 new buildings. As our city faces compounding crises,
18 the Covid 19 pandemic and its accompanying economic
19 crisis, the climate crisis, and systemic crises of
20 housing quality and affordability, especially for our
21 most vulnerable populations, we must address them
22 using all of the tools that are disposal. Expanding
23 the PACE program to include new construction allows
24 private lenders to offer capital that would enable
25

2 building developers, designers, and owners to
3 incorporate measures that exceed the New York City
4 energy code which means that everything from new
5 healthcare facilities to a newly constructed
6 affordable and supportive housing could be built in a
7 way that acknowledges and confronts the climate
8 crisis. This will also support jobs and our green
9 and just recovery. To conclude, we strongly support
10 Introduction 2170 and we look forward to working with
11 the Council to determine a cost neutral way to
12 implement the bill. We know that we will need to
13 engage with as many New Yorkers as possible to fight
14 the climate crisis. We are united in our work with
15 the Council to reach carbon neutrality by 2050.
16 Thank you. I look forward to answering your
17 questions.

18 CHAIRPERSON CONSTANTINIDES: Kate,
19 welcome. Congratulations--

20 ACTING DIRECTOR GOUIN: Thank you.

21 CHAIRPERSON CONSTANTINIDES: about the
22 new role. You know, we miss Mark, but we know that
23 you are going to do an amazing job.

24 ACTING DIRECTOR GOUIN: Thank you. We are
25 going to miss Mark, too.

2 CHAIRPERSON CONSTANTINIDES: But we are
3 excited for you and excited to have you in the new
4 role and look forward to all the good work that you
5 are going to do.

6 ACTING DIRECTOR GOUIN: Likewise. Thank
7 you.

8 CHAIRPERSON CONSTANTINIDES: So, I just
9 wanted to ask-- I am looking at your testimony. In
10 what way do you expect-- Does the administration
11 expect this bill to be somehow costly to the city,
12 right? I mean, I am a little perplexed about that
13 second to last line, so what is there--

14 ACTING DIRECTOR GOUIN: Yep.
15 Understandable. Understandable. So, as you know,
16 the way the PACE program itself is structured, about
17 more buildings we get into the program, the faster
18 the program will pay for itself. So, that is not--
19 implementing the actual program is not the concern.
20 The piece that we are looking into is the
21 administrative fees on the Department of Finance
22 side. We are not anticipating that been significant.
23 We just need a little bit more time to analyze.

24 CHAIRPERSON CONSTANTINIDES: Okay. I
25 mean, I think that-- have we-- So we haven't issued

2 any PACE financing loans as of yet, correct? The
3 programs aren't up and running?

4 ACTING DIRECTOR GOUIN: That's right. We
5 have not issued any loans.

6 CHAIRPERSON CONSTANTINIDES: When do we
7 expect to the loans to start flowing? What are we
8 thinking here?

9 ACTING DIRECTOR GOUIN: We are hoping to
10 launch the program sometime in April.

11 CHAIRPERSON CONSTANTINIDES: Okay. So,
12 just in time for Earth day.

13 ACTING DIRECTOR GOUIN: Yeah.

14 CHAIRPERSON CONSTANTINIDES: Just in time
15 for Earth day. Okay. And this works, right? Other
16 jurisdictions have done it and it has been a great
17 addition to fighting climate change. Is that right?

18 ACTING DIRECTOR GOUIN: Yeah. Yeah.
19 Absolutely. Currently, there is 37 states and
20 Washington DC that have passed PACE enabling
21 legislation and 22 states that have active commercial
22 PACE programs. So, we know that it can be really
23 successful.

24 CHAIRPERSON CONSTANTINIDES: Okay. And
25 what do you do zero-- if we pass 2170 in the near

2 future, would that impact the ability to get this off
3 the ground on time or is it just going to be seamless
4 transition into-- you know, sort of help new building
5 owners and new buildings be incorporated into this
6 program?

7 ACTING DIRECTOR GOUIN: The latter is
8 correct. So, it shouldn't affect the program at all.
9 It is just going to increase the number buildings
10 that are eligible to apply for the PACE financing.

11 CHAIRPERSON CONSTANTINIDES: And who is
12 eligible right now?

13 ACTING DIRECTOR GOUIN: Right now,
14 commercial and multifamily buildings are eligible,
15 but, again, the program hasn't launched, so they will
16 be able to apply as soon as possible we launch the
17 program.

18 CHAIRPERSON CONSTANTINIDES: Okay. I
19 just want to make sure I also-- I'm getting text
20 messages here, so I want to acknowledge Council
21 member Eric Ulrich from Queens who is also joining
22 today's meeting. So, I am going to at this time,
23 ask, Mr. Public Advocate, do you have any questions
24 at all? Do any of my colleagues have any questions?

2 Samara, do we have anyone with their hands up?

3 Sorry, Kate.

4 ACTING DIRECTOR GOUIN: No. That's
5 alright.

6 COMMITTEE COUNSEL: No. I don't see
7 anyone with their hands up.

8 ACTING DIRECTOR GOUIN: Always good to
9 triple check.

10 CHAIRPERSON CONSTANTINIDES: I just
11 wanted to double check because I am-- DP, I'll be
12 honest, Mike, you know, I know when to shut up and
13 take a yes. So--

14 DEPUTY COMMISSIONER DELOACH: Happy to
15 be supportive. Yep.

16 CHAIRPERSON CONSTANTINIDES: So, you are
17 hundred percent supportive of the bill? No concerns?
18 No complaints?

19 DEPUTY COMMISSIONER DELOACH: No. I
20 think we are good.

21 CHAIRPERSON CONSTANTINIDES: Okay. So--

22 DEPUTY COMMISSIONER DELOACH: We might
23 want to talk a little bit about the fine amounts
24 just, you know, and more detail, but we are fine.

25

2 CHAIRPERSON CONSTANTINIDES: So, I think
3 I am at the point now where, you know, how are we
4 doing on tracking noncompliance? Especially in the
5 era of Covid?

6 DEPUTY COMMISSIONER DELOACH: Yeah.
7 So, our numbers are down a little bit this year. We
8 do about three or 4000 inspections per year. I think
9 it was like 2300-ish this past year, but we have
10 really ramped up on the enforcement side. We have
11 been sending out more, you know, Commissioner orders
12 and making sure that people are aware that they are
13 out of compliance and then going through the oath
14 process. So, we have focused, you know, the-- since
15 the inspections have taken a little bit of a hit, we
16 have used some of those resources on more aggressive
17 enforcement opportunities.

18 CHAIRPERSON CONSTANTINIDES: Do we know
19 how many high hazard buildings still aren't in
20 compliance?

21 DEPUTY COMMISSIONER DELOACH: It's
22 really fluid because they use changes and,
23 especially, this past year a lot of uses are
24 changing, but it is roughly about 20,000 right now
25 that we have outstanding.

2 CHAIRPERSON CONSTANTINIDES: About
3 20,000. And, you know, through additional inspection
4 and sort of increase of penalty, do we think that
5 they will be able to get these 20,000 buildings into
6 compliance?

7 DEPUTY COMMISSIONER DELOACH: Yeah. I
8 mean, we are hopeful. I think the way that we had
9 discussed this in 2018 was that the finds were so low
10 that it was almost like you didn't have to worry
11 about it. So, I do think that increasing the finds
12 will be meaningful and even just hopefully us
13 communicating that through our orders and our
14 communications with property owners, hopefully it
15 will go a long way and avoiding having to go through
16 both and actually doing the notice of violation.
17 Just get people to, you know, get people to, you
18 know, pay attention and do what is right.

19 CHAIRPERSON CONSTANTINIDES: And this
20 isn't-- And we are not giving building owners a hard
21 time here. This is actually a public health problem,
22 right? If the water mixes-- if the cross
23 connections sort of go back, we could see people in
24 not only their building, but other buildings become
25 very sick, correct?

2 DEPUTY COMMISSIONER DELOACH: Yes.

3 It's absolutely something that we need to require for
4 health and safety. It is important to note that,
5 since about 1989, all new properties have been
6 required to have an architect or, you know, an expert
7 to team if it is important or not and that is
8 approved by us and, obviously, we need do, you know,
9 thousands-- hundreds of thousands of the sampling of
10 our drinking water to make sure that everything stays
11 safe and we find problems where they exist quickly
12 and rectify it. But, yeah. I mean, it is a serious
13 thing and people should, you know, on the intent of
14 the law and make sure that they added to their
15 system.

16 CHAIRPERSON CONSTANTINIDES: So, this is
17 something that, if you're not installing a backflow
18 device, you are putting other people's health in
19 jeopardy, potentially. Correct?

20 DEPUTY COMMISSIONER DELOACH: And it is
21 the law. Yeah.

22 CHAIRPERSON CONSTANTINIDES: Yep. And
23 it's the law, right? I mean, but it is-- you know,
24 I want to drive that point home because I know a lot
25 of times people are going to say, you know, this is

2 just another regulation to sort of, you know,
3 encumber building owners at a very tough time, but
4 we're talking about something that, potentially, can
5 make people sick. So, not only is it the law, but
6 this is something that is not just a-- This is
7 extremely important for public health.

8 DEPUTY COMMISSIONER DELOACH: We
9 definitely want to do whatever we can to protect
10 our-- you know, are valuable drinking water and make
11 sure that it doesn't become contaminated. So, this
12 is an important step.

13 CHAIRPERSON CONSTANTINIDES: Okay.
14 Great. So, seeing that there are no other questions,
15 I will just say at this point that I look forward to
16 working with DEP on the implementation and sort of
17 getting this bill right with both Public Advocate and
18 my colleague in government who is now in the Queens
19 Borough Presidency, Donovan Richards. I look forward
20 to working with all of you together and, Kate, I am
21 looking forward to April and seeing the PACE program
22 rolled out. Do we have any-- this last question I
23 have is do we see any-- this conversation with DOF,
24 how quickly can we get this done? I know we want to

2 probably roll out this program with 2170 as part of
3 it.

4 ACTING DIRECTOR GOUIN: Yes. Exactly. I
5 think that we can resolve this in the next couple of
6 weeks. We can circle back with you, too.

7 CHAIRPERSON CONSTANTINIDES: Yes. I
8 would love to get this done as quickly as possible
9 because if we are going to implement-- if we are
10 going to, you know, I have the PACE program for
11 April, I would want to make it as wide as possible
12 and make sure we are doing everything at once, right?

13 ACTING DIRECTOR GOUIN: Agreed completely.
14 Yeah.

15 CHAIRPERSON CONSTANTINIDES: Great.
16 Fantastic. So I look forward to working with you on
17 this and everyone at MOS and, again, Kate,
18 congratulations on your new role.

19 ACTING DIRECTOR GOUIN: Thank you.

20 CHAIRPERSON CONSTANTINIDES: All right.
21 With that, Samara, I will pass it back to you to call
22 our next witnesses.

23 COMMITTEE COUNSEL: Thank you. We will
24 turn now to the public testimony. I'd like to remind
25 everyone that unlike our typical Council hearings, we

2 will be calling on individuals one by one to testify.
3 Council members who have questions for a particular
4 panelist should use the raise hand function in Zoom.
5 For panelists, once your name is called, a member of
6 our staff will unmute you and the sergeant-at-arms
7 will give you the go-ahead upon setting the timer.
8 Please wait for the sergeant to announce that you may
9 begin delivering your testimony. I would now like to
10 welcome Michael Yaki who is representing Petro PACE
11 Financing LLC to be followed by Andrew Webber with
12 Twain Financial.

13 SERGEANT-AT-ARMS: Time starts now.

14 MICHAEL YAKI: Thank you very much.

15 Mr. Chair, thank you for your leadership with the
16 Climate Mobilization Act, the largest carbon
17 emissions reduction ever mandated by any city in the
18 world. We really appreciate your support for the
19 PACE program. I am Michael Yaki. I am with Petros
20 PACE Finance. We are one of the largest commercial
21 PACE capital providers in the country. We're the
22 people who actually are the private lenders who will
23 be working with building owners in New York City.
24 And I want to tell you right now that we already have
25 been working with building owners in New York City.

2 There are many who are ready to roll. We are looking
3 forward to helping you achieve your goals of climate
4 change and GHG reductions and we are very happy with
5 the work that has been judged so far. The amendments
6 that you provide in 2170 will help unlock that even
7 more and, actually, make New York City a program
8 consistent with most of the rest of the country that
9 already has commercial PACE. New construction is
10 prevalent in the vast majority and practically almost
11 all of the other states and communities in this
12 country that have commercial PACE. So, this is going
13 to be great. We found it to be a very important part
14 of how developers and financiers put together their
15 capital stacks and that makes it possible to put in
16 the kinds of improvements, the kind of energy
17 efficiency change that you want to see in order to
18 meet these climate goals. So, again, I just want to
19 echo what you have said. We are really looking
20 forward to this program to launch as soon as
21 possible. We have, basically, property owners that
22 are straining to get out of the blocks and get going.
23 These amendments will make it even more accessible
24 and better. And, again, thank you for your
25 leadership and for your continued support.

2 COMMITTEE COUNSEL: Thank you, Michael.

3 I would now like to welcome Andy Weber of Twain
4 financial whose testimony will be followed by Laura
5 Rapaport of Northbridge Ops.

6 SERGEANT-AT-ARMS: Time starts now.

7 ANDREW WEBBER: Hi, all. I echo of
8 Michael Yaki's comments. I appreciate everyone's
9 efforts to date on making this program as successful
10 as I think it's going to be. As he mentioned, this
11 will bring the program in alignment with several
12 other PACE programs across the country. Twain is
13 another private capital provider that will be, you
14 know, hopefully, you know, engaging in a number of
15 successful transactions with New York City's business
16 owners. So, forward to the potential to, you know,
17 interact with the program and I echo all the
18 comments, you know, made so far on this call. Thank
19 you.

20 CHAIRPERSON CONSTANTINIDES: Thank you.

21 COMMITTEE COUNSEL: Thank you very
22 much, Andy. And now your testimony will be followed
23 by Laura Rapaport of Northbridge Ops whose testimony
24 will be subsequently followed by Alyssa Roth of
25 Greenworks Lending.

2 SERGEANT-AT-ARMS: Time starts now.

3 LAURA RAPAPORT: Hi. Thank you so much
4 for your time and your leadership and pushing us
5 forward with 96, as well as 97. My name is Laura
6 Rapaport. I am managing partner of Northbridge
7 Opportunities. I am a former New York City real
8 estate developer and currently active in the CSPACE
9 financing world and we have, to Michael and Indies
10 point, many groups in New York who are very excited
11 by this. Certainly for new construction and
12 certainly because they are trying very hard to
13 enhance their projects with so many of these energy-
14 efficient measures that are so important to us. I
15 know firsthand how important the approval of this
16 amendment is, having done both sides of this and I
17 think we must do everything we can to enhance the
18 environmental sustainability measures for all
19 buildings, including ground up construction. This is
20 the future of our city and our collective legacy. We
21 want to make this a win-win for developers and owners
22 so that, instead of trying to figure out can they
23 afford this, they have the opportunity to go forward
24 and really add to the positive future of New York. I
25 did also want to mention that, in addition to, in

2 addition to funding green measures for a project,
3 that CPACE can also act as non-predatory rescue
4 capital, creating a liquidity injection into
5 ongoing, as well as future construction projects,
6 many of whom have been stalled because of cost
7 overruns because of Covid. And at present, CPACE
8 does not allow this to transfer to new construction
9 projects which, arguably, are our city's most
10 vulnerable since they are opening either right before
11 Covid or during Covid. We need to give these
12 projects every chance to succeed. All the real
13 estate sectors can benefit, you know, as we talked
14 about commercial, but I think also important to
15 mention in his hospitality. This is one of the few
16 PACES, one of the few liquidity options, for
17 hospitality in the market at present. And given the
18 lack of liquidity in the market, enabling CPACE for
19 new construction will help to encourage these
20 projects to be started and others in progress to be
21 completed. This will create and sustain construction
22 jobs, as well as enhance projects to be completed
23 some more jobs will be available at new hotels and at
24 offices and multifamily projects, etc. Certainly,
25 you for life science, which I know is very important

2 to the city. CPACE will allow stalled projects an
3 opportunity to be restarted and completed. It will
4 also enable-- you also further enable these projects
5 to incorporate more of these measures. We spoke
6 about the stretch code earlier to create a better and
7 more sustainable city. This is also safer for the
8 city, so there aren't stalled projects, but can help
9 create revenues for the city and state from the
10 buildings, as well as the tenants and the guests that
11 occupy them. In short, CPACE is very flexible
12 capital. It will allow the buyer to reallocate costs
13 if they need to any rescue capital, it will be able
14 to help people withstand this market volatility which
15 has been so damaging to date and, lastly, you know,
16 the long-duration of the capital will keep so many of
17 these building owners, you know, really helping to
18 continue to enhance their buildings.

19 SERGEANT-AT-ARMS: Time expired.

20 CHAIRPERSON CONSTANTINE: Thank you very
21 much for your testimony.

22 COMMITTEE COUNSEL: Thank you, Laura.

23 And I would now like to welcome Alyssa Roth of
24 Greenworks Lending whose testimony will be followed
25 by Terrence O'Brien of the Plumbing Foundation.

2 SERGEANT-AT-ARMS: Time starts now.

3 ALYSSA ROTH: On Environmental Protection
4 in Council member Constantinides for hearing public
5 comments on this bill. My name is Alyssa Roth. I am
6 the senior director of policy for Greenworks Lending.
7 We are the leading CPACE provider in the country with
8 headquarters in Connecticut, San Francisco, and New
9 York City. We provide funding for clean energy
10 products exclusively through the CPACE structure and
11 we operate in all 25 of the active CPACE programs
12 throughout the country. I am here to voice support
13 for Intro 2170 that will allow CPACE financing for
14 clean energy measures on privately held new
15 construction this will allow environmentally sound
16 new development in our city that may not occur if
17 this bill is not enacted. CPACE is a successful
18 financing tool that was enabled in New York State in
19 2009 and has benefited the existing building sector
20 by reducing energy costs, improving building values,
21 and cutting energy waste. Unfortunately, the current
22 policy in New York City denies these benefits to new
23 developments. Intro 2170 simply amends the CPACE
24 program to include new construction. There are 25
25 states in that country with closed CPACE projects and

every single one of them allows new construction. In April when New York City launches their CPACE program, it will be the only active program in the United States that prohibits new development if this amendment is not passed. The state of New York has had an active CPACE program for four years and that operates statewide with the exception of New York City which will have an independent program. The state program identified a large volume of new construction projects that they were forced to turn away causing them to deny the economic development benefits of CPACE to communities throughout New York. Because of this, last year, New York State amended the CPACE statute to allow new construction and extend these benefits to new developments. Intro 2170 brings the New York City ordinance into compliance with the updated state statute. CPACE policy has been present in New York State for years, but in a Covid environment, the lack of liquidity makes the need for this financing for new construction especially important to enabling stabilization of the real estate industry. Construction projects have slowed, business operations have been temporarily halted. Bill 2170

2 offers a pathway for immediate private investment
3 into the building sector and construction sectors of
4 our district without requiring any public funding or
5 taxpayer dollars. Enabling CPACE for new
6 construction will have an immediate impact on our
7 local economy, opening the door for private capital
8 to flow into our community and help get local
9 construction workers and engineering firms back to
10 work. There is no opposition to this. The policy
11 behind CPACE is one of those rare instances where
12 everyone is a winner. The local government, the
13 business owners, and the local workforces. Thank you
14 for your time.

15 CHAIRPERSON CONSTANTINE: Thank you,
16 Alyssa. Good to see it.

17 COMMITTEE COUNSEL: Thank you, Alyssa.
18 And now I would like to welcome Terrence O'Brien of
19 the Plumbing Foundation. It is Terrence O'Brien
20 here? Terrence O'Brien? What about Loretta
21 Humphrey? If neither of those parties, Terrence
22 O'Brien or Loretta Humphrey are here, I would like to
23 ask if there is anyone else who is registered to
24 testify but whose name I have not called? Seeing
25

2 none, I will now turn it over to Chair Constantinides
3 for any closing remarks.

4 CHAIRPERSON CONSTANTINE: Samara, thank
5 you. I want to thank everyone who testified today.
6 Both of these bills represent an agreement. An
7 agreement on the administration and the Council's
8 side, from the administration and the Council side,
9 that both bills, the increasing the fines and the
10 backflow devices and, you know, adding new buildings
11 to the CPACE program can be valuable to our city. So
12 I look forward to working with the administration and
13 the Council to get these bills done--

14 UNIDENTIFIED: Chair, I am so sorry.
15 There might be one more person that wants to testify
16 from the Association of Contracting and Plumbing and
17 I am wondering if they need to accept the on--

18 CHAIRPERSON CONSTANTINIDES: I am happy to
19 let them testify if they are ready.

20 COMMITTEE COUNSEL: Okay.

21 CHAIRPERSON CONSTANTINE: and then we
22 will close the--

23 SERGEANT-AT-ARMS: Time starts now.

24 COMMITTEE COUNSEL: Can you identify
25 yourself, please, before you testify?

2 TERRENCE O'BRIEN: Hi. I'm speaking as
3 myself. Terrence O'Brien.

4 COMMITTEE COUNSEL: Hi. Hi, Terrence
5 O'Brien.

6 TERRENCE O'BRIEN: Hi. How are you?

7 COMMITTEE COUNSEL: Okay. I called you
8 before but you didn't show up. Can you please offer
9 your testimony now?

10 TERRENCE O'BRIEN: I can. I had a little
11 technical difficulty on my end here. Yes. Hello.
12 My name is Terrence O'Brien. I am the senior
13 director of the Plumbing Foundation of the city of
14 New York. The Plumbing Foundation was founded in
15 1986 and it is a nonprofit organization of small,
16 large, union and nonunion plumbing contractors
17 engaging in plumbing, engineering, associations,
18 [inaudible 00:39:15], manufacturers. Basically
19 [inaudible 00:39:19] plumbing related with the
20 hospices of focusing on and enacting proper plumbing
21 codes and regulatory functions may it be DEP or DOB.
22 I don't think I have to say too much. I have
23 submitted testimony on this topic numerous times. In
24 particular, I'm talking about Intro 1576. I think
25 the summary by the Chair, the borough president, and

2 his prior wrote-- and, of course, by the Public
3 Advocate, his testimony today speaks volume on the
4 issue. Proper backflow installations and functions
5 and reporting and real monetary penalties for
6 noncompliance is a public health problem and I think
7 this goes back to-- it was over a 20 year issue to
8 figure out how to close the loop on it and I will say
9 I am personally very supportive of this bill and also
10 I think of 1271, which I am not commenting on
11 publicly today on, but I think it's a good one, as
12 well. But in closing, 1576 will go a long way to
13 make sure public health and public plumbing problems
14 don't persist in the future by allowing owners just
15 to pay the minimum amount of fines instead of
16 actually mitigating the problem and installing proper
17 backflow devices. Thank you very much.

18 CHAIRPERSON CONSTANTINE: Thank you,
19 Terrence. Good to see you.

20 COMMITTEE COUNSEL: Thank you,
21 Terrence. Is there anyone else who would like to
22 testify at this time? I had a name previously,
23 Loretta Humphrey. Is she here? Okay. Seeing nine,
24 I will turn it over to Chair Constantinides for any
25 closing remarks.

2 CHAIRPERSON CONSTANTINE: Okay. Well, I
3 already began my closing remarks, so I will just say
4 that at this time I want to thank-- again, thank
5 everyone who testified today in taking time out of
6 their schedule to help us craft better legislation.
7 So, thank you, everyone, for their testimony and
8 their time. I want to thank the administration for
9 their partnership. I want to thank our staff who
10 works tirelessly. Samara Swanson, our legislative
11 attorney. Thank you, Samara, for all that you do.
12 Nadia Johnson and Ricky Chala, who were texting me to
13 let me know that Council members were here. So,
14 thank you for all of your great work and all the work
15 that you have done to help prepare questions and get
16 us ready for today's hearing. All the reports.
17 Thank you for all of your hard work. Jonathan
18 Seltzer, our financial analyst. Jonathan, thank you
19 for your work. Nicholas Wasowski who is on vacation
20 this week. My legislative counsel, but a well-earned
21 vacation, so thank you, Nick, for all of your hard
22 work. And to all of the sergeant-at-arms and our
23 technical staff in the Council who make all of the
24 zoom meetings possible and make them go as seamlessly
25 as they do. You know, thank you, everyone for all of

2 your hard work. And I saw Nicole Umbee [sp?]. Thank
3 you, Nicole, as well. So, with that, I will gavel
4 this committee hearing of the Department of
5 Environmental-- department. This committee hearing
6 on the committee on environmental protection closed
7 and, once again, thank you to our Speaker, Cory
8 Johnson, as well. So--

9 [gavel]

10 CHAIRPERSON CONSTANTINE: this hearing
11 is closed.

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C E R T I F I C A T E

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



Date February 28, 2021