

COMMITTEE ON GOVERNMENTAL OPERATIONS, STATE &
FEDERAL LEGISLATION 1
CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON GOVERNMENTAL
OPERATIONS, STATE &
FEDERAL LEGISLATION

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Wednesday, May 29, 2024

Start: 10:15 A.M.

Recess: 12:32 P.M.

HELD AT: Council Chambers - City
Hall

B E F O R E: Hon. Lincoln Restler, Chair

COUNCIL MEMBERS:
Public Advocate Jumaane Williams
Speaker Adrienne E. Adams
Gale A. Brewer
David M. Carr
James F. Gennaro
Jennifer Gutiérrez
Shahana K. Hanif
Vickie Paladino
Lynn C. Schulman
Inna Vernikov

Other Council Members Attending:
Powers and Hudson

COMMITTEE ON GOVERNMENTAL OPERATIONS, STATE &
FEDERAL LEGISLATION

A P P E A R A N C E S

James Caras,
General Counsel

Susan Lerner,
Executive Director of Common Cause New York

Betsy Gotbaum,
Director of Citizens Union, representing self

Adam Clayton Powell IV,
Former Assembly Member, representing self

Louis Cholden-Brown,
Former Deputy Counsel to the Former Council
Speaker, representing self

Sharon Brown,
Representing self

Tiffany Raspberry
Director of Mayor's Office of Intergovernmental
Affairs

COMMITTEE ON GOVERNMENTAL OPERATIONS, STATE &
FEDERAL LEGISLATION

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1 COMMITTEE ON GOVERNMENTAL OPERATIONS, STATE &
2 FEDERAL LEGISLATION 4

3 SERGEANT MORENO: This is a microphone check for
4 the Committee on Governmental Operations, State, and
5 Federal Legislation; located in the Chambers;
6 recorded on 05/29/2024 by James Marino.

7 SERGEANT AT ARMS: Good morning, and welcome to
8 the New York City Council Hearing of the Committee on
9 Governmental Operations, State, and Federal
10 Legislation.

11 At this time, please place all electronic devices
12 to vibrate or silent mode.

13 Please do not approach the dais at any time. If
14 you have questions, please raise your hand and a
15 Sergeant at Arms will kindly assist you. Thank you
16 very much for your kind cooperation.

17 Chair, we are ready to begin.

18 CHAIRPERSON RESTLER: (Gaveling in)

19 Good morning, My name is Council Member Lincoln
20 Restler, and I have the privilege of chairing our
21 Committee on Governmental Operations, State and
22 Federal Legislation. I'd like to welcome my
23 colleagues who have joined us this morning, our
24 Speaker, Adrienne Adams; Council Member Lynn
25 Schulman; and Council Member David Carr, thank you
each for being with us.

1
2 At today's hearing, the Committee will be hearing
3 Intro 908, sponsored by our Speaker, Adrienne Adams.

4 I would now like to turn it over to Madam Speaker
5 for opening remarks.

6 SPEAKER ADAMS: Thank you very much, Chair
7 Restler, and good morning, everyone.

8 We want to thank our Governmental Operations
9 State, and Federal Legislation Committee Chair
10 Lincoln Restler for holding today's hearing on
11 Introduction 908, my proposed legislation would
12 require the advice and consent of the Council as part
13 of the appointment process for 21 city agency
14 commissioners that are not currently required to
15 undergo this process, and thank you all who've joined
16 us today.

17 Advice and consent is not a new concept or
18 practice. Since the founding of our democracy, advice
19 and consent has been used to protect against the
20 abuse of power within our government. This power was
21 vested in the legislative branch of the federal
22 government by the founders of the nation's democracy.
23 It was intended as a safeguard and tool of good
24 government on behalf of the people, rather than any
25 individual interests. New York State has enshrined

1 this power in the upper body of the New York State
2 Legislature as well. Advice and consent is a powerful
3 to tool to ensure our government maintains a level of
4 democratic accountability in support of the public
5 interest.

6
7 I believe that good government calls for us to
8 make this authority more consistent for our local
9 legislature in the Council by expanding existing
10 advice and consent powers to include more of the
11 City's agency commissioners.

12 Advice and consent ensures that city agency
13 commissioners who control critical services that
14 affect and determine the well-being of New Yorkers
15 are held to the highest standards. The City Charter
16 makes it clear that commissioners are responsible to
17 all elected officials, and the advice and consent
18 process ensures that the mandate is met.

19 For decades the Council has held advice and
20 consent power related to several mayoral appointees.
21 It includes the Commissioner of the Department of
22 Investigation, Taxi and Limousine Commission Chair
23 and members, and dozens of other positions on boards
24 and commissions that influence New Yorkers lives.

1
2 Most recently, in 2019 the voters overwhelmingly
3 approved extending our advice and consent power to
4 the Corporation Council. The way the Council has
5 exercised this authority has shown that we take this
6 responsibility seriously. Our Council has approved
7 over 35 mayoral nominees since the start of Mayor
8 Adams' mayoralty, and helped to ensure that qualified
9 candidates are selected. Let me repeat that, *our*
10 *Council has approved over 35 mayoral nominees since*
11 *the start of Mayor Adams' mayoralty.*

12 Advice and consent establishes a transparent
13 process for nominees to introduce themselves to all
14 stakeholders, and provides the public with an
15 opportunity to engage and comment on the nominations.
16 It maintains a focus on a nominee's ability to
17 perform their charter mandated responsibilities on
18 behalf of all New Yorkers.

19 A transparent process advances our collective
20 goal of good government, and benefits nominees by
21 offering them an early and valuable opportunity to
22 earn trust, and further effective governance through
23 collaboration and communicating their expertise and
24 qualifications.

1
2 As a city, we stand to benefit from this change
3 and will continue to work on increasing transparency
4 and good governance regardless of who is in office at
5 any given time. That is the way we can continue to
6 safeguard our future and the foundation of our
7 democracy.

8 I look forward from hearing more from my
9 colleagues today on the importance of expanding the
10 powers of advice and consent. And, finally, I want to
11 thank the committee staff for putting this hearing
12 together. Now. I turn it back over to the Chair.
13 Chair Restler?

14 CHAIRPERSON RESTLER: Thank you so much, Speaker
15 Adams for those wise opening remarks and for this
16 really terrific piece of legislation.

17 The concept of checks and balances has been at
18 the heart of American government ever since our
19 nation was founded. In grade school we're taught that
20 checks and balances are embedded in the very
21 foundation of how American government should
22 function. Checks and balances are necessary to
23 prevent any singular person or branch of government
24 from holding too much power. Every branch of
25 government is given some form of oversight by the

1 other. The goal is for neither the Executive, or
2 Legislative, or Judicial Branch to dominate our
3 government. This simple but essential idea is
4 fundamental to our democracy, yet this fundamental
5 democratic ideal has been undermined by Mayor Adams.
6 The City Charter gives agency heads the full quote,
7 "... cognizance and control of the government
8 Administration, and discipline of their agencies". I
9 just want to quote the Charter again, because it's so
10 important. The charter gives agency heads the quote,
11 "... full cognizance and control of the government
12 Administration and discipline of their agencies".
13 But under this mayor, we've seen what can happen when
14 dedicated professionals are prevented from doing
15 their jobs. Commissioners have indeed been hand
16 cuffed by City Hall, unable to freely answer
17 questions about their budgets at City Council
18 hearings, unable to execute critical projects planned
19 by experts at their own agencies, and even unable to
20 meet with elected officials without the blessing of
21 the mayor. This is not checks and balances, this is
22 not the checks and balances that our founders
23 envisioned and that we teach our children. It's
24

1 definitely not how the government of New York City is
2 supposed to work.
3

4 The 1989 Charter Revision Commission was the last
5 major overhaul of our city governance, and its intent
6 was to create a strong city council and ensure
7 government bureaucracy that is responsive to New
8 Yorkers.

9 Introduction 908, the legislation proposed by
10 Speaker Adams, is a realization of that purpose. It
11 asserts the exact role the Council should play;
12 subjecting 21 agency commissioner appointments to
13 advice and consent of the Council, providing a
14 necessary check to ensure our government is led by
15 competent, experienced, and ethical leaders. The
16 advice and consent process improves accountability
17 and strengthens New Yorkers confidence in our public
18 officials. This legislation will strengthen our City
19 Charter by making sure our city is run by the most
20 qualified professionals who understand their
21 responsibility to serve the residents of New York
22 City, and work effectively with duly elected
23 officials - like the City Council, the state
24 legislature, and members of congress.
25

1 The proposed legislation will add to the existing
2 12 agencies with positions that require City Council
3 consent advice and consent as part of their
4 appointment process. Many of those 12 agencies have
5 been subject to advice and consent of the Council for
6 nearly 50 years. It will also clarify that the
7 procedures for vacancies, will expedite the filing of
8 open positions, and formalize processes for
9 determining interim agency leadership.
10

11 Advice and consent works; it works for the 12
12 City agencies that already require it; it works for
13 the state of New York where the state senate approves
14 all of the Governor's nominations for department
15 heads; it works at the federal level where the US
16 Senate is charged with the approving 1,200 political
17 appointments, including every cabinet secretary and
18 the leaders of all federal agencies. It works in Los
19 Angeles, Chicago, Houston, and other big cities where
20 a majority of mayoral appointments are subject to the
21 approval of their city councils. In fact, the
22 National Civic League, founded by Theodore Roosevelt
23 over a hundred years ago, promotes advice and consent
24 as a best practice for structuring municipal
25 governments.

1 use at the state and federal levels of government and
2 by many other municipalities.

3
4 New Yorkers can be made confident that the
5 mayor's appointed commissioners are qualified and
6 positioned to capably serve as leaders of our city
7 agencies.

8 This administration declined to show up today.
9 Though I do see the senior adviser to the mayor for
10 Intergovernmental Affairs here, so perhaps Tiffany
11 Raspberry would like to share a few words.

12 That being said, despite the mayor publicly
13 expressing concern about this legislation, his
14 administration decided to not engage in good faith in
15 the legislative process. The mayor's dismissiveness
16 and disrespect of this city council, and his
17 administration's refusal to engage directly on the
18 record on the Speaker's legislation is disappointing.
19 Instead the mayor has appointed a highly questionable
20 Charter Revision Commission whose only real objective
21 seems to be delaying this worthy legislation from
22 potentially reaching the voters.

23 In closing, I would like to thank Speaker Adams
24 for her courageous leadership in proposing this
25 legislation to better calibrate city government

1
2 toward democratic accountability. This is a historic
3 and significant bold step by this city council to
4 demonstrate the importance of strong legislative
5 oversight for effective and good governance. I deeply
6 appreciate her leadership of this body and of our
7 city, especially in light of a mayor who undermines
8 good government.

9 With that, I'd like to thank our committee staff
10 Jayasri Ganapathy and Erica Cohen for their hard work
11 and preparing for this hearing, David Seitzer for
12 impressively drafting this bill, Julia Agos, who does
13 a great job from the Speaker's Communications team,
14 who helped us, and just my team, my awesome
15 Communications Director, Nieve Mooney, and Molly
16 Haley, my Chief and Special Counsel, who is
17 brilliant.

18 I'd like to acknowledge a couple of my colleagues
19 who are here with us today, Council Member Brewer and
20 Council Member Powers, thank you for joining us. And
21 we got Lynn already -- and Council Member Schulman,
22 if I missed you earlier, thank you so much.

23 Now we will turn it over to our first panel. I'd
24 like to call Susan Lerner, Executive Director of
25

1
2 Common Cause, and Jim Caras to come before us and
3 testify... Committee Counsel.

4 You each have five minutes to testify. I think
5 Jim has some time constraint, so maybe we can let him
6 go first, uh, if that's okay, and we'll go from
7 there. Thank you, both, for being here.

8 MR. CARAS: Thank you. Good morning, Speaker
9 Adams, Chair Restler, and members of the Committee on
10 Governmental Operations, State, and Federal
11 Legislation. My name is Jim Caras, it's good to be
12 back here. Thank you for inviting me today to testify
13 on Introduction Number 908, which would provide for
14 City Council advice and consent over a number of city
15 agency heads.

16 As you well know, there are some peculiar topics
17 in government that are near and dear to my heart,
18 budgetary units of appropriation being one, but
19 another is advice and consent. As General Counsel And
20 Special Counsel at the City Council, as General
21 Counsel to the Borough President, and most
22 significantly as the Manhattan Borough President's
23 appointee to the 2019 Charter Revision Commission, I
24 became very familiar with the subject of legislative
25 advice and consent for mayoral appointees.

1
2 In 2019, I was a strong proponent of subjecting
3 the appointment of the City's Corporation Counsel to
4 City Council Advice and Consent - a Charter change
5 that I think has greatly improved the process of
6 selecting the city's top lawyer.

7 I wanted to share with you three reasons why I
8 think the process of appointing city commissioners
9 can be improved by subjecting them to Council advice
10 and consent, and why arguments to the contrary really
11 carry very little weight. And I'm going to echo a lot
12 of what the Speaker said, because I think she was
13 completely on point.

14 First, advice and consent is a salutary check on
15 the appointment power and has been a pillar of
16 government in this country since its founding.

17 Second, New York City is an outlier among the
18 largest cities in this country in its failure to
19 provide any role to the local legislative body in the
20 appointment of agency heads, and; therefore, on its
21 failure to provide any check on the Executive.

22 Third, the City Council has demonstrated that it
23 has handled the limited advice and consent it
24 currently has in a responsible manner that has
25

1 improved the appointment process for those office
2 holders.
3

4 In relation to my first point on how advice and
5 consent is a pillar of good government, a New York
6 lawyer, who is much smarter than I am, observed that
7 quote, "...it is not easy to conceive a plan better
8 calculated than this to promote a judicious choice of
9 men for filling the offices of the Union..." that is
10 what Alexander Hamilton wrote in Federalist Paper 76
11 concerning presidential appointments. He pointed out
12 that advice and consent retains all the advantages of
13 allowing the chief executive his or her choice in
14 appointments, while putting in place a critical guard
15 rail against potential abuse of unchecked executive
16 power that could result in an unfit or compromised
17 appointee. What stops the Legislative Branch from
18 using advice and consent in an inappropriate manner
19 is the fact that at no point can the legislature
20 substitute its judgment for the Executive's.

21 Second, in regard to the use by the largest
22 cities throughout the country of legislative advice
23 and consent of their mayor's appointees, New York
24 City has for too long been an outlier. Of the four
25 most populous cities in the US -- New York, Los

1 Angeles, Chicago, and Houston -- it appears that all
2 but New York subject most if not all department heads
3 to City Council advice and consent.
4

5 The fifth largest city, Phoenix, has a completely
6 different form of government in which all appointees
7 are made by a City Manager; however, in Phoenix it is
8 the city council, which includes the mayor, which
9 hires and fires the city manager. So, New York City
10 appears to be an outlier amongst the very largest
11 city governments by virtue of the fact that it gives
12 no role to its Legislative Branch, direct or
13 indirect, in the appointment process of most city
14 department heads. Our charter is missing an important
15 check on the Executive.

16 Finally, as the Speaker said, the New York City
17 Council has demonstrated how responsibly it has
18 exercised the advice and consent powers that it does
19 have. Since, 2020 when the Council was overwhelmingly
20 granted the power of advice and consent over the
21 appointment of the Corporation Counsel, the Council
22 has approved two out of two submitted candidates for
23 the City's top lawyer job -- a respected career
24 veteran of the Law Department, selected by Mayor de
25 Blasio, and a long serving esteemed jurist selected

1 by Mayor Adams. And as a city government lawyer of
2 three decades, now retired, who reads the New York
3 newspapers, it appears from my vantage point that the
4 that the public discussion over a potential
5 replacement for Judge Hinds-Radix is an important
6 discussion to have. Indeed, as the Speaker said, in
7 the vast majority of instances where the Council
8 currently has the power of advice and consent, the
9 Council approves a mayoral nominee. I know that the
10 Council's Rules Committee process is an extremely
11 thorough one. Nominees are carefully vetted both in
12 terms of (TIMER CHIMES) qualifications and potential
13 problems and conflicts. This is exactly as it should
14 be, and an instances where issues might be found,
15 this gives both sides of City Hall the chance to
16 address them, and, where appropriate and serious
17 enough, provides the public with an opportunity to
18 weigh in on them. I do not see how it could be viewed
19 as anything but a positive for a potential
20 commissioner to get a taste of what the
21 representatives of the 51 council districts think
22 their priority in their prospective agencies should
23 be.
24

1
2 I am certain that Introduction Number 908 would
3 improve the selection process for city agency heads
4 by making it more robust. I urge the Council to
5 consider applying this to all agency heads. Thank
6 you.

7 CHAIRPERSON RESTLER: Because of Mr. Caras's time
8 constraints, I just would like to ask if committee
9 members have any questions for him, and then we'll
10 hear from Ms. Lerner after that if that's okay.

11 Madam Speaker, would you like to go first?

12 SPEAKER ADAMS: Thank you very much, Mr. Chair.
13 And, Jim, it is wonderful to see you.

14 MR. CARAS: It's great to see you, too.

15 SPEAKER ADAMS: We miss you. But, we see that
16 you're living your best life, so... (LAUGHTER).

17 I just have a couple of questions for you, I know
18 that you have to leave.

19 What do you think the benefits are of executive
20 appointments being subject to advice and consent
21 processes? And how does the use of advice and consent
22 impact governance? You gave us a taste of it in your
23 statement, but just dig a little deeper for me.

24 MR. CARAS: Again, I think it does not... it's
25 still going to be the mayor's choice. It is a

1 safeguard to ensure that that person does not have
2 some hidden conflict of interest, that that person
3 has the qualifications to do the job. I think it has
4 a really healthy effect on the appointment process,
5 because it should make a mayor think before
6 appointing someone either seriously unqualified or
7 with some hidden agenda or some hidden connection,
8 uh, you know, appointing, for example, a lobbyist to
9 something where nobody thinks a lobbyist should be
10 ,you know, serving in that capacity. So, I think... I
11 think it helps on the front end in tempering the
12 mayor's choices, then, as I said, I've seen up close
13 and personal -- and obviously ,you know, I won't
14 divulge any information that I've seen in my role as
15 a Council lawyer for so long -- but the vetting
16 process of the Rules Committee and The Rules
17 Committee staff is so thorough. I've seen issues come
18 up where either the Mayor's Office -- I'm not talking
19 about any particular mayor -- either has missed the
20 issue or has not thought it was a big deal, and the
21 Council's vetting process uncovers the issue --
22 either goes back to the candidate or goes back to the
23 Mayor's Office, and in one form or another, that
24 issue is generally addressed. But, that's a healthy
25

1 thing, and sometimes the... and that then the third
2 sort of prong of that is the public hearing part. And
3 sometimes whether ,you know, usually the nominee ends
4 up going through, but oftentimes those issues are
5 publicly discussed. The public is made aware of them;
6 sometimes a guard rail is put in place -- and ethics
7 opinion or something like that, and if the nominee
8 proceeds, then we're all better off for it. So, I
9 really don't understand the argument in which it's a
10 bad thing.
11

12 SPEAKER ADAMS: Thank you, Jim. You know... and
13 ,you know, as a member of the Rules Committee now for
14 about seven years, since I've been on the Council
15 I've been on the Rules Committee, and I've lived
16 exactly what you just said. And seeing sometimes that
17 things have been missed, the Council has caught those
18 things, we've talked through them in oversight, and
19 we've moved on.

20 MR. CARAS: And it happens ,you know, not... maybe
21 not all the time, but not infrequently either. And
22 that's what a good process should do.

23 SPEAKER ADAMS: Right, that's right, I agree. I
24 agree.
25

CHAIRPERSON RESTLER: Thank you, Madam Speaker.

I will just ask a question or two, and I think Council Member Brewer has a question or two for you, and then we'll get you on your flight.

Just for the record, Jim, you're one of the foremost experts on the City Charter. I really enjoyed an article you wrote back in 2013 on the separation of powers in New York City.

Could you just -- would you mind elaborating on the record your resume and expertise on this topic?

And, then, just secondly -- and then I'll kick it over to Council Member Brewer -- the other question I just like to ask is, the TLC (Taxi and Limousine Commission) is an agency of, I don't know, 500 employees, with a \$60 million budget; the Department of Buildings is an agency of 1,500 plus employees, \$190 million budget, it's three times as big. Uh, TLC Chair is subject to advice and consent; DOB (Department of Buildings) is not. Can you explain this? Is there kind of any rationale for why this makes sense, uh, beyond the historic composition of certain agencies, why some positions require advice and why others don't?

1 MR. CARAS: Thank you. I haven't ,you know, in
2 the time I have, I haven't really gone back and
3 reviewed the 89 Charter Commission; although, over
4 the course of my career I've spent a lot of time
5 looking at those transcripts. I think the idea was
6 that boards and commissions would be subject to
7 advice and consent, but commission heads, agency
8 heads, would be solely mayoral appointees. And, as I
9 said, I think the idea back then was that you needed
10 sort of one tough person on top of everything that
11 goes on in the City. You know, when I argued for
12 City Council appointment advice and consent powers
13 over the Corporation Counsel, I pointed out that that
14 had often been -- especially during the Giuliani
15 years I'll say -- had been subject to what I thought
16 was an appointee, a corporation counsel being too
17 beholden to the mayor, and making decisions that were
18 sometimes legally questionable, or at least, I think,
19 one of the examples I gave in the Charter Revision
20 Commission was when the Speaker, the Public Advocate,
21 the Brooklyn Borough President, all of the Chairs of
22 all of the cultural institution groups all felt that
23 it was legally infirm and an appalling decision to
24 pull funding from the Brooklyn Museum, uh, every
25

1 court ended up agreeing with them. And, yet,
2 Corporation Counsel defended the mayor and basically
3 against every other involved City elected official.
4 And I think this gives -- advice and consent gives
5 the sense to those appointees, it doesn't substitute
6 the Council's judgment for the mayor; there's no
7 mileage for the Council in turning down appointees
8 just because they have some slight disagreement with
9 them -- because the next appointee could be worse --
10 but, it gives a sense that they are accountable to
11 more than just the mayor, they're accountable to the
12 City as a whole, and all the people in the city. And
13 to back up and, uh, my view of this comes from ,you
14 know, 30 years as a City Council lawyer working with
15 agencies and agency heads, uh, as the Deputy General
16 Counsel at the Council, the Finance Council at the
17 Council, and then the Land Use Director and General
18 Counsel at the Borough President's Office, where I
19 was then Borough President Brewer's appointee to the
20 2019 Charter Commission. On that Commission, I pushed
21 hard for advice and consent over the Corporation
22 Counsel, and then back at the Council as General
23 Counsel and Special Counsel.
24

25 CHAIRPERSON RESTLER: Thank you so much.

1
2 Council Member Brewer?

3 COUNCIL MEMBER BREWER: Thank you very much. First
4 of all, Alexander Hamilton, you're smarter, I know
5 all of the descendants of Alexander Hamilton.

6 (LAUGHTER IN CHAMBERS) I love them, I respect them,
7 but you're smarter.

8 In terms of when you were the wonderful
9 appointee, did other suggestions come up other than
10 Corporation Counsel to be part of this process, or
11 how did Corporation Counsel participate? I should
12 remember, but I wanted... thought it would be good
13 for the public to remember, too

14 MR. CARAS: I think in my head there were other
15 potential ,you know, to take it a little bit further,
16 but it never got to that point. It was clear that
17 Corporation Counsel at that time was sort of the most
18 significant change we could make -- and both to its
19 credit, the 2019 Commission, but also making it
20 difficult. Being a, I want to say a real Charter
21 Commission, with a wide array of viewpoints, I think
22 that that Charter Commission had to settle on a few
23 key changes that we could get consensus. We had
24 appointees from every borough president. We had a
25

1
2 Public Advocate appointee, we had mayoral appointees
3 and we had council appointees. So... (CROSS-TALK)

4 COUNCIL MEMBER BREWER: It was my bill, I
5 remember...

6 Mr. CARAS: Yes, exactly. And it was ,you know, so
7 that made it difficult to take on sort of huge
8 changes. And I don't think we thought that huge
9 changes were necessary. And the truth is now at this
10 point, from this vantage point of view, I don't think
11 this is a huge change. This is a guardrail, this
12 isn't a change to who appoints commissioners. This
13 isn't a change to how the commissioners will
14 function, other than that... and I think Hamilton,
15 somewhere in that Federal paper says, "it's a quiet
16 but important change" it's not a radical alteration.
17 It doesn't change the appointment power, it just has
18 a healthy effect both... as the mayor makes...
19 thinks about his selections, his or her selections,
20 the Council and the public get to speak to those
21 candidates.

22 COUNCIL MEMBER BREWER: Right. The other question
23 I have, which I think you would agree, is when the
24 public sees ,you know, x person, this is the only
25 opportunity they would see x person. In other words,

1 understandably you make an appointment nobody ever
2 knows who that person is. Now you have a transcript,
3 a record, a public if anybody wants to participate in
4 any way. Does that... do you also agree that that
5 gives perhaps more opportunity for that agency to
6 even be what it could be? In other words, they have
7 now a record of what they're... how they're going to
8 run that agency.

9
10 MR. CARAS: Absolutely.

11 COUNCIL MEMBER BREWER: And the public sees what
12 their taxpayer dollars are going toward and can
13 testify to that effect.

14 MR. CARAS: It's good... it's so much better to me
15 for the public, and for advocacy groups, and interest
16 groups, and groups whose lives that agency is going
17 to affect, to be able to attend a hearing, or have
18 groups that they're members in attend those hearings,
19 raise issues -- even if the Commissioner ends up in a
20 position that's adverse to some of those groups, at
21 least those groups have presented their views to the
22 Commissioner, it's an exchange and a more active
23 involvement in the introduction of that commissioner
24 to the government than having a mayor stand at a
25

1
2 press conference and just introduce a face, which may
3 or may not get covered by the press.

4 COUNCIL MEMBER BREWER: Thank you.

5 And the other cities you mentioned, they do in
6 fact do such processes for all of the commissioners.
7 That's your understanding... (CROSS-TALK)

8 MR. CARAS: My understanding, and I looked at the
9 Charters over the weekend, is that most, if not all,
10 agency heads in those cities, other than Phoenix, in
11 which the council just appoints the city manager,
12 go through the advice and consent process.

13 COUNCIL MEMBER BREWER: Thank you very much,
14 and...

15 MR. CARAS: And you'll see, there's an exhibit
16 attached to my testimony that has links to the
17 various city charters.

18 COUNCIL MEMBER BREWER: Thank you, Jim Caras. He
19 walks rockstar status, thank you.

20 CHAIRPERSON RESTLER: We really appreciate you
21 testifying, we hope you make your flight.

22 MR. CARAS: Okay.

23 CHAIRPERSON RESTLER: Congratulations to your
24 nephew.

25 MR. CARAS: Thank you, thank you very much.

1
2 CHAIRPERSON RESTLER: Ms. Lerner? Thank you so
3 much.

4 EXECUTIVE DIRECTOR LERNER: Thank you very much,
5 I'm Susan Lerner, I'm the Executive Director of
6 Common Cause New York, which is a national
7 organization that works for efficient and inclusive
8 representative government across the country.

9 I'd hoped to testify first, because it's really a
10 hard act to follow Jim Caras. (LAUGHTER) I cannot
11 pretend to have the depth and breadth of experience
12 or knowledge of New York City government, so I'm
13 going to talk in much more general terms.

14 We filed written testimony electronically, but I
15 want to step back and really talk about what some of
16 the academic and general discussions about a strong
17 versus a weak mayor system teaches us here in New
18 York. I do want to preface my remarks by saying I am
19 not really focused on any one mayor or any one
20 administration, because I think the strengths and
21 weaknesses of a strong mayor system, as we have, as
22 Jim points out, pretty much on steroids here in New
23 York City, be obvious to any New York City resident,
24 and you can pick examples from any of our past mayors
25 in the last 20 or 30 years.

1 So, the advantage to a strong mayor system is we
2 are a large city with a lot of complex issues, and a
3 strong mayor gives us guidance. I think in 1989, with
4 the unconstitutionality -- sudden unconstitutionality
5 of the Board of Estimate, there was a desire to have
6 clarity and to institute a strong mayor system. But,
7 I think we've gone too far in that direction. And
8 what this measure seeks to do is to rebalance. We are
9 not suggesting a weak... a so-called weak mayor
10 system. This measure doesn't supplant the mayor's
11 appointment process, this doesn't replace the mayor
12 with a city manager like you have in approximately 40
13 percent of New York cities, uh, not New York, but
14 national cities, but it addresses the weaknesses of a
15 strong mayor system. And one of the I think most
16 salient weaknesses of a strong mayor system is that
17 it gives too much influence to special interests --
18 whether those are special interests who have a lot of
19 money; whether it is special interests who have
20 political power; whether they are special interests
21 who are loyal to a particular individual mayor. Uh,
22 it basically allows a small group of highly
23 influential people to influence the mayor, to get
24 policies passed, which may not be reflective of the
25

1 desires of the vast majority of New Yorkers, but
2 reflect the interests of a much smaller group.

3
4 A second problem that we see with a strong mayor
5 system is that frequently, not well, but on occasion
6 what we can see is that the choice of who to appoint
7 is not based on professional qualifications, but
8 rather it would be based on political support or
9 other factors than political -- than professional
10 qualification. So, rather than looking at the
11 relevant experience or expertise, it's more of what
12 does this particular appointment bring to me, the
13 mayor, in my political life, uh, in insulating me
14 from challenges or ensuring that there won't be push
15 back on particular policies that I want to push
16 because of that small group that I talked about
17 earlier?

18 And its third problematic factor is that it tends
19 to over speak the diverse voices of neighborhoods and
20 different groups in our community which are
21 represented by the diversity of our City Council. And
22 it allows the mayor to ignore those voices,
23 listening, again, to a small group of influencers for
24 money or political power, and not be as responsive to
25

1 the varying different requirements and needs of the
2 communities.
3

4 So having to have more of an advise and consent
5 function brings the mayor into more dialogue with the
6 Council. The Council is much more representative of
7 the diversity of our city and the various needs of
8 the communities, and all of us are benefited when the
9 mayor and the Council collaborate to develop the
10 strongest possible policies and to choose the people
11 who have the best professional qualifications to
12 handle -- as Chairman Restler pointed out --
13 departments that have hundreds of millions of
14 taxpayer dollars, uh, departments that have an
15 extraordinary impact on literally the life and death
16 of New York City residents.

17 So, to the extent that we can encourage all of
18 our elected representatives to work together, to
19 build a consensus, to represent all of the needs of
20 the people of New York City (TIMER CHIMES), we will
21 be stronger and better as a city. That's why we
22 support 908.

23 But, I do want to say that while we support 908,
24 and we think this is a very reasonable number of
25 offices to be subjected to advise and consent, we

1 would urge you to shorten the timeframe. The advise
2 and consent process is important, but so is the
3 appointment of people who, as you point out, control
4 hundreds of millions of dollars and the lives, of and
5 livelihoods, and well-being of New Yorkers.
6

7 So, our suggestion is to hold yourself to a tight
8 schedule. Revise so that you have 30 days for hearing
9 and 60 days to vote, uh, because these are important
10 appointments and they should be addressed quickly.
11 The public should hear what the concerns are, and if
12 there is a problem with the nominee, they should be
13 up for a quick vote. And if they need to be replaced,
14 then that should happen quickly. Thank you.

15 CHAIRPERSON RESTLER: Thank you so much, Ms.
16 Lerner, for that testimony. I'd like to pass it to
17 Speaker Adrian Adams.

18 SPEAKER ADAMS: Thank you, again, Mr. Chair.

19 It's good to see you Ms. Lerner, welcome.

20 EXECUTIVE DIRECTOR LERNER: Thank you.

21 SPEAKER ADAMS: Just a couple of question for you,
22 because you've been doing this for a long time as
23 well, so don't short change yourself when it comes to
24 Jim now, okay?
25

1
2 Just a couple of questions. Do you anticipate
3 that requiring advice and consent of the Council
4 would change who any mayor nominates for any of the
5 commissioner positions?

6 EXECUTIVE DIRECTOR LERNER: I would hope that it
7 would. I would hope that it would influence a mayor,
8 any mayor, to take a longer look at the professional
9 qualifications of the person who is appointed, and be
10 less influenced by what they could bring him or her
11 politically. So, yes, I think it should have a
12 salutary impact by ensuring more qualified nominees.

13 SPEAKER ADAMS: Do you see any downside to
14 putting forth advice and consent? And would you
15 welcome even the extension of more commissioners
16 added?

17 EXECUTIVE DIRECTOR LERNER: The only downside I
18 see is if it drags... if it takes too long, that's
19 why we suggested shortening the timeframe. But, I
20 think that it strengthens both the Council and the
21 mayor. I think it urges the mayor to make better
22 appointments. I think it places the Council in more
23 of a consensus, building communication with the
24 mayor. And I think that it is a strong net positive
25 for our city.

1
2 SPEAKER ADAMS: Thank you very much for your
3 testimony.

4 I like to hear, and I think that we need to
5 continue to stress that this is not about taking
6 power away from a mayor at all, but it's more about
7 really about the collaborative process and making
8 sure that we're getting the right folks into these
9 positions.

10 EXECUTIVE DIRECTOR LERNER: Exactly, and, you
11 know, I think all New Yorkers want to see
12 collaboration between the mayor and the Council. We
13 all want the best thinking and the development of the
14 policies that are going to strengthen our city and
15 solve our problems in the best way possible.

16 SPEAKER ADAMS: Thank you very much.

17 EXECUTIVE DIRECTOR LERNER: Thank you.

18 CHAIRPERSON RESTLER: Thank you so much, Ms.
19 Lerner. I'll pass it to Council Member Carr.

20 COUNCIL MEMBER CARR: And I want to thank you and
21 the Speaker for having probably what is to me the
22 most interesting hearing we've had since the 2008
23 term limits debate in this body. And it's a matter of
24 great weight and importance that we're considering
25 today. I'm thinking a lot about the history of

1 municipal government in in New York. And, in many
2 ways, you know, we had earned the moniker the
3 "ungovernable city" in times past. And I think it was
4 alluded earlier that the 89 Charter revision was in
5 many ways a rebuttal to that charge. And we have a
6 strong Mayor-Council system for a reason. It's
7 intentionally tilt towards the other side of the
8 building, and the question that I'm kind of posing to
9 the public, and the one that I'm certainly going to
10 be posing to myself as I consider this piece of
11 legislation, is... is not whether advice and consent
12 is a good idea in the abstract, but whether it's a
13 good idea to introduce it into a system that's
14 already been functioning for some time beyond the
15 scope that it currently has. And I think it is an
16 important question, because of that history of
17 misgovernance and a lack of faith in our governing
18 institutions from times in the not too distant past.
19 But it also calls to mind that we're considering
20 this piece of legislation in a vacuum. Power dynamics
21 are much more complicated than simply the advice and
22 consent issue. So, I'm concerned that as we pull one
23 string out of the shirt of city government so to
24 speak, we don't necessarily know where it leads, and
25

1 this is profoundly consequential. The other piece
2 that I'm very mindful of right now is my
3 constituents, outer neighborhoods of the most outer
4 boroughs, uh, are not so much concerned with the
5 dynamic of power between one side of this building
6 and the other; they're concerned with the
7 accumulation of power in this building period. And
8 there are questions that I ask, which is why the Land
9 Use issues end with the Council and not with the
10 borough boards? Why are our borough commissioners not
11 appointed by our borough presidents rather than by
12 the heads of our mayoral agencies? These are the
13 questions that I wish we would get into, and I'm not
14 sure that we'll be able to in this hearing, and I
15 don't think we're going to be able to in the Charter
16 Revision Commission that's been assembled, because I
17 don't think that's the point. And, for me, what I'd
18 really love to see as we look at the Charter more
19 closely is a renegotiation and a diffusion of power
20 away from this place and into the boroughs that we
21 represent. That's really the thing that's most
22 concerning to me as a Staten Island and Southwest
23 Brooklyn representative, thank you, Chair.

1 EXECUTIVE DIRECTOR LERNER: Council Member, I
2 would you know refer back to what I said earlier,
3 which is one of the weaknesses of a strong mayor
4 system is that it allows one elected official to
5 ignore the neighborhoods and the boroughs that have a
6 difference of opinion. So, an advise and consent
7 system is, I would say, the most mild form of
8 rebalancing, because, as been pointed out, the mayor
9 still gets his or her choices for an agency heads,
10 but it allows the consideration of your constituents
11 to actually be addressed in the confirmation process,
12 which may not happen at all when the mayor chooses
13 somebody perhaps because of political affiliation,
14 because of influence in an important industry and can
15 overlook the concerns of your constituents. So, I
16 would suggest that this measure addresses one of your
17 concerns.
18

19 COUNCIL MEMBER CARR: If I could just respond
20 briefly, Chair? I think that that has the potential
21 to, right? But I'm not sure that's always going to be
22 the case. Often times, agencies come to my district
23 in response to local laws passed by the Council that
24 mandate that they do particular things. So, I'm not
25 sure that it's always just the mayor with this

1
2 accumulation of power who's imposing his or her
3 vision on a particular borough or neighborhood. I
4 think often times we overlook how much the two sides
5 the City Hall often agree on things. And, to me, the
6 only check on that is borough power. And that's
7 something we've not considered. And over the course
8 of our history as a city from consolidation in 1898,
9 we've seen more and more power taken from the
10 boroughs and brought here into the Mayor-Council
11 together as an operating in tandem or the Board of
12 Estimate before that.

13 EXECUTIVE DIRECTOR LERNER: But, I would suggest
14 that in an open confirmation process there is more
15 opportunity for the boroughs and their concerns to be
16 heard. And I'm sure we can agree that in any human
17 system there's not 100 percent perfection no matter
18 what.

19 COUNCIL MEMBER CARR: Without a doubt, certainly
20 not in government. Thank you, Chair.

21 CHAIRPERSON RESTLER: Thank you so much, Council
22 Member Carr.

23 Just to elaborate on I think part of that back
24 and forth ,you know, inherently the Council is a more
25 representative body of New Yorkers than any one

1 person can be. And this is ,you know, proudly the
2 most diverse Council in the history of New York City.
3 Don't you... do you therefore believe, or could you
4 kind of elaborate on how an advice and consent
5 process ensures that the diversity of perspectives
6 inform that we have qualified ethical and competent
7 candidates serving in these critical positions?
8

9 EXECUTIVE DIRECTOR LERNER: Well, I'd also like to
10 point out that I think our city council may be the
11 largest city council - Yes, we are the largest city,
12 but we have an unusually large and diverse
13 representative city council. And that means that
14 there are many more view points from ,you know,
15 Council Member Carr's constituents to Council Member
16 Brewers constituents and everything in between. So,
17 that an open process with Council input means to me
18 that we address one of the weaknesses of a strong
19 mayor system, which is not enough attention to the
20 different concerns of a lot of different communities
21 and diverse needs. And this open process allows 51
22 representatives from very different communities to
23 reflect the concerns of their communities, uh,
24 educate, as I think Jim Caras pointed out, the
25 nominee to more diverse concerns than they might be

1 aware of if they are simply handpicked by the mayor
2 and rubber stamped at a press conference.

3
4 CHAIRPERSON RESTLER: The National Civic League
5 includes advice and consent as part of their model
6 City Charter they note that quote. "The professional
7 qualifications of the person selected may be higher
8 if the Council has to approve the choice..."

9 EXECUTIVE DIRECTOR LERNER: Exactly.

10 CHAIRPERSON RESTLER: "the Mayor is not free to
11 simply choose a person to advance his or her
12 electoral interests."

13 What do you think of this rationale? Do you
14 believe that advice and consent reduces the
15 possibility of political patronage and selection of
16 political loyalists to these influential positions?

17 EXECUTIVE DIRECTOR LERNER: Well, that's the goal.
18 I mean as ,you know, Speaker Adams asked if I think
19 that it would help in that regard, uh, and I really
20 do. The more discussion of a person's qualification
21 the more an appointing authority knows that the
22 qualifications are going to be not only vetted behind
23 closed doors by council members, but discussed in
24 open hearings with members of the public, advocates
25 for different communities and organizations able to

1 weigh in. I think that it really encourages a more
2 professionalized qualification goal than if you're
3 able to pick somebody, because they're close to me or
4 because they are the favorite of a particular power
5 center that you want to be sure is on your side in
6 your reelection.
7

8 CHAIRPERSON RESTLER: And if I may, on a, I think
9 related topic, I'd just like to ask you your insight
10 and expertise on the Charter Revision Commission
11 that's been recently appointed. In your long
12 expertise as a good government leader in New York
13 City, can you recall a Charter Revision Commission
14 being convened so late in the year, uh, announced on
15 May 22nd, its first meeting today May 29th? Do you
16 think it's possible for there to be meaningful public
17 engagement and input in just a matter of weeks
18 before they need to develop language to appear on the
19 ballot?

20 EXECUTIVE DIRECTOR LERNER: It's interesting that
21 you raised exactly those questions, because that is
22 something we at Common Cause have discussed. And we
23 put out a statement today where basically we don't
24 want to anticipate failure of any commission, but
25 what we hope to see is a commission that will rise to

1 the high standards of previous commissions. And that
2 means holding hearings in every single borough,
3 hearing from the public, and releasing thorough and
4 thoughtfully researched staff recommendations. It's
5 less important to us who the staff is, it's the
6 willingness to really dig into the issues, to look
7 across the country to find good models, and to
8 provide the commissioners with a thorough,
9 thoughtful, and neutral analysis of different
10 proposals. And I think that that can be accomplished
11 by any commission and any staff if that's what they
12 set out to do. And it's our expectation that this
13 commission will rise to that standard.

14
15 CHAIRPERSON RESTLER: Well, we greatly appreciate
16 your testimony today. If there aren't any additional
17 questions, thank you so much for joining us Ms.
18 Lerner.

19 EXECUTIVE DIRECTOR LERNER: Thank you.

20 CHAIRPERSON RESTLER: We really appreciate it.

21 I'd like to acknowledge my friend and colleague,
22 Council Member Jim Gennaro, from Queens, and I would
23 like to invite the next panel to come before us to
24 testify.

1
2 We are joined by our former Public Advocate and
3 the Director of Citizens Union, Betsy Gotbaum,
4 former assembly member, Adam Clayton Powell, and
5 Louis Cholden-Brown. You're all three free to come up
6 and testify.

7 Ms. Gotbaum, if you'd like to begin? Thank you
8 so much.

9 MS. GOTBAUM: Press the button, okay... Good
10 morning, and good morning Madam Speaker, Council
11 Member Gennaro, long time no see, Council Member
12 Schulman, congratulations, I haven't seen you since
13 you've been a council member, and Council Member
14 Restler.

15 Uh, good morning, I am here to testify basically
16 from the good government aspect. I do not want to
17 show any preference to the mayor's side or the
18 Council side. With all respect to the Speaker, this
19 is a very personal analysis of my experience having
20 been Parks Commissioner and Public Advocate. I do
21 feel one thing quite strongly from the good
22 government aspect, and that is that, we, as an
23 organization, Citizens Union, did not have the time
24 to come up with a policy we have a process which we
25 take quite a while to come up with whether we are for

1 it or against it. And we did not have time to do
2 that, so Citizens Union has no stand at this point. I
3 think you probably know in the past what we have been
4 for and what we've been against. We certainly were
5 for the advice and consent on the Department of
6 Investigations and the Corporation Counsel. And I
7 actually totally believe we should also have advice
8 consent on the Police Commissioner just because of
9 the range and what... but there are other offices
10 which I do not, uh, I do not think that this proposal
11 would be particularly useful. And I hate to disagree
12 with my colleague Susan Lerner, but I just want to
13 point out now going... having the Parks Commissioner
14 hat on, uh, that ,you know, there are many, many
15 passionate Park people in this city, and there are
16 certainly many of them in Queens. And the two of you
17 know that once people know that they have the
18 possibility of entering into some kind of consent,
19 you will have such chaos and it'll take so long. And
20 I've read that you would have a Deputy Commissioner
21 who would be running the Agency while this process
22 was going on. Who would appoint that Deputy
23 Commissioner? Would it be the old Deputy
24 Commissioner from the old commissioner's

1 organization, or would it be somebody else? So, I
2 think that's something that has to be taken into
3 consideration very seriously. Who would appoint the
4 Deputy Commissioner running that agency during this
5 process? And, I'm... again, I repeat the process in
6 Parks would be unbelievable, the people are very
7 passionate, they're very knowledgeable, but they are
8 very strong. And once they know that they have a
9 chance to be heard, they will be heard and it'll take
10 a long time.
11

12 So, I do believe that we should not... this
13 process should not be rushed, and that time should be
14 given to look at what the various problems are and
15 consequences of this kind of... on specific
16 agencies, by the way. And I also believe that, as
17 I've said, that the commissioners included in this
18 bill deserves much more scrutiny. There is quite a
19 difference between a Parks commissioner, and say the
20 Buildings commissioner, and I think those things have
21 to be taken into consideration in doing this.

22 We do support, and we did support, the
23 Corporation Counsel being subject to advice and
24 consent, because that that officer represents both
25 the mayor and the Council. And the Commissioner of

1 Investigation is subject to advice and consent, we
2 believed, because they must be independent to conduct
3 oversight of city government. The commissioners
4 proposed in this bill do not necessarily fall into
5 that category. We, as I've said before, Citizens
6 Union does support making the Police Commissioner
7 subject to the advice and consent of the Council,
8 because of the unique role it serves in the status of
9 the New York City Police Department in city
10 government.
11

12 And I just want to say that I am afraid that this
13 will... this particular bill will make the power...
14 will diminish the power of the mayor, and I'm not so
15 sure we don't need a strong mayor with good oversight
16 by the Council. And I think that's one of the things
17 that we have to really push -- is for good oversight
18 of all of these issues by the City Council. On that,
19 I conclude.

20 CHAIRPERSON RESTLER: I just am going to take a
21 point of privilege just to clarify a couple things
22 that have been mentioned in testimony to make sure
23 that they are accurately reflected on the record.

24 The proposed legislation by the Speaker would
25 give the Council just a 30-day time frame to review

1 and approve an appointment after it is received by
2 the Council or the appointment takes effect. So it is
3 a... that is the current timeline for advice and
4 consent appointments to the Council, and that would
5 be the timeline under consideration for these
6 additional appointments.
7

8 Secondly, if vacancy occurs at an agency, the
9 agency head, uh, the First Deputy Commissioner would
10 become the Interim Agency Head. If that position does
11 not exist at the agency, then the Commissioner's
12 designee would become the Interim Commissioner, or
13 the design of the mayor if the Commissioner failed to
14 make a designation. The commission... and from
15 there, we would seek the mayor to make an appointment
16 in an aggressive timeframe for us to review it and
17 approve it. That's what's proposed in this
18 legislation, and I just want to make sure that that's
19 clearly understood on the record. Uh, Former Assembly
20 Member?

21 MR. POWELL: Thank you, Mr. Chairman, Madam
22 Speaker, other members of the City Council. Besides
23 being a former assembly member, I also served as a
24 council member back in the day, between 1991 and
25

1
2 1997, representing parts of Northern Manhattan and
3 the Bronx.

4 In the relationship between the City Council and
5 the mayor's side has always been somewhat
6 adversarial, uh, contentious if you will, even with
7 David Dinkins, as much of a gentleman as he was, it
8 just goes with the territory.

9 I also served the City Council when Giuliani was
10 elected -- oof -- was that contentious. Some of you
11 may not believe what I'm about to say, but there was
12 a time when Giuliani told his commissioners that they
13 could not speak to city council members. Yes, that is
14 correct, city council members could not speak to the
15 commissioners or top level staff in the mayor's side.
16 This didn't last very long, but it went on for a
17 couple of months, and obviously not conducive to
18 being productive.

19 This is just not practical, advice and consent
20 can take weeks, if not months sometimes. During the
21 pandemic, the Department of Health Commissioner left
22 and, uh, Bill de Blasio was able -- then Mayor Bill
23 de Blasio was able to replace that position quickly.
24 Imagine what would have happened if the Department of
25 Health position, the Commissioner of the Department

1 of Health, would have remained vacant for weeks or
2 months during the pandemic.
3

4 I've heard some references been made to
5 oversight in Congress and in historical oversight in
6 other cities, but reality is that making New York
7 City like Washington is a recipe for gridlock. And,
8 may I also go back in history, it was tried in 1884
9 in New York City, tried right in 1884, a system where
10 City legislators confirm mayoral appointments, but it
11 failed. And that's why for 140 years the mayor of the
12 city of New York has had sole authority to make these
13 appointments. The reality is that, again, it's not
14 practical, we don't need another level of
15 bureaucracy, we need a streamlined process. And
16 imagine if at some point, you, as a City Council
17 member, uh, were required to have advice and consent
18 of your local community board, for example, to
19 appoint your Chief of Staff or your local development
20 corporation LDC to appoint your legislative liaison.
21 Obviously this doesn't make any sense, and it would
22 not be practical, because, at the end of the day,
23 it's your name that appears on that ballot; and at
24 the end of the day, it's the mayor's name that
25 appears on the ballot, and it's a mayor's... and the

1 productivity and the constituent services, uh, will
2 be... would be the ones that are demanded by the
3 Mayor. And having, for example, a Commissioner of
4 Housing, you cannot tell the mayor who to appoint or
5 not to appoint and then expect them to do a good job
6 when it comes to services in the housing industry,
7 and so on and so forth with most other City
8 agencies.
9

10 So, I would think that this is not in good
11 conscience a fair bill. I would think that we need to
12 streamline government not add another level of
13 bureaucracy. Thank you.

14 CHAIRPERSON RESTLER: Okay, I would like to
15 acknowledge we've been joined by Bay Academy, from
16 Brooklyn, who I believe came in second place in the
17 New York State Science Olympiad, so congratulations,
18 and thank you for joining us. (APPLAUSE) We really
19 are thrilled that you're with us today at the
20 Council. And, thank you, Adam Clayton Powell IV, for
21 your testimony. Now Louis Cholden-Brown.

22 MR. CHOLDEN-BROWN: Great, good morning, Chair
23 Restler, Madam Speaker... (CROSS-TALK)

24 CHAIRPERSON RESTLER: And if I may, I just want to
25 acknowledge colleagues, Council Member Shahana Hanif

1
2 and Council Member Paladino have joined us this
3 morning, thank you for being with us, and, of course,
4 we're joined by our great Public Advocate Jumaane
5 Williams...

6 MR. CHOLDEN-BROWN: Who I was about to recognize,
7 and all the other Council Members, and from the
8 Committee and otherwise. Thank you for the invitation
9 to testify. For the sake of the record, I'm Louis
10 Cholden-Brown, and I am appearing in my personal
11 capacity. As you well know, I had the privilege to
12 previously serve as Deputy Counsel to the previous
13 Council Speaker; authored the 2021 Introduction
14 pertaining to the Police Commissioner appointment,
15 and work on the 2019 Charter Revision Commission,
16 which proposed the question requiring advice and
17 consent for the Corp Counsel. While I'm a professed
18 proponent of advice and consent, my summary, my
19 longer written remarks, focus on earlier history and
20 the murky history of the Council's pursuit of
21 confirmatory powers.

22 So, New York was actually the second state to
23 implement advice and consent in 19... sorry in 1777,
24 but actually abolished it in 1821, didn't bring it
25 back until the late 1890's, and it didn't take its

1 current form until 1925. So, that's why at the
2 consolidation of the City in 1898, it was not an
3 issue for consideration by that Charter Revision
4 Commission, though the city of New York, that was
5 then just Manhattan and the Bronx, had indeed
6 exercised advice and consent via the Board of
7 Alderman from 1857 to 1884. That did not begin
8 piecemeal restoration until the 1970's, though the
9 City Council actually had been fighting for advice
10 and consent as early as 1966. But, the Corp Counsel
11 continually took the position that the 1936
12 commissions and the 1961 commission had well-
13 considered their decision to not grant that power and
14 should not be disturbed. Indeed the Council actually
15 gave itself its first confirmatory power in 1971 --
16 both the Taxi and Limousine Commission and the
17 Environmental Control Board were created by Council
18 legislation that had the mayor's support, but was not
19 subject to referendum, and neither imposed a time
20 limit on Council's review. In 1975, was when the
21 Council was given the power for advice and consent on
22 fixed term mayoral appointments, to boards and
23 commissions, but not to any major single-headed
24 executive department, that commission shared by
25

1
2 republican state senator found that they should be
3 left to the mayor's discretion, uh, because it would
4 interfere with the mayor's ability to run his own
5 departments.

6 Repeated City Council Speakers and City Council
7 Members have encouraged numerous commissions from
8 1989 to the present to broadly expand advice and
9 consent -- only two have answered that call. Of
10 course, the 1989 Commission granting it for the
11 Commissioner of Investigation at the advice of
12 (INAUDIBLE) Pierpont (phonetic) who was then the
13 Chair of The Board of Ethics, now the COIB, and the
14 and then the 2019 Commission, which despite the
15 Council asking for fixed terms and advice and consent
16 for the Commissioners or Directors of the NYPD, City
17 Planning, OATH, CFB, and COIB went with the
18 Corporation Council, which actually had been Speaker
19 Quinn's request in 2010, because the Corp Counsel's
20 unique role and legal obligation to both the City and
21 the Council. And it also should be noted that the
22 list found in Charter § 31 is actually not
23 exhaustive. The Council now exercises advice and
24 consent of the Local Conditional Release Commission,
25 which it created in 2020 pursuant to the Corrections

1 Law. And I'm acknowledging that Keith Powers, the
2 Chair of that legislation is here, uh, has that
3 authority there. And Speaker Adams is actually in a
4 long line of distinguished members that have held her
5 position to seek this, starting with Vice Chair and
6 then Speaker Valone, who introduced legislation in
7 the 1980's-90's throughout -- hearings were held,
8 they did not always make it across, they did engender
9 some opposition. But, this is not a new concept, and
10 that's what I want to sort of make sure to leave
11 people with there.
12

13 Recognizing the shortness of time, just going to
14 summarize. People have talked about how unique New
15 York City is nationally, but actually New York City
16 is unique in the state. Albany, Yonkers, Rochester,
17 Buffalo each do advice and consent, as do, I'm going
18 to say, about 12 counties, I have them all listed
19 here by name, but I can't to the math quickly. Then,
20 for the sake of the diminishing time, I'm just going
21 to quickly note that my written submission discusses
22 both legal concerns about certain enumerated
23 positions and logistical concerns about the temporal
24 concentration of nomination, and the unique time
25 constraints placed upon the Council for consideration

1 and proposes several interventions -- including
2 legislation pertaining to the Mayoral Committee on
3 Appointments and the diffusion of Council
4 consideration upon more Committees to address these
5 matters.
6

7 I also discuss (TIMER CHIMES)... I'm happy to
8 address in response to questions, the proposed
9 differing limitations of selection of acting
10 Commissioners and the provisions of Home Rule Law
11 that (INAUDIBLE) any Council bill passed between now
12 and the fall to November 2024 - 2025 ballots. I'm
13 happy to answer any questions about the past 25 or
14 250 years.

15 CHAIRPERSON RESTLER: Thank you very much. We... I
16 imagine we'll have a good number of questions for
17 you.

18 I'd like to offer our Public Advocate the
19 opportunity to make a statement, and then we'll turn
20 over to the Speaker for questions.

21 PUBLIC ADVOCATE WILLIAMS: Thank you, Mr. Chair,
22 thank you, Madam Speaker, thank you Mr. Cholden-
23 Brown, Assembly Member, Public Advocate, for being
24 here and sharing remarks.
25

1 I just want to be present here in support of what
2 the Council is doing, thank the Speaker and the
3 Chair. I think it's long overdue, uh, having been a
4 Council Member myself, as many of you have, this
5 city has the strongest (INAUDIBLE) probably in the
6 country. I think many people know that. I don't think
7 it lends itself to allowing the Council to provide
8 the counterweight that it should, and I just want to
9 thank the Speaker again for doing the best that she
10 can with the tools that exist. I do think providing
11 that balance will be a lot more helpful, and getting
12 advice and consent on the Commissioners doesn't mean
13 that they report to the Council, they still report to
14 the mayor and still function as such. And the Council
15 itself can't provide names, all they can do is say
16 yay or nay, haven't been here as well, I haven't seen
17 too many times when advice and consent hasn't been
18 here. And, actually, the times that there's been
19 discussion, it has only helped make things better. It
20 is done all over the country, as people have
21 mentioned, in cities, the state, federal government.
22 If it weren't a process that helped, I think that we
23 would not see it happening all over.
24
25

1 So, I do wish that the Department of Education,
2 which I know the City is a (INAUDIBLE) of the state,
3 and the NYPD were included, so hopefully that might
4 be something we can think about going forward. But,
5 in terms of the providing the balance that the that
6 the constituents want the Council to do, and often
7 don't understand, they don't have the tools to do,
8 this is a very much important step in the right
9 direction. I guess I can see why the mayor and the
10 supporters may be opposed to it, but it doesn't mean
11 that it is right for good government. And, so my hope
12 is that we can get this passed, so we can get the
13 people of the City to vote on it. It is very
14 important to provide the type of balance of power
15 that the constituents need from us. And it actually
16 provides some very good conversations on whether
17 candidates who are being appointed to these positions
18 are the best candidates to do that. Right now, those
19 discussions don't happen at all. Thank you so much.

20
21 CHAIRPERSON RESTLER: Thank you so much Mr. Public
22 Advocate.

23 Madam Speaker?
24
25

1
2 SPEAKER ADAMS: Thank you very much, Mr. Chair,
3 and thank you for all being here this morning, we do
4 appreciate it.

5 I'm going to just pose this question generally,
6 and anyone or all can answer.

7 Do you believe that the public should have the
8 right to weigh on advice and consent when it comes to
9 the appointment of Commissioners?

10 MR. POWELL: May I?

11 I believe the public has a right to weigh in, and
12 I believe they do that on election day. And they
13 exercise that power throughout the four-year period
14 by... in various ways ,you know, organizing,
15 marching, demonstrating, coming to testify at
16 different hearings, writing, calling and so forth.
17 But ,you know, the problem is, I can foresee somebody
18 with perfect qualifications, for whatever the agency
19 may be, and be denied -- not on their qualifications,
20 but they could have personal beef with a council
21 member or two. It could be something that has nothing
22 to do with government, nothing to do with integrity,
23 nothing to do with qualifications, but simply the
24 fact that somebody does not like them. You know that,
25

1
2 and I know that, and that's a problem that we would
3 encounter.

4 SPEAKER ADAMS: I'm just going to say that, again,
5 as I said in my opening statement, that this Council
6 has approved 35 candidates under this current
7 administration, and we do take this responsibility
8 very, very seriously. The expansion, and we do
9 consider this a minute expansion, by the way...

10 MR. POWELL: I differ... I differ...

11 SPEAKER ADAMS: Well you can...

12 MR. POWELL: I think this is big...

13 SPEAKER ADAMS: you can differ...

14 MR. POWELL: Okay.

15 SPEAKER ADAMS: You can differ. I'm just telling
16 you my opinion. We consider this, I consider this, a
17 minute expansion of over 80 roles that we could have
18 put into this existing bill. With that minute entry
19 of these commissioners, I dare say once again, that
20 the purpose of these oversight hearings is to hear
21 the candidates, is to be able to question, in depth,
22 the candidates, and also give the public the
23 opportunity to exercise their opinions regarding all
24 candidates as well. All of that information is taken

1 into advisement before the Council comes up with a
2 decision, a vote, if you will.
3

4 So, the contention that a beef with a council
5 member would impact greatly... And we're talking
6 about a commissioner here, uh, overseeing tremendous
7 work for our city. I do take issue with it. I'm not
8 saying that you are incorrect, because everybody is a
9 human being, and feelings do come into all of what we
10 do. But, once again, when it comes to the
11 appointments of commissioners and the approval, which
12 has always gone in the affirmative for this current
13 administration, I do beg to differ.

14 Mr. Cholden-Brown?

15 MR. CHOLDEN-BROWN: Sure, yeah, so, I'm going say
16 I absolutely support the public being able to weigh
17 in on advice and consent. My two reservations would
18 be, thus, again, you're proposing 21 offices, there
19 are others that members of the Council -- members of
20 the public have identified they also want to see --
21 and having to repeatedly return. and another thing I
22 would point out is that the including, for instance,
23 so, Department of Veteran Services is a relatively
24 new agency. I believe Council Member Ulrich passed in
25 2016 - 2017 -- so again, as we create more entities

1
2 having to potentially return to the public. And the
3 issue of mayoral appointments is not only restricted
4 to these Commissioners, but the Council in the past
5 has suffered litigation losses around the independent
6 Police Investigation Audit Board and others, because
7 the Council cannot create new entities that have
8 representation from other than the mayor.

9 So, I absolutely support the public weighing in,
10 but I think that there may also be opportunities and
11 exploration about how to not ask the public each time
12 the Council wants to reset in this minute way. I
13 agree that balance, or each time the mayor
14 reorganizes government to make sure it encompasses
15 the properly named institutions.

16 SPEAKER ADAMS: Ms. Gotbaum, did you want to...

17 MS. GOTBAUM: I just caution everybody about the
18 number of people and the number of institutions and
19 organizations that would weigh in on all of this. And
20 I'm not saying that isn't good, but I think it will
21 create, as Assemblyman said, my colleague over here,
22 it would just create a layer of bureaucracy that is
23 going to be very, very difficult to cut through, and
24 I fear for that. And, as I said earlier, I don't
25 quite understand what the Council Member said about

1 the Deputy Commissioner. A Deputy Commissioner is
2 appointed by the Parks... I'm talking about Parks
3 now, by the Parks Commissioner. And if in fact that
4 Commissioner appoints a Deputy Commissioner, who will
5 be running the agency while this, I think, very long
6 process -- and I don't know how you implement a time
7 restriction on it, and I think that's an interesting
8 point to discuss -- I just feel that allows the last
9 commissioner to have far more say in what goes on
10 than you might want. And I just see that as a
11 potential big, big gridlock -- creating a gridlock,
12 excuse me.

14 SPEAKER ADAMS: Thank you very much.

15 I just have one more question for the three of
16 you, or anyone if you would like to answer this. Do
17 any of you anticipate that requiring advice and
18 consent of the Council would change who a mayor would
19 nominate for any of the commissioner positions?

20 MR. CHOLDEN-BROWN: Yeah, I mean I'm going to say,
21 yes. I mean, but I do not think that that is a bad
22 thing. I mean, and I actually happen to believe the
23 21 individuals holding these offices right now are
24 all esteemed public servants in one way or another.
25 But, I only have to look at the end of the previous

1 administration to see several individuals who
2 succeeded long term commissioners, who for one reason
3 or another chose not to stay till the end of 2021,
4 that were replaced by people from inside the mayor's
5 orbit or donors and the like in a way that... I do
6 not think any of them ever acted untowardly, none of
7 this is meant to disparage any of their records, but
8 I do not necessarily think that they had a record of
9 work in that area that would have sustained
10 questioning or they had a vision for those several
11 months that they would be there. So, again, I
12 definitely think it would change it. I do not think
13 it would change it on the whole, but I think that
14 extra layer, whether it's through this, or as I talk
15 about a Committee of Appointment Process for certain
16 other positions, I think is a net gain for the City.

18 SPEAKER ADAMS: Thank you.

19 MR. POWELL: I also agree that, yes, it would...
20 it might change the appointment process, but I do
21 think it's a bad thing. If you don't allow the mayor
22 to appoint his first choice for Sanitation
23 Commissioner, how can you hold him accountable for
24 picking up the garbage? If you don't allow the mayor
25 to quickly fill in a vacancy at the Department of

1 Health, how can you expect them to handle the COVID
2 emergency at the time? So, yes it would change, and I
3 think that's a bad thing.

4
5 SPEAKER ADAMS: Mr. Chair?

6 CHAIRPERSON RESTLER: Mr. Powell, I imagine you've
7 reviewed the bill; you've said that you think it
8 would create gridlock. How long does the Council have
9 in this proposed legislation to approve an
10 appointment?

11 MR. POWELL: Thirty days.

12 CHAIRPERSON RESTLER: Thirty days. So, 30 days for
13 a Department of Youth and Community Development
14 Commissioner to be reviewed, vetted, screened, hold a
15 public hearing, and approved. You think it would
16 create gridlock if there was a 30-day window for
17 oversight of a Commissioner appointment?

18 MR. POWELL: Yeah, and perhaps bureaucracy is a
19 better ,you know, description, sure. It adds another
20 level of bureaucracy when you could be doing other,
21 better, and more important things.

22 CHAIRPERSON RESTLER: To create... to ensure that
23 we have highly credible, vetted, experienced
24 candidates, you think bureaucracy outweighs it?

25 MR. POWELL: Yes

1
2 CHAIRPERSON RESTLER: Bureaucracy is more
3 important than ensuring that we have competent...

4 (CROSS-TALK)

5 MR. POWELL: Bureaucracy is (INAUDIBLE)... (CROSS-
6 TALK)

7 CHAIRPERSON RESTLER: ethical people serving our
8 Administration... (CROSS-TALK)

9 MR. POWELL: Right, right, yes, absolutely.

10 CHAIRPERSON RESTLER: Okay, it's an interesting
11 perspective. Uh... (CROSS-TALK)

12 MR. POWELL: At the end of the day, just to...
13 just to finish...

14 CHAIRPERSON RESTLER: Sure...

15 MR. POWELL: At the end of the day, the mayor is
16 accountable on Election Day. And prior to that, by
17 various hearings, and demonstrations, and letters,
18 and other constituent (INAUDIBLE)... (CROSS-TALK)

19 CHAIRPERSON RESTLER: This legislation still
20 ensures that the mayor is appointing each and every
21 key position in his administration, correct?

22 MR. POWELL: Each and every key...

23 CHAIRPERSON RESTLER: Key position in his
24 administration, is appointed by the mayor, correct?

25 MR. POWELL: Right (INAUDIBLE)... (CROSS-TALK)

1
2 CHAIRPERSON RESTLER: This legislation does not
3 change who is appointed to serve in these roles, is
4 that correct? (CROSS-TALK)

5 MR. POWELL: Well, it changes the... (CROSS-TALK)

6 CHAIRPERSON RESTLER: Yes or no?

7 MR. POWELL: (INAUDIBLE) just mentioned, it may
8 change who he will appoint if he has to receive the
9 advice and consent... (CROSS-TALK)

10 CHAIRPERSON RESTLER: Right, and it's a national
11 best practice utilized at the state and federal level
12 and other large cities around the country... (CROSS-
13 TALK)

14 MR. POWELL: (INAUDIBLE)...

15 CHAIRPERSON RESTLER: because it leads to more
16 ethical and competent people being... serving in our
17 in public service... (CROSS-TALK)

18 MR. POWELL: If we want to mirror ourselves after
19 Washington, D.C.?

20 CHAIRPERSON RESTLER: Well, you served in Albany?

21 MR. POWELL: Yeah.

22 CHAIRPERSON RESTLER: What positions are subject
23 to advice and consent in the state legislature? What
24 governor appointments are subject to advice and
25 consent in the state legislature?

1
2 MR. POWELL: Many go through the senate... (CROSS-
3 TALK)

4 CHAIRPERSON RESTLER: Yes... (CROSS-TALK)

5 MR. POWELL: The state senate.

6 CHAIRPERSON RESTLER: Every, single department
7 head in the state of New York. Do you think that's
8 caused bureaucracy and gridlock? (CROSS-TALK)

9 MR. POWELL: It changes things. And here
10 (INAUDIBLE)... (CROSS-TALK)

11 CHAIRPERSON RESTLER: Did it cause chaos, and
12 gridlock, and bureaucracy... (CROSS-TALK)

13 MR. POWELL: It has caused great... (CROSS-TALK)

14 CHAIRPERSON RESTLER: as you testified today?

15 MR. POWELL: It has great bureaucracy.

16 CHAIRPERSON RESTLER: Did you do anything to
17 introduce legislation to modify the advice...

18 MR. POWELL: No, I have not... (CROSS-TALK)

19 CHAIRPERSON RESTLER: and consent process? No. In
20 fact, in your last five years, I believe, in the
21 state legislature, from 2005 to 2010, you reportedly
22 didn't introduce a single bill. Is that correct?

23 MR. POWELL: That has nothing to do with the
24 legislation (INAUDIBLE)... (CROSS-TALK)

CHAIRPERSON RESTLER: I'm interested in your...

(CROSS-TALK)

MR. POWELL: I'm just saying... (CROSS-TALK)

CHAIRPERSON RESTLER: your... your... (CROSS-TALK)

MR. POWELL: That has nothing to do with advice
and consent. The City Council over mayoral
(INAUDIBLE)... (CROSS-TALK)

CHAIRPERSON RESTLER: Well, you're expressing
concern about advice and consent... (CROSS-TALK)

MR. POWELL: Yes, (INAUDIBLE)... (CROSS-TALK)

CHAIRPERSON RESTLER: But, you didn't do anything
to address advice and consent in the state
legislature... (CROSS-TALK)

MR. POWELL: Well, the state Senate is the one
that advises and consent... (CROSS-TALK)

CHAIRPERSON RESTLER: As an assembly member, you
have the ability to put forward legislation to
recalibrate the advice and consent process.

MR. POWELL: All right.

CHAIRPERSON RESTLER: Okay. And in the City
Council, you served during Giuliani's first term...
(CROSS-TALK)

MR. POWELL: I served... (CROSS-TALK)

1
2 CHAIRPERSON RESTLER: Did you introduce a single
3 bill in the City Council during Giuliani's first
4 term? (CROSS-TALK)

5 MR. POWELL: Not on advice and consent. It wasn't
6 needed. It... (CROSS-TALK)

7 CHAIRPERSON RESTLER: Or on any other topic.

8 MR. POWELL: Sure.

9 CHAIRPERSON RESTLER: It looks like from 1994 to
10 1997, according to Council records, you introduced
11 zero bills... (CROSS-TALK)

12 MR. POWELL: Well, that's... (CROSS-TALK)

13 CHAIRPERSON RESTLER: and co-sponsored two.

14 MR. POWELL: Okay, that is not true, but I didn't
15 come here to discuss my political history.

16 CHAIRPERSON RESTLER: Well, it's relevant. You're
17 testifying before us. Uh... (CROSS-TALK)

18 MR. POWELL: Advice and consent with the City
19 Council.

20 CHAIRPERSON RESTLER: Well, so somebody's
21 background would be considered during an advice and
22 consent process, is that right?

23 MR. POWELL: Yes.

24 CHAIRPERSON RESTLER: Do you...
25

1
2 MR. POWELL: And, again, that's part of the
3 problem. You may consider somebody who is perfectly
4 qualified for a position, but you may not like one or
5 two (INAUDIBLE)... (CROSS-TALK)

6 CHAIRPERSON RESTLER: So, you do not believe that
7 advice and consent would provide an independent
8 review of a nomination?

9 MR. POWELL: It would add a level of bureaucracy
10 that I don't think it's needed. We need to streamline
11 the process.

12 CHAIRPERSON RESTLER: Streamline the process? We
13 need to streamline the process...

14 MR. POWELL: Of mayoral appointments or keep it as
15 it is.

16 CHAIRPERSON RESTLER: Are you advocating for a
17 further streamlining of the process of mayoral
18 appointments?

19 MR. POWELL: No, to keep it as is.

20 CHAIRPERSON RESTLER: Okay. And you've testified
21 on the record that a 30-day period would be too long
22 and create gridlock, bureaucracy, chaos, that's
23 not... (CROSS-TALK)

24 MR. POWELL: It just may bring a different nominee
25 as versus the nominee the mayor may have had in mind.

1 MS. GOTBAUM: Yeah.

2
3 MR. POWELL: And, yes, it would add another level
4 bureaucracy, even if it's only 30 days.

5 CHAIRPERSON RESTLER: Do you believe that the
6 ethics and background of a nominee are relevant to
7 whether they should serve?

8 MR. POWELL: Of course.

9 MS. GOTBAUM: Of course.

10 MR. POWELL: But, as I stated before, it may not
11 be the level of qualifications of the nominee, it
12 could be personal with a Council Member.

13 MS. GOTBAUM: Yeah

14 MR. POWELL: It could be personal with a Chair of
15 a Committee.

16 CHAIRPERSON RESTLER: What... in your... (CROSS-
17 TALK)

18 MR. POWELL: It could be personal with a Speaker.

19 CHAIRPERSON RESTLER: Okay. In your time serving in
20 the Council, can you recall a specific example of
21 that occurring and it being a hindrance to preventing
22 a qualified nominee... (CROSS-TALK)

23 MR. POWELL: (INAUDIBLE) years ago... (CROSS-TALK)

24 CHAIRPERSON RESTLER: from coming forward?
25

1
2 MR. POWELL: and we did not have advice and
3 consent. But, yes, there were many personal..
4 personal... (CROSS-TALK)

5 CHAIRPERSON RESTLER: There was advice consent for
6 a dozen agencies between 1992 and 1997... (CROSS-
7 TALK)

8 MR. POWELL: (INAUDIBLE) personal situations, yes.

9 CHAIRPERSON RESTLER: Give us an example of....
10 (CROSS-TALK)

11 MR. POWELL: (INAUDIBLE)

12 CHAIRPERSON RESTLER: when it was a hindrance. It
13 exists for a dozen agencies in city government. You
14 served in the state legislature for nearly a decade.
15 Could you cite one specific example on the record
16 today for when it was a hindrance and caused, in your
17 words, gridlock, chaos, and bureaucracy? (CROSS-TALK)

18 MR. POWELL: No, no... (CROSS-TALK)

19 CHAIRPERSON RESTLER: No? Okay, so despite serving
20 in state... in elected office for 15 odd years, in
21 city and state government, you cannot... and the
22 advice and consent being widely utilized at the state
23 level, and utilized narrowly at the city level, for
24 dozens of appointments, you cannot cite a single
25

1 example of it being a hindrance, an obstacle...

2 (CROSS-TALK)

3 MR. POWELL: No.

4 CHAIRPERSON RESTLER: Okay, thank you very much.

5 I will come back to ask questions of other
6 witnesses, but we'll kick it to Council Member
7 Gennaro, followed by Council Member Powers.

8 COUNCIL MEMBER GENNARO: Thank you, Mr. Chairman.
9 I had a certain question in mind when I signed up to
10 ask questions of this panel; I've kind of pivoted
11 since then, and I think what I had on my mind was
12 addressed by the Speaker and the Chair.

13 But, let me just speak from my own personal
14 experience. People can make comments on this or
15 whatever. I've been in, yeah, I started in city
16 government 1983 under Mayor Kotch, on the executive
17 side, I came over to the Council in 1990. And have
18 been... have served the Council for 27 years or 28
19 years combined as a member and as a member of the
20 central staff. And all my time in city government --
21 and I also used to teach State and Local Government
22 at Queens College or whatever, so I supposedly know a
23 little bit about that -- aside from my experience
24 being here -- is that one of the ,you know, one of
25

1 the phenomena that has always gotten to me, and every
2 mayor has a little bit of it, which is hubris. And
3 the fact that the Administration couldn't see fit to
4 testify at this hearing today and engage with the
5 Council on this important issue, I think is the most
6 compelling testimony that we could ever have as to
7 why we need to establish ourselves as the partner in
8 government and not be dismissed by the Executive --
9 which has been happening from Kotch through today in
10 my experience. As much as I loved ,you know, many of
11 those mayors. So, I think that speaks for itself.
12 Every mayor wants to dismiss the Council. Every mayor
13 wants to say that the Council is up to no good, that
14 the Council has motives and whatnot that are
15 something different than good government. And I think
16 this is an insult to the Council. And the fact that
17 the Administration couldn't bring itself here today
18 to say one word about this bill is the most
19 compelling testimony for this bill that I can
20 possibly think of. That's my statement. Anyone feel
21 free to comment to that.

23 CHAIRPERSON RESTLER: I'd like to just express how
24 much... how strongly I support Council Member
25 Gennaro's statement on the record.

1
2 Council Member Powers?

3 COUNCIL MEMBER POWERS: Sure, thank you for all
4 your testimony, I'm sorry I missed some of it, I was
5 actually taking a school class around City Hall.

6 I think everybody... I think I could understand
7 reasonably why there would be concerns from the
8 Administration about allowing the Council to have
9 more advice and consent power and how that might
10 lead to potentially blocking or stopping certain
11 appointments. I would note that the history so far in
12 the City Council, I'm the Rules Chair, has been
13 pretty... I mean obviously there's relevant examples
14 right now, but pretty contrary to that point, which
15 is that the Council has approved almost... actually
16 to date, every single appointee that's come before us
17 in the City Council. We've been... held hearings on
18 all of them that had required advise and consent and
19 have approved them. And I think had the standard of
20 people that have come through us have been very high,
21 and those qualified people have had their hearing,
22 and have had the opportunity to present their
23 credentials and answer questions -- relevant
24 questions. And we've approved every single one so
25 far. And when there are contentious examples, they

1 will go through the process reasonably to have to do
2 the same process as others. But, I think others... I
3 think you're all presenting different ,you know,
4 cases for and against -- and lots of history from
5 Louis -- and I think we could all understand the
6 debate and where it exists.
7

8 I did want to ask a question, because the one of
9 the main points against adding advice and consent is
10 around additional bureaucracy -- additional ,you
11 know, red taped and approval processes that would
12 exist. And I'm sensitive to it from the stand point
13 of timing with a new administration coming in, how
14 you might have to handle all these advice and consent
15 hearings in in short order. I'm sensitive, as the
16 Chair, of that, of course. But, the point about added
17 bureaucracy, slowing down the process, things like
18 that, those also seem to exist in the current...
19 what's not happening here, but what's happening in my
20 district at the Roosevelt House, which is that we are
21 potentially going to end up in a process where we're
22 going to have a Charter Commission that's going to
23 recommend and ask the voters to vote on processes,
24 which will significantly slow down the City Council's
25 ability to vote on legislation, make considerations

1 around the budget things like that. They may end up
2 being really great ideas, they may be ideas we all
3 hate. But, it certainly seems a similar thing is in
4 play here, which is we are going to end up in a thing
5 that will significantly add more bureaucracy to the
6 duly elected officials of City Council to represent
7 their constituents and make decisions. It feels like
8 those arguments prevail, and it could prevail. For
9 the folks who have raised these bureaucracy concerns,
10 do you have similar concerns when it comes to that
11 process and how that might slow down legislative
12 processes and budgetary processes here at the City
13 Council?

14
15 MR. CHOLDEN-BROWN: I mean, I'll start with a
16 comment about advice and consent. I just want to note
17 that I just want to note that though I talk about I
18 think there could potentially be ,you know, a
19 plethora of appointments at a given time, I think
20 that that poses actually some unique hurdles for you
21 as The Chair. (INAUDIBLE) think for the process ,you
22 know, Laura Kavanaugh, who I'll identify, as I think
23 she's a distinguished individual was not officially
24 appointed Fire Commissioner until October of 2022.
25 Right? Laura served as first Deputy Commissioner and

1 Acting commissioner for 10 months. She did so ably,
2 and there was no bureaucratic hurdle. The DYCD
3 Commissioner was also appointed in the month of April
4 and the like. So, the mayor's process often moves
5 quite slowly, and while if this legislation had been
6 in effect in 2022, the Council would have been called
7 upon to approve 12 commissioners by the end of March.
8 The Council approved two, plus two members of the
9 Conflict of Interest Board in that time quite well.
10 So, there is no bureaucratic standstill from those 30
11 days. Again, currently acting commissioners often
12 serve quite longer than that, and again, to name a
13 few who I think are quite distinguished, Margaret
14 Forgiione, of course, is now the First Deputy;
15 Commissioner Oxiris Barbot the Department of Health,
16 who was the Baltimore Health Commissioner, had
17 already led a major department; Sandra Abeles, who's
18 now the Executive Deputy Comptroller at DCWP. So, all
19 of that, I think, those concerns I think, on the
20 record, are unfounded. That having been said, I do
21 think ,you know, one has to see what I will call the
22 Scissura Commission, because I like to call them all
23 by their Chair's names, and in honor of Dick Ravitch
24 and Fred Schwarz, comes up with (sic), but certainly
25

1 the proposal that was brought to the mayor by some of
2 the individuals who are now on that commission, which
3 seems to functionally be every single piece of Public
4 Safety legislation has to go through all 59 community
5 boards, is what I would call a boondoggle.

7 COUNCIL MEMBER POWERS: Other folks want to add
8 any comments in that? (TIMER CHIMES)

9 MR. POWELL: Well, I mean the issue of the 30 days
10 and the added level bureaucracy is one concern. I
11 think a bigger concern is what was outlined before,
12 whereby a mayor could maybe appoint somebody or
13 nominate somebody else rather than his first or
14 second choice. I think that's a bigger concern as
15 well.

16 MS. GOTBAUM: I just go back to the you... the
17 idea of the Deputy Commissioner running the agency.
18 Appointed by whom? Again, think about Parks, when I
19 came into Parks, there was a structure in there that
20 was pretty good. It was very political, and frankly
21 had I not been there to kind of change some things
22 around, I'm not sure that it would have been the kind
23 of thing that you all would want. And, again, I don't
24 want to get into personalities, it's more structure
25 of how it's going to work, one, and, two, I just see

1 the whole issue of community involvement, which is
2 very important -- and by the way, as Parks
3 Commissioner, the thing that you do the most is
4 listen to the community as much as you possibly can,
5 because everybody has an opinion, and they're very
6 strong about their opinions. And you've got to figure
7 out... and that's which... one of the things you're
8 appointed for -- but, I really feel that it's going
9 to take an enormous amount of time to get these
10 things straightened out. And just looking at what you
11 said about the 30 days or the 30 whatever, I just
12 think it's a nightmare.

14 COUNCIL MEMBER POWERS: Yeah, and just for the
15 record, I was raising the possibility. I think
16 Louis's answer, you know, also provided a lot of
17 insight into exactly how you can time that process
18 out, and the process for setting up an administration
19 that might take time anyway to get everyone to the
20 approval process. So, I understand some of the
21 concerns. I think they're also resolvable.

22 CHAIRPERSON RESTLER: Thank you so much, Council
23 Member Powers.

24 Ms. Gotbaum, just a couple questions for you and
25 then a couple questions for Mr. Cholden-Brown.

1 Corporate Counsel was subjected to advice and
2 consent following the Charter Revision Commission of
3 2018 - 2019. It led to the appointment of the first
4 two women to lead Corporation Counsel, uh,
5 distinguished qualified women of color, Georgia
6 Pestana and Judge Sylvia Hinds-Radix.
7

8 Do you believe that subjecting Corp Counsel to
9 advice and consent has caused any negative issues,
10 or do you think that was a positive development?

11 MS. GOTBAUM: I think it's a positive development.
12 I think, yes, I think it's a positive development.
13 And I think because Corporation Counsel represents
14 the Council, you want to make sure that the person
15 that is appointed to that position is strong and will
16 be fair in terms of both the Council and the mayor.
17 To me that's a very important issue and; therefore,
18 yes, the answer to your question is I do think that
19 was a good...

20 CHAIRPERSON RESTLER: And as we discussed at a
21 recent hearing on the mayor's new form policy
22 requiring elected officials to fill out a form to
23 engage with city agencies, that he reviews and
24 approves ,you know, we referenced a section of the
25 Charter that notes agency heads, "... shall have

1
2 cognizance and control of the government,
3 administration, and discipline of their agencies.”

4 Does this indicate that agency heads have a
5 certain independence from the mayor in your
6 perspective and are intended to run their agencies
7 based on their own professional expertise?

8 MS. GOTBAUM: Well, I'm not sure I quite
9 understand the question. Yes, I do think that the
10 commissioners are appointed with that in mind, that
11 they have their own autonomy. And I think that was
12 very clear in the administration that I was, uh, I
13 had the pleasure to serve alongside. We got into many
14 fights about that kind of thing, because if a
15 commissioner was being very responsive to me as
16 Public Advocate, again, I hate to personalize this,
17 but this... it's hard not to. And that was not good
18 or that was not allowed by the Executive. It caused a
19 big problem. On the other hand, the relationship that
20 develops with people, you get it done anyway.

21 CHAIRPERSON RESTLER: You've reference concern
22 about the interim process... (CROSS-TALK)

23 MS. GOTBAUM: Yes, very...

24 CHAIRPERSON RESTLER: that we would have...

25 MS. GOTBAUM: very concerned about that...

1
2 CHAIRPERSON RESTLER: So, if an agency head were
3 to resign, uh, or be let go, uh, by the mayor, the
4 First Deputy Commissioner would take over as an
5 interim if that position exists. Don't you think that
6 that would help ensure that City Hall and the
7 commissioner of the agency want to have really strong
8 first deputy commissioners in place, who are prepared
9 to step in as necessary, if the commissioner is no
10 longer able to serve?

11 MS. GOTBAUM: No, no, I see it is different when
12 you have elected a mayor, and then that a process is
13 taking too long to advise and consent or create
14 advice and consent for the commissioner. And then you
15 put... and then the current Deputy Commissioner is in
16 charge. That's the old administration running the
17 agency, and perhaps that wouldn't work out with the
18 current mayor, you don't know. And I just don't see
19 that as a good possibility. I mean, frankly, again, I
20 don't want to get personal but that did happen when I
21 became Parks commissioner.

22 CHAIRPERSON RESTLER: But, if we only... if the
23 Council only has 30 days to review, hold the hearing,
24 and approve an appointment after we've received...
25 after the Council has received an appointment, do you

1 think that process should be streamlined further,
2 that that's not adequately...

3 MS. GOTBAUM: I do.

4 CHAIRPERSON RESTLER: What would you recommend?

5 MS. GOTBAUM: I would recommend not having...
6 first of all, I would not do it as quickly as it has
7 been done now. I think you need a little bit more
8 time to look into all these things in much more
9 detail. And I think that that is a question that
10 immediately I could not be able to answer. I don't
11 believe in all cases that the Council would be able
12 to get it done in 30 days. I... (CROSS-TALK)

13 CHAIRPERSON RESTLER: That is our current practice
14 for... that is the current practice of the Council...
15 (CROSS-TALK)

16 MS. GOTBAUM: Well, you...

17 CHAIRPERSON RESTLER: for advice and consent.
18 When people are nominated for the Taxi and Limousine
19 Commission or the Art Commission or Public... or
20 Landmarks Preservation Commission, there's 30-day
21 window, once the nominee nomination is received, to
22 hold the hearing, chaired by our Rules Committee
23 Chair, who just departed, uh, Council Member Powers,
24 and for the council team to do the necessary vetting
25

1 and review for a nomination. That to me feels like an
2 expedited process, a swift process very different
3 than what we see in Washington, for example, where we
4 don't... where the Senate can be slow this. The
5 Council works very quickly, and would work very
6 quickly under these expanded authorities in this
7 bill.

9 MS. GOTBAUM: Well, I don't know if that's true.
10 You're talking about an enormous number of agencies.
11 I mean if you're just talking about these... the ones
12 that were, uh, stated in the legislation, I just
13 don't see you'd be able to do with that quickly for
14 all of them. I just don't. I mean, sort of
15 practically speaking, if you have various people,
16 understanding that they can be a part of advised
17 consent, how are you going to avoid all of those
18 people having a voice in what you're doing? It's a
19 little bit different if you have the whole city,
20 right?

21 CHAIRPERSON RESTLER: Right. Just to be clear,
22 if... in the Speaker's proposed legislation, if the
23 Council failed to act within 30 days... (CROSS-TALK)

24 MS. GOTBAUM: Yeah.

CHAIRPERSON RESTLER: the appointment takes

effect. So, that's the timeframe for how it would work. You know, having seen the Council's lawyers up close, you know, and their partnership with DOI, I'm confident that this is a process with some expanded capacity that could be done on an aggressive timeframe that is laid out in this legislation. But, I think we've heard in the testimony today both critiques: that it's too fast and that it's too slow. So, maybe, uh, for Goldilocks' purposes, we got it just right.

So, I will just ask Mr. Cholden-Brown just a question or two if that's okay, and then if there... if my colleagues have any further questions... Oh, and I failed to acknowledge my neighbor and friend, Council Member Crystal Hudson.

I'd like to ask about the 1989 Charter Revision Commission, which put a great deal of thought into subjecting CPC nominees, the City Planning Commission nominees, to advice and consent. And I believe the rationale from the documents that we've reviewed was that it shouldn't just be all appointments by the mayor, and that the input of the Council and the

1
2 appointments from other stakeholders were valued and
3 valuable.

4 Do you think that same logic should apply to
5 other agencies in city government and for other
6 appointments?

7 MR. CHOLDEN-BROWN: Yeah, so, I mean, you know,
8 the creation of the current City Planning Commission
9 actually was very fraught dating back to 1987, when
10 Dick Ravitch started his commission, through the end
11 of the Schwarz Commission in 1989. There actually was
12 something called the Land Use Commission for a long
13 time, and those proposals that would have been a
14 seven-member body with actually some direct Council
15 appointments at various times, but obviously there
16 was a very deliberate and robust debate between ,you
17 know, Chair Schwarz other luminaries like Matt
18 Leventhal, Judah Gribetz, David Trager, uh, all of
19 whom had long government careers once or another
20 (sic). So, you know, it ended where it did, but
21 certainly I think that that logic follows through to
22 this day. I would absolutely agree.

23 CHAIRPERSON RESTLER: And, from your perspective,
24 ,you know, across the 12 or so agencies that do have
25 appointments that are subject to advice and consent,

1 many of which have been in place for 50 years, since
2 the 75 Charter Revision Commission, can you note any
3 significant problems or hindrances that have been
4 caused by the advice and consent process?
5

6 MR. CHOLDEN-BROWN: No, again, I mean, I think one
7 thing that is notable is that commissioners on the
8 boards and commissions serve until the appointment of
9 their successor, which I think obviously obviates
10 against vacancies, though vacancies do of course
11 occur. But, to my knowledge, in those 50 years, no
12 commission has ever failed to achieve a quorum
13 because of the time period. And, again, 30 days is a
14 very rapid period. I must admit I come down on the
15 side that it should be a little bit longer. Albany
16 does 45 at various points, Speaker Vallone sought 60,
17 but at no point has the Art Commission, LPC, TLC or
18 any of the others suffered because of advice and
19 consent, even when under unfortunate circumstances,
20 nominees had to withdraw, and the process has re-
21 begun. So, no, I think it's not been a hurdle at
22 all... (CROSS-TALK)

23 CHAIRPERSON RESTLER: And this may be a question
24 for you or Ms. Gotbaum, if you could, when the mayor
25 appoint... plans to or considers appointing a person

1 for a high level post, they undergo a Department of
2 Investigation background check, correct? If DOI's
3 background check identifies significant issues for
4 any commissioner appointment, they're often... the
5 public the Council, most overwhelming number of
6 people who work in city government, have no awareness
7 whatsoever of any flags or concerns, ethical or
8 otherwise, that may appear in that DOI background
9 check. Is that correct?
10

11 MS. GOTBAUM: Yeah, I mean, as far as I know...

12 (CROSS-TALK)

13 MR. CHOLDEN-BROWN: Yeah, I think that that's...
14 yeah, yeah.

15 CHAIRPERSON RESTLER: We would have no idea. And
16 for those of us who... and if... but, we do know, of
17 course, that there are significant issues in people's
18 background checks, but it's up to the mayor to just
19 make the decision to appoint that person anyway or
20 not.

21 MR. CHOLDEN-BROWN: Well, so, I mean, I think that
22 the decision to appoint is definitely with the mayor.
23 I would note, of course, that in certain
24 circumstances COIB waivers are required subsequent to
25 appointment, and there is a little bit of additional

1 transparency in that regard. But, certainly that does
2 not preclude anyone from taking the post if they're
3 willing to jump through the hoops or for go pay or
4 whatever other contrived process, uh... (CROSS-TALK)

5 CHAIRPERSON RESTLER: And if the mayor is not
6 concerned about the ethical issues... (CROSS-TALK)

7 MR. CHOLDEN-BROWN: Right, yeah... (CROSS-TALK)

8 CHAIRPERSON RESTLER: that were raised in the
9 background check. But, if the candidate were subject
10 to advice and consent, could you explain how that
11 would work in the City Council process?
12

13 MR. CHOLDEN-BROWN: Well, yeah, I mean, certainly
14 I think that the Appointments Investigations Unit
15 has a long history of strong collaboration with DOI,
16 as well as doing its own investigations, not only on
17 these appointments, but actually all appointment
18 appointments that are made by the Council or by the
19 Speaker pursuant to law -- Museum bylaws or the
20 other. So the Council has a very strong record there
21 of identifying things of ,you know, nominees have to
22 fill out questionnaires and all... and those things
23 are either placed upon the record, if it's deemed
24 appropriate, or private conversations and letters
25 securing people's agreements to either resign from

1 conflicts or otherwise address a potential concern,
2 uhm, are obtained and shared with the committee as
3 appropriate before a vote is taken. So, there's a
4 very robust process that the Council engages in in
5 those 30 days to make sure that any ethical hurdles
6 are identified and ameliorated.
7

8 CHAIRPERSON RESTLER: I just want to ask one more
9 question of you, well, in reference to comments that
10 were made by Mayor Adams over the weekend where he
11 said quote, "If my team were to come to me and say,
12 'Eric, you should approve the committee chairs of the
13 City Council.' I'd say, 'No, I would not do that.'
14 The Speaker needs her chairs to carry out the overall
15 agenda. My chairs are my Commissioners. I would not
16 go into the City Council to determine who's the
17 Public Safety chair, who's the Housing chair, who's
18 the Land Use chair, because that is just wrong for me
19 to determine the direction that the Speaker in the
20 City Council would like to go."

21 I found those comments baffling, and I was
22 wondering from your experience working in the
23 Council, have you experienced this mayor and other
24 mayors weighing in on speakers' races and on specific
25 committee chair persons... (CROSS-TALK)

(LAUGHTER)

MR. CHOLDEN-BROWN: (BACKGROUND NOISE AND CHATTER)

There has never been an instance where I have not known that to happen. But, I also am going to note that...

CHAIRPERSON RESTLER: That was a lot of double negatives. Would you mind doing that one in reverse for us?

MR. CHOLDEN-BROWN: Sorry? (CROSS-TALK)

CHAIRPERSON RESTLER: Would... (CROSS-TALK)

MR. CHOLDEN-BROWN: Oh, yes, I mean every mayor has weighed in on the speakers' race -- except for Giuliani, he was stuck with Peter Vallone and certainly committee chairs. And I will acknowledge that some speakers certainly in the 90's, let us say, were responsive to those pressures, including even midway through a term.

The other thing I wanted to note, though, quickly is, the mayor misconceives how committee chairs are appointed. Right? Certainly the Speaker has a very large role in that, but this is a process that the Temporary Rules Committee, or the Permanent Rules Committee, depending on the time participates in, and ultimately the chairs are ratified by the Council for

1
2 a committee chair to be removed requires. It requires
3 two-thirds vote of the Council. It is not a unitary
4 process, so it actually very much resembles advice
5 and consent process where every member of the Council
6 is actually a part of determining who chairs which
7 committee.

8 CHAIRPERSON RESTLER: That's very insightful,
9 thank you for clarifying that.

10 I do not have any further questions for this
11 panel. We're good? Council Member Brewer, are you
12 good?

13 COUNCIL MEMBER BREWER: No, I have a question.

14 CHAIRPERSON RESTLER: Council Member Brewer, go
15 for it.

16 COUNCIL MEMBER BREWER: Thank you, so... (CROSS-
17 TALK)

18 CHAIRPERSON RESTLER: Oh, and Paladino, excuse me.

19 COUNCIL MEMBER BREWER: I was out, so, I did hear
20 Jim Caras point out other cities, and not as large,
21 but Chicago has the same number of elected in the
22 city council as New York -- smaller city, just as
23 many members of the city council -- advice and
24 consent.

1
2 So, my question is, uh, it seems to me that every
3 single time somebody comes within the 30-day period,
4 uh, that it is good to have sunshine on that
5 individual to see for the public that that individual
6 is qualified. And I know from friends in Chicago that
7 they like the process.

8 So, my question to you is, do you think that this
9 process, despite the challenge of the numbers of
10 people that would have to be certified quickly, do
11 you not think all of you being, uh, understanding the
12 importance of Open Meetings Law, sunshine on
13 government, do you not think that this would be
14 another example of having that kind of sunshine so
15 that the public knows where their dollars are going
16 for x number of agencies? Chicago -- it works.

17 MR. CHOLDEN-BROWN: Yes.

18 COUNCIL MEMBER BREWER: Adam?

19 MR. POWELL: Thank you, uh, no, I think another
20 point that has not been brought up, it's... this
21 process of advice and consent may actually discourage
22 very qualified individuals from participating, be it
23 because they have some personal issues that may be
24 embarrassing; although, has nothing to do with their
25 integrity or their qualifications professionally, but

1 again, they may be discouraged from even applying, or
2 they may have personal beef with a chair of a
3 committee or speaker or council members
4 (INAUDIBLE)... (CROSS-TALK)

5 COUNCIL MEMBER BREWER: I will tell them to get
6 the hell out of the job, Adam... (CROSS-TALK)

7 MR. POWELL: I understand. I understand. It
8 politicizes the process.

9 COUNCIL MEMBER BREWER: Okay. Betsy?

10 MS. GOTBAUM: I will agree with my colleague over
11 here. I think he's right, and I can cite personal
12 experience along those lines. Again, there was no
13 advice and consent when I was named Parks
14 Commissioner, but had there been, I don't think I
15 ever would have been Parks Commissioner because...
16 (CROSS-TALK)

17 COUNCIL MEMBER BREWER: Why?

18 MS. GOTBAUM: Because everybody said, "She's never
19 had anything to do with Parks; she's not an
20 environmentalist." Environmentalist has nothing to do
21 with how you run the Parks Department... (CROSS-TALK)

22 COUNCIL MEMBER BREWER: I think you would have
23 been appointed, Betsy Gotbaum.

24 MS. GOTBAUM: (LAUGHS) I don't think I would...
25

1
2 COUNCIL MEMBER BREWER: All right...

3 MS. GOTBAUM: You know what, Gale, let me just
4 say, not an environmentalist, and there were a lot of
5 environmentalists who were pushed forward by many
6 good-hearted people. Parks is a management job. It's
7 picking up the garbage and cutting the grass.

8 COUNCIL MEMBER BREWER: I'm aware.

9 MR. POWELL: And, if I may, I think we all agree
10 she served admirably as Parks Commissioner.

11 MS. GOTBAUM: Thank you, Adam.

12 COUNCIL MEMBER BREWER: Thank you.

13 CHAIRPERSON RESTLER: I certainly would have voted
14 for your appointment.

15 MS. GOTBAUM: (LAUGHS) Thank you.

16 Council Member Paladino?

17 COUNCIL MEMBER PALADINO: Good morning. I keep...
18 you keep bringing up Rudy Giuliani. Rudy Giuliani was
19 probably one of the best mayors this city has ever
20 had. Whether you agree with me or not, that's okay.

21 I do believe this is an overreach of the City
22 Council. Once again, you know, we have a mayor, we
23 elected a mayor, and it seems that we're very eager
24 to destroy the separate powers in this city and
25 regulate the entire mayorship to simply a ceremonial

1 position, simply because we don't want... we don't
2 like his appointments. I mean, I... I'm not
3 understanding this. I see this as a, uh, a genuine
4 overreach. Elections mean living with the decisions
5 that the voters have made. In New York, that means
6 our mayor gets to appoint commissioners of his
7 choosing. It's as simple as that. This is nothing
8 more to me than a power grab by the City Council.
9 And, as far as I go, it would lock in a progressive
10 control without... over this entire city, nullify the
11 mayoral elections, and frustrate any future attempts
12 at reforming the City -- by this or any other future
13 mayor. With all the problems that this city is
14 facing, the City Council majority should be
15 reflecting deeply on how we got here and what could
16 be done to fix things -- not engaging in dangerous
17 political games with the mayor like this. I think
18 it's ridiculous. And you cite Chicago, like we're
19 going to hold Chicago up, one of the worst cities in
20 this country? And we're going to hold up Los Angeles,
21 one of the worst cities in this country, as an
22 example of what happens when we turn over control to
23 the City Council? Absolutely not. Absolutely not. I
24 totally disagree with this, and I really hope that we
25

1
2 all come to our senses. And that's all I have to say
3 right now.

4 CHAIRPERSON RESTLER: Thank you very much. I would
5 underscore for the record that checks and balances
6 are enshrined in our constitution, they exist at
7 every level of government in most large
8 municipalities, the state level, federal level, and I
9 think they have worked quite... it has worked quite
10 well.

11 With that, we will excuse this panel. Thank you
12 all for joining us today.

13 We will next hear from members of the public,
14 followed by a representative of the Administration,
15 who has joined us after all, so thank you.

16 Before the member of the public testifies, I am
17 just going to share a brief statement.

18 I remind members of the public that this is a
19 formal government proceeding and that decorum shall
20 be observed at all times. As such, members of the
21 public shall remain silent at all times. The witness
22 table is reserved for people who wish to testify. No
23 video recording or photography is allowed from the
24 witness table. Further, members of the public may not
25 present audio or video recordings as testimony, but

1 may submit transcripts of such recordings to the
2 Sergeant at Arms for inclusion in the hearing record.

3 If you wish to speak at today's hearing, please fill
4 out an appearance card with the Sergeant at Arms and
5 wait to be recognized. When recognized, you will have
6 three minutes to speak on today's hearing topic: *The*
7 *elected official agency engagement request form...*

8 Oh, excuse me, you'll have three minutes to speak on
9 today's topic: *Introduction 908*.

10
11 If you have a written statement or additional
12 written testimony you wish to submit for the record,
13 please provide a copy of that testimony to the
14 Sergeant at Arms. You may also email written
15 testimony to testimony@council.nyc.gov within 72
16 hours of this hearing. Audio and video recordings
17 will not be accepted.

18 Once again, for those of you who are testifying
19 in person and registered in advance, please fill out
20 an appearance card with the Sergeant at Arms.

21 For panelists on Zoom, once your name is called,
22 the member of our staff will unmute you, and the
23 Sergeant at Arms will give you the go-ahead to begin
24 upon setting the timer. Please wait for the sergeant
25

1
2 to announce you that you may begin before delivering
3 your testimony.

4 I would now like to invite Ms. Sharon Brown to
5 testify, followed... and we'll do a second panel
6 followed by Ms. Tiffany Raspberry.

7 Miss Brown? Did we lose her? Okay, she's coming
8 over now.

9 Miss Brown, you're invited to testify.

10 MS. BROWN: (NO MIC) Okay, can you give me a
11 rundown of what this one is about? I have so many
12 hearings, sorry.

13 CHAIRPERSON RESTLER: Okay, this one is Intro 908
14 introduced by our speaker, Adrienne Adams. And this
15 bill would subject additional appointments of the
16 mayor to advice and consent of the City Council.
17 Twenty-one agency heads would be required to be
18 submitted to the Council, where we'd hold a vote to
19 ratify their nominations or reject them.

20 MS. BROWN: (NO MIC) Okay, you have...

21 CHAIRPERSON RESTLER: Would you mind just pressing
22 the button in front of you so we can hear you? And to
23 remind you, you're on the clock, so you have a
24 limited amount of time.

1 MS. BROWN: Okay, I believe that they should have
2 a vetting process of 30 days. And when you can find
3 the proper information of a candidate for 30 days, it
4 should be fine. But, there should be an addendum that
5 if you don't get to vet the person properly then
6 additional time should be added. That should be a
7 part of the bill.
8

9 So, if you can get it done in 10 days or whatever
10 days, you don't have to fill that 30 days up. It can
11 be as far as you can find out enough information
12 about the candidate. So, if it's within the 30 days,
13 you can move on, unless you want to just dig more to
14 make sure you got everything.

15 The 30-day allotment is proper, just make sure
16 that you add more time.

17 It should be in the bill that if for some reason
18 you can't find the information that you seek, you
19 should get an extended amount of time -- maybe
20 another 30 days, and maybe you can extend it and have
21 some kind of delay or something on the appointment.
22 If you can't get the proper information, they
23 shouldn't just go in, if you can't get the
24 information or there is conflicting information,
25 thank you, Sharon Brown.

1
2 SPEAKER ADAMS: Thank you.

3 CHAIRPERSON RESTLER: Thank you so much, Miss
4 Brown.

5 It is now my pleasure to ask Miss Tiffany
6 Raspberry to come up and testify. And we will have to
7 swear her in? Okay.

8 And as a member of the Administration, you do
9 need to be sworn in. So, I'll defer to my committee
10 counsel.

11 COMMITTEE COUNSEL: Thank you.

12 Would you please raise your right hand? Do you
13 affirm to tell the truth, the whole truth, and
14 nothing but the truth before this committee, and to
15 respond honestly to council member questions?

16 DIRECTOR RASPBERRY: (NO MIC) I do.

17 COMMITTEE COUNSEL: Thank you, you may begin.

18 CHAIRPERSON RESTLER: If you wouldn't mind just
19 pressing the button so we can hear you.

20 DIRECTOR RASPBERRY: Of course, thank you very
21 much, you'd think I'd be a pro by now.

22 Good morning.

23 CHAIRPERSON RESTLER: Good to have you back before
24 the Governmental Operations Committee.

1
2 DIRECTOR RASPBERRY: Speaker Adams, Chair Restler,
3 Council Member Gennaro, Council Member Brewer, it's a
4 pleasure to sit here before you this morning.

5 While we were never formally invited to
6 participate in the hearing, I want to take an
7 opportunity to address some of the claims that were
8 made today -- that were said otherwise, specifically
9 from you, Chair Restler.

10 I will not be taking questions since we were not
11 invited and I did not have time to prepare.

12 For the record, we are opposed to this
13 legislation. We are focused on what New Yorkers care
14 about most, bringing down crime, cleaning up our
15 streets, and improving quality of life. This
16 statement I'm about to read is from the mayor and was
17 supposed to be submitted as written testimony.

18 Again, Speaker Adams, Chair Restler, and Members
19 of the Committee on Governmental Operations, State
20 and Federal Legislation, I am submitting this
21 testimony as mayor of the City of New York to express
22 my concerns regarding Intro. 908, which would require
23 the advice and consent of the City Council for 21
24 city commissioners.

1 As you know, the City... As you know, excuse me,
2 the mayor of New York City has had sole authority to
3 appoint Commissioners and agency heads since 1884 -
4 for 140 years - and for good reason. In March 1884,
5 then Governor Grover Cleveland signed a bill into law
6 placing the responsibility to appoint agency heads
7 solely with the mayor. Governor Cleveland issued a
8 signing statement emphasizing that the principles of
9 good government required this change because New
10 Yorkers are best served by vesting the power of
11 appointment only in the mayor who is "elected by all
12 of the people in the municipality," not by dividing
13 or sharing that power with legislators who are
14 "responsible only to their constituents in their
15 respective districts." Governor Cleveland further
16 wrote: "If the chief executive of the city is to be
17 held responsible for its order and good government,
18 he should not be hampered by any interference with
19 his selection of subordinate administrative
20 officers..." and "[t]he plea should never be heard that
21 a bad nomination had been made because it was the
22 only one that could secure confirmation.
23

24 The real world impacts this legislation, if
25 enacted, would have on every New Yorker across the

1
2 five boroughs would be vast, and once you think about
3 the proposal you are quick to conclude that it would
4 be undoubtedly bad for New Yorkers.

5 Any uncertainty or delay in appointing agency
6 leadership creates the real possibility for harm from
7 delayed service delivery. From emergency management
8 to senior services, to health care continuity, to
9 garbage collection and construction safety -- this
10 bill risks diminishing the City's ability to manage
11 and respond to the service needs that we all hear
12 from the public every day. Right now, we regularly
13 experience significant delays in scheduling
14 confirmation hearings for the relatively small number
15 of nominees to even be considered by the City
16 Council. As we have seen many times, major events
17 have challenged the City such that administrative and
18 political delays could have major, negative impact on
19 the delivery of service and confidence of New Yorkers
20 in their government. You only need to look back to
21 the prior administration when the Health Commissioner
22 resigned in the midst of the fight against COVID.
23 Imagine taking several weeks or months for a new
24 commissioner to take their place, and the impacts of
25

1 that vacuum of leadership would have for the staff of
2 the agency, and New Yorkers at-large.

3
4 On top of those risks, the politicization of the
5 appointment process can have many harmful
6 implications for New York City's professional
7 governance. While the City is able to attract some of
8 the best talent to lead our agencies, there are
9 significant sacrifices those individuals make in
10 order to serve New Yorkers, whether that is in the
11 form of salary or work-life balance. Adding the
12 uncertainty and potential for public spectacle of an
13 "advice and consent" process to the list of
14 sacrifices would seriously hamper the City's ability
15 to attract and retain good talent. We have a clear
16 example of how this process can be corrupted by
17 politics when we look to our nation's capital and see
18 a process that is weaponized and politicized to score
19 cheap political points, and is a disservice to the
20 American people. This legislation, we believe, would
21 have the same impact on New Yorkers.

22 And the mayor wanted me to add that he believes
23 that it would be unconscionable for him to interfere
24 in the speaker's process to decide on committee
25 chairs and leadership of this body.

1 Prior to 1884, the City experimented with a
2 system where the city's legislators -- known as the
3 Board of Aldermen -- confirmed the mayor's
4 appointments. To put it plainly, the system proved to
5 be bad government, primarily because it induced a
6 lack of accountability. When there is no one clearly
7 in charge, and therefore no one who can clearly
8 shoulder blame, New Yorkers lose faith in government.
9 This is precisely why the Aldermen system of
10 confirming mayoral appointments was abandoned. In
11 short, it was tried and failed and the City moved
12 decisively away from it in order to bring more
13 accountability to city government and services.

14 The mayor's power to appoint agency heads has
15 remained intact since 1884. In fact, multiple charter
16 review commissions have reinforced that this mayoral
17 authority is critical both to the mayor's ability to
18 govern and to the people's ability to hold the mayor
19 accountable at the polls. In 1975, for example, the
20 Commission found: "It is the mayor whom the public
21 holds accountable for City programs and services.
22 With this responsibility must come authority to
23 select those individuals who are to carry out
24 executive policy. The role of the City's legislative
25

1
2 bodies should be to evaluate and report on the
3 performance of the mayor's appointees."

4 There are only two exceptions in all of New York
5 City government for which the City Council has advice
6 and consent for non board or commission agency head
7 appointments -- for Commissioner of the Department of
8 Investigations and the Corporation Counsel. The
9 charter commissions said that those exceptions were
10 made because of the very unique nature of those
11 positions. The DOI Commissioner is responsible for
12 conducting investigations citywide, including "as
13 directed by the mayor or the council." Additionally,
14 the Council's recent charter commission distinguished
15 the position of the Corporation Counsel, because that
16 position represents not just the city agencies, but
17 also the City Council and Comptroller. As such, for
18 those two positions, exceptions were made in
19 recognition of the uniqueness of the posts.

20 Lastly, the Council already has significant
21 checks on the mayor's power, including budget, land
22 use, and oversight. The Council regularly holds
23 oversight hearings, approves of the budgets, and
24 legislates reporting requirements from City agencies.
25 If there ever are shortcomings from any agency, the

1 Council then holds those who have been appointed to
2 do these jobs accountable. If for whatever reason the
3 Council feels that information they are seeking is
4 not being produced, they also have the authority to
5 subpoena the administration to compel us to comply or
6 face legal sanctions by a court. In other words,
7 oversight from the Council already exists. Expanding
8 that oversight to having final say on the mayor's
9 choice of who they want to lead agencies to carry out
10 the polices that city voters elected them to carry
11 out would be a disservice to New Yorkers for the
12 reasons outlined throughout this testimony.

14 I would ask that the Council reflect on the
15 experience and judgment of past Governors, Mayors,
16 Charter Revision Commissions and others who have all
17 come to the same conclusion: this proposal is
18 misguided. I urge you to reject this proposal, if
19 brought to a vote. I thank you for the opportunity to
20 share my concerns with Intro. 908. I know that both
21 the Administration and the Council have a shared
22 commitment to good governance that is both reflective
23 and responsive to the needs of all New Yorkers -- one
24 that is rooted in accountability and transparency to
25

1 ensure public trust and to advance the public good.

2 Thank you.

3
4 CHAIRPERSON RESTLER: Ms. Raspberry, I would ask
5 you to take questions since you are here before us
6 today.

7 DIRECTOR RASPBERRY: I am not prepared to take
8 questions, but I wanted (INAUDIBLE)... (CROSS-TALK)

9 CHAIRPERSON RESTLER: The Administration will not
10 engage in good faith?

11 DIRECTOR RASPBERRY: I think... (CROSS-TALK)

12 CHAIRPERSON RESTLER: On this legislation?

13 DIRECTOR RASPBERRY: I think that if you had
14 formally invited us, as I mentioned, at the
15 beginning, we would (INAUDIBLE)... (CROSS-TALK)

16 CHAIRPERSON RESTLER: When was your office
17 contacted... (CROSS-TALK)

18 DIRECTOR RASPBERRY: more... (CROSS-TALK)

19 CHAIRPERSON RESTLER: about this hearing?

20 DIRECTOR RASPBERRY: We read about it online on
21 Thursday evening when it was noticed. And on Friday,
22 my staff reached out to the Speaker's office, and we
23 had a conversation with the staff where we explicitly
24 asked if there was an expectation for us to testify
25 at this hearing and we were told that there were not.

1 So, you sent a series of casual messages, which were
2 shared to me by my Director of City Legislative
3 Affairs, but at no time did we receive, in the
4 traditional way, in the way in which the
5 Administration is invited to testify to hearings, a
6 formal invitation to testify (INAUDIBLE)... (CROSS-
7 TALK)

9 CHAIRPERSON RESTLER: The Administration is not
10 required to receive a formal invitation to testify.
11 The hearing was noticed on Thursday, I contacted the
12 City... the City Legislative Affairs Director
13 contacted me on Thursday afternoon, (INAUDIBLE) asked
14 who was testifying from the Administration. At that
15 time we were advised that a representative from the
16 Law Department may be coming before us. On Friday,
17 the Director of Legislative Affairs to the Council
18 was in communication with the Office of Legislative
19 Affairs, inviting the Administration to testify. You
20 all have chosen not to... (CROSS-TALK)

21 DIRECTOR RASPBERRY: Chair Restler, I... (CROSS-
22 TALK)

23 CHAIRPERSON RESTLER: come and engage in good
24 faith... (CROSS-TALK)

25 DIRECTOR RASPBERRY: I believe... (CROSS-TALK)

1 CHAIRPERSON RESTLER: in this... (CROSS-TALK)

2 DIRECTOR RASPBERRY: I... I... I believe...

3 (CROSS-TALK)

4 CHAIRPERSON RESTLER: on this issue... (CROSS-
5 TALK)

6 DIRECTOR RASPBERRY: I believe that... I am
7 familiar with the exchange you had with my
8 director... (CROSS-TALK)

9 CHAIRPERSON RESTLER: I just want to clarify it on
10 the record.

11 DIRECTOR RASPBERRY: And he shared with me that
12 you all were exchanging those messages in jest. So,
13 now that we understand that you didn't take it that
14 way, we will be sure to make sure that anything that
15 is shared in jest, in a collegial manner, that we
16 specify that that is the case... (CROSS-TALK)

17 CHAIRPERSON RESTLER: I want to be clear. I don't
18 generally engage in... (CROSS-TALK)

19 DIRECTOR RASPBERRY: I'm... I really... (CROSS-
20 TALK)

21 CHAIRPERSON RESTLER: in private text messages...
22 (CROSS-TALK)

23 DIRECTOR RASPBERRY: appreciate you... (CROSS-
24 TALK)

25

1
2 CHAIRPERSON RESTLER: on the record, but you
3 did... (CROSS-TALK)

4 DIRECTOR RASPBERRY: I really appreciate you
5 allowing me this opportunity... (CROSS-TALK)

6 CHAIRPERSON RESTLER: I... I... I have... (CROSS-
7 TALK)

8 DIRECTOR RASPBERRY: to read the mayor's
9 testimony... (CROSS-TALK)

10 CHAIRPERSON RESTLER: I have to say, I think it's
11 very disappointing... (CROSS-TALK)

12 DIRECTOR RASPBERRY: And I hope that you have a
13 great rest of the day (INAUDIBLE)... (CROSS-TALK)

14 CHAIRPERSON RESTLER: I think it's very
15 disappointing, Miss Raspberry... (CROSS-TALK)

16 DIRECTOR RASPBERRY: (INAUDIBLE)... (CROSS-TALK)

17 CHAIRPERSON RESTLER: that you would come here and
18 not engage in good faith and answer questions on
19 legislation... (CROSS-TALK)

20 DIRECTOR RASPBERRY: Thank you.

21 CHAIRPERSON RESTLER: And especially when the
22 testimony that you shared had some significant
23 inaccuracies. I will offer Speaker Adams the
24 opportunity for a statement while Miss Raspberry is
25 still here.

1
2 SPEAKER ADAMS: Thank you very much. This to me
3 illustrates a contempt for this Council, which we
4 have all witnessed with great clarity. Thank you, Mr.
5 Chair.

6 CHAIRPERSON RESTLER: Thank you, Madam Speaker.
7 And I would like to just inform on the record that
8 Ingrid Lewis-Martin informed the Chief of Staff to
9 the Speaker, uh, was informed of this hearing by the
10 Chief of Staff to the Speaker. The mayor's senior
11 advisor was informed by the Chief of Staff to the
12 Speaker about this hearing. So, there was multiple
13 levels of communication with this administration
14 request that they come and testify today. And their
15 disdain and contempt for the Council is noted on the
16 record.

17 I would like to make a statement, but I will
18 first offer the opportunity to Council Member
19 Gennaro.

20 COUNCIL MEMBER GENNARO: Thank you, Mr. Chair. I
21 wish to be associated with the Speaker's remarks.
22 And, you're going to make a statement. I just feel
23 compelled to put on the record that the
24 characterizations that were made in the statement by
25 the Administration, I am just reading from a little

1 note that I made here, there was a characterization
2 that, it's like we, the Council, exist to score cheap
3 political points. I don't see how those kinds of
4 comments can be put into a statement that is
5 attributed to the mayor and put on the record here in
6 this formal hearing. If that doesn't amount to
7 disrespect and hubris, I don't know what does. And
8 with regard to the accuracy of the statement, there
9 was a -- And I am not blaming Tiffany for this, she
10 was given something to read and she read it -- that
11 the mayor, it was attributed that he would never
12 interfere in trying to have an impact on the Council
13 leadership. But, everybody in New York City who is
14 attuned to politics ,you know, on any level,
15 understands that that is exactly what the mayor tried
16 to do. Not the first mayor to try to do that, but
17 ,you know, he had his own desire of whom he wished to
18 see as speaker. He did not win that contest of
19 whatever you want to call it. And, so, I just want to
20 point out the factual inaccuracy and the hypocrisy of
21 that part of the statement. Thank you, Mr. Chairman.

22
23 CHAIRPERSON RESTLER: Thank you very, Council
24 Member Gennaro.

25 I will just offer my closing remarks.

1 I am incredibly disappointed with the cowardice
2 that has been displayed by the mayor and his
3 administration today. Their inaccurate statements on
4 the record, and the refusal to take questions from
5 this Council, is gravely disappointing. And this
6 legislation proposed by our speaker would advance
7 good governance in New York City, building on the
8 success that we've had in a narrow manner with advice
9 and consent, and on the broad application that advice
10 and consent has had at the state and federal levels,
11 and with other large municipalities across the
12 country. It establishes the critical accountability
13 and oversight role of the Council. Frankly, the
14 display by the mayor's representative today
15 underscores why the expansion of advice and consent
16 authority is so urgently needed. I am very
17 disappointed that the mayor... that an on-the-record
18 statement from the mayor would be given that was
19 clearly inaccurate, where they indicated that the
20 mayor would never interfere on committee chairs. He
21 interfered in our speakers' race a number of years
22 ago, advocating for an alternative candidate and
23 pushed aggressively for specific people to get
24
25

1 committee chair positions in this Council. So, that
2 is wrong, it is just plain inaccurate.
3

4 And I'd like to just clarify that if an
5 emergency... If we were in a state of emergency, if
6 an emergency declaration were declared, then, of
7 course, the mayor could potentially expedite or use
8 those emergency powers to advance an appointment
9 process as necessary. The mayor also has the
10 authority to work with agency heads to ensure that
11 there are qualified capable, competent, ethical
12 people in First Deputy Commissioner positions to take
13 over City agencies when a vacancy occurs. This
14 process would ensure that we have competent, ethical,
15 experienced people serving the city of New York. This
16 administration has unfortunately not been the partner
17 to this City Council that New Yorkers expect. It
18 undermines the efficacy of our government. It
19 undermines our ability to get things done when this
20 mayor fails to work with his counterparts in
21 government. And I hope that today is a turning...
22 will represent a turning point, because I don't know
23 how we get any lower. Thank you very much for joining
24 us today at this hearing. I will just close it out.
25 Thank you very much. (Gaveling Out)

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 June 25, 2024