

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON STANDARDS AND ETHICS

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December 3, 2018
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HELD AT: 14th Floor Committee Room

B E F O R E: Steven Matteo
Chairperson

COUNCIL MEMBERS: Margaret S. Chin
Vanessa L. Gibson
Karen Koslowitz
Barry Grodenchik
Steven T. Levin
Mark Levine
Andrew Cohen
Brad Lander

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

Carolyn Lisa Miller
Executive Director
Conflicts of Interest Board

Ethan Carrier
General Counsel
Conflicts of Interest Board

Marc Haken
Friends of Cunningham Park

Nicole Brostoff
Senior Development Officer
Riverside Park Conservancy

Adrian Benepe
Senior Vice President and
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The Trust for Public Land

Deborah Maher
Randall's Island Park Alliance

Lynn Kelly
New Yorkers for Parks

Susan Donoghue
Administrator of Prospect Park
President of Prospect Park Alliance

Heather Lubov
Executive Director
City Parks Foundation

Eloise Hirsh
President
Freshkills Park Alliance

Maggie Greenfield
Bronx River Administrator for
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Executive Director of Bronx River
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Alex Camarda
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Susan Lerner
Executive Director
Common Cause New York

Katie Denny Horowitz
Director of External Affairs
Socrates Sculpture Park

Pamela Pettyjohn
President and Founder
Coney Island Beautification Project

Hope Cohen
Chief Operating Office
Battery Conservancy

Christina Taylor
Executive Director
Friends of Van Cortlandt Park

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2 [sound check] Mic check, mic check, one,
3 two, three. Today is Committee on Standards and
4 Ethics. Today's date is December 3, 2018, being
5 recorded by Jessica Pellegrino in the 14th Floor
6 Committee Room. [pause]

7 CHAIRPERSON MATTEO: Good afternoon and
8 welcome to this hearing on the Committee on Standards
9 and Ethics. I am Council Member Steve Matteo. I'm
10 chair of the committee. We've been joined by my
11 colleagues, Karen Koslowitz, Vanessa Gibson, Margaret
12 Chin, and Barry Grodenchik. Today we will be holding
13 a first hearing on Intro 1272, sponsored by council
14 members Barry Grodenchik and Mark Levine in
15 relationship to amending reporting and donor
16 disclosure requirements for organizations affiliated
17 with elected officials. In 2016, in a response to
18 public concern over the potential for people doing
19 business with the city to use donations to
20 organizations affiliated with elected officials to
21 gain influence with such elected officials, this
22 committee passed Local Law 181. That law established
23 reporting requirements on donations for all
24 organizations affiliated with elected officials. It
25 also required that any organization that spends more

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2 than 10% of its expenditures on elected official
3 communications is subject to restriction on the
4 donations it can receive from persons doing business
5 with the city. While the basic structure of that law
6 has so far seemed to be well balanced, we have heard
7 concerns from unrestricted organizations about the
8 administrative burdens that complying has created for
9 them. These are organizations that are not involved
10 in elected official complications, but are still
11 subject to the law's reporting requirements. We
12 expect some of them to testify here today. The
13 introduction being heard today, which I will let the
14 sponsor speak more fully on in a moment, would
15 address these concerns by amending the reporting
16 requirements of unrestricted organizations to
17 establish a threshold of five thousand dollars for
18 the reporting of donations. It would also require
19 organizations to ask donors on a donation form if
20 they are the spouse, domestic partner, unemancipated
21 child, or parent of a person doing business with the
22 city. However, with the exception of anonymous
23 donations it would not require organizations to
24 verify whether such persons or any other persons were
25 doing business with the city. This bill would place

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2 responsibility for determining if a donor is doing
3 business with the city with the Conflict of Interest
4 Board, similarly to have the Campaign Finance Board
5 make such determinations based on candidate filings.
6 I want to thank the members of this committee and the
7 sponsors of this bill for their work on these issues.
8 I also want to thank the staff who worked to put
9 today's hearing together - Serena Longley, Deputy
10 General Counsel Brad Reid, Senior Legislative
11 Counsel, Michelle Lee, Senior Legislative Counsel,
12 Benjamin Smith, Assistant General Counsel, and Robert
13 Newman, Counsel to the Speaker. Finally, I want to
14 thank the Conflict of Interest Board for joining us
15 today. At this time I am going to hand it over to
16 Council Member Barry Grodenchik.

17 COUNCIL MEMBER GRODENCHIK: Thank you,
18 Chair Matteo. Thank you for holding this hearing and
19 for doing it so quickly. This is a time-sensitive
20 matter for the conservancies that are affected. In
21 2016 the council enacted Local Law 181 to regulate
22 and add transparency to donations to not-for-profit
23 organizations associated with New York City elected
24 officials. The law requires reporting and public
25 disclosure of donations to not-for-profit

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2 organizations deemed control by city elected
3 officials or their agents and limits permissible
4 donations to some of these entities. Local Law 181
5 also tasked the Conflict of Interest Board to
6 promulgate rules necessary for the implementation of
7 the law. Among the rules promulgated by the COIB
8 were rules 1) establishing procedures for obtaining a
9 determination from the COIB that an elected official
10 or an agent of an elected official does not exercise
11 control over an entity and 2) delineating factors by
12 which the board will determine whether an entity is
13 affiliated with an elected official. Earlier this
14 year it was brought to my attention that COIB's
15 interpretation of Local Law 181 would require
16 institutions such as parks conservancies to file
17 voluminous followings, filings, excuse em, if they
18 are deemed to be affiliated with a city elected
19 official. This would be required even though their
20 mission and function were in no way political. After
21 meeting with several organizations that were deemed
22 to be affiliated with a city elected official or
23 feared that they would be deemed affiliated with a
24 city elected official it became obvious to me that
25 the New York City Council needed to protect entities

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2 that have absolutely no political mission or
3 objective. After speaking with my colleagues and
4 former colleagues who voted for Local Law 181 I came
5 to believe it was not the legislative intent to
6 ensnare entities like parks conservancies and
7 entangle them in what I deem to be needless paperwork
8 and filings. These entities do great work and we
9 should not hinder that work with needless red tape
10 and bureaucracy. Hindering these nonprofit
11 organizations is, in my opinion, akin to killing the
12 goose that laid golden eggs across the City of New
13 York. I have worked very closely with the council's
14 central staff on a solution that lessens the burden
15 of Local Law 181 and ensures that conservancies and
16 other non-for-profits that have no political mission
17 or objective will not be hampered from doing the
18 great work that they do. I look forward to hearing
19 the opinion of the many stakeholders who are gathered
20 here today and I ask, I will ask later, where will
21 this end because many, many of the cultural
22 organizations that do business in the city could also
23 be ensnared. I have visited, since I became Parks
24 chair earlier this year, many parks, including
25 Central Park, Prospect Park, Bryant Park, Madison

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2 Square Park, Brooklyn Bridge Park, Governor's Island,
3 Ally Pond Park, Cunningham Park, Van Cortlandt,
4 Pelham Bay, Astoria Park, Randall's Island, Riverside
5 Park, and others, over eighty, not all of them run by
6 conservancies, but many of them affiliated with
7 friends groups. We're going to hear from them today
8 and what an imposition of a burden it would be to
9 them, and I want to thank again Chair Matteo and the
10 other members of this committee for convening this
11 hearing today. So I'm ready, Mr. Chairman. Thank
12 you very much.

13 CHAIRPERSON MATTEO: Thank you, Council
14 Member Grodenchik. We're going to start with the
15 Conflicts of Interest Board, Carolyn Miller and Ethan
16 Carrier. Before you begin, my counsel is gong to
17 swear you in.

18 LEGAL COUNSEL: Please raise your right
19 hand. Do you swear or affirm to tell the truth, the
20 whole truth, and nothing but the truth in your
21 testimony before this committee and to respond
22 honestly to council member questions? Thank you.

23 CHAIRPERSON MATTEO: All right. Thank
24 you for being hear. You could move forward with your
25 testimony.

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2 ETHAN CARRIER: Good afternoon, Chairman
3 Matteo, members of the Committee on Standards and
4 Ethics, Council Member Grodenchik. I am Ethan
5 Carrier, the general counsel of the New York City
6 Conflicts of Interest Board. With me is the board's
7 executive director, Carolyn Lisa Miller. We are here
8 on behalf of COIB to offer testimony about Intro
9 1272. Since the enactment of Local Law 181 of 2016
10 codified at Chapter 9 of Title 3 of the New York City
11 Administrative Code, which I'm just going to call
12 Chapter 9, COIB has been hard at work implementing
13 the new reporting and donor disclosure requirements
14 for organizations affiliated with elected officials.
15 COIB has adopted board rules and has advised elected
16 officials and affiliated organizations about their
17 responsibilities under Chapter 9, conducting numerous
18 in-person training sessions for the representatives
19 of affiliated organizations. These experiences with
20 Chapter 9 provide us with unique insights on the
21 impact that is reporting requirements as well as the
22 amendments to those reporting requirements proposed
23 in Intro 1272 will have on affiliated organizations,
24 their donors, and the city. Chapter 9 was enacted to
25 close a regulatory gap identified in connection with

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2 the Campaign for One New York, CONY, by providing
3 certain donations to organizations affiliated with an
4 elected official that spends at least 10% of their
5 annual expenditures on communications featuring the
6 name, voice, or likeness of the elected official.

7 Such organizations are defined in our rules as
8 restricted organizations. Chapter 9 also requires
9 all organizations affiliated with elected officials
10 or their agents, including those that do not meet the
11 10% threshold, which we've defined as unrestricted
12 organizations, to report for public disclosure
13 certain donor information. Although Chapter 9
14 focused on concerns raised about CONY-type
15 organizations, the committee report for Intro 1272
16 acknowledges that Chapter 9 as currently written
17 requires unrestricted organizations to report the
18 same information as a restricted organization.

19 Specifically, the unrestricted organization must
20 report a donation in any amount from someone listed
21 in the city's Doing Business database or from the
22 spouse, domestic partner, or unemancipated child of
23 someone listed, as well as all other donations of one
24 thousand dollars or more. This poses a significant
25 burden on the organizations that the legislation was

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2 least concerned with, some of which are small not-
3 for-profits with few staff to manage compliance with
4 Chapter 9. The board adopted rules implementing the
5 textual requirements of Chapter 9 nearly one year
6 ago, rules that apply to restricted and unrestricted
7 organizations alike. Since then, and after having
8 engaged with and trained affiliated organizations on
9 the requirements of Chapter 9 and the corresponding
10 board rules, we strongly believe that Chapter 9
11 should impose fewer, if any, reporting requirements
12 on unrestricted organizations. Many of these
13 organizations do important work on tight budgets.
14 Forcing them to use their limited resources on a
15 disclosure regimen that does not substantially
16 further the council's policy goals is an undesirable
17 goal, an undesirable outcome, for everyone. In
18 addition and in light of the concerns raised by both
19 unrestricted organizations and by the council in the
20 committee report, we intend to engaging in rule-
21 making to ensure that the reporting process is not
22 unnecessarily complicated. COIB supports the
23 council's efforts to reduce these burdens on
24 unrestricted organizations. The most indirect
25 effective way to reduce those burdens would be to

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2 remove unrestricted organizations from Chapter 9.
3 However, if the council wishes to retain Chapter 9's
4 jurisdiction over unrestricted organizations COIB has
5 some general ideas on how to amend the law to balance
6 the dual goals of transparency and reducing the
7 burdens on unrestricted organizations. We stand
8 ready to work with, work collaboratively with the
9 council to help craft legislation that effectively
10 advances these shared goals. In our testimony today
11 we offer three broad ideas, as well as a more
12 detailed list of drafting suggestions for
13 implementing these concepts and for fixing some of
14 the structural inconsistencies in Intro 1272. That
15 list can be found as an addendum to the testimony.
16 Number one - remove family members from disclosure
17 regimen. Based on the feedback COIB has received,
18 unrestricted organizations almost universally
19 consider it particularly burdensome to obtain and
20 disclose information about a donor's family members.
21 The law should not require an unrestricted
22 organization to report whether a donor is the spouse,
23 domestic partner, or unemancipated child of a person
24 listed in the city's Doing Business database. The
25 political campaign of a candidate for city elective

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2 office does not need to report to the Campaign
3 Finance Board or otherwise inquire whether a family
4 member of a contributor is listed in the Doing
5 Business database. Unrestricted organizations should
6 not be subject to a stricture disclosure regimen than
7 in the Campaign Finance Act. Number two - remove
8 Doing Business database from disclosure regimen.
9 Because the Doing Business database is publicly
10 available and the proposed amendments would require
11 the Chapter 9 public disclosures to be machine
12 readable, journalists, good government groups, and
13 other motivated members of the public would be able
14 to compare donor information released against the
15 Doing Business database. It should not fall either
16 on unrestricted organizations or COIB to do so. We
17 believe that the council's goals are achieved simply
18 by the disclosure of donor information and that our
19 limited taxpayer resources should be focused on
20 administering this aspect of the disclosure regimen.
21 Number three - increase reporting threshold for
22 unrestricted organizations. COIB supports Intro
23 1272's proposal to increase the reporting threshold
24 from one thousand dollars to five thousand dollars,
25 below which unrestricted organizations need not

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2 disclose any information about donors. As stated in
3 the committee report for Intro 1272, the board and
4 advisory opinion number 2003-4 selected this amount
5 as the appropriate threshold for public disclosure.
6 In conclusion, we welcome a reduction of Chapter 9's
7 reporting requirements for unrestricted organizations
8 and are eager to work with the council to implement
9 these changes.

10 CHAIRPERSON MATTEO: Thank you, thank you
11 for your testimony. I have some questions before I
12 turn it over to my colleague, Council Member
13 Grodenchik. How many organizations did you contact
14 to tell them they are covered by Local Law 181 and
15 how many organizations disagreed with the assessment,
16 and of those how many did you ultimately decide are
17 not covered by the law?

18 CAROLYN LISA MILLER: I think we
19 contacted probably over a hundred organizations. I
20 don't have the exact figures on who we ultimately
21 determined, ah, [whispering], probably about a couple
22 dozen we determined were not covered by the law. I
23 don't have the exact figures.

24 CHAIRPERSON MATTEO: I'm sorry, you said
25 a couple dozen?

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CAROLYN LISA MILLER: Yes.

CHAIRPERSON MATTEO: OK. And any of those disagreed with the assessment?

CAROLYN LISA MILLER: I meant to say a couple dozen we determined were not covered by the law, so if they, they wouldn't have disagreed.

CHAIRPERSON MATTEO: No, but I believe you said, I'm just trying to go back to what you said...

CAROLYN LISA MILLER: Oh, yes, yes, some did disagree and we've been in discussions with them. Ultimately it would be a board decision.

CHAIRPERSON MATTEO: So with the organizations that were reporting under Advisory Opinion 0304 were automatically considered to be covered under Local Law 181?

CAROLYN LISA MILLER: Every organization we provided notice to, as the law requires, an each organization either registered, in other words chose not to challenge that initial determination, or engaged with staff to reach some other conclusion, providing information about their corporate structure and other sort of details about how the organization functions.

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CHAIRPERSON MATTEO: Right, OK. So in the context of parks organizations can you describe the most relevant factors in determining if they were covered under Local Law 181?

CAROLYN LISA MILLER: The factors that are detailed in the rules were the factors the board...

CHAIRPERSON MATTEO: The same rules that you used?

CAROLYN LISA MILLER: Yes.

CHAIRPERSON MATTEO: OK. What is your process for handling the reporting of anonymous donations under Advisory Opinion 2003 and 4?

CAROLYN LISA MILLER: The process that the board utilized was similar to the process that is contained within the annual disclose law, that the entity would make a representation that a particular donor needed to have, needed to have privacy based on some threat and then the board would make a determination about that.

CHAIRPERSON MATTEO: So how often have organizations asked for anonymity for a donor and what are the reasons they gave?

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2 CAROLYN LISA MILLER: The, not that that
3 frequently have the organizations asked the, what the
4 reasons they gave would be confidential.

5 CHAIRPERSON MATTEO: But not many, you
6 said?

7 CAROLYN LISA MILLER: Not many, no.

8 CHAIRPERSON MATTEO: OK.

9 CAROLYN LISA MILLER: In the fifteen
10 years since 2003-4 there have not been very many
11 requests for privacy.

12 CHAIRPERSON MATTEO: And in promulgating
13 the rules for 181 what was the board's reasoning for
14 establishing the numerous steps that an unrestricted
15 organization must follow to determine if a donor has
16 business dealings with the city?

17 CAROLYN LISA MILLER: The critical issue
18 for the steps is the fact that the definition of
19 doing business with the city within the law itself
20 includes the family members of the donor. So for an
21 organization to make a determination about whether a
22 donor is doing business with the city, it's not the
23 straightforward check of the Doing Business database,
24 the organization also has to determine whether the
25 donor's spouse, domestic partner, or unemancipated

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2 child is in the Doing Business database, and it's
3 that piece of information that require the extra step
4 and the law also doesn't require unrestricted
5 organizations to use the donor submission form that
6 it requires of restricted organizations and we were
7 informed that because the law only requires that of
8 restricted organizations, the Conflicts of Interest
9 Board couldn't implement a rule that required
10 unrestricted organizations to use that form, so we
11 had to be creative in crafting a process that no
12 doubt is cumbersome to sort of solve those two issue.

13 CHAIRPERSON MATTEO: OK, great. We've
14 just been joined by Council Members Levin, Levine,
15 and Cohen. I'm going to hand it over to my
16 colleague, Council Member Barry Grodenchik, for some
17 questions.

18 COUNCIL MEMBER GRODENCHIK: Thank you,
19 Mr. Chairman. Good afternoon. It's good to see you.
20 Thank you for being here today. As Parks chair, I am
21 most concerned about the conservancies, which bring
22 in well over nine figures to the city. There's never
23 been a hint of a scandal. They run, they do a
24 beautiful job, and if they were not here the city
25 would be on the hook for hundreds of millions of

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2 dollars that they raise annually, God bless them. So
3 my first question to you, why do you think this law
4 applies to the conservancies? I know you may have
5 explained a little in your testimony, but if you
6 could tell me how you got there and whether or not
7 the board actually took a vote on this, or this was
8 an interpretation?

9 ETHAN CARRIER: Well, the, I mean, the
10 factors set forth that if an elected official or his
11 or her agent, which would include the commissioner of
12 an agency, meet any of the, meet the factors of
13 control, then the organization would be covered by
14 Chapter 9.

15 COUNCIL MEMBER GRODENCHIK: You don't
16 think that's a stretch, or, ah, I am very concerned
17 here that, you're going to hear from the panel, I
18 hope you'll be here to hear from them, but it is a
19 tremendous regulatory burden, which you acknowledged
20 in your testimony, and I guess in the middle of your
21 testimony, Counsel, you said that the Conflicts of
22 Interest Board, paragraph 3 on page 2, supports the
23 council's efforts to reduce the burdens on
24 unrestricted organizations, which are conservancies,
25 and I appreciate that. The second sentence of that

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2 paragraph, the most direct and effective way to
3 reduce those burdens would be to remove unrestricted
4 organizations from Chapter 9. Is that a suggestion
5 to us? Do you, would you support that if we decided
6 to go ahead and do that, if we amended the
7 legislation? Is that something that the Conflicts of
8 Interest Board could live with?

9 ETHAN CARRIER: Oh, I certainly think we
10 could live with that, and I certainly agree with you
11 a hundred percent these organizations are, this bill,
12 181 of 2016 and the board rules that we promulgated
13 doing our best to try to implement the letter of that
14 law, do create a really significant regulatory burden
15 for these organizations, and I also agree we've not
16 had any experience of scandal or problems with these
17 organizations and if, you know, in the, in trying to
18 find the right balance between I think a noble goal
19 of providing some transparency about the flow of
20 money here and the concern about how burdensome that
21 is, I do not think it's an unreasonable conclusion
22 that at least this, at least this law is not the way
23 or place to do this and maybe this law should focus
24 on the, what we call restricted organizations, the
25 CONY-type organizations...

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COUNCIL MEMBER GRODENCHIK: Right.

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ETHAN CARRIER: The ones that are engaged in these kinds of communications about which the council appeared to be concern in passing 181, that may be leaving that in this bill is the best thing for this and dealing with the other question in some other way may be the better process.

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COUNCIL MEMBER GRODENCHIK: All right, I appreciate that, because I, you know, it has dawned on me and others that I understand you have a job to do and I respect that and I fill out my form every year on time, always on time, um, but it seemed to me that this interpretation was basically a solution looking for a problem, and I realize that your agency is tasked with a very hard job, keeping our ethics as high as they possibly can be and I support that mission, and I think everybody here does. But it just, for me what I've heard from the people over here and people who could not be here today, is that this is a big burden. Some of the bigger conservancies, they have more money, but there are at least seventeen conservancies that raise a million dollars, many of them raising well above that, and I think Central Park is the largest, but there are just

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2 so many in this city and I'd be happy to give you a
3 tour if you ever want, but I don't think you need
4 that, of some of those parks and the work that
5 they're doing. I am also concerned, and we're not
6 here to talk about that today, but is it possible
7 that this law could ensnare other organizations, such
8 as some of our cultural institutions that sit on city
9 land and might, and also take, you know, they raise a
10 lot of money privately but they also get either free
11 rent from the city or their direct funding that they
12 receive, and there are a lot of them. I don't want
13 to really name them, but, you know, we do know the
14 organizations that they right.

15 CAROLYN LISA MILLER: I don't see that as
16 a substantial concern. I mean, we've had also a lot
17 of substantive, detailed conversations with some
18 parks organizations and probably similar to the ones
19 that your office and you have had. So we understands
20 some concerns. There's a history with the board in
21 dealing with the Parks Department and some of these
22 parks conservancies that led to this specific result
23 that I don't think would be the same result with
24 other kinds of cultural institutions and we've
25 received a lot of education from these entities, the

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2 parks conservancies, that I think we're still in
3 discussion in terms of, at least the piece about the
4 coverage of the law. I think we've, we're, sort of
5 have a mutual understanding about the reporting
6 requirements.

7 COUNCIL MEMBER GRODENCHIK: Well, I for
8 one am happy to hear that you would support carving
9 out the conservancies from this law, because I think
10 that would probably be the best solution and I want
11 to thank the chair for having this hearing today,
12 because I know that some of the reporting
13 requirements are due to start with the beginning of
14 the new year, which is 28 days away. So, Mr.
15 Chairman, thank you for allowing me to ask those
16 questions. I am looking forward to hearing more
17 questions from my colleagues here, and thank you for
18 being here today.

19 CHAIRPERSON MATTEO: Absolutely, thank
20 you, Council Member Grodenchik. Sorry for the
21 oversight, Council Member Lander, that I missed you
22 before. You are here, and you are up for questions.

23 COUNCIL MEMBER LANDER: Thank you very
24 much, Chair Matteo, and thank you to the sponsor,
25 Council Member Grodenchik, and Council Member Levine.

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2 Thank you for being here. And I really want to
3 mostly associate myself with the comments just made
4 by Council Member Grodenchik, which I understand to
5 be proposing an amendment to the bill that is before
6 us, so I just want to make sure I understand it
7 altogether. So, you know, I was a strong supporter
8 and cosponsor of the law that we passed. In my mind,
9 we were quite narrowly focused on the issue advocacy
10 organizations, the Campaign for One New York, and
11 where we really saw a lot of issues, and we thought
12 there was an important loophole to close, and to me
13 that was about these two, that had two tests, one,
14 are they controlled by an elected official, and two,
15 do they spend money in the ways that were described
16 in the bill on sort of, you know, elected official
17 advertising issue advocacy, and that was the
18 combination that we were looking to address. I
19 understand that it might, you know, and that was what
20 I thought we had done. I hear you and I understand
21 why you feel we did not do that as precisely as we
22 should have, and I'll own that. I voted for that
23 bill. I cosponsored that bill. I see why it was
24 vague. So even if I wish you had ruled that it did
25 make those distinctions, you know, I see where it was

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2 vague and it is necessary for us to add those, too.
3 But if I understand what you're saying, rightly, you
4 know, I think I share your opinion that what we
5 should do is clarify that we meant those
6 organizations that spend in the ways described and
7 for those organizations like the conservancies and
8 plenty of other organizations that's a sort of
9 different set of questions with a different set of
10 problems that we're trying to, and that for this bill
11 like let's keep it more narrowly focused on those
12 elected official-affiliated issue advocacy groups
13 with the same regimen in place, you know, and then
14 those groups that are elected official-affiliated but
15 don't do this kind of issue advocacy or elected
16 official advertising would simply not be covered by
17 this particular regimen at all. So that's what
18 you're essentially saying you would also be
19 comfortable with, is that right?

20 ETHAN CARRIER: Right, I'm saying at
21 least as we've, at least as this has been executed in
22 181 in 2016 and maybe even with these amendments it
23 feels like maybe the sort of transparency value to
24 the burden ratio doesn't quite work, and maybe that's

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2 because this bill was really about the CONY-type
3 organizations...

4 COUNCIL MEMBER LANDER: Yep.

5 ETHAN CARRIER: And maybe the other issue
6 is better tackled in some other way and some other
7 place.

8 COUNCIL MEMBER LANDER: And just from a
9 kind of technical point of view, what that would mean
10 is sort of leaving this, you know, putting in this
11 sentence that's at 309-A, adding all organizations
12 affiliated with an elected official and then adding
13 that spend or reasonably expect to spend at least 10%
14 of the expenditures in their current or next calendar
15 year on the production or dissemination of elected
16 official communications, adding that in, so it was
17 clear that those are the organizations that are
18 covered, but not necessarily then adding in this
19 whole section that follows under 10-B, just sort of
20 leaving that maybe for a subsequent conversation.

21 ETHAN CARRIER: Right. At a quick
22 glance, that looks look that would be, we would, what
23 it would look like, yeah.

24 COUNCIL MEMBER LANDER: All right. Well,
25 I could certainly support that, Mr. Chair, and to the

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2 bill cosponsors. More at this point, importantly, to
3 the extent that I have heard you to be, you know,
4 pushing that idea I'll associate with those, with
5 those feelings and would certainly cosponsor and be
6 enthusiastic about passing that bill. Thank you very
7 much.

8 CHAIRPERSON MATTEO: Thank you, Council
9 Member Lander. Council Member Levine.

10 COUNCIL MEMBER LEVINE: thank you very
11 much, Chair Matteo, and thank you to Chair Grodenchik
12 and I'm going to continue in the vein of the comments
13 made by my two colleagues, and just emphasize that
14 this was a law intended to reign in people giving to
15 an entity to curry favor with the mayor, or giving to
16 an entity that was influencing the political process
17 outside of oversight from the Campaign Finance Board.
18 Parks conservancies don't in any way interfere with
19 the political process and I think it's pretty absurd
20 to think that someone would give to a parks
21 conservancy to curry favor with the mayor, for
22 obvious reasons. You can hear some faint chuckles in
23 the audience. When this was first proposed, did you
24 all during the review of the original legislation
25

1
2 alert us to the unintended broad reach of the
3 proposal?

4 ETHAN CARRIER: Ah, I know that in our
5 testimony we, in 2016 we suggested that the
6 unrestricted organizations, and they weren't called
7 that then, we hadn't come up with that term for them
8 then, but shouldn't be subject to the same sort of
9 reporting requirements that the restricted CONY-type
10 organizations should be and we, and the board in its
11 rule-making initially made some efforts to try to
12 make that happen by rule, but the conclusion was that
13 that was not possible because of the letter of 181 of
14 2016 so we were, ah, our hands were a little bit tied
15 about that reporting requirement.

16 COUNCIL MEMBER LEVINE: I wish this had
17 all been aired during the original legislative
18 process. We could have saved a lot of heartache in
19 the meantime, and I appreciate your attempts to lower
20 the reporting requirements on unresponsive, but I
21 have to say really the only acceptable thing would
22 just be to take them out. Some of these are small
23 nonprofits. They have limited staff. This really
24 would be an undue burden on those nonprofits, and
25 since there's no, in my opinion, public policy

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2 justification for it the solution has to be to take
3 them out and I'm very, very happy that, I think you
4 said in your opening remarks, has been reiterated in
5 the previous questioning that you now would favor
6 simply removing the unrestricted entities from this
7 legislation and that we can do that legislatively
8 through an amendment to the bill that is currently
9 being heard today. Is that right?

10 ETHAN CARRIER: Right. I mean, I think
11 that as it is now it would probably be a better thing
12 to remove them from this and if you want to address
13 this issue, to address it in some other bill that's
14 about this issue rather than having it be part of a
15 bill that's about these more restricted CONY-type
16 organizations, at the very least.

17 COUNCIL MEMBER LEVINE: Got it. So
18 you're saying that it would not be appropriate to
19 insert into the bill we're hearing today, but that it
20 would be a separate bill?

21 ETHAN CARRIER: It feels it's, that the
22 unrestricted organizations have sort of suffered in
23 their regulatory burden a bit by being part of a bill
24 that's...

25 COUNCIL MEMBER LEVINE: Got it.

1
2 ETHAN CARRIER: ... not really about them
3 and that if you wanted to do something about
4 transparency of flows of money from not-for-profit
5 organizations maybe this isn't the best way or place
6 to do that.

7 COUNCIL MEMBER LEVINE: My understanding
8 is that museums and similar cultural organizations
9 are not currently listed as part of the unrestricted
10 category, is that right?

11 ETHAN CARRIER: Right, my understanding,
12 and my colleague can correct me if I'm wrong about
13 this, but my understanding is that by and large the
14 museums and cultural organizations that we, COIB does
15 not view them as being covered by this.

16 COUNCIL MEMBER LEVINE: But some of them
17 do have ex officio board members appointed by a
18 commissioner or the mayor.

19 ETHAN CARRIER: That's true, they do,
20 yeah.

21 COUNCIL MEMBER LEVINE: So why would they
22 be exempt, and parks conservancies not?

23 CAROLYN LISA MILLER: I just, I don't
24 want to, again, many of the discussions that we had
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1
2 with individual organizations are confidential, as
3 required by our law, but...

4 COUNCIL MEMBER LEVINE: But we're talking
5 about a whole here.

6 CAROLYN LISA MILLER: No, no, no, I
7 understand. But to speak with any specificity about
8 different organizations, but as I said before we've
9 had historically a unique, the Conflicts of Interest
10 Board has had specific rulings over the course of
11 many years at the require of the parks commissioner
12 for parks employees to be working for these, for
13 parks conservancies as part of their city jobs to be
14 paid by the conservancies, and there has been sort of
15 entanglement of purpose between the conservancies and
16 the Parks Department for the benefit of the city, but
17 that's the history that the board has brought to
18 thinking about the application of this law. We've
19 had a lot of conversations with different folks that
20 are here that help us to think about some of those
21 questions a little bit differently, that maybe there
22 were certain representations made for certain reasons
23 based on certain provisions of the Conflicts of
24 Interest Law and there might be different
25 applications now. But there's historical reasons

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2 based on the sort of closeness in relationship
3 between the conservancies and the Parks Department
4 that have lead to some, as a general matter, to some
5 of those confusions. And I just wanted to sort of
6 add to what my colleague said. These organizations
7 have been the subject of like Conflicts of Interest
8 Board interest for many years, since this advisory
9 committee in 2003-4. So it's not like the Conflicts
10 of Interest Board ever thought this wasn't an
11 appropriate subject of disclosure and legislation and
12 some kind of transparency issue, it's just whether
13 this is the right tool, you know, this is the right
14 hammer for the nail.

15 COUNCIL MEMBER LEVINE: But what's new is
16 the individual contribution disclosure requirements,
17 right? That was never, that's never been applied
18 before.

19 CAROLYN LISA MILLER: There was a
20 different kind of disclosure requirement, that was
21 required through the city agency.

22 COUNCIL MEMBER LEVINE: OK. Well, we'll
23 hear from some of the affected entities shortly. I
24 hadn't heard that the more general requirements in
25 effect for several years were a source of problems

1
2 for the conservancies. It does seem like what was
3 proposed here more intense and focused on individual
4 contributors definitely was, and as for cultural
5 institutions, I think it's great that their not
6 covered. I don't want them to be covered. But
7 whatever logic you use to exclude them seems to me
8 would apply to conservancies. There, a lot of them,
9 a lot of the culturals are on public land, a lot of
10 them have hundred-year agreements with the city or
11 more, and many of them have ex officio board members.
12 So it's hard for me to see how one group would be
13 excluded and not the other, and you did reference
14 operating agreements, which you can have with Parks
15 entities, but, again, let's remember, this was about
16 worry that people are giving to curry favor with the
17 mayor and worried about political activity, which I
18 don't see how an operating agreement would have any
19 impact on any of those considerations. So, but I
20 don't want to bury the headline, which we're very
21 happy about, with you all coming to the hearing and
22 endorsing the notion of excluding the unrestricted
23 groups. So we have mechanics to work out there and
24 work as quickly as we can for the benefit of the
25 sector. But in the meantime there's an existing rule

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2 in place and I'd like to say that by Wednesday at
3 noon we could have our bill passed, but that's
4 probably not going to happen. So could you explain
5 to us how we can shield groups from undue burdens
6 while we're waiting to work out a legislative fix?

7 ETHAN CARRIER: Well, the reporting
8 requirements as they presently exist require the
9 reporting to be done by August of 2019, so there is a
10 bit of time before those reports have to actually be
11 made. In order to comply with that, there's a lot of
12 information that needs to be collected...

13 COUNCIL MEMBER LEVINE: Collected now,
14 right?

15 ETHAN CARRIER: Right, but, um...

16 COUNCIL MEMBER LEVINE: Collected
17 starting when?

18 ETHAN CARRIER: Ah, January of this year.

19 COUNCIL MEMBER LEVINE: Of 18.

20 ETHAN CARRIER: Of 2018. So there's, so
21 that collecting of information needs to be ongoing
22 now to comply with the reporting that will happen in
23 August of 2019, but nothing actually is required to
24 be reported until then.

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2

COUNCIL MEMBER LEVINE: OK, thank you.

3

Thank you again for endorsing the carve-out, and I'm

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going to pass it back to Chair Matteo. Thank you.

5

CHAIRPERSON MATTEO: Thank you, Council

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Member Levine. Council Member Grodenchik for one

7

more follow-up.

8

COUNCIL MEMBER GRODENCHIK: Thank you,

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Chair and thank you, Steve, Mark, for stealing my

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thunder there, because I was concerned, some of the

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conservancies were under the impression, at least

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they related to me, that they would have to start

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reporting January 1, but we're clear that that

14

wouldn't take place until the first of August now.

15

CAROLYN LISA MILLER: Well, that's what

16

the law requires, the reporting is due August 1, but

17

it's the full calendar year of 2018.

18

COUNCIL MEMBER GRODENCHIK: Right, OK.

19

CAROLYN LISA MILLER: So that they would

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have to be gathering the information during the

21

passage...

22

COUNCIL MEMBER GRODENCHIK: OK, so that,

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and I do want to hit upon what he said also, that

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there are so many culturals that are on city land.

25

This thing about Flushing Meadow Park, we have the

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2 theater, we have the zoo, we have the botanical
3 garden and others, so that would be of great concern
4 to me as well. Not to mention Central Park and other
5 parts of New York City that have many, many cultural
6 organizations that serve tens and hundreds of
7 millions of people a year. So I want to thank you
8 for your testimony today and for being here with you.
9 Thank you very much. Thank you, Mr. Chair.

10 CHAIRPERSON MATTEO: Thank you. Thank
11 you Ethan, thank you Carolyn. Appreciate you being
12 here to answer our questions. The next panel is
13 going to be Marc Haken, Friends of Cunningham Park,
14 Nicole Brostoff, I apologize if I say your name
15 incorrectly, Riverside Park, former Commissioner of
16 Parks, Adrian Benepe, The Trust of Public Land,
17 Deborah Maher, Randall's Island Park Alliance, and
18 Lynn Kelly, New Yorkers for Parks. I think we need
19 more chair up there. [pause] Commissioner, you could
20 start. I'm still going to call you commissioner, you
21 were Commissioner of Parks when I was the chief of
22 staff, so welcome and go ahead, Adrian.

23 ADRIAN BENEPE: Thank you. Thank you
24 very much. Good morning, Chair Matteo, Park Chair
25 Grodenchik, Council Members Levin and Levine. I

1
2 notice your colleague Lander had to leave. I thought
3 this hearing is brought to you by the letter L. I
4 also want to thank Chair Miller of the COIB and for
5 your extraordinary openness to making changes and
6 thank you for this opportunity to testify on Local
7 Law 181. My name is Adrian Benepe. As some of you
8 may recall, I served as New York City Commissioner of
9 Parks and Recreation for eleven years, between 2002
10 and 2012. Prior to that, I served in a variety of
11 roles, covering 34 years for the Parks Department,
12 including six years as Manhattan Borough Parks
13 Commissioner, and also oversaw the Art and
14 Antiquities and Forestry, Horticulture, and Natural
15 Resources divisions. Between city jobs I worked at a
16 high level for two New York City nonprofits, the New
17 York Botanical Garden and the Municipal Arts Society.
18 I currently work as senior vice president and
19 director of national programs for The Trust for
20 Public Land, overseeing our national urban parks
21 program. In that capacity I've gained a good deal of
22 knowledge about how cities across the country manage
23 and fund their parks, and especially the role that
24 park conservancies play in improving and managing
25 parks. In fact, I helped create a report we did on

1
2 conservancies called Public Spaces, Private Money,
3 the Triumphs and Pitfalls of Urban Park
4 Conservancies. There is a link that you can find
5 online. I will mail you hard copies. I'm here today
6 to urge the City Council to amend the law passed in
7 relationship to the campaign finance donations to
8 elected officials, which in my expert view may have
9 been too broadly written, allowing a mistaken
10 interpretation by the New York City Conflicts of
11 Interest Board. Plainly speaking, the COIB
12 interpretation of this law, requiring the releasing
13 of details of thousands of donations and donors to
14 park conservancies is a solution in search of a
15 problem. Worse, it will create mountains of
16 unnecessary work for both conservancies and for the
17 administrative agencies. Much worse still, it will
18 likely have a chilling effect on donations that
19 provide crucial restoration, upkeep, and programming
20 for a few dozen parks in New York City, ultimately
21 perhaps forcing the city to spend more scarce public
22 dollars or allowing those parks to fall back into
23 disrepair. I speak from an almost unique
24 perspective, as I was present at the founding of the
25 first major park conservancy in the world, the

1
2 Central Park Conservancy in 1980. As you know, that
3 model has spawned more than a dozen others here in
4 New York City and ultimately several hundred in
5 cities across the country. In New York City alone
6 conservancies provide between 150 and 200 million
7 dollars a year for the improvement, maintenance, and
8 programing of public parks. And last year, according
9 to The Trust for Public Lands Park Score Analysis,
10 conservancy partnerships in scores of cities across
11 the country provided more than 750 million dollars in
12 private, voluntary contributions to public parks.
13 Now, to put that funding in context, the money raised
14 and spent by conservancies in New York City would
15 represent a 40% addition to the city dollars spent by
16 city government on parks using tax dollars. Now if
17 those private donations were to disappear the city
18 would be forced to reallocate public funding from
19 within the Parks Department budget, or perhaps from
20 other city services. More likely, I'm afraid what we
21 would witness is a swift decline in park conditions
22 to those we all saw in the 1970s and 1980s, when the
23 *New York Times* headlined its three-part expose in
24 October 1980 on the terrible conditions of the entire
25 city park system, which sadly we all remember. New

1
2 York City parks system stands as a tattered remnant
3 of its past. And it was precisely in response to
4 those terrible conditions, even in world-famous parks
5 like Central Park and Prospect Park, that the first
6 conservancy was created through the leadership of
7 Elizabeth Barlow, now Betsy Barlow Rogers, then the
8 leader of the nonprofit Central Park Task Force and
9 the first administrator of Central Park, and she
10 worked hand-in-hand with then-Parks Commissioner
11 Gordon Davis and Mayor Ed Koch. The rest is history,
12 as they say. It led to things like immediately
13 thereafter the Prospect Park Alliance and many, many
14 others. Over a billion dollars has been raised since
15 then through entirely private, entirely voluntary
16 charitable contributions made to these independent
17 501(c)(3) organizations, and that's the key concept
18 I'd like to highlight. These are not donations to
19 elected officials, to city officials. They are not
20 donations to candidates for elected office. They are
21 not donations to city agencies or to commissioners.
22 They are private gifts to nonprofit organizations
23 that are not controlled by the mayor or by any other
24 elected or appointed officials. Now, I know all of
25 this perhaps better than anyone in this room or the

1
2 city, because in my 27 years as a city official at
3 the Parks Department I was an ex officio trustee of
4 more than 75 nonprofit organizations that sat on city
5 parkland or in city-owned buildings, or that provided
6 a variety of work and service for the city. I also
7 assisted in the creation of conservancies, five of
8 them, including the City Parks Foundation, the
9 Historic House Trust, the Fort Tryon Park Trust, The
10 Natural Areas Conservancy, and the Jamaica Bay
11 Rockaway Park Conservancy. Let me add to that
12 discussion about anonymous donors. People don't give
13 anonymous donations because they're under threat.
14 They given anonymous donations because they do not
15 want to be besieged by other worthy causes. So
16 there's a very long and venerated tradition of
17 nonprofit groups being allowed to accept anonymous
18 donations. I have also worked for park-related
19 nonprofits for over 12 years and I have become, I
20 guess, a national expert providing nonprofit
21 consulting services to citizens and cities in the
22 creation and functioning of park conservancies, and I
23 was recently in Raleigh, North Carolina and working
24 on one there. So here's the bottom line, as I see
25 it. There has not been one allegation that a

1
2 donation to conservancy was made to the mayor or
3 other elected official, nor is there any evidence
4 that the mayor or other elected officials control any
5 of the conservancies. These conservancies are and
6 always have been valued partners to the city. They
7 are not in any way agents of the city. And to impose
8 these completely unnecessary and burdensome
9 regulations to park conservancies would likely have a
10 chilling effect on their abilities to fundraise.
11 It's precisely because those donations are not going
12 to the mayor or to the government that most donors
13 make these charitable contributions, because I've
14 learned, for better or worse, it is my experience
15 that donors do not trust government to spend their
16 donations wisely. Moreover, it is puzzling to me
17 that this regulation and the COIB, as some of your
18 members have pointed out, would single out park
19 conservancy donors for this level of scrutiny, as the
20 city also works in partnership with hundreds of
21 nonprofit organizations in hundreds of locations,
22 from the museums, performing arts organizations, zoos
23 and botanical gardens, the hospitals, social service
24 agencies, and many, many more. So when the City
25 Council applied this regulation and COIB imposed this

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2 interpretation on those organizations as well. I
3 urge the City Council to mend its well-intended law
4 and I commend you for that law, and amended to omit
5 the independent nonprofit park conservancies from its
6 requirements. I also urge the COIB, and I thank them
7 for their openness to this, to see the light and
8 revisit the issue and end this interpretation and
9 reporting requirement. Thank you.

10 NICOLE BROSTOFF: Thank you, Chair
11 Matteo. Thank you all. My name is Nicole Brostoff
12 and I'm here representing the Riverside Park
13 Conservancy, or RPC, a private non-for-profit
14 organization that provides supplemental services to
15 five parks along the Hudson River in Manhattan.
16 While we very much appreciate the City Council's
17 willingness to address the applicability of Chapter
18 9, Title 3 of New York City's Administrative Code to
19 the park conservancies, we strongly disagree with the
20 Conflicts of Interest Board's determination that the
21 law applies to RPC in the first place. As written,
22 the law applies to entities that are controlled by
23 the mayor or his agents because of the council's
24 stated desire to curtail unlimited and undisclosed
25 fundraising to groups controlled by public officials.

1
2 As I will explain in detail, the RPC is not
3 controlled by the mayor or the parks commissioner.
4 Accordingly, we believe the most proper route here
5 would be to not otherwise weaken a good law, but
6 instead carve out the conservancies like ours that
7 are so clearly not controlled by the mayor or his
8 agents. Applying this law to our conservancy would
9 be overwhelmingly burdensome to our small staff. We
10 have donors who routinely make gifts at the five-
11 thousand dollar level. A bench donation to adopt a
12 bench in memory or in honor of a loved one in the
13 park, for example, costs seven thousand dollars
14 today. Requiring us to report on one of those gifts,
15 as well as to request the donors disclose their
16 spouse, their domestic partner, their unemancipated
17 child, and/or their parent, would not only take many
18 hours every week, but it would also likely turn
19 people off from giving generously to support the park
20 in the first instance. Ultimately, it would mean
21 that we can do less work to support the park and we
22 know that's not the council's intent. And it's
23 simply not necessary to apply that burden to us
24 because, as noted earlier, the RPC is not controlled
25 by the mayor or the parks commissioner. RPC and the

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2 Parks Department have a close affiliation and
3 partnership, but NYC Parks does not and cannot direct
4 the Riverside Park Conservancy. Parks has
5 jurisdiction over Riverside Park and appropriately
6 sets only those rules about what activity can take
7 place within the park. But also the contours of the
8 service that RPC can provide in relation to the park.
9 This is set forth in a carefully negotiated, arms-
10 length license agreement. NYC Parks and RPC are
11 presently negotiating a new license agreement to
12 cover the next ten years and it has been
13 painstakingly negotiated between counsels to the
14 parties over the last nine months. While the license
15 agreement defines the outside limits of RPC's
16 activities, it does not dictate those activities.
17 Nor does it control the decisions RPC makes in regard
18 to fulfilling the obligations stemming from the
19 license agreement. RPC has control because all of
20 RPC's personnel are employees of RPC, not the city.
21 Accordingly, only RPC controls its personnel's work
22 and direction. RPC takes the responsibility starting
23 from the time it recruits and screens its personnel.
24 Consequently, RPC is the only entity that can
25 determine if its personnel will engage in the

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2 activities outlined above or any event that RPC is
3 solely responsible for coordinating. By way of
4 illustration, RPC spends significant time and
5 resources on horticultural care, free public
6 programming, and a summer campaign. NYC Parks focus
7 is more on basic services, such as mowing the grass
8 and picking up trash, maintaining infrastructure and
9 hardscape, and providing security. The NYC Parks
10 commissioner might very well prefer for RPC to
11 provide additional support for these basic park
12 functions rather than what we actually do. Under no
13 circumstances could the NYC Parks commissioner or his
14 agents direct RPC to redirect its personnel to
15 provide additional support for those functions. In
16 fact, RPC has significant discretion in the type of
17 work it chooses to have engage in or not engage in.
18 With RPC Parks such as providing athletic field
19 maintenance and other fields throughout Riverside
20 Park assisting with tree pruning services or ongoing
21 tree care, soliciting and receiving funding to
22 support the cleaning, repair, or other conservation
23 care of monuments and antiquities located within
24 Riverside Park. So although we work side-by-side
25 with a common goal, but different responsibilities,

1
2 RPC Parks simply does not and cannot control RPC.
3 Second, the RPC's president and CEO does not take
4 direction from any NYC Parks official. Rather,
5 pursuant to RPC's bylaws, our president is
6 responsible for the day-to-day operation of the
7 conservancy and reports to and serves under the
8 direction of the board of trustees and the chairman.
9 The bylaws further direct the property and affairs of
10 RPC are managed by the board of directors and ensure
11 that RPC's funds are not comingled with any of the
12 city's funds. The bylaws prohibit any public
13 official, including the Riverside Park administrator,
14 the NYC Parks commissioner, or the mayor from having
15 a vote on and from being considered in the
16 determination of a quorum, RPC's board of trustees.
17 The president of RPC does not have regular contact
18 with the mayor, the NYC Parks commissioner, or the
19 Manhattan Borough commissioner about any subject.
20 Third, RPC regularly challenges RPC Parks and the
21 mayor to deliver more resources to Riverside Park and
22 NYC Parks has no control over what RPC communicates
23 publicly. Understand the leadership of our new
24 president, Dan Grodenchik, RPC has been critical of
25 the city's lack of investment in Riverside Park and

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2 has called for improvements. Whether or not RPC
3 Parks Commissioner or the mayor want to hear it, RPC
4 has autonomy over what it communicates publicly. The
5 Conflicts of Interest Board Rule Section 303 adopted
6 pursuant to Administrative Code Section 3901 says it
7 will evaluate the totality of circumstances in
8 evaluating whether or mayor or the NYC Parks
9 commissioner exercises control over RPC. As noted
10 above, while the mission of RPC is to support
11 Riverside Park, we are a private cooperation with our
12 own rules, bylaws, and governance structure. We
13 decide how to spend our own resources, and while we
14 operate within a mutually agreed-upon license
15 agreement, we do not take direction from the City of
16 New York. We also do not take direction from the
17 Riverside Park administrator, a public employee. The
18 remaining circumstances in COIB's totality of
19 circumstances tests are clearly in favor of RPC not
20 being deemed controlled by an elected official.
21 Furthermore, RPC was not created by the mayor or the
22 NYC Parks commissioner, is not chaired by the mayor
23 or the NYC Parks commissioner, or any other city
24 employee. Its board members are not appointed by the
25 mayor or the NYC Parks commissioner, or any city

1
2 employee. Board members serve for fixed terms and
3 cannot be removed by the mayor or Parks commissioner,
4 or any other city employee, and the mayor and the NYC
5 Parks commissioner can give no direction on RPC's
6 policies, operations, and activities. In sum, there
7 is not a single indicator present here that would
8 suggest that RPC is controlled by the mayor or the
9 Parks commissioner. The law should not be applied to
10 us. But if COIB continues to do so, we respectfully
11 submit that we should be explicitly carved out of
12 this law. Your proposed amendments are helpful and
13 appreciated, but not nearly enough to avoid the
14 significant harm to our organization and to Riverside
15 Park. If the bill proceeds without carving us out,
16 it's critical that you, one, increase the threshold
17 to \$25,000 to mitigate the extreme burden this law
18 would have on us, delete the onerous provision
19 requiring the donor's disclose their spouse, domestic
20 partner, unemancipated child, and/or parent and so
21 they can be run through the Doing Business database,
22 push back the effective date on Local Law 181 to
23 January 1 of 2020 to allow us to ensure the necessary
24 staffing to prepare for compliance, four, the imposed
25 liability for violations of any provision on Section

1
2 3902, exclusive beyond the elected official who
3 allegedly controls our organization, and five, define
4 the terms, agent, and appointee so they can have some
5 reasonable limits. Thank you for this opportunity to
6 testify today. I am happy to answer any questions
7 you may have.

8 LYNN KELLY: Hi, good afternoon City
9 Council, Council Member Matteo, good to see you
10 again, Council Member Grodenchik and Levine. I'm,
11 yes, very well rested. So I'm Lynn Kelly. I'm the
12 executive director of New Yorkers for Parks, the
13 citywide advocacy organization for parks and open
14 space. Rather than read through my testimony, I'm
15 both going to address some of the questions that were
16 brought up by the council as a part of the earlier
17 testimony, but suffice it to say that we're asking
18 the council to completely reconsider the amendment
19 for Local Law 181 and fully exclude parks
20 conservancies and public private park partnership
21 organizations. In addition, we ask that the
22 significant, that we significantly increase the
23 threshold level should that still be as a part of it,
24 and I'll speak to that in a moment later, of five
25 thousand dollars, and that the reporting and the

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2 review requirements set forth by the COIB be limited
3 to the donor only. We also think there needs to be
4 clarification on the affiliated portion of the law as
5 well. So I think Council Member Grodenchik mentioned
6 earlier the success of Central Park Conservancy,
7 Prospect Park Alliance, and others. Their records
8 speak for themselves. What I'd also like to point
9 out is today we're represented by the City Parks
10 Foundation as well, and under the current law as it
11 exists they are also subject to Local Law 181, and I
12 want to point out that there are many organizations
13 like them that provide a significant level of
14 programming and service to local parks throughout New
15 York City that do not have large conservancies and
16 they may lack the resources to financially support
17 parks in their neighborhoods. Without the support of
18 organizations like the Central Park Foundation,
19 pardon me, City Parks Foundation, many local park
20 stewardship groups would not have access to the
21 critical technical associate that they need in their
22 community. Council Members Levine and Grodenchik,
23 you know very well that we sit in front of you year
24 after year advocating for an increase to the city's
25 budget the for the Parks Department and have had

1
2 limited success. Though that's going to change,
3 right, Council Member Grodenchik? OK, very good.
4 So, yes, the pressure is on. I will say that the
5 reason that we fight for these funds is that often
6 these organizations, including conservancies, do have
7 volunteer-driven constituencies and that the
8 reporting requirements on these would also be an
9 additional onerous task, and for nascent and smaller
10 conservancies that are operating in these
11 neighborhoods and have not benefitted from private
12 and public partnerships of open space, asking their
13 donors to provide what may consider, many consider to
14 be private information may preclude potential
15 supporters from making any future donations. Very
16 simply put, I want to speak to some examples. We had
17 mentioned the cultural institutions groups, or some
18 of the cultural organizations. For six years prior
19 to this job I was the CEO of Snug Harbor Cultural
20 Center, a botanical garden, which is both a cultural
21 organization and an 83-acre park, and I can tell you
22 that for decades there were several ex officio
23 members on the board of directors, two from the
24 administration, the Department of Cultural Affairs,
25 Parks Department, as well as a representative from

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2 the borough president's office. At no time were
3 there any issues during any tenure of mine,
4 certainly, any that I am aware of. They did not
5 vote. They did not participate financially in the
6 organization. They were simply there to work with us
7 and to provide guidance as needed, as frankly we,
8 Snug Harbor Cultural Center, were maintaining and
9 controlling a very important city asset, much in the
10 way that conservancies here provide for, fund,
11 maintain, and control very important city assets. I
12 would also say that as a small organization, or mid-
13 size for a cultural organization and a park-led
14 organization, any kind of reporting, even if the
15 threshold was increased, would have been incredibly
16 onerous for me and my team, and frankly it would have
17 been time that we would have been spent away from
18 cleaning the park, programming the park, maintaining
19 the park, going outside the park into other
20 neighborhoods to provide services. So from a
21 personal basis I say any kind of reporting in
22 addition to that would be onerous, and I say that not
23 for lack of transparency because organizationally we
24 were required to report to the Department of Cultural
25 Affairs on our donations, public, private donations,

1
2 institutional, foundation giving. There was no lack
3 of transparency. But to add an additional reporting
4 process would have been overly problematic, much as I
5 see is happening here with the conservancy
6 organizations. Lastly, I would also say to the
7 Conflicts of Interest Board, and I thank you for
8 already putting forward some solutions, I think
9 that's a really great thing, but to classify the
10 organizations that receive these letters as having
11 registered but not objective I don't think that's
12 actually fair, because there are many conservancies
13 in this room that got the letter. They follow the
14 rules. They registered, but they still object. So
15 now we're faced with this conundrum on the reporting
16 piece, which was very well identified by Council
17 Member Grodenchik and Levine. So a solution to that,
18 knowing that, yes, these organizations are going to
19 be spending time, resources, brain power, and sweat
20 equity frankly in preparing to do the reporting would
21 be to put some kind of freeze on the reporting
22 process now, immediately, while the law is being
23 determined or whatever you figure out in terms of the
24 amendment, but I can tell you it is time spent away
25 of critical activity to be spending your time doing

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2 reporting for a law that perhaps wasn't intended for
3 you. Thank you for your time. We appreciate it.

4 Thank you.

5 MARC HAKEN: Good afternoon. Am I on?

6 Am I not?

7 UNIDENTIFIED: Put it back on. Now you're
8 good.

9 MARC HAKEN: Well, I was good before
10 that, but thank you. I'm Marc Haken and the
11 president of Friends of Cunningham Park. We're a
12 501(c)(3) and our mission is to maintain Cunningham
13 Park as the premiere park of northeast Queens. Why
14 this lower prize to us? I have absolutely no idea in
15 the whole world. If I get a donation of fifty
16 dollars I do my happy dance. And I hear you talking
17 about these big dollars. The preponderance of our
18 funds comes from you, the City Council, all \$13,000,
19 to do summer activities, concerts, shows,
20 Shakespeare, and even that you curtail by only
21 permitting to use 30% of the dollars that you give to
22 us for vendors. Whereas all of our money goes for
23 vendors. So we had to work out a way of keeping this
24 money and it's not given to us, it's given to the
25 Parks Department, who in turn says what would you

1
2 like us to do with this money? Nobody tells us to do
3 anything. The mayor has never been to our park.
4 City Council people, Assembly people, Dotty
5 Lewandowski, the Queens park commissioner, has never
6 told us what to do. Well, she did once, but she
7 didn't after that because she and I had a little,
8 she's a very strong woman and I like to think I'm a
9 pretty strong guy. I still don't understand why this
10 onerous law applies to organizations such as mine.
11 Notice I didn't bring three or four pieces of paper,
12 because I don't have three or four pages to say. All
13 of my colleagues here have said those three or four
14 pages that I would have put in, and the commissioner
15 certainly, who I know from a long time ago, said it
16 so well, and these two young ladies said it so well.
17 This is not a good law. And whereas the City Council
18 did have the power to make the law, the City Council
19 has the power to change and amend the law, and I ask
20 you to do so.

21 UNIDENTIFIED: Switch seats.

22 MARC HAKEN: You know what, let me get up
23 since I'm closest and I'll suck in my stomach.

24 UNIDENTIFIED: Thank you so much. Thank
25 you.

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UNIDENTIFIED: Thank you.

Good afternoon, Chair Matteo, Parks Chair Grodenchik, the members of the Committee on Standards and Ethics. I am Deborah Maher, vice president and general counsel of Randall's Island Park Alliance, a nonprofit that has been a dedicated steward of Randall's Island Park for over 25 years. The alliance sustains, maintains, develops, and programs the park for the well-being of all New Yorkers. Randall's Island Park offer sixty athletic fields, Icahn stadium, 20 tennis courts, a driving range, miles of pedestrian waterfront pathway, and more. The park attracts over three million visitors per year, many of whom are local families from East Harlem, the South Bronx, and Queens who participate in the alliance's free recreational program. The alliance raises over 50% of the park's annual budget and employees approximately a hundred staff members, including gardeners, maintenance workers, environmental educators, HR, finance, you name it. Our staff acts at the direction and reports to our board of trustees, not to NYC Parks. The essential work that the alliance does would not be possible without the generosity of our donors and the

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2 leadership of our independent volunteer board. I am
3 here today to respectfully require that you amend
4 Local Law 181 to clarify that it should not apply to
5 public private park partners, such as the alliance,
6 and other park partnerships across the city. Park
7 partners and supporters are an asset to the City of
8 New York. They are a proven effective management
9 structure that efficiently allows independent
10 nonprofit organizations to partner with NYC
11 Department of Parks and Recreation to better parks.
12 The relationship between NYC Parks and nonprofit park
13 conservancies is a true public-private partnership.
14 It is premised on working together as two independent
15 entities and not controlled by a city agency. The
16 alliance, like many, operates in the park under a
17 fully negotiated, arms-length license agreement,
18 approved and consented to by the New York City Law
19 Department. The agreement provides clear delineation
20 of roles, accountability, and governance.
21 Independent audits and those done by the city
22 comptroller's office on contractual park partners, as
23 well as IRS 990s provide transparency. Randall's
24 Island Park Alliance leadership is independent,
25 founded by independent citizens, chaired throughout

1
2 the history by independent citizens, and governed
3 always by an independent board of trustees. Our
4 independence is critical to our ability to fundraise.
5 Donors demand the accountability that comes from a
6 501(c)(3) nonprofit and the knowledge that their
7 dollars are being used for a specific mission. Thus,
8 the negative impact of Local Law 181 classifying the
9 alliance as an organization affiliated with an
10 elected official and controlled by the mayor through
11 the parks commissioner, cannot be overstated. Parks
12 partners conservancies should not be politicized.
13 They are not, nor should they be, depicted as an
14 agent of the mayor simply because the parks
15 commissioner sits ex officio on a board or that one
16 or two parks employees also separately work with the
17 alliance, fully approved and vetted by the Conflicts
18 of Interest Board. Such characterization would
19 jeopardize support by those who might feel their
20 donation had been politicized or who may not be a
21 supporter of a particular City Hall administration or
22 parks commissioner, whether past, current, or future.
23 Our donors donate because they trust us, Randall's
24 Island Park Alliance, and because they believe in
25 open green space and world-class facilities and

1
2 programming for all. Since the alliance's inception
3 we have raised approximately 80 million dollars in
4 private money. This year alone we replaced three
5 synthetic fields on which thousands of children play
6 at a cost of 1.2 million dollars. The project, as
7 well as countless others, would not be possible
8 without the alliance. As we move forward and take on
9 new projects, we must maintain trust with our donors
10 and independence to be successful. Local Law 181
11 contains intrusive, burdensome reporting requirements
12 that among other things call for the information
13 regarding a donor's spouse and children and cross-
14 referencing of donors and their family against the
15 city's Doing Business database. This action would
16 have a chilling effect on our ability to raise
17 private dollars, which provide critical funds to the
18 park. The law also requires us to certify to which
19 elected official we are affiliated despite our
20 protest that we are affiliated with none, not
21 withstanding the Conflicts of Interest Board staff's
22 initial opine. This law was meant to regulate
23 campaign finance, and yet because of the way it was
24 drafted and then interpreted park partners, like
25 ourselves, have been unfairly caught up in a net that

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2 was never meant to apply to us. We now need your
3 help to untangle us. We respectfully require that
4 City Council amend Local Law 181 to carve out
5 entities such as the alliance. Thank you.

6 CHAIRPERSON MATTEO: Thank you all for
7 your testimony. I know Council Member Grodenchik
8 would like to say a quick remark.

9 COUNCIL MEMBER GRODENCHIK: I just want
10 to add my comments to Chair Matteo. I want to thank
11 you all for being here today, and I want to thank you
12 for working with me and my staff and the council
13 staff for working on this legislation and it's fairly
14 obvious to me that you would like to see parks
15 conservancies carved out, suffice to say. So I thank
16 you for being here today. I really don't have any
17 questions. I think they have all been answered. So
18 thank you, and thank you, Mr. Haken, for your sense
19 of humor.

20 MARC HAKEN: Thank you, Council Member.

21 COUNCIL MEMBER GRODENCHIK: You forgot to
22 mention the seven-and-a-half million dollars we put
23 into Cunningham Park [laughter].

24 UNIDENTIFIED: All right, all right,
25 we're not talking about member allocations tonight.

2 MARC HAKEN: I forgot that.

3 COUNCIL MEMBER GRODENCHIK: Thank you.

4 CHAIRPERSON MATTEO: Thank you. Next
5 panel is Eloise Hirsh, Maggie Greenfield, Heather
6 Lubov, and Susan Donoghue. [pause] Yep, you're
7 ready. Thank you.

8 SUSAN DONOGHUE: Is it on? Yes. And
9 Council Member Levine, greetings, good to see you.
10 My name is Susan Donoghue, and I serve as both the
11 administrator of Prospect Park Alliance. It's my
12 pleasure to submit this testimony today. I also want
13 to thank the Conflicts of Interest Board for being
14 here and for your willingness to listen and maybe
15 think about reinterpreting some of what we're talking
16 about. As you may know, the Prospect Park Alliance
17 is a not-for-profit that partners with the NYC Parks
18 Department and the community to foster stewardship of
19 Prospect Park. Established in 1987, the alliance
20 helps to care for the natural environment, preserve
21 the park's historic design, provide facilities,
22 oversee more than 25,000 permanent events each year,
23 mainly consisting of birthday parties and family
24 events and hosts programs and activities throughout
25 the year for all New Yorkers. Over the past 31 years

1
2 the Prospect Park Alliance has played a pivotal role
3 in restoring the park to its original glory. During
4 this time we have worked closely with local elected
5 officials, the Parks Department, and the surrounding
6 communities to identify, prioritize, design, and
7 complete approximately fifty restoration projects
8 over close to 120 acres of Prospect Park and 5100
9 linear feet of our water course, totaling over 200
10 million dollars of capital investment. We now
11 estimate that the park receives some 10 million
12 visits each year, and thousands of people year are
13 engaged in our free, educational, and volunteer
14 programs offered by the alliance. Today I join my
15 colleagues from across the city to speak on Local Law
16 181 and the proposed amendment to the law. Council
17 Member Kallos, one of the cosponsors of the Local Law
18 181, describes this law as closing the campaign for
19 one New York loophole by limiting contributions to
20 nonprofits controlled by elected officials and
21 disclosing donors. Our collective understanding is
22 that Local Law 181 was passed to prevent campaign
23 finance violations and to specifically monitor
24 organizations that are controlled by elected
25 officials. The Prospect Park Alliance is not

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2 controlled by any elected official. Our board of
3 directors is structured such that the mayor
4 appoints two directors, the Brooklyn borough
5 president serves as a voting ex officio director and
6 appoints two directors, our council, a local council
7 person, currently Council Member Lander, who was here
8 earlier, serves as a voting ex officio director, and
9 the parks commissioner also serves as a voting ex
10 officio director. I myself also serve as a voting ex
11 officio director and I should point out I'm an
12 employee of the Prospect Park Alliance, not of the
13 City of New York. In addition to these eight
14 directors, our bylaws allow for up to 40 independent
15 volunteer directors and the board currently has 37 of
16 these 40 positions filled with independent
17 individuals. While we work closely with our
18 government partners, they are in no terms in control
19 of the Prospect Park Alliance. Our staff and our
20 community committee work in tandem with our board of
21 directors to determine our priorities and guide our
22 work, to make Prospect Park one of the best parks in
23 New York City. The small number of elected officials
24 serving on our board of directors controls no aspect
25 of this process or our organization. For the

1
2 Prospect Park Alliance the issue of control is
3 paramount. As a nonprofit organization we have for
4 30 years served as an example of a successful, high-
5 functioning public-private partnership. From our
6 founding we have operated as a hyper-local
7 organization, inspiring stewardship from our
8 neighborhoods and community members around the park
9 who care, thankfully, about parks and open space for
10 all. Our independence from government control has
11 been a crucial factor in our ability to privately
12 fundraise. We have no doubt that many of our donors
13 would choose to direct their giving to another
14 worthwhile organization if it were determined that we
15 were controlled by elected officials. In determining
16 control, Law 181 states that the Conflicts of
17 Interest Board must carefully consider the totality
18 of the circumstances of each of our organizations.
19 Was the organization created by an elected official?
20 No. Is our board chaired by an elected official or
21 their agent? No. Are board of directors members
22 appointed by an elected official? Only five out of
23 45. What's the degree of involvement by an elected
24 official in our policies, operations, and activities?
25 None to extremely limited. As stated, we work in

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2 close partnership and work together to build
3 consensus on parks and open space issues with our
4 elected officials and are thankful for that
5 partnership. But we operate independently from the
6 city. We assume that based on one or more of these
7 factors the Conflicts of Interest Board has made the
8 determination that the Prospect Park Alliance is an
9 organization affiliated with an elected official.
10 The proposed amendment to Local Law 181 does nothing
11 to change this determination by the Conflicts of
12 Interest Board. We join our colleagues from across
13 the city in asking that this definition of an
14 organization affiliated with an elected official in
15 3-901 of the Local 181, Local Law 181, be clarified.
16 Prospect Park Alliance and the City of New York have
17 enjoyed an extraordinarily fruitful partnership over
18 three decades and we look forward to continuing this
19 relationship for decades to come. However, we
20 encourage you, the City Council, to take the
21 testimonies that you hear today under serious
22 consideration and provide an amendment that will
23 prevent our organizations from being abandoned by our
24 donors. We work tirelessly to raise private dollars
25 to supplement the city's efforts in maintaining and

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2 providing green space for the benefit all New
3 Yorkers. This law is a serious threat to our
4 abilities to do that and we hope that you will work
5 with us today to correct it. Thank you for the
6 opportunity to testify today and thank you for the
7 City Council's continued support.

8 Good afternoon, Chair Matteo, Council
9 Member Levine. I'm Heather Lubov, executive director
10 of the City Parks Foundation. We are not a
11 conservancy, but we are a nonprofit organization that
12 reaches 300,000 New Yorkers every year through free
13 programs in public parks that create vibrant and
14 healthy communities. I think we all agree that Local
15 Law 181 was enacted to prevent candidates from side-
16 stepping contribution and expenditure limits. But
17 because of COIB's interpretation this law will have
18 the unintended consequence of chilling a very
19 successful and long-standing public-private
20 partnership between CPF and the Parks Department. As
21 you have heard, COIB has notified us that we are
22 affiliated with an elected official and are therefore
23 subject to the law's restrictions on private
24 fundraising and the burdensome, invasive reporting
25 requirements. Being branded as affiliated indicates

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2 that the city believes that the parks commissioner
3 has substantial control over our operations and our
4 decision-making. We urge the council to correct this
5 broad interpretation. You've heard that COIB
6 misconsidered the totality of the criteria. We do
7 not meet those criteria. Our board is independent
8 and the parks commissioner serves ex officio with no
9 vote. However, when COIB implemented 181 it created
10 an additional criteria through its rule-making, that
11 is the degree to which public servants perform duties
12 on behalf of the organization. We work closely with
13 Parks Department staff, a collaboration that is
14 central to our public-private partnership and a
15 testament to the willingness of the Parks Department
16 to creatively improve parks. The council has even
17 given the successful partnership its imprimatur
18 through the Parks Equity Initiative. But since 181
19 lacks clear criteria COIB has branded us affiliated,
20 essentially an agent of the mayor, because of this
21 collaboration. In the case of City Parks Foundation,
22 COIB has also considered an additional criteria,
23 which is that we provide limited fiscal sponsorship
24 for the Parks Department. By managing funds that the
25 Parks Department raises and filing the existing COIB

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2 required disclosure information, we are ensuring that
3 donors who wish to support the agency's work can do
4 so. There is absolutely no reason that providing
5 fiscal sponsorship to the Parks Department would give
6 it any control over our operations. We will be
7 forced to discontinue this service if it is the cause
8 of our affiliation placing 3 million dollars in park
9 support in jeopardy. Allowing COIB to continue
10 enforcing 181 in this broad manner will have a
11 detrimental impact on our work and a chilling effect
12 on our ability to raise the 15 million dollars that
13 we spend to activate and program parks. Often our
14 donors support our work precisely because we are
15 private and are not the city government. Complying
16 with the law's requirement that we proactively
17 indicate to donors that we are considered affiliated
18 and as such are required to check the names through
19 the Doing Business database would immediately turn
20 away those supporters. Thank you for the opportunity
21 to testify and thank you for your support of CPF.

22 CHAIRPERSON MATTEO: Thank you.

23 ELOISE HIRSCH: Is it on? OK.

24 CHAIRPERSON MATTEO: You could drop it a
25 little bit, the mic.

1
2 ELOISE HIRSCH: OK. Thanks. Good
3 morning, good afternoon Chair Matteo and Council
4 Member Levine and other members of the committee.
5 I'm Eloise Hirsh. I'm the president of Freshkills
6 Park Alliance. Thank you for the opportunity to
7 testimony today on Local Law 181. I don't usually
8 have a bass voice. Freshkills Park Alliance is the
9 not-for-profit that was organized in 2010 to support
10 the development of Freshkills Park. As many of you
11 know, Freshkills Park is the 2200-acre former
12 landfill that is now being transformed into the
13 world's largest landfill to park project. This is a
14 complex, interagency project that represents
15 extraordinary engineering and stewardship by the
16 Department of Sanitation and Parks working together.
17 The mission of the Freshkills Park Alliance is to
18 foster the creation and the stewardship of this
19 incredible resource. With this mission the
20 Freshkills Park Alliance is just one of the numerous
21 park organizations all over the city who are
22 dedicated to championing, thank you, a grow, um,
23 dedicated to championing our parks. In particular,
24 we're among a group of smaller-scale partners who
25 work very hard raising month to support our work,

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2 often with tiny or even nonexistent staffs. Compared
3 to some of the larger conservancies you may not hear
4 very much about outer borough partners in Queens and
5 Staten Island and the Bronx, as well as outer regions
6 of Brooklyn and Manhattan, who are supporting a whole
7 range of initiatives, but our efforts would simply
8 not happen without private support. So I'm
9 testifying today in support of all my colleagues as
10 we ask you to amend Local Law 181 to clarify that it
11 should not apply to park partners such as ourselves.
12 The board of directors of the Freshkills Park
13 Alliance is completely independent of the City of New
14 York. It is dedicated to supporting the creation and
15 stewardship of Freshkills Park. Our volunteer board
16 should not be characterized as agents of the mayor,
17 simply because they are working to enhance a public
18 good that is supported by the city. While we
19 understand the good intent of the law, the law was
20 campaign finance reform, our inclusion within it
21 implies we have some sort of political role.
22 However, both our dedicated board of directors and
23 donors who support us know and rely on the fact that
24 we're independent. Further, Local Law 181 includes a
25 series of reporting requirements which add an

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2 astonishing burden of paperwork. We've already
3 talked about that. In addition, the onerous
4 requirement of information concerning a donor's
5 spouse or a domestic partner and children will have a
6 strongly chilling effect, and I'm sure that each of
7 you given donations to organizations that you care
8 most about. I'd ask you to ask yourself how you'd
9 respond should those organizations inform you they
10 will only accept your contribution if you tell them
11 where your spouse works or who your children are.

12 This issue is of crucial concern to Freshkills Park
13 Alliance as we operate completely through grants and
14 donations. We could not do what we do without the
15 generosity of Staten Islanders and people all over
16 the city alongside the generosity and guidance of our
17 board of directors. We are working very hard to make
18 improvements and build support but change takes time.

19 In fact, except for three projects at the edges of
20 the site, Freshkills is still closed to the public,
21 with the exception of the substantial array of
22 programs supported by the alliance. Through
23 agreements and rules that allow safe public access
24 the alliance supports stem education programs for
25 middle through high schoolers, scientific research

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2 projects in cooperation with regional universities, a
3 series of public art exhibits and performances,
4 public information towards birding, towards the
5 Audubon Society, road and bicycle events, and our
6 very popular, twice a year, big open house, where we
7 open 800 acres, remember Central Park is 840, 800
8 acres of the site for a full day of outdoor
9 activities. Thousands of people have attended. The
10 alliance pays for the free bikes that people can
11 borrow and visits by the Staten Island Philharmonic,
12 all the kinds of activities that you would imagine
13 happen in a big, huge, wide open space. The goal of
14 all these activities sponsored by the alliance is to
15 make the park real to the public and build local
16 support. We seek to alter the perception of what was
17 once the worst blight on Staten Island, a cause that
18 so many fought for, for so long, and to change that
19 former perception to reveal the enormous and exciting
20 potential for the development of this great civic
21 asset. It's difficult to raise funds for a park that
22 is not open, but our board of directors and parks
23 loyal fans are dedicated to supporting these
24 programs. With the help of the City Council amending
25 this law, Freshkills Park Alliance and our supporters

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2 will steward the park into a better future. I join
3 my colleagues in respectfully requesting that you
4 amend Local Law 181 so that the city's diverse and
5 committed park partner organizations, like the
6 alliance, are not included in this law. Thank you
7 for the opportunity to testify today.

8 Good afternoon, Chair Matteo and Parks
9 Chair Grodenchik. I'm Maggie Greenfield. I have a
10 dual title. I serve both as the Bronx River
11 administrator for NYC Parks and also as executive
12 director of the Bronx River Alliance, which is a
13 nonprofit organization working in partnership with
14 local communities, businesses, and really all levels
15 of government to protect, improvement and restore the
16 Bronx River so that it can be a resource for the
17 communities through which it flows. I'm here today,
18 of course, in response to Local Law 181, which was
19 passed to prevent campaign finance violations and
20 echo the concerns of my colleagues that it's going to
21 have these unintended consequences of hampering our
22 successful private, ah, public-private partnership.
23 We are a small organization. We only have about a
24 1.5 million dollar operating budget, but we have
25 raised over 220 million dollars for capital

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2 improvements for environmental restoration and
3 waterfront park developments. But equally
4 importantly, we've really worked to transform the way
5 that New Yorkers view the Bronx River, from an
6 abandoned dumping ground into a cherished community
7 resource. Through our partnerships with NYC Parks
8 we've created 20 new acres of waterfront parkland.
9 We've built seven canoe and kayak launches. We've
10 engaged 16,000 volunteers and over 3000 educators and
11 16,000 students to use the river as an outdoor
12 classroom, and we brought out over 20,000 New Yorkers
13 on paddling adventures on New York City's only
14 freshwater river. So not only does Local Law 181 and
15 its amendment subject us to burdensome and invasive
16 reporting requirements, but much more importantly the
17 alliance and my colleagues have been defined as being
18 affiliated with an elected official, a label that
19 suggests that the mayor has substantial control over
20 our operations and our decision-making. This really
21 calls into question the independence of our
22 organizations and therefore would have that chilling
23 effect we've all been referring to in our ability to
24 raise private funds. I echo the concerns of my
25 colleagues and call for the council to clarify the

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2 definition of an affiliated nonprofit. In
3 determining substantial control Local Law 181 states
4 that the Conflicts of Interest Board should carefully
5 consider the totality of the circumstances of each of
6 our organizations. In the case of the Bronx River
7 Alliance, we are not controlled, or we were not
8 created by an elected official. We were formed by
9 local community activists working to reclaim the
10 river as a resource. Is our board chaired by an
11 elected official or agent? Are board members
12 appointed by an elected official and can these board
13 members be removed by an elected official? In our
14 case the answer is no to each of these questions. We
15 have an independent board of directors who are all
16 private citizens. The parks commissioner and local
17 council members whose district touch the river are ex
18 officio directors, but they actually have no vote on
19 our board. What's the degree of involvement by an
20 elected official in our policies, operations, and
21 activities? Well, the parks commissioner and council
22 members have no vote on the board, so they are
23 therefore unable to influence policy. And to what
24 degree, thank you, do public servants acting under
25 the authority or direction of an elected official or

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2 agent of the elected official perform duties on
3 behalf of the organization as part of their official
4 city employment? Well, I am a city employee and there
5 are other city parks employees on our staff, about
6 five out of a staff of 20. The alliance reimburses
7 New York City for half of my salary. That represents
8 our shared responsibility to restore the river. But
9 the board of directors of the alliance has the
10 authority to determine policy and the overall
11 direction of the Bronx River Alliance. At times this
12 has resulted in the alliance taking positions that
13 are contrary to those of the city, which really
14 demonstrates that this relationship with the city
15 does not prevent the alliance from taking independent
16 stances. What's the purpose of the Bronx River
17 Alliance? Our mission is to protect, improve, and
18 restore the Bronx River corridor so it can be a
19 healthy resource for the communities through which it
20 flows. There's no reading of this mission that would
21 include promotion of elected officials. We do,
22 however, work closely with the Parks Department on
23 capital projects, our programs and day-to-day
24 operations. That's the nature of a public-private
25 partnership. Because the law lacks a clear criteria

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2 for an affiliated organization that really examines
3 each circumstance closely, we have been determined to
4 be controlled by the mayor and that's just not the
5 case. We therefore ask the council to include
6 language, first of all, I'm pleased to hear the
7 direction of the conversation today to do this carve-
8 out for unrestricted organizations like ourselves, so
9 I think I'll just leave that as that, actually. But
10 we do just want to really echo what my colleagues
11 have said, that being listed an affiliated
12 organization would have a chilling effect on our
13 ability to raise private dollars that help supplement
14 the city's efforts to support, develop, and program
15 our public parks. As many here have said today, many
16 donors give because they see us as independent
17 entities and so being affiliated with an elected
18 official would be detrimental to our fundraising. So
19 thank you for the opportunity to testify today here
20 and thank you for your support of our parks and of
21 the Bronx River.

22 CHAIRPERSON MATTEO: Thank you. Thank
23 you, everyone, for your work throughout the city.
24 It's much appreciated and I know my colleague, Mark
25 Levine, wants to say a few words.

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2 COUNCIL MEMBER LEVINE: Thank you, Chair
3 Matteo. We've now heard from, I think, eight
4 different conservancies between the two panels. All
5 five boroughs have been represented. We've had some
6 very small nonprofits and some of the larger
7 conservancies, and you've all spoken very powerfully
8 in your own words in different ways, but a few themes
9 have come through. Clearly, the burden on all of you
10 from this conversation would be significant.
11 Clearly, none of you are engaged in any of the
12 political activities that are targeted by this
13 legislation. And one point, which I don't think we
14 brought up as much as we should have in our
15 questioning of COIB was the fact that this would also
16 impact the donors themselves, who understandably
17 didn't think they were signing up for disclosing
18 things about their family and other matters that they
19 would like to keep private, and as Consumer Benepe
20 noted, I'm not sure if he is still here, but, ah,
21 there he is tweeting, as always [laughter]. As
22 Commissioner Benepe noted, there's nothing
23 necessarily nefarious about wanting to be an
24 anonymous donor. In fact, since it's Hanukkah in the
25 Jewish faith, anonymous charity is considered a

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2 higher form of charity because it's not about you.
3 So there could be lots of good reasons for someone
4 wanting to be anonymous. And if you eliminate that
5 as an option you're probably going to lose some
6 donors. Again, there's no public interest in
7 understanding political forces at play here. Those
8 interests would trump anonymity in other contexts,
9 citizens united-related entities, etc. But that has
10 nothing at all to do with parks and services, so I'm
11 just validating your message, and thank you for
12 speaking out, and of course thank you for the work
13 you're doing for our wonderful green spaces every
14 single day. Thank you, Mr. Chair.

15 CHAIRPERSON MATTEO: Thank you. Thank
16 you. We have two more panels. We're going to call
17 up Susan Lerner and Alex Camarda. [pause] You guys
18 can start when you're ready.

19 ALEX CAMARDA: Good afternoon, Chair
20 Matteo, and members of the Standards and Ethics
21 Committee. My name is Alex Camarda. I'm the senior
22 policy advisor for Reinvent Albany. Reinvent Albany
23 is a government watchdog organization which advocates
24 for open and accountable government. Thank you for
25 holding this hearing today. I do want to say before

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2 I summarize my testimony, I think there is a degree
3 of confusion and even misinformation about Local Law
4 181 of 2016, at least as far as our interpretation
5 goes. It seems like many of the conservancies that
6 have come before you today are pointing the rules
7 that were promulgated by COIB in relationship to that
8 legislation. There on the bottom of page 3 of our
9 testimony, and there's a number of factors that COIB
10 applies to determine if a nonprofit is indeed
11 affiliated with an elected official. We think those
12 are reasonable factors, but it seems that many of the
13 conservancies that have come before you today are
14 really disagreeing with the application of the rules,
15 and so I think maybe those issues can be resolved
16 just through communications between COIB and the
17 nonprofits, or maybe clarifying what the totality of
18 the circumstances means for these particular set of
19 factors. But I don't think that necessarily means
20 that the law itself is flawed or that we need to
21 change it. The other thing I would point out is that
22 many of these conservancies and in fact many
23 government-affiliated nonprofits already have their
24 donors disclosed in broad ranges that are on the
25 Conflicts of Interest Board's website, and so what

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2 Local Law 181 does is actually provide specific
3 information as to who the donors are and the
4 particular amount of month they've given. But that
5 information is already available in ranges in
6 hundreds of pages, PDF, on COIB's website. So, and I
7 think as New Yorkers for Parks indicated, they are
8 providing some of this information already to the
9 agencies, which I then believe are disclosing it to
10 COIB. So the mechanism is in place. Some of t
11 things may need to be refined or worked through, but
12 I don't think under circumstance that donations that
13 are now being reported, at least in ranges, should
14 not be reported. We would certainly oppose that. So
15 let me just go back and talk generally about why
16 Reinvent Albany has focused on this, meaning
17 government-affiliated nonprofits, as an area that we
18 think needs to be more scrutinized by the City
19 Council, more regulated generally, even beyond Local
20 Law 181. So we do this work not only in New York
21 City but in New York State, and we also are connected
22 to many groups across the country in the open
23 government community, and I can tell you that the
24 growth of nonprofits linked or affiliated with
25 governments is a tremendous issue across the country

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2 and has been a source of corruption, including in New
3 York State. Some of you may have heard of Fort
4 Schuyler Management. Fort Schuyler Management is a
5 nonprofit affiliated with SUNY and it was the entity
6 that bid it out at the Buffalo Billion Project that
7 was the subject of a corruption trial earlier this
8 year and the conviction of Governor Cuomo's, some of
9 his senior officials. That project was bid out by an
10 entity that did not follow the open meetings law, did
11 not at the time follow the Freedom of Information
12 law, and part of the reason we believe that bid was
13 rigged was it wasn't subject to public scrutiny and
14 it was also not subject to agency procurement rules
15 that were followed by state agencies, namely the
16 comptroller's review of that contract before it was
17 executed. And these are problems unfortunately that
18 we see not only in New York State but across the
19 country. I was in, over Thanksgiving, in
20 Philadelphia where they arrested the mayor's
21 appointee to the Mayor's Fund in Philadelphia for
22 criminally using the nonprofit's funds for personal
23 use. And there are many examples like that across
24 the country. We also see with many economic
25 development entities they don't disclose their

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2 funding, they're the subject of litigation around
3 freedom of information and open meetings law. If you
4 talk to any open government group in states across
5 the country they will tell you that this is an
6 ongoing issue. And that's why we've really
7 recommended increased regulation and some of this we
8 think is very basis, starting with just providing a
9 listing for the city of all its affiliated nonprofits
10 and which agencies they're affiliated with. I think
11 the council would find it hard to actually identify
12 that list. We believe there's over a hundred, maybe
13 as many 200, city-affiliated nonprofits, but as you
14 heard today because the definitions are not clear and
15 the only existing definition I actually know of is in
16 the COIB rules, we don't actually know how many city-
17 affiliated nonprofits there really are. As I
18 indicated, many nonprofits are not clear about
19 whether they follow FOIA or the open meetings law.
20 Some do who are affiliated with the government, and
21 some claim they do not have to. When it comes to
22 spending there are city-affiliated nonprofits like
23 the Economic Development Corporation that does not
24 provide its spending information to Checkbook NYC and
25 the comptroller's office so you're unable to see how

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2 they're actually spending their money, which is
3 something obviously taxpayers would expect of a city
4 agency carrying out a similar purpose. As far as the
5 ethics requirements go, we would like to see
6 limitations on donations by those doing business with
7 the city to city-affiliated nonprofits, regardless of
8 whether they are affiliated with an elected official
9 or not. We don't think the limit would have been
10 four hundred dollars, as is it is for those that are
11 affiliated with elected official. We think it could
12 be some number potentially much higher than that.
13 But we think at the very least the donor should be
14 disclosed and if the companies or individuals are
15 doing business with the city and they're giving money
16 to a nonprofit that that should be restricted. I
17 will say that we have only looked very, very closely
18 at one nonprofit, which is the Fund for Public
19 Schools. I will say that Reinvent Albany is not
20 focused on the parks nonprofits. But when looking at
21 the Fund for Public Schools, we looked at their top
22 thirty donors. Nine of them were doing business with
23 the city, and when I say doing business with the
24 city, I mean they had millions of dollars in
25 contracts and had given hundreds of thousands,

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2 sometimes millions of dollars to that nonprofit, and
3 several of them had no interest whatsoever in
4 education based on the missions of their
5 organizations. They had pending contracts or issues
6 before city officials at the time they gave their
7 contributions. And so that's the kind of nexus that
8 we're concerned about. Thank you, and I'll close
9 there.

10 SUSAN LERNER: Thank you. I'm Susan
11 Lerner. I'm the executive director of Common Cause
12 New York, and I have a very short written testimony,
13 but there are some issues that have come up today
14 that I do want to talk about. We generally are
15 supportive of the purpose behind the original bill.
16 We do agree that the interpretation has created some
17 onerous requirements and we think that the disclosure
18 requirements should not be abolished. They should be
19 significantly simplified. But part of the problem is
20 that the city hasn't really done as much as it needs
21 to do in terms of requiring disclosures from the
22 target of the original legislation, which are elected
23 and appointed officials. Other jurisdictions,
24 California's, and within California, San Diego and
25 San Francisco, are the ones I'm familiar, require

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2 that the elected official who solicits for a
3 particular charity, whether it's affiliated or
4 unaffiliated, has to make a disclosure for any
5 contribution they solicit above five thousand
6 dollars. It could be to the Diabetes Society, it
7 could be to the Red Cross, ah, it could be to a parks
8 conservancy. And that gets, I think, even more
9 directly into the issue which was created by the
10 Campaign for One New York. But sitting and listening
11 to the testimony today reinforces for me a concern
12 that we at Common Cause have had as part of NY
13 Commons Project, and that is who is controlling
14 public lands which the city, which the public invests
15 in and counts on, and are we creating a system where
16 valuable public assets, which millions of people, as
17 has been pointed out, use actually have no influence
18 over. When you have a city government which controls
19 public assets there's a least a check at the ballot
20 box. I understand the financial pressures. But we
21 seem to have gone from one extreme to the other,
22 where there is only the government involved to a
23 situation where the government actually is more than
24 happy to hand over control over important assess and
25 determine how they will be used without the input of

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2 people who frankly don't have the money to sit on the
3 board. And we have countless instances of public-
4 private partnership in conflict with their
5 surrounding communities about how the public assets
6 which they control are going to be handled. The one
7 that comes to mind most readily is several years old,
8 but that has to do with a debate between the
9 Randall's Park Island Conservancy and the East Harlem
10 communities, where the entity that controls Randall's
11 Island wanted to restrict the use of the playing
12 fields during certain hours to only entities which
13 contributed and the community objected. It was quite
14 a fight, because there's no accountability on the
15 board. There's no transparency on the boards. So
16 that may not be an issue which necessarily this
17 committee should be taking up, but I agree totally
18 with Alex and Reinvent Albany that we need to have a
19 more general conversation to get the balance right,
20 so that there is more accountability and transparency
21 for these entities which are controlling extremely
22 valuable public assets and in some instances deciding
23 to give away or trade away control, public ownership
24 of those assets without a lot of oversight. So
25 that's an issue which I hope, when we're talking

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2 about land use in general we'll be able to address,
3 perhaps through the Charter Revision Commission, or
4 through another commission. But today I do believe
5 that the impetus behind the amendment is the proper
6 one in getting the balance right to be sure that the
7 disclosures are not horribly onerous and that they
8 are meaningful to the public is something which I
9 think we should be addressing. I think that the
10 amendment is, um, it perhaps requires too many
11 details. I'm open to the idea of withdrawing the
12 family disclosures, although as somebody who does the
13 research trying to figure out who the donors are and
14 what their motivations beyond altruism, because
15 often, let's be honest, it's not just altruism, is
16 often very challenging. The primary onus should be
17 on the elected officials, not on the organizations,
18 for many of the things that Common Cause advocates
19 should be disclosed we ourselves have to disclose.
20 The New York office right now is two people, so I'm
21 doing all the disclosures. I understand how onerous
22 they can be. So let's get the balance right and
23 let's think through what do people need to know, and
24 I would point out that while we were here I pulled up
25 the annual report for the parks conservancy to see

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2 how much of a problem anonymous donations are, and
3 for the hundreds, what seemed to be hundreds of
4 people listed on the annual report in categories of
5 giving there were twelve anonymous donations,
6 anonymous donors, that were listed. So there is a
7 balance, I think it's very helpful to consult with
8 the conservancies and get that balance right, but
9 we're not ready to jump to the idea that the
10 conservancies should be entirely exempted. Thank
11 you.

12 CHAIRPERSON MATTEO: Thank you. Thank
13 you both for your testimony. Council Member Levine?

14 COUNCIL MEMBER LEVINE: Thank you, Chair
15 Matteo. Well, it's great to see both of you. Susan,
16 if you go along with us on this, maybe we'll exempt
17 the good government groups from [laughter]...

18 SUSAN LERNER: I would never ask that.

19 COUNCIL MEMBER LEVINE: To save you and
20 your staff the time. I agree with most of what both
21 of you said. I wholeheartedly agree with the
22 concerns about the rise of these deeply affiliated
23 nonprofits, like the Fund for Public Schools. And
24 I'm always guided by two concerns - are people giving
25 to them to curry favor with the mayor or the relevant

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2 public official, and are these entities essentially
3 operating in a political arena. Maybe promoting an
4 elected official, etc. Those are the two concerns
5 that motivated us to act legislatively on the
6 Campaign for One New York and include, there are
7 other entities which because of one or both of those,
8 because of one or both of those concerns we also need
9 to ensure disclosure of, and I'm not looking to
10 weaken personally disclosure on any of those kinds of
11 entities. I said before and I repeat that I don't
12 think that parks conservancies under any conceivable
13 common sense rational analysis should be a concern
14 under either of those two counts and I did think I
15 heard Alex agree with that. You can clarify in a
16 second whether that was accurate, and Susan, I heard
17 you not agree with that. I will say that you spent
18 some time expressing concerns about use of public
19 space. That could be a topic for another hearing.
20 It's actually been the topic of many hearings. I
21 will say for the record that while there could be
22 some questions on the margin about access to ball
23 fields, etc., I really do want to endorse the
24 incredible benefit that conservancies have provided
25 to the city that have turned around public green

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2 spaces that were in terrible shape due to decades of
3 neglect and there's just no question that on balance
4 they are a great thing for the city and for these
5 green spaces. At any rate, I don't think that donor
6 disclosure has anything to do with the questions
7 about restrictions of access to public space, which
8 don't even apply with a lot of these conservancies,
9 and at any rate I'm not central to this. This is,
10 again, about influencing the mayor or political
11 activity, um, let me just, I'll give you a chance to
12 respond in a second. So I just don't think that's
13 even on the table regarding the legislation we're
14 talking about. To me, the question is whether there
15 is an adequate way to carve out parks conservancies
16 without also losing oversight over the fund for city
17 public, the Fund for the Public Schools type
18 entities, and I would be interested in getting your
19 smart thinking on that. Susan, you might not even
20 endorse that goal, but to the extent that, Alex, you
21 do, whether we can do that, get the conservancies out
22 from under this while aggressively going after the
23 entities that really do need to be under more
24 oversight.

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2 SUSAN LERNER: So I would like to say
3 that perhaps it is not within the jurisdiction of
4 this committee, although I think I could argue that
5 it is, that there really needs to be a third concern,
6 Council Member Levine. And that is that there may be
7 individuals and entities who are motivated not by
8 political purposes but by real business purposes.

9 COUNCIL MEMBER LEVINE: Absolutely.

10 SUSAN LERNER: And that is, that we have
11 in essence back-doored into that through...

12 COUNCIL MEMBER LEVINE: But that doesn't
13 apply to parks conservancies. It really doesn't.

14 SUSAN LERNER: Well, I think there are
15 some community activists who could pretty well argue
16 some instances where it seems that it does. But, you
17 know...

18 COUNCIL MEMBER LEVINE: Can you even
19 given me an example?

20 SUSAN LERNER: Well, I would say that,
21 ah, there's been a great deal of controversy around
22 allowing private developers to take over and control
23 partnership of the Brooklyn Bridge Park.

24 COUNCIL MEMBER LEVINE: I'm going to pass
25 this off to Chair Grodenchik, but, ah, I'd have to

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2 unpack what you're talking about there. I would be
3 shocked if people think they're getting political
4 favor giving to a conservancy. Many of them are
5 directly at odds with the mayor and many of their
6 board members don't, are not politically aligned with
7 the mayor, and others are simply entirely independent
8 and the mayor's probably unaware of who gives, or
9 anything about the operations of these entities.

10 SUSAN LERNER: Well, there were actually
11 other political, politicians who took strong
12 positions in favor or against giving away part of the
13 Brooklyn Bridge Park to condominium developments.
14 So, I mean, politics always enters into it in some
15 way, shape, or form because of the way in which land
16 use is done here. So in that regard what I'd like to
17 see are the disclosures streamlined and made as
18 simple and clear as possible, and that all
19 disclosures on the COIB website for these sorts of
20 information has to be machine readable and not in
21 PDFs. Because if you're not, if the government
22 entities are not going to do the correlations the way
23 the state is trying to do correlation with the
24 attorney general's Sunlight website, of correlating
25 who gives and who's getting contracts, and who has

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2 access to real estate, then at least the information
3 provided to the public has to be easy to deal with
4 and not just an endless series of thousands of PDFs
5 that we have to scrape down one by one by one.

6 ALEX CAMARDA: Yeah, I would echo that
7 comment. I mean, the part of this bill that we
8 really support and have called for, which is in our
9 recommendations, is just the open data nature of the
10 already, the disclosures that are already there and
11 the subsequent ones to come. I mean, I've actually
12 gone, done the painstaking task of going through the,
13 ah, those PDFs, at least for the Fund for Public
14 Schools, and it's very difficult to actually extract
15 who the donors are because they're filed in six-month
16 periods, and do that over a course of years and then
17 compare that to the Doing Business database and see
18 which ones have interests before the city. So all
19 that should be made easier. That's the part of this
20 bill that we support the most. To your question
21 regarding the parks nonprofits, I would say this.
22 Those weren't the nonprofits we were thinking of when
23 we have heard about these issues with nonprofits at
24 the state level, across the country. Many of them
25 are economic development entities. That's how the

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2 issue first came to us. And I would say that the
3 concerns raised today I thought were really about the
4 rule that the COIB promulgated and whether these
5 nonprofits should be considered affiliated or not.
6 So I think that would be the starting point under the
7 rule that's there, which we think is reasonable in
8 terms of the factors that COIB has laid out. Whether
9 those factors apply to the specific nonprofits that
10 seemed to say today they're independent and in fact
11 they're not. You know, they're not meeting that
12 criteria. I don't know who's right because I don't
13 know their organizations and I don't know how COIB is
14 applying it. But I think that's the starting point.

15 COUNCIL MEMBER LEVINE: But again, common
16 sense helps us understand the situation. The
17 conservancies are not controlled by the mayor.
18 They're not controlled. They're really as
19 independent as nonprofits can be, and maybe we need
20 to examine the standards that COIB set out, but my
21 question is whether there's a legislative fix here,
22 that since you seem to endorse carving out parks
23 nonprofits, is there a legislative solution?

24 ALEX CAMARDA: What I'm saying is I don't
25 think, I mean, I know now, from having looked at the

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2 COIB's website, that contributions by many of these
3 conservancies are disclosed. They're disclosed in
4 ranges that are pretty broad, and it seems that
5 they're disclosed by the city agency they're
6 affiliated with rather than the nonprofit. I
7 wouldn't want to see any, ah, anything less than
8 what's currently being done.

9 SUSAN LERNER: We really want to put the
10 onus on the agencies, much more than the private
11 entities, to be sure that the disclosures are correct
12 and usable by the public, and I don't want to create
13 the impression that somehow or other Common Cause is
14 against conservancies or public-private partnerships.
15 But we've got to get the balance right.

16 CHAIRPERSON MATTEO: Council Member
17 Grodenchik.

18 COUNCIL MEMBER GRODENCHIK: Thank you Ms.
19 Lerner and Mr. Camardo for being here today. I just
20 want to state for the record a couple of things, just
21 in response to what you testified. No parkland has
22 been given away. As you know, as you probably know,
23 it would take an act of the state legislature with
24 the governor's signature to do that. I do share your
25 concerns and we recently held a hearing about joint-

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2 operated playgrounds, especially with regard to Marx
3 Brothers Playground. But there are over 265, I
4 think, depending on how you count, joint-operated
5 playgrounds, and it's one thing if we build a New
6 York City public school on them. It's another thing
7 if we're building, you know, the tallest tower
8 between 96th Street and Boston. So that's a big
9 difference, in my viewpoint, and I think most of my
10 colleagues and most people would share that. I am
11 very concerned as the Parks chair, and as a New
12 Yorker, about the damage that might be done to
13 conservancies. As you heard the testimony from the
14 COIB, my colleagues from the conservancies
15 themselves, there has never been, thankfully, a hint
16 of scandal in any way, shape, or form regarding
17 hundreds and hundreds of millions and I think it's
18 probably in excess of a billion dollars that has been
19 raised by these organizations. We do remember what
20 our major parks looked like before conservancies and
21 I for one do not want to revisit that in my lifetime
22 or beyond my lifetime, and I agree with you that we
23 need to take necessary and prudent steps. But I also
24 think in balance that the conservancies are being
25 punished for something that they haven't done. So we

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2 have to find the bad actors. There certainly are,
3 without pointing fingers, but not in New York City
4 parks, and we work very closely with Commissioner
5 Silver, who has done an excellent job with his
6 borough commissioners and all those things, and I
7 have visited, I think, I'm closing in on a hundred
8 parks now in two-thirds of the districts, and many of
9 them operated by conservancies and just, they're
10 doing a wonderful job. So that has to be kept also,
11 in my mind at least, at the forefront. Obviously we
12 want to be as transparent as possible. But I think
13 that there are things in place already, and you heard
14 the Conflicts of Interest Board testified today that
15 they would support a carve-out in this case. I'm
16 also available to you if you'd like to meet with me.
17 I've met with dozens and dozens and dozens of groups,
18 some of them a dozen times, with regard to our parks
19 and just to put in balance, you know, the parks
20 budget, which Ms. Kelly testified about before, is
21 slightly over half a billion dollars a year. So if
22 you do the math there is a very substantial portion
23 of funding that comes into our New York City parks,
24 which are open for everybody to enjoy, Central Park
25 being a world-famous park, but at least 17 of them

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2 are raising a million dollars a year which would
3 otherwise not come into our park system. So I'm all
4 in favor of striking a balance and I appreciate very,
5 very much your testimony. I look forward to meeting
6 with you about this privately. Call my office, I
7 don't run my life so if you want to meet with me
8 please call my office and they'll set that up. Thank
9 you, Mr. Chairman.

10 CHAIRPERSON MATTEO: That's good to know,
11 Council Member Grodenchik. [laughter] Thank you both
12 for your testimony. Our last panel, last but
13 certainly not least, Katie Horowitz, Hope Cohen,
14 Pamela Pettyjohn, and Christina Taylor. [pause] Go
15 ahead, you could start.

16 All right, thank you. Am I on? OK.
17 Good afternoon Chair Matteo, Chair Grodenchik, and
18 everyone here today, and you, thank you. I'm Katie
19 Denny Horowitz, and I'm the director of external
20 affairs at Socrates Sculpture Park, located in Long
21 Island City, Queens. I want to thank everyone for
22 allowing me to come speak today. Like many other
23 parks conservancies here today, we are a 501(c)(3)
24 nonprofit. We maintain a lease agreement with the
25 City of New York with the Parks Department, and

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2 unlike many other parks conservancies here today, we
3 are primarily a visual arts organization. Socrates
4 is considered a cultural anchor in Queens. We serve
5 over 200,000 people a year. Socrates was a landfill
6 site, about five acres on the waterfront of Long
7 Island City until 1986. Shortly after the Central
8 Park Conservancy was created an artist named Mark di
9 Suvero and community members in Long Island City,
10 Queens, came to clean up the five-acre site and make
11 it into a public park for use of the community.
12 Commissioner Silver does sit ex officio on our board,
13 15 of whom are artists, architects, local business
14 members. I'd like to point out that half of our
15 board is living or working in our community. We
16 became a 501(c)(3) in 1992. Our first exhibition
17 opened earlier than in 1986, and we became official
18 parkland in 1993. We're open every day from 9:00
19 a.m. to dusk and in the last 30 years we've
20 commissioned over 1200 artists. We've presented over
21 80 exhibitions and we serve about 8000 teenagers and
22 children a year in our arts education programming.
23 On top of that, we do site-specific dance. We have a
24 popular international cinema festival. We present
25 opera, Shakespeare. We do kayaking. We do yoga.

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2 And we have a green market and have a healthy living
3 program. As a tax-exempt organization we raise
4 approximately 1.4 million dollars every year. A
5 hundred percent of that supports the maintenance,
6 administration, and programming of the waterfront
7 park and a hundred percent of our funding is raised
8 privately by Socrates. Every problem at Socrates is
9 free of charge, and more than 80% of our income comes
10 from private individuals, foundations, and businesses
11 who share our core value, that access to green space,
12 the waterfront, and the arts should be open to all.
13 Our elected officials are also supportive of this,
14 and this current fiscal year we received ten thousand
15 dollars from our local council members and borough
16 president, which makes up 0.07% of our annual budget.
17 As we close out our fiscal year, I'm pleased to
18 report that we raised nearly \$300,000 from more than
19 one hundred individuals, with an average contribution
20 of two hundred thousand dollars, ah [laughter] of two
21 thousand dollars. For a nonprofit organization like
22 ours, cultivating, identifying, and managing
23 individual donors is a significant aspect, especially
24 a nonprofit that develops and delivers exclusively
25 free programming. Should a modest organization like

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2 Socrates Sculpture Park be required to comply with
3 the stipulations we've all talked about today, I
4 agree with my parks colleagues from earlier that such
5 requirements could put much of this critical support
6 at risk. It would place an undue, if not nearly
7 impossible, burden on an already over-capacity staff.
8 We have a staff of six people. And it would confuse,
9 or worse, jeopardize our donor relationships by
10 introducing new demands on our individual
11 contributors. Socrates wholeheartedly supports
12 amending Local Law 181 and, again, like my
13 colleagues, I'm pleased to hear that there is
14 direction in moving toward exempting nonprofit parks
15 conservancies. So that you can clearly more define
16 your target organizations, so as not to
17 unintentionally cause harm and put fundraising
18 efforts at risk for broad and diverse array of
19 nonprofits that make our city vibrant. Thank you
20 very much.

21 PAMELA PETTYJOHN: Good afternoon and
22 thank you very much, Chair Matteo and Councilman
23 Grodenchik. My name is Pamela Pettyjohn. I'm the
24 president and founder of Coney Island Beautification
25 Project. Coney Island Beautification Project is

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2 comprised of Coney Island residents, advocates of our
3 mission, beautification through organization,
4 education, advocacy, greening, sustainability,
5 resiliency, of our public spaces and waterways. We
6 are grateful for the funding of our councilman, Mark
7 Treyger, and New York City Discretionary Fund. Our
8 initial inclination is to support government
9 transparency. But under the reconsidered law these
10 reporting necessities are tremendously daunting and
11 overbearing to our small organization, such as ours.
12 To vet possible donor and especially their family and
13 their children, seems overreaching. To request such
14 requirements will be humiliating, which when
15 soliciting funds, therefore limiting aid from
16 potential funders. Please do not handicap our
17 fundraising efforts by strangling us with these
18 onerous conditions, and I just wanted to say that
19 we're not a part of a conservancy. But we would love
20 to be a part of a conservancy. [laughter]

21 Good afternoon, Chairman Matteo, Parks
22 Committee Chairman Grodenchik. I'm Hope Cohen, chief
23 operating officer of the Battery Conservancy, which
24 in partnership with the New York City Department of
25 Parks and Recreation maintains, operates, and

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2 enlivens the Battery, New York City's birthplace park
3 at the southern tip of Manhattan. Thank you for the
4 opportunity to comment on these proposed amendments
5 to Local Law 181. The draft aims to correct a
6 problem with the drafting the Conflicts of Interest
7 Board has been interpreting. I'm happy to hear today
8 that they may stop interpreting Chapter 9 as applying
9 to nonprofit partners of city agencies, notably, but
10 not exclusively, parks conservancies. At my, as my
11 colleagues and other conservancies have testified,
12 the Battery Conservancy is neither controlled nor
13 affiliated, neither controlled by nor affiliated with
14 any agent of any elected official in the City of New
15 York. In fact, as a conservancy for a park that has
16 multiple overlapping jurisdictions we have ex officio
17 board members from three levels of government and two
18 of those are from the City of New York through the
19 administration of the Parks Department. Two others
20 are from other elected officials, namely the City
21 Council and the borough president, and then we have
22 ex officio representatives of the state parks and the
23 national parks, and they are all outnumbered by
24 private, ah, private citizen board trustees. They
25 can never, the whole group of them, can never outvote

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2 the private members, and certainly the New York City
3 members cannot outvote the private members. No way,
4 shape, or form is our organization controlled by or
5 affiliated with the governing organizations of the
6 City of New York. And I think that the first thing
7 that needs to be done, as so many of my colleagues
8 today have expressed, is a clarification and
9 definition of affiliated controlled. It is clear to
10 me, as it is to my colleagues, that when that is
11 appropriately defined none of us fall under this
12 legislation. Second - the reporting requirements for
13 organizations that are appropriately ruled by Chapter
14 9 are extremely burdensome for us to fulfill. That
15 is, if we were, if we were appropriately covered by
16 this legislation it would be burdensome. The fact
17 that we are not controlled by a government
18 organization makes it not only burdensome but frankly
19 ridiculous. We appreciate the proposed legislation
20 increase the dollar amount threshold, but it still
21 captures too large a proportion of our donors. We
22 have a single employee responsible for managing donor
23 information and simply cannot take on this
24 administrative work without impacting our ability to
25 raise funds for our mission to welcome the public to

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2 a well-maintained park. And here I need to address
3 one of the other comments at previous testimony, we
4 do not control the park. We operate and maintain it
5 in partnership with the City of New York. Control
6 has to do with policy setting for the use of public
7 land. There is no question that our park and every
8 public park in the City of New York has its policies
9 determined by the City of New York. We work in
10 partnership with them to make those parks more
11 beautiful, more programmed, but we do not control the
12 use of a public space. And I can say about my park
13 that we are, we operate, are open to the public
14 although our official hours are 19 out of the 24
15 hours a day the practical reality of our park is that
16 it is open to the public all the time as a commuter
17 hub and an international destination. Third - the
18 requirement for disclosure of donor family
19 relationships is invasive of donor privacy and will
20 doubtless discourage those who would otherwise give.
21 Together, the new reporting requirements would
22 significantly decrease the ability of nonprofits,
23 like the Battery Conservancy, to serve the park,
24 city, and people by redirecting precious donations,
25 resources, to this new reporting, discouraging donors

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2 who want their gifts to support the mission of a
3 nonprofit rather than administrative overhead, which
4 is what we're talking about, it's overhead, and
5 discouraging donors who wish to protect the privacy
6 of their family relations. We hope that you will
7 agree that the Battery Conservancy and our colleagues
8 today partner with the city independently of
9 government control. We labor to raise every cent,
10 and I believe these precious resources must be
11 dedicated to the work we do to deliver services to
12 New Yorkers.

13 Good afternoon. I'm Christina Taylor.
14 I'm the executive director for the Friends of Van
15 Cortlandt Park. Thank you for allowing me to testify
16 today. At this point, I honestly don't know if we
17 are going to be required to do this or not. I didn't
18 receive a letter until last week when I called the
19 Conflicts of Interest Board because I wanted to find
20 out more about this hearing and what was going on,
21 and apparently that put us on their radar, so I
22 immediately got a letter. So we are going to be,
23 yeah, exactly [laughs], sometimes ignorance is bliss.
24 So we will be responding this week and I'm hoping
25 they agree with us that we do not fall under this,

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2 but even if they say we don't we stand with our
3 colleagues today to say that parks conservancies and
4 friends of groups should not be required, and I like
5 the way the conversation is leaning about the
6 possibility of carving us out of this requirement,
7 because the requirement for donors to provide such
8 information as, you know, who their family members
9 are so we can check to see if they're doing business
10 with the city isn't overreach and likely to have a
11 terrible impact on donations that our organizations
12 receive. The law should be limited to nonprofits
13 that are actually controlled or strongly influenced
14 by the city, city officials, and donors that give
15 very substantial sums of money to an organization,
16 either a set percentage of a budget or a very high
17 dollar amount. The Friends of Van Cortlandt Park is
18 the leading fundraising organization for Van
19 Cortlandt Park, the third-largest park in New York
20 City. We carry out vital environmental education and
21 restoration enhancement of the park, its forest and
22 trails. We have become the park's primary free
23 educational organization, doing programs for six
24 thousand children and adults each year. We're a
25 small organization with only four full-time staff

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2 members and a budget under five-hundred thousand
3 dollars. We work really hard to make sure that as
4 much of our time and effort can go into the park as
5 possible, which is why I'm the only staff member who
6 spends the majority of the time not in the park and
7 doing paperwork like this. As it's currently
8 written, and as the Conflicts of Interest Board is
9 interpreting it, it would require a burdensome amount
10 of my time collecting information from our donors,
11 who would be reluctant to give it in the first place,
12 rather than spending time raising additional dollars
13 that are sorely needed for our park. Furthermore,
14 donors have already expressed their concerns to us
15 that we, and we feel that several donors will also
16 decrease their donation amounts to whatever is under
17 the reporting requirement. The mere presence of a
18 few government officials on a board of directors
19 serving as ex officio board members in no way means
20 that an organization is under control of that person
21 or group of persons. We have a significant ex
22 officio board with elected officials such as our
23 councilman and appointees such as the Bronx borough
24 commissioner. And we have one government official on
25 our regular board of directors who is a city

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2 employee. That's basically all she is. And
3 routinely takes, but we routinely take odds with the
4 city. We've actually sued the city. While we
5 understand that there are limited groups of
6 nonprofits that are formed by elected officials or
7 directly affiliated with them, parks conservancies
8 and friends groups do not fall in that category. If
9 the council insists that requirement remain, the
10 trigger amount must be increased to capture only the
11 highest-level donors, such as twenty-five thousand
12 dollars per year, or a percentage of an
13 organization's budget. Please allow groups like ours
14 to continue to support our local parks and not spend
15 more time checking off boxes and doing additional
16 paperwork to meet new requirements. We already spend
17 enough time doing its. The Friends of Van Cortlandt
18 Park wish to continue to spend as much time as
19 possible bringing youth, community, and nature
20 together in our park. Thank you.

21 CHAIRPERSON MATTEO: Thank you all for
22 your testimony. Council Member Grodenchik has a
23 question.

24 COUNCIL MEMBER GRODENCHIK: Thank you,
25 Chair, again. Thank you. First, let me thank you

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2 again for spending all this time on this hearing
3 today. I don't get too much legislation before my
4 committee, although we'll probably hold a hearing
5 soon on some of the things that people would like to
6 see done in Parks. But I really want to thank Chair
7 Matteo for his time today and recognizing how
8 important an issue this is for the over 30,000 acres
9 of parkland in the City of New York. I want to thank
10 you all for being here today. My first park I
11 visited as chair was Van Cortlandt. I can tell you a
12 great story about how your park was formed, off the
13 record, and I have a question, it's all good, all
14 good, um, I have a question and, ah, for Ms. Cohen,
15 though. Have you estimated how much this would cost
16 you and can you tell me first what your budget is,
17 approximately?

18 HOPE COHEN: Our budget is approximately
19 2.3 million dollars, our operating budget. We have
20 no public money. It is entirely private donations,
21 including some grants. I would like to note at this
22 point since there was some discussion about
23 transparency in reporting that all of us today, as
24 far as I know, and certainly we as 501(c)(3)

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2 nonprofits are required to file a Form 990 with the
3 IRS...

4 COUNCIL MEMBER GRODENCHIK: That's very
5 helpful for people like me.

6 HOPE COHEN: OK, and so you know the
7 extent of, ah, disclosure that is required for that
8 report. There was some discussion before about the
9 reporting that is already required for the COIB and
10 that is, all of it is onerous. That is less onerous
11 because it is ranges, um, we do it, I think it's
12 twice a year. What we are talking about here is not
13 ranges, but every individual donation. That us, you
14 know, a factor of probably a hundred over the level
15 that we, the level of **granular** level that we report
16 now.

17 COUNCIL MEMBER GRODENCHIK: And have you
18 thought about what this would cost you, your budget
19 is 2.3 million?

20 HOPE COHEN: I would have to hire an
21 employee to do this.

22 COUNCIL MEMBER GRODENCHIK: So you'd have
23 to hire.

24 HOPE COHEN: Yeah.
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COUNCIL MEMBER GRODENCHIK: So you're talking at least fifty thousand dollars, is that reasonable?

HOPE COHEN: Yeah, when you count in benefits, yes.

COUNCIL MEMBER GRODENCHIK: OK, so more than 1% of your entire budget would go to, maybe 2%, would go just to filling out this...

HOPE COHEN: That's right.

COUNCIL MEMBER GRODENCHIK: Right, these forms.

HOPE COHEN: And that, of course, means that, you know, either we manage to find fifty thousand dollars in a new donor, and of course donors really don't want to...

COUNCIL MEMBER GRODENCHIK: Don't look over here, but yes.

HOPE COHEN: Donors don't really want their money to go into administrative overhead.

COUNCIL MEMBER GRODENCHIK: Ah, no. No, we don't, we always look for...

HOPE COHEN: Or we would have to, you know, cut our operational capacity.

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COUNCIL MEMBER GRODENCHIK: Well, thank you for your testimony. Thank you, really all of you, for being here today. This has been very instructive to me and I know to the members of the committee and I have heard your voice, loud and clear. I also want to thank, of course, COIB for their testimony as well, and again, thank you Mr. Chairman for indulging me with all my questions today and for this very important legislation.

CHAIRPERSON MATTEO: Thank you. Thank you, Council Member Grodenchik, for being here throughout hearing. Thank you, COIB, for your testimony, for everyone for attending. Hearings like this take a lot of staff work, so I want to thank our legislative team, especially Brad Reed and our sergeant of arms, our technician team, and everyone who helped make this hearing a success, and thank you all for attending, and we are closing the hearing now. [gavel]

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 December 31, 2018