

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON ENVIRONMENTAL
PROTECTION & WATERFRONTS

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HELD AT: 250 Broadway-8th Fl.- Hearing Rm. 1

B E F O R E: James F. Gennaro
Chairperson

COUNCIL MEMBERS:
Harvey D. Epstein
Kamillah Hanks
Lincoln Restler
Justin E. Sanchez

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

Beth DeFalco
Department of Environmental Protection Deputy
Commissioner for Public Affairs

Mark Focht
Parks Department Acting First Deputy Commissioner

Jonathan Hoffman
Department of Environmental Protection Assistant
Commissioner for Planning

Renaldo Hylton
Department of Buildings Assistant Commissioner
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Em Ruby
Riverkeeper

Kathy Nizzari
Lights Out Coalition

Margaret Lee
Lights Out Coalition

Tina Pina

Michelle Luebke
SWIM Coalition

Juliet Hanlon

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3 CHAIRPERSON GENNARO: Do you guys have to
do something before we can go?

4 SERGEANT AT ARMS: Good afternoon. Good
5 afternoon. Welcome to the New York City Council
6 hearing on the Committee on Environmental Protection
7 and Waterfronts. At this time, please silence all
8 electronics, and do not approach the dais. Thank you
for your cooperation. Chair, you may begin.

9 CHAIRPERSON GENNARO: Yes, thank you.
10 [gavel] Good afternoon. I'm Council Member Jim
11 Gennaro, Chair of the Committee on Environmental
12 Protection, Resiliency and Waterfronts. That's not
13 our name is it? Not any more. Let me say that
14 again. I'm Council Member Jim Gennaro, Chair of the
15 Committee on Environmental Protection and
16 Waterfronts. Today, we'll be hearing Intro 730A,
17 sponsored by myself, in relation to water quality
18 testing at city waterfronts and the posting of
19 results online. Also, Intro 795 sponsored by Council
20 Member Sandy Nurse in relation to the installation of
21 outdoor drinking fountains in parks and other public
places. Also, Intro 804 sponsored by my colleague
Council Member Phil Wong to my left in relation to

2 light pollution, but I'll let him talk about his own
3 bill. He'll be more eloquent than I will be on his
4 own work. And Reso- also hearing Reso. 351 sponsored
5 by Council Member Harvey Epstein, who's a member of
6 this committee, recognizing the contributions of the
7 federal Endangered Species Act to the natural
8 environment of New York City. While New York Harbor
9 is cleaner than it has been in 100 years- on the
10 radio that you can pull- you can take striped bass
11 out of the lower Hudson now. Okay. While New York
12 Harbor is cleaner than its been in 100 years, as
13 flooding increases in frequency and severity, so does
14 exposure from contaminants from combined sewer over
15 flows, or CSOs, in New York City Harbor waters.
16 Also, rising temperatures accelerate the growth and
17 spread of bacterial pathogens and harmful algal
18 blooms that can cause a range of illnesses and
19 disrupt ecosystems. Currently, the New York City
20 Department of Health and Mental Hygiene engages- and
21 we're thankful for this- regular water testing for
bacteria that are associated with the presence of
fecal matter, floatable debris, toxic contaminants,
petroleum products, and sewer and wastewater
discharge following heavy rainfall. While DEP tests

1 84 sites within the New York City Harbor for
2 dissolved oxygen and nitrogen, monitoring long-term
3 trends in aquatic ecosystem health. Finally, Parks
4 works with the state to monitor water bodies for
5 harmful algal blooms. While these programs, meaning
6 the testing programs, ensure robust water quality
7 testing, some reports in recent years have raised
8 questions about the efficacy of the city's testing
9 program. My bill would require DEP in consultation
10 with Parks and the Health Department to conduct
11 additional testing of water bodies abutting New York
12 City recreational waterfronts at least once a week in
13 July and August of each year, and monthly during the
14 rest of the year concerning levels of harmful
15 substances like harmful algal blooms and petroleum.
16 It would also require DEP to post test results on its
17 website within three days of each testing. Now, so
18 there's a lot of testing going on, but we think, I
19 think, we think, the Council thinks that there are
20 some gaps that we can fill in a reasonable way to
21 provide more testing coverage and more information
for people who swim in the swimmable parts of, you
know, New York City recreational areas and for, you
know, secondary areas like boating- secondary uses

2 like boating and that kind of thing. We're just
3 looking for a, you know, more full coverage like when
4 it comes to testing, and we're going to have some,
5 you know, debate about that. I don't think DEP is
6 going to be crazy about it. I think some of the
7 advocates are. And so, we're going to have some fun
8 today. Next Intro, Intro 795 would require Parks to
9 install, replace, or upgrade 500 outdoor drinking
10 fountains by 2035. This is Sandy Nurse's bill. Such
11 fountains would be required to have bottle filling
12 stations and be accessible to people with
13 disabilities. Additionally, Parks would be required
14 to report the locations of the 500 fountains and
15 assess the feasibility of year-round outdoor drinking
16 fountains. That's going to be tricky given the
17 temperature, but let's take a look. DEP in
18 consultation with the Department of Transportation
19 would be required to install 10 new outdoor drinking
20 fountains in public places other than parks within
21 communities that are underserved by publicly
accessible drinking fountains. That's that intro.
And oh, Intro 804, that's the Phil Wong bill. He's
going to talk about that, so I don't have to do that.
Finally, Reso. 351 would recognize the contributions

2 of- what is that? Oh, alright- of the Endangered
3 Species Act. it just ESA in here, like as if I'm, you
4 know, Mr. Quick when it comes to the acronyms. So,
5 that's our hearing. I don't think anybody will be
6 disappointed. So, I'd like to thank the committee
7 staff, Legislative Counsels Natasha Bynum [sp?], all
8 the way to my right, Sierra Townsend [sp?] to my
9 immediate right, Policy Analyst Ricky Chawla [sp?]
10 -- great guy- Financial Analyst Tanveer Singh [sp?]
11 -- great as well. As well as my Legislative Director
12 Josh Gachette [sp?], super great. I'm throwing out
13 the accolades today. It's Easter. It's Passover,
14 we're going to accolade ourselves into spiritual
15 harmony here. And also going to recognize a former
16 staff member of mine, Shams Tarek [sp?], who's
17 upgrading the world, who runs Albany for DEP, runs
18 the place, which is great. And we're joined by
19 Council Member Wong, Council Member Hanks, and I'm
20 going to- now, to tell us about his bill, I'm going
21 to recognize Council Member Phil Wong who is- who
represents a district right next to me. So we're
neighbors, partners, friends, and we sit next to each
other. Figure that out. Our districts are next to
each other. We sit next to each other. So, there
you go.

2 So, that's a connection. And so, Phil, you're on.
3 It's my pleasure to recognize you.

4 COUNCIL MEMBER WONG: Thank you, Chair.
5 Good afternoon, everyone. Today, we are considering
6 one of my bills which will through a simple legal
7 change drastically improve the quality of life of
8 millions of New Yorkers. This bill, Intro 804, will
9 make it illegal to have outdoor illumination greater
10 than 3,000 lumens in a residential district, unless
11 the lighting is fully shielded. Many of us know
12 what's it's like to have a neighbor who recklessly
13 attach a garage or building spot or flood light that
14 when on keeps us or our children awake, and reduces
15 our quality of life. This bill is not intended to
16 remove people's right to keep their property lit to
17 ensure safety or security, nor to place an undue
18 enforcement burden on the city. We want to give our
19 residents the opportunity to get something done when
20 light harms their quality of life. I know the
21 administration has concerns, especially around the
units, locks versus lumens, or the time need to roll
out the bill, and exactly who to enforce- do the
enforcements. I am amenable to these changes and
know we can produce a bill that makes it possible for

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2 this city to continue consistent enforcement across
3 the city and for residents to get relief. Thank you,
4 Chair Gennaro for hearing this bill, the Council
5 staff working hard on this bill, and to the
6 administration for coming out today with an open mind
7 ready to improve the city. Thank you.

8 CHAIRPERSON GENNARO: Thank you, Council
9 Member Wong. I appreciate you putting your bill
10 forward, and we're happy to hear it. And we have
11 Council Member Restler who's here as well. It's good
12 to have Lincoln. Ready to mix it up, Lincoln is. Oh
13 yeah. And so- and I don't need my opening statement
14 anymore. And what do I have? I've got my questions,
15 but we got testimony here right? This is DEP's
16 testimony with the big font. Thank you. And we have
17 Parks. Oh, this is the regular font for DEP. and we
18 have Parks here, too, yeah. Okay, what are we doing
19 now. You're doing your thing, right? Okay. Yep.

20 COMMITTEE COUNSEL: Alright, if you could
21 please raise your right hands? Do you affirm to tell
the truth, the whole truth and nothing but the truth
before this committee and to respond honestly to
Council Member questions? Thank you. And if you

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2 could just say your name and your title before you
3 begin. Thank you.

4 CHAIRPERSON GENNARO: Thank you very much
5 for being here, and whichever order you wish, proceed
6 with your good testimony.

7 DEPUTY COMMISSIONER DEFALCO: Good
8 afternoon, Chair Gennaro and members of the
9 Committee. I'm Beth DeFalco, Deputy Commissioner for
10 Public Affairs at DEP. Thank you for the opportunity
11 to be here today to discuss Intros 730A, 804, and
12 795. I'll take them in turn. Intro 730A is rooted
13 in the shared priority, making sure New Yorkers have
14 clear, timely information about water quality. There
15 are a lot of reasons and ways to monitor and to
16 receive timely information about what exactly is in
17 our local waters. First and foremost is human
18 health. The presence of bacteria from fecal matter,
19 whether from storm runoff or untreated sewerage, and
20 certain kinds of algae are potentially harmful to
21 human health when people come into direct contact
with water. Ecological health is another reason for
robust water quality programs. The presence of
excessive nitrogen or low oxygen levels or excessive
amounts of certain algae can be harmful to plants and

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2 creatures that live in our water bodies and that are
3 essential for a balanced ecosystem. Finally, not
4 only are clean beautiful water bodies a sign of a
5 healthy environment, but we also recognize that there
6 are important quality of life reasons to work toward
7 that goal. Good water clarity is key to attracting
8 people to our waterfronts and for the promotion of
9 recreational activity where appropriate such as
10 boating and site seeing. Recreation, as we know, is
11 vitally important for maintaining vibrant, desirable
12 communities where people want to visit, live and
13 work. We look forward to arriving at legislation
14 that accomplishes our shared goals of not just
15 keeping the public informed and making sure that our
16 local waters are as healthy, clean and as beautiful
17 as possible. Regarding Intro 808 about light
18 pollution: Intro 80-

19 CHAIRPERSON GENARO: [interposing] 804.

20 DEPUTY COMMISSIONER DEFALCO: 804, pardon
21 me, 804. Intro 804 takes on an important issue,
light pollution, and we support the goal of reducing
unnecessary light in residential areas, particularly
given the impacts of quality of life and public
health. That said, we believe the bill needs more

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2 clarity to be implementable. Right now, there are
3 key terms that aren't defined such as "other
4 lighting." It's also unclear whether the bill
5 applies strictly to residential zones or extends into
6 mixed use areas, which is a big distinction in New
7 York City. There are also practical questions. The
8 bill sets a 3,000 lumen limit, but doesn't specify
9 how that's measured, whether it's by fixture or by
10 bulb, from what distance, from what direction, and it
11 doesn't address ambient light. In the City of New
12 York, that can be very significant. Just as
13 importantly, the bill doesn't identify which agency
14 would enforce this policy or how it would be paid
15 for. This is not work that any city agency currently
16 does. While we don't believe that the bill is
17 enforceable as it stands now, as always, we're happy
18 to work with the Council to help tighten the bill so
19 it can achieve the goals in a clear and enforceable
20 way. Regarding Intro 795: This speaks to something
21 that we strongly agree with, making sure that New
Yorkers have access to clean, free drinking water.
However, DEP does have some concerns regarding the
responsibilities and scope of this bill as it's
assigned to this agency regarding the 10 drinking

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2 fountains. DEP doesn't install or maintain any
3 drinking fountains. It's simply not part of our
4 operational scope, and it's not something that we're
5 well-suited to take on. In a non-park public place,
6 fountains are typically installed and maintained by
7 other entities, often private partners, and DEP does
8 not have a role in those arrangements. The bill also
9 doesn't address ongoing maintenance which is
10 critical. Installing a fountain is one thing.
11 Keeping it clean, functional, and safe over time such
12 that it would actually be used and served its
13 intended purposes is where the real enduring work is.
14 So, from our perspective, the bill needs clear
15 assignment between its goals and the entities
16 best-positioned to deliver on it, along with clarity
17 on long-term responsibility. We're committed to
18 supporting the Council's goals here, and we're ready
19 to help shape a path that works. Thank you again for
20 the opportunity to testify and your continued
21 partnership. We look forward to working on these.

CHAIRPERSON GENNARO: Thank you. Sure, I
just want to thank Beth, and please proceed with your
testimony.

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3 FIRST DEPUTY COMMISSIONER FOCHT: Thank
4 you. Good afternoon, Chair Gennaro, members of the
5 Environmental Protection and Waterfront Committee and
6 members of City Council. I'm Mark Focht. I'm Acting
7 First Deputy Commissioner of New York City Parks.
8 Thank you for having us here today alongside our
9 partners at DEP to discuss Intro 975 which would
10 require New York City Parks to install, replace or
11 upgrade 500 outdoor drinking fountains in various
12 parks over the next nine years, with 300 required to
13 take place in the next five years. NYC Parks
14 maintains over 3,400 exterior drinking fountains
15 throughout our parks and playgrounds, making us far
16 and away the largest provider of clean drinking water
17 for New Yorkers, and our dedicated staff works
18 extremely hard to keep them in good working order. As
19 a general practice, we incorporate new and
20 replacement water fountains into the design of nearly
21 all of our Parks renovation capital projects, making
sure they are thoughtfully located to best serve park
visitors, whether it's used by kids at playgrounds or
a jogger taking a break. In advance of every winter,
the majority of those outdoor drinking fountains need
to be winterized, meaning manually drained and

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2 deactivated by our dedicated trade staff to avoid
3 damage to the subsurface infrastructure from freezing
4 pipes. As we speak, those same trades are in the
5 process of reactivating our thousands of water
6 features throughout the park system, including our
7 drinking fountains, to make sure that New Yorkers can
8 enjoy them as the temperatures rise. Whenever new or
9 upgraded drinking fountains are installed as part of
10 larger Parks capital projects, depending on the
11 individual site needs and project budget, we install
12 both ADA-compliant drinking fountains and bottle
13 fillers to sites when feasible. As a general
14 practice, our park's water fountains are located near
15 well use features and amenities within parks such a
16 children's play area, seating areas, or athletic
17 fields and ports to make sure the fountains are
18 available where park users need them most. There are
19 several different standard models we utilize for
20 drinking fountains in parks, running from high-low
21 drinking fountains which offer access of two
different heights to standalone down-flowing bottle
fillers, some of which include an additional spigot
and bowl at the base for dog owners to utilize. We
are very committed to increasing the amount of water

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2 fountains accessible in our parks and are proud to
3 share that in the five-year period from fiscal year
4 21 to fiscal year 25 we installed a total of 527
5 drinking fountains and bottle fillers, including
6 free-standing units, as well as those installed on
7 the sides of our public restrooms. Turning to the
8 legislation today- as you may be aware, NYC Parks is
9 already working to comply with Local Law 93 passed by
10 Council last year which mandated the installation of
11 drinking fountains within parks over the next 10
12 years. Through this effort, we are seeking to
13 identify every opportunity to add or improve drinking
14 fountains throughout our portfolio. As such, while we
15 share Council's support to expanding access to
16 drinking water, we believe that Introduction 795 is
17 largely duplicative of the recently enacted law, the
18 language which was negotiated jointly between Council
19 and the administration to ensure an appropriate and
20 reasonable approach to improving public access to
21 water fountains, a goal we all share. Thank you for
allowing us to testify before you today and for your
continued advocacy and support for parks. Certainly
pleased to answer any questions you may have.

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2 CHAIRPERSON GENNARO: Thank you, Mr.
3 Deputy Commissioner. I appreciate you being here and
4 for your good testimony. Yes, I want to recognize
5 we've been joined by Council Member Sanchez, a valued
6 member of this committee. Okay, we've got everybody
7 now. And I have some prepared questions, but I'm
8 just going to go through the DEP testimony first.
9 And yeah, Deputy Commissioner DeFalco, your-
10 appreciate the testimony, and you make- regarding the
11 water quality testing. I thought there would be more
12 content here, you know, or more specifics, you know,
13 regarding some of the elements of the bill. It
14 broadly touches some areas, but just states that we
15 look forward to arriving at legislation that
16 accomplishes our shared goals. Is there anything
17 that- and of course, you know, like the public
18 hearing setting is where we like to air out some of
19 the- you know, some of the issues that the agency has
20 like a problem with or whatever, and then the
21 advocates and public sort of make reference to your
testimony, and then we get a good mix of what's going
on here. And so is there anything further you'd like
to put on the record regarding anything about Intro
730A on water quality testing that gives DEP pause or

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2 you would like us to have a better sense of as we try
3 to get to a bill that, you know, balances DEP's
4 ability to perform what we wanted to do, and that
5 which the Council and the advocates may- you know,
6 we're going to end up some place in the middle. And
7 so any further that you'd like to put on the record
8 before we get to my prepared questions? Just giving
9 you that opportunity.

9 DEPUTY COMMISSIONER DEFALCO: Thank you,
10 Chair. I think one of the things that we've been
11 thinking about, DEP monitors about 158 locations in
12 our waterways, and so we were trying to look at what
13 this bill tries to accomplish. Arguably would ask us
14 to up the program that we have, our Harbor Quality
15 Water Program by about 35 percent, 36 percent. So,
16 some of it certainly is a resource issue. Some of it
17 is what part of water bodies DOH is monitoring,
18 whether that's beaches versus what DEP is monitoring.

17 CHAIRPERSON GENNARO: Right.

18 DEPUTY COMMISSIONER DEFALCO: You know,
19 what you're looking to add to our testing, one of the
20 larger concerns I think is a three-day turnaround for
21 some of the tests, like the nitrogen testing which we
don't- it's just not possible to turn that around in

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2 three days. Where that information is located and
3 how it's accessed by the public- I think that those
4 are some of the larger concerns that we look forward
5 to working with you on to better clarify.

6 CHAIRPERSON GENNARO: Right. Speaking
7 of, you know, nitrogen control, that was all the
8 rage, you know, years back when DEP was- I'm giving
9 myself a little latitude here to kind of go
10 off-script a little bit. That doesn't mean anyone
11 else gets latitude. I'm just giving it to myself
12 here. You know, there was a whole big push for all
13 the plants that feed into, you know, the East River
14 and ultimately the Sound. You know, we did- we- you
15 know, like the city and DEP had to do massive
16 investment in nitrogen control technology. I guess
17 that was pursuant to the feds or somebody, as I
18 recall. It was a long time ago. And so, how are we
19 doing there just generally? Is DEP- is it under a
20 consent order now regarding nitrogen control or
21 whatever. I'm going a little far off-field, but I
know you have a very, you know, high level bench here
that I know knows everything. And so-

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DEPUTY COMMISSIONER DEFALCO:

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[interposing] We do, and if there are any questions,

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that I can specifically answer-

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CHAIRPERSON GENNARO: [interposing] Yeah,

6

so-

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DEPUTY COMMISSIONER DEFALCO: I'm happy to
defer to my colleagues.

8

CHAIRPERSON GENNARO: It was all the

9

rage. It was tons of investment and different

10

technologies that were employed, and- we're joined by

11

Harvey Epstein, the author of the Resolution on the-

I'm going to hit him with the acronym- on the ESA.

12

That was in the thing. You missed the whole ESA

13

episode. But yeah, I'm just curious about how we're

14

doing there, because it's- you know, that was a big

15

thing not only with the city, but with the state of

16

Connecticut and Long Island. You know, we had to

17

lower the nitrogen output by 58.5 percent over X

18

number of years or whatever it is. I know there's

ongoing push to try to improve the health of the Long

19

Island Sound overall, and New York City is the

greatest contributor to Long Island Sound nitrogen.

20

No surprise there. We have more people. And so I'm

21

just wondering how that- I'm not trying to turn this

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2 into an oversight hearing on nitrogen. Just one
3 little question I'm going to sneak in there. So,
4 how's that going and is that pursuant to a federal
5 mandate or a consent order or what's that looking
6 like these days?

7 DEPUTY COMMISSIONER DEFALCO: I think
8 that you're talking about the Harbor Survey program,
9 specifically.

10 CHAIRPERSON GENNARO: No, I'm talking
11 about the mandate that was put on DEP to decrease the
12 amount of nitrogen that is, you know, coming out of
13 its plants that feed into East River.

14 DEPUTY COMMISSIONER DEFALCO: CSO [sic].

15 CHAIRPERSON GENNARO: And you know, hence
16 the Long Island Sound. And that was a lot of money in
17 order to do that, and I'm just wondering- you know,
18 take this opportunity being that we're all here and
19 you brought the- you know, you brought all the whole
20 think tank here- about how that's going. You know,
21 monitoring is one thing, but the, you know, mandate
that DEP installed, you know, all this very expensive
nitrogen-controlled technology. How's that- how's
that going? There must be somebody who has the
answer to that.

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3 DEPUTY COMMISSIONER DEFALCO: There is.
4 Our nitrogen projects are complete, but for a little
5 more information, I think I would probably ask
6 Jonathan Hoffman, our Assistant Commissioner for
7 Planning and Compliance to come up-

8 CHAIRPERSON GENNARO: [interposing] Okay.
9 Thank you. Thank you, Jon.

10 DEPUTY COMMISSIONER DEFALCO: give a
11 larger overview.

12 CHAIRPERSON GENNARO: Yeah, and again, I
13 just got the inspiration to ask about the nitrogen
14 removal. It was, again, you know, 20 years ago it
15 was all the rage. And so now we're 20 years down the
16 road, and how's that going? Who governs it? Any
17 more- push to install more, you know, nitrogen
18 control technology. We prob- you know, we presumably
19 have, you know, greater influx of in-house waste
20 disposers which once upon a time were not even legal
21 in parts of New York City by virtue of nitrogen that
they, you know, inherently create. You got
undigested food going into the wastewater system. I
was against putting them in. That was a Rudy
Giuliani, you know, era decision to allow those,

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2 which I thought was- you know, we're spending untold
3 millions of dollars to, you know, to increase
4 dissolved oxygen in our coastal waters. You know,
5 incremental increases in our coastal waters by, you
6 know, removing nitrogen. And the argument back then
7 was, okay, if we do the waste disposers, it's only
8 going to decrease- it's going to decrease dissolved
9 oxygen by only a little bit. But that little bit of a
10 decrease, we paid untold scores of millions of
11 dollars or hundreds of millions of dollars to make
12 it, you know, go up a little bit. So, wasn't on the
13 Council then. I just worked here. You know, so I
14 couldn't go up to the mayor and tell him I thought it
15 was a bad idea. But how's that all going?

14 COMMITTEE COUNSEL: Sorry, if I could just
15 swear you in first.

15 ASSISTANT COMMISSIONER HOFFMAN: Yep.

16 COMMITTEE COUNSEL: Please raise your
17 right hand. Do you affirm to tell the truth, the
18 whole truth and nothing but the truth before this
19 committee and to respond honestly to Council Member
20 questions?

20 ASSISTANT COMMISSIONER HOFFMAN: Okay. My
21 name's Jonathan Hoffman. I'm Assistant Commissioner

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2 of Planning and Compliance for Bureau of Wastewater
3 Treatment at DEP. So, the- in terms of the nitrogen
4 project, we actually had two series of nitrogen
5 projects. One is the Upper East River or East River
6 and that consisted of four treatment plants. They've
7 all be in operation for a number of years.

8 CHAIRPERSON GENNARO: And then you also
9 had Jamaica Bay, right?

10 ASSISTANT COMMISSIONER HOFFMAN: And we
11 also had Jamaica Bay, and that's another four plants.
12 The last one, Coney Island had their upgrade
13 complete. I think it was in 2022. So, all of the
14 plants currently are operating with their BNR,
15 biological nutrient removal, process in place.

16 CHAIRPERSON GENNARO: No, are you using
17 the same technology in all the plants? Because I
18 remember there was an experiment- there was another
19 technology that was used in Jamaica Bay. I think it
20 was ARC [sp?] or something like that. I remember some
21 sort of acronym or whatever. It was a long time ago.
That was like a low cap way of getting the stuff out
and it seemed to be successible, but that was, you
know- I had a full head of black hair back then. So,
I don't know where it's at now.

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2 ASSISTANT COMMISSIONER HOFFMAN: Yeah,
3 the base treatment is the same for all the plants,
4 but some of the locations we have a higher treatment
5 need. And so we actually add chemicals to the water
6 to be able to actually reduce that nitrogen further.

7 CHAIRPERSON GENNARO: What do you add?

8 ASSISTANT COMMISSIONER HOFFMAN:
9 Glycerol. It's basically like a carbon source. So,
it helps the bug break down the nitrogen.

10 CHAIRPERSON GENNARO: Oh, okay. Good
11 idea. So, and the nitrogen removal program is
12 governed by the state or the feds, or consent order,
or what?

13 ASSISTANT COMMISSIONER HOFFMAN: Yep. It
14 was originally a consent order, two related consent
15 orders. You know, East Rivers, more or less the
federal government-

16 CHAIRPERSON GENNARO: [interposing] Right.

17 ASSISTANT COMMISSIONER HOFFMAN:
18 administered by DEC. So, New York State DEC.

19 CHAIRPERSON GENNARO: Right. And how
20 about the-

21 ASSISTANT COMMISSIONER HOFFMAN: And same
with Jamaica Bay.

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2 CHAIRPERSON GENNARO: Okay. So, the feds
3 are not in this business anymore so much breathing-

4 ASSISTANT COMMISSIONER HOFFMAN:
5 [interposing] They're- it's not as simple as- the
6 East River also has the Long Island Sound partnership
7 which-

8 CHAIRPERSON GENNARO: [interposing] Oh,
9 right, right. Which-

10 ASSISTANT COMMISSIONER HOFFMAN: is born
11 out of the EPA and run by the EPA.

12 CHAIRPERSON GENNARO: Which was the 58.5-

13 ASSISTANT COMMISSIONER HOFFMAN:
14 [interposing] Right.

15 CHAIRPERSON GENNARO: Right, okay.

16 ASSISTANT COMMISSIONER HOFFMAN: They're
17 the ones, right. So, that's-

18 CHAIRPERSON GENNARO: [interposing] Did we
19 ever get there? Did we ever get the 58.5? Did that
20 ever happen?

21 ASSISTANT COMMISSIONER HOFFMAN: That's
what our permit's based on. Our- so, we have a- the
East River has a total nitrogen limit, a load limit
how much we can add to the water.

CHAIRPERSON GENNARO: Right.

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2 ASSISTANT COMMISSIONER HOFFMAN: And so
3 that's what our permit is actually based on is the
4 58.5.

5 CHAIRPERSON GENNARO: Right, and we're
6 meeting that- we're meeting that standard, right? No
7 one is suing us, yelling at us?

8 ASSISTANT COMMISSIONER HOFFMAN: You know,
9 we're trying to meet that standard.

10 CHAIRPERSON GENNARO: Pardon?

11 ASSISTANT COMMISSIONER HOFFMAN: Yes,
12 we're- today, we're exceeding the limit, but for the
13 most part over the period of year since we started
14 with the lowest limit that we are at today, we've met
15 the standard, yes.

16 CHAIRPERSON GENNARO: Okay, alright. I
17 just- sometimes it's good to check in on issues every
18 20 years and see if- like, how that's going. And
19 thank you for that. I'm sure that the Long Island
20 Sound and- both the Sound and Jamaica Bay will, you
21 know, benefit from that. And great, thank you. I
22 appreciate that. Let me get to some of my prepared-
23 oh, let me- so that was 730A. And the light
24 pollution, not going to do that now. And on drinking
25 fountains, we had very comprehensive testimony on

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2 that. Let me go to the- going to pause for one
3 second here. Here's what we're going to do, I'm
4 going to try to be conservative with my time. I'm
5 having counsel go through the questions that- make
6 sure we hit the ones that we really need to get the
7 administration on the record for. In the meantime,
8 being the nice guy that I am, I'm going to open up
9 the questioning to my colleagues on the committee who
10 have important concerns, other places to be, and to
11 go- and we have two Council Members who are signed up
12 to ask questions. I'm going to recognize Council
13 Member Wong for questions. So, Council Member Wong,
14 the floor is yours.

15 COUNCIL MEMBER WONG: Okay, thank you,
16 Chair. My question pertains to the edits and issues
17 the administration has for the light bill, that's
18 Intro 804. I think one of the crucial things that is
19 lost in the discussions, my office has been having
20 with the administration is just how simple this bill
21 is. We are tackling a simple problem, offensively
bright outdoor lights in residential neighborhoods.
The solution is simple, make them illegal without a
proper covering. That's all. I appreciate the
technical concerns. They have been very helpful in

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2 getting the best version of this bill, but I worry
3 the administration is overcomplicating this scenario.
4 Before I get to my questions, there are Department of
5 Buildings inspectors that go around my district and
6 write tickets if you forget to turn on the light
7 outside of your house, you get a big ticket. Right?
8 And then the fines get higher. So, there are
9 agencies out there enforcing the law that if you
10 don't turn on your lights at night, you will get
11 fined. So, I can tell you that because I have
12 received these tickets before. So, I want to address
13 a few of the concerns. There was a issue about lux
14 versus lumens, and I want to defer to the experts on
15 this. If you think lux is a better unit of
16 measurement, then I'm open to changing it to lux or
17 perhaps your light meters detects lux and not lumens.
18 You know, I'm open to change that. And there was an
19 issue about more time to prepare for enforcement, and
20 if the administration thinks it needs more time for
21 the enforcement, I'm ready to give you more time. And
regarding the penalty, if the proposed \$50 is not
steep enough to reduce offenders, I'm ready to
increase the fine. And finally, how is this
enforcement done? Now, I do not want members of any

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2 Department driving around the city looking for
3 offenders. If a neighbor has an issue, just like
4 with any other non-emergency problem in the city and
5 they will call 311, and then will start the process
6 of getting solutions. So, I hope to continue to have
7 conversations with the administration so we can clear
8 up any confusion of this bill and introduce a simple
9 solution to a simple problem. Thank you.

9 CHAIRPERSON GENNARO: And also, before
10 the witness begins to speak to the Council Member's
11 question, you know, just in case the time elapses,
12 you know, please continue with your answer.

12 DEPUTY COMMISSIONER DEFALCO: Was there a
13 specific question about-

14 COUNCIL MEMBER WONG: [interposing] Oh,
15 yeah, I'm going to. That's my feedback after looking
16 at the edits that was made by the administration, but
17 I'm going to go ahead. Currently, I know the
18 Department of Buildings, but I don't know if DEP or
19 any other agency- are there any other agencies accept
20 complaints about excessively bright residential
21 lights?

20 DEPUTY COMMISSIONER DEFALCO: My
21 understanding is that they do not. I think if there

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2 are more specific questions about what DOB enforces,
3 that we might be able to answer those. Yeah. We can
4 have DOB come up and answer this specifically.

5 COUNCIL MEMBER WONG: Okay, sure, sure,
6 please.

7 DEPUTY COMMISSIONER DEFALCO: DEP doesn't
8 do any like enforcement at all?

9 COUNCIL MEMBER WONG: Okay.

10 COMMITTEE COUNSEL: Could you raise your
11 right hand, please? Do you affirm to tell the truth,
12 the whole truth and nothing but the truth before this
13 committee and to respond honestly to Council Member
14 questions? Thank you. If you could just state your
15 name and title for the record.

16 CHAIRPERSON GENNARO: And also, feel free
17 to give your full answer, notwithstanding the buzzer
18 going off in a minute.

19 ASSISTANT COMMISSIONER HYLTON: Thank
20 you. My name's Renaldo Hilton [sp?]. I'm the
21 Assistant Commissioner for Enforcement Inspections at
Department of Buildings.

COUNCIL MEMBER WONG: So, my question is
DOB or any of your divisions currently accept

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2 complaints about excessively bright residential
3 lights?

4 ASSISTANT COMMISSIONER HYLTON: No, sir.

5 COUNCIL MEMBER WONG: So, no-

6 ASSISTANT COMMISSIONER HYLTON:

7 [interposing] Not that I'm aware.

8 COUNCIL MEMBER WONG: So you're aware of
9 no city agencies by taking these complaints?

10 ASSISTANT COMMISSIONER HYLTON: I'm not
11 aware if DOB's accepting any complaints.

12 COUNCIL MEMBER WONG: Okay. So want to
13 ask the panel, which agency is best suited to enforce
14 this bill?

15 DEPUTY COMMISSIONER DEFALCO: I think
16 that those are some of the things that we're talking
17 about council. I don't think we want to debate which
18 agency is responsible or would most likely to be
19 responsible or would be most likely to be
20 responsible. I think it might depend on some of the
21 specifics that are agreed upon in red lining process.

22 COUNCIL MEMBER WONG: Okay. A question
23 about cost to detect excessive lighting, you'd like
24 light meters. How much do you estimate from-

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2

DEPUTY COMMISSIONER DEFALCO:

3

[interposing] We don't know-

4

CHAIRPERSON GENNARO: We're being on a
5 limit, I'll give you a little-

5

6

COUNCIL MEMBER WONG: Last question.

7

CHAIRPERSON GENNARO: I will give you the
7 I'll- give you the latitude to ask this question,
8 Chair.

8

9

COUNCIL MEMBER WONG: Thank you, thank
10 you. Okay. okay. How much do you estimate it will
11 cost to purchase and maintain equipment needed to
12 enforcement this bill, like such as light meters.

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ASSISTANT COMMISSIONER HYLTON: So,
13 Council Member, we are not equipped right now to give
14 an estimate, because we don't really have- since this
15 is kind of new to us, you know, to do that we would
16 have to- there would be some kind of agreement on
17 what type of meters would be appropriate and all that
18 and then some research on those costs. We were not
19 able right not to give an estimate on cost.

COUNCIL MEMBER WONG: Okay. There's a
19 follow-up. How much time do you need- would you need
20 to purchase the appropriate equipment and begin
21 enforcing the bill?

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2 ASSISTANT COMMISSIONER HYLTON: I'm not
3 prepared to give an answer to that right now.

4 COUNCIL MEMBER WONG: Alright. So,
5 hopefully you can give me an estimate that-

6 ASSISTANT COMMISSIONER HYLTON: Sure, we
7 can get back to you.

8 COUNCIL MEMBER WONG: Alright, I'll save
9 my other questions for round two. Thank you, Chair.

10 CHAIRPERSON GENNARO: Sure. I'll say in
11 my neighborhood of Jamaica Estates. There's a lot of
12 people that have like obnoxious lights that are, you
13 know, shining into other people's homes I know that-
14 accessibility we get complaints about it. I mean, you
15 know, and the civic that I used to be Chair of,
16 President of or whatever, and get some- I should ask
17 my case workers what they do when these get these
18 complaints because we get complaints about it. I
19 mean, in my community it's almost like a competition
20 as to who can have more obnoxious light. You know,
21 it's like- sorry, you know. But it just- sometimes
it just gets a little bit much. I just- shouldn't
indulge people to speak from the audience. But I'm
just saying that I recognize your problem, and you

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2 know, look forard-, and you know look forward to
3 working with that.

4 ASSISTANT COMMISSIONER HYLTON: Thank you,
5 Chair.

6 CHAIRPERSON GENNARO: Okay, yes. I'm happy
7 to recognize Council Member Epstein for questions.

8 COUNCIL MEMBER EPSTEIN: Yeah, can I-
9 just on the water quality testing, 730A, I appreciate
10 that it's a shared priority. So, I'm wondering where
11 you think the issues are in trying to ensure we have
12 higher quality water and kind of the issues you think
13 are flagged right now, because we hear a lot of
14 concerns around quality of water, quality of
15 waterways. You know, what is the best approach to
16 ensuring that the public feels like we have that high
17 quality water?

18 DEPUTY COMMISSIONER DEFALCO: The
19 Harbor's got some of the cleanest water we've ever
20 seen it have, not even recent years, in decades and
21 decades. We've got two main monitoring programs that
hit about 158 sites all around 48 different
waterways. I guess some of the questions that we'd
like to work out with Council is, what the primary
objective is. Is this a health objective? In which

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2 case it might help us tailor the types of tests that
3 are most relevant, probably more towards fecal and
4 bacteria versus algae.

5 COUNCIL MEMBER EPSTEIN: Right.

6 DEPUTY COMMISSIONER DEFALCO: And then-

7 COUNCIL MEMBER EPSTEIN: [interposing] Or
8 heavy metals, too, or concerns around heavy metals.

9 DEPUTY COMMISSIONER DEFALCO: Yeah, and
10 then which the turnaround on the tests, you know, can
11 vary. So how quickly you want to get the information
12 versus the type of test you have.

13 COUNCIL MEMBER EPSTEIN: Right.

14 DEPUTY COMMISSIONER DEFALCO: How the
15 information is made available. What's going to be
16 the most useful way, putting, you know, data into
17 the universe where no one can access it isn't
18 probably what you have in mind.

19 COUNCIL MEMBER EPSTEIN: Right.

20 DEPUTY COMMISSIONER DEFALCO: So, I think
21 that those are some of the issues that we'd like to
work through. We'd like to work through how long it
takes us to get and to increase a program like this,
resources certainly. The way that we do testing right
now, the same people that drive the boats that do

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2 testing for us are also driving boats to move our
3 sludge and wastewater treatment around. This bill
4 doesn't offer, as written right now, any flexibility
5 for emergencies, two core operations for this agency.
6 So, I think those are some of the challenges that we
7 want to work through. I think there are definitely
8 ways to do that and to work through this so that we
9 can have more instantaneous information about the
10 testing. And some of it is just having more
11 information about the testing that we already do in a
12 way that the public can understand and access it.

11 COUNCIL MEMBER EPSTEIN: Right. Thank
12 you. Can I turn our attention to the water drinking
13 fountains? I mean, I- so, there are drinking
14 fountains in my district that have never been
15 operational. They're there. The infrastructure's
16 there. They're just never open. You go to Astor
17 [sp?] Place, there's a water fountain right by the
18 subway station. It's just not operational. So, but
19 it's there. DOT's like we don't know, and DEP's like
20 we don't know. And who- like it's Parks, like- like,
21 we want to create amenities. We all agree on that
goal, so how do we ensure that something like that's
in Tompkins [sp?] Square Park or at Astor Place

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2 become a functional water fountain for New Yorkers to
3 have access to?

4 FIRST DEPUTY COMMISSIONER FOCHT: Thank
5 you, Council Member. The water fountains that are in
6 Parks are our responsibility. I'm not familiar with
7 the one you mentioned at Astor Place. You mentioned
8 it's by a subway station. That's probably not park
land, so that would not be ours.

9 COUNCIL MEMBER EPSTEIN: It's funny,
10 because the BID [sic] says it's not ours. DOT says
11 it's not theirs.

12 FIRST DEPUTY COMMISSIONER FOCHT: Well,
13 it may have been built years ago by somebody, but
14 it's not- if it's not on park land, it's not our
15 jurisdiction. We don't have the authority. It's
16 simply- I don't know any other way to say it, but if
17 it's not on park land, it's not the responsibility of
18 Parks, and again, we have over 3,400 drinking
19 fountains. We're by far the largest provider. We
20 have the majority of the burden and the honor of
21 delivering-

COUNCIL MEMBER EPSTEIN: [interposing]
Right.

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2 FIRST DEPUTY COMMISSIONER FOCHT: clean
3 drinking water to citizens and visitors in New York.
4 We take that very seriously. So, we expend our
5 resources on maintaining what is ours.

6 COUNCIL MEMBER EPSTEIN: Okay. The one in
7 Tompkins Square Park has been maintained in 30 years.
8 I've lived by Tompkins Square Park for over 30 years.
9 That water fountain that leaks today has leaked for
10 over 30 yeawrs. We talked to Parks Department about
11 it. How do we get like a new- like, how do we get
12 prioritized that water fountain in Tompkins Square
13 Park to be upgraded so it's usable?

14 FIRST DEPUTY COMMISSIONER FOCHT: Well, I
15 believe I'm familiar with the one you're mentionoing,
16 and you mentioned it leaks. It does. You and I have
17 both looked at it together.

18 COUNCIL MEMBER EPSTEIN: Yes.

19 FIRST DEPUTY COMMISSIONER FOCHT: It
20 works. It leaks.

21 COUNCIL MEMBER EPSTEIN: I mean, it works
like it spurts right into the air, yeah.

FIRST DEPUTY COMMISSIONER FOCHT: But it-
folks can get drinking water out of it. It's also
leaking out of the bottom. We will look at it again.

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2 We do not replace individual drinking fountains as
3 per an operational. All of the replacement of
4 drinking fountains is done through a capital process.
5 So, the capital reconstruction-

6 COUNCIL MEMBER EPSTEIN: [interposing] So,
7 if I give you capital money, you'll replace it?

8 FIRST DEPUTY COMMISSIONER FOCHT: We
9 would love to talk to you about that.

10 COUNCIL MEMBER EPSTEIN: Okay. And this-
11 so I go to DOT and they're saying it's not us, that's
12 not our water fountain. We don't know. We know it's
13 there. And we go to the BID, and they're like, we
14 didn't put it in. We don't know where it goes. And
15 we go to you and you say we- it's not us. So, but
16 we're all the city, right? Can't someone tell us why
17 there's a water fountain in place with a- and why it
18 doesn't work? Like someone's got to have the answer,
19 right? Who is it?

20 CHAIRPERSON GENNARO: I got an answer, I
21 think. It might have been put in the pre-DEP days of
the old City Department of Public Works, and in that
case, in my book, I think it should fall to DEP,
because they're the successor agency to the old New
York City Department of Public Works.

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2 COUNCIL MEMBER EPSTEIN: So, can DEP look
3 at this?

4 DEPUTY COMMISSIONER DEFALCO: We're happy
5 to go out and see if we can answer this riddle for
6 who might have ownership of this one particular
7 fountain. We'd like to stress that DEP doesn't
8 operate any fountains at all. We don't have any
9 program to maintain them. So, a working water
10 fountain is great. Nobody wants to drink from a
dirty, non-maintained water fountain.

11 COUNCIL MEMBER EPSTEIN: Then we get the
12 BID to maintain it. They're the BID there. They can
maintain it.

13 CHAIRPERSON GENNARO: Yeah, but you got
14 to fix it.

15 COUNCIL MEMBER EPSTEIN: Yeah, we got to
fix it.

16 CHAIRPERSON GENNARO: Right.

17 DEPUTY COMMISSIONER DEFALCO: The
18 installation of 10 water fountains, we're talking
19 about hundreds of thousands of dollars which we would
20 get from where, and what part of DEP would you like
us to not replace the water main on your block?

21

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2 That's where like- those are some of the things that
3 we're trying to- right?

4 COUNCIL MEMBER EPSTEIN: How about just
5 do this, can you find out who's in charge?

6 CHAIRPERSON GENNARO: Yeah.

7 DEPUTY COMMISSIONER DEFALCO: We'll find
8 out who owns it and then whether or not it's
operational and we can make it operational.

9 COUNCIL MEMBER EPSTEIN: Thank you.

10 CHAIRPERSON GENNARO: I just think, and
11 not that my opinion means anything, but you know,
12 barring any other agency stepping forward, you know,
13 I think DEP is like the default agency for the
14 conveyance of- you know, of water infrastructure. I
15 just- I think, you know, like- you know, when
16 everyone else sits down, you know, and then like the
17 music stops. I think DEP is the agency that's still
18 standing up, you know? To put it that way. That's
19 what I think. You're the councilman. You tell them
20 whatever you want, you know? They should be afraid
21 of you, you know? If you give them money, like
they'll do it, you know? Okay. Beth, you talked-
and you mentioned a little bit about the- about the
testing that both, you know, DEP does and the

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2 Department of Health does. Can you speak with a
3 little more specificity in describing the testing
4 that you do, DEP does, in the Harbor Survey? Just a
5 little more specificity as to what happens in that.

6 DEPUTY COMMISSIONER DEFALCO: Sure, sure.
7 Thank you, Councilman. The Harbor Survey Program, we
8 test weekly from May to October and then monthly from
9 November to April which largely monitors what DOH
10 does at beaches when people are most likely to use
11 it. The program tests primarily five different
12 parameters related to water quality, dissolved oxygen
13 bacteria, so fecal coliform, chlorophyl A, water
14 clarity, and nitrogen.

15 CHAIRPERSON GENNARO: Okay. Now-

16 DEPUTY COMMISSIONER DEFALCO:
17 [interposing] Those are 84 sites that that program
18 targets specifically.

19 CHAIRPERSON GENNARO: Now, do they tend
20 to be like near shore sites like the Department of
21 Health probably does, or are they kind of like in the
middle of the water body, like, you know, out a ways
or whatever? Depending upon like the watercraft that
you use to go out and do that, is it near shore or do
you get a better read, or the read that you're asked

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2 to get- or do you take those out aways and get those
3 readings in like the middle of the water body as
4 opposed to the near shore environment?

5 DEPUTY COMMISSIONER DEFALCO: It's both.
6 No, it makes sense. I was actually looking for and
7 asking about a map so that I could answer that same
8 question myself earlier this morning. Yeah, it's
9 both. So we do take from the middle of some water
10 bodies, but primarily overall it's right near your
11 shorelines.

12 CHAIRPERSON GENNARO: Okay.

13 DEPUTY COMMISSIONER DEFALCO: And your
14 outfalls, especially.

15 CHAIRPERSON GENNARO: Great. Thank you.
16 Going down on the question set here. That one's
17 already been answered. Oh, okay. That's the next
18 one? Okay, this is a question directly from Counsel,
19 Counsel to the Committee- so this comes from the top
20 here. For DEP, it's about 795, the water fountain
21 bill. Regarding Intro 795, is DEP- oh, this is like-
okay. Oh, if DEP is not the appropriate agency to
install water fountains in non-parks public spaces,
then which agency would be appropriate? We just kind
of had this- we talked about this a little bit. So,

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2 I guess I'm asking it again. So, you know, because-
3 you know, people watching online and whatever, and
4 we're talking to the agencies that are most involved
5 in this kind of infrastructure, and the- you know,
6 and the answer of, you know, I don't know is- I'm not
7 sure that's giving a lot of confidence to people who
8 may be watching this hearing. Like, somebody knows,
9 you know?

9 DEPUTY COMMISSIONER DEFALCO: Chairman,
10 that's a fair point. I don't think it's about-

11 CHAIRPERSON GENNARO: [interposing] This
12 is an opportunity for you to clean it. Just clean
13 it.

14 DEPUTY COMMISSIONER DEFALCO: Thank you
15 for the opportunity.

16 CHAIRPERSON GENNARO: Plant the flag.
17 Just do it.

18 DEPUTY COMMISSIONER DEFALCO: However, the
19 thing that we have to think about when making these
20 decisions- listen, it's whatever agency, you know,
21 the administration or council decides that it should
be. I think some of our hesitation on this is that we
don't have this infrastructure in place now. The way
that we pay for upgrades to the system, fixing your

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2 sewer, your water mains, is your water bill. So, as
3 we think about doing these things, one thing we're
4 also trying to do is keep your water bill low, so
5 that, you know, especially-

6 CHAIRPERSON GENNARO: [interposing]
7 [inaudible] concerned about that-

8 DEPUTY COMMISSIONER DEFALCO: in times
9 like these.

10 CHAIRPERSON GENNARO: with the rental
11 payment. He could care less about how far rates go
12 up. He's going to take \$300-something million out of
13 water and sewer money and give it to who knows. Just
14 a, you know, general, you know, city operations.
15 Great agencies, Fire Department, Police Department,
16 Parks Defendants, you know, the Department of Records
17 and Information Services, like who knows? He's going
18 to put this wherever it is. He's going to- you know,
19 he's taking water and sewer money and just going to
20 spread it away, just put it anywhere. Just like a- I
21 couldn't resist the temptation that, you know, while
DEP is very concerned about water rates, we have a
Mayor that is not concerned about water rates. We'll
have to see this year if when he does a rental
payment, if he charges and water and sewer customers

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2 in real time for the rental payment or whether he
3 takes it out of reserves which he's- you know, he
4 hasn't done anything yet. But that's what Adams did.
5 He took it out of- largely out of Water Finance
6 Authority Reserves. I don't think the people who,
7 you know, rate the bonds, you know, really appreciate
8 hundreds and millions of dollars leaving the system
9 and not being paid for, but being taken out of
10 reserves. people, you know, like the bond holders,
11 you know, Wall Street types don't like to see
12 reserves, you know, depleted. If you're going to
13 charge rental payment, then stand up and charge it.
14 So you're going to charge \$300-something million in
15 water and sewer, \$40 million a rate point, you know,
16 divide that into \$300 million. Just raise points and
17 just raise the water rates eight or nine points just
18 to cover the rental payment, and explain that to the
19 people that we took- that we raise your water rates
20 nine percent, you know, just to cover the rental
21 payment that doesn't go to water and sewer at all,
and then we're going to raise it on top of that, you
know, to keep up with the growing demands of the
system. Like, going from 1.75 inches, you know,
storm sewer capacity to 2.1 to all the other things

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2 that the agency does. So, you know, the Mayor's
3 picking your pocket, but you're not going to say
4 that. And so I digress, but you- you [inaudible]
5 give me wonderful answer.

6 DEPUTY COMMISSIONER DEFALCO: One of the
7 things that we're thinking about and would like to,
8 you know, work with Council on and maybe do a pilot
9 on is a public/private partnership. How do we put
10 water fountains in places that are very accessible to
11 people? We're very proud of our water. You know, it
12 didn't get its nickname of Champagne of Water for no
13 reason.

14 CHAIRPERSON GENNARO: Right.

15 DEPUTY COMMISSIONER DEFALCO: So, we want
16 to make that as accessible as possible. There might
17 be some more creative ways to do that. I think that's
18 the thing-

19 CHAIRPERSON GENNARO: [interposing] This
20 is going to be the test case right here. This is
21 going to be the test case.

DEPUTY COMMISSIONER DEFALCO: So, that's
one of the things that we're looking at specifically,
but we do- we don't have the infrastructure in place
right now, and so if you're asking what some of the

1 COMMITTEE ON ENVIRONMENTAL PROTECTION & WATERFRONTS

2 challenges are, I think that we would put that at the
3 top.

4 CHAIRPERSON GENNARO: Okay. Well,
5 Harvey, this should be a thing, because we've got
6 these- we got these orphan- you know, we have these
7 orphan water fountains like all over the place, and
8 like, what is- yours is going to be the poster
9 fountain for all this. And so, I want to get invited
10 to the ribbon cutting once we find out-

11 UNIDENTIFIED: [inaudible]

12 CHAIRPERSON GENNARO: Hey, you know, next
13 four- I'm going to be 69 years old in a couple of
14 weeks, so you know. These, like, four-year time
15 horizons is starting to scare me a little bit, you
16 know? So, now the- yeah. I'm serving out my term.
17 This is- yeah, I'm serving out my term. That's a
18 lock. Plus my wife would be mad. And so, okay. So,
19 we did that. We did that. He wants to go in on
20 second round. So- you going to come for second
21 round? Okay, so I had a think about the light, but
you know, we don't want to- I don't want to light up
the hearing with too many light questions. You could
have giggled at that. I got nothing. I got nothing.
I got nothing. You know, I'm trying to work with a

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2 tough crowd here. Whatever. Now, my comments may
3 not be funny, but Sham Tarricks [sp?] socks are
4 funny, and so I appreciate that. I like the socks. I
5 wear funny socks, too. I recognize Council Member
6 Wong.

7 COUNCIL MEMBER WONG: Thank you, Chair.

8 Well, I just want to point out that in my district
9 whenever we have a sidewalk that's cracking or a
10 facade that's any kind of violations, the Department
11 of Buildings will be there like within a couple a
12 days and issue citations and summonses. We have
13 residents that regularly get trees that with roots
14 that uplifted the concrete, and they get hefty
15 summonses or they have to replace the sidewalk or
16 else. You know, there will be even subject to even
17 heftier fines. So, I know the enforcement is out
18 there. The inspectors are out there at night looking
19 at sidewalks, looking at trees, and I'm sure that
20 they could also look at the lights, and if it's too
21 bright or if it's not in compliance they can issue a
warning before they issue summonses. I know the
enforcement teams are out there, and it's a matter of
one extra item they're going to look into it, and
because light pollution is a serious issue in my

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2 district for residences, and I'm going to ask the
3 administration to look into the matter, whether it's
4 Department of Buildings to add an extra item to
5 enforcement or even DEP when you look at the water,
6 when you look at- when you look at the other issues
7 in the streets. That is my suggestion to you.

8 DEPUTY COMMISSIONER DEFALCO: I'll

9 certainly let some of the other agencies speak about
10 that. I think that we would have concerns about
11 taking away from what our crews are doing at night to
12 make sure- to cover the entire city and make sure our
13 water infrastructure is working. I think that it's-
14 it sounds like a very easy answer that's very
15 complex. That would prob- the people that we have
16 working overnight to detect leaks and fix water mains
17 and sewers are not trained in light detection.
18 They've got- usually they're emergency- like, they're
19 working on emergencies overnight. So, I think that
20 that's- we would have concerns about distracting with
21 that additional responsibility. Sure, there might be
another creative way to come up with doing this
besides using engineers and emergency contractors,
some of the people that we have on overnight to help
us detect leaks from a DEP's perspective. Certainly,

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2 Parks, DOB, I'll let them speak to that, but I think
3 that would be our perspective.

4 COUNCIL MEMBER WONG: Does DEP have
5 inspectors? Do you inspect private residential
6 properties?

7 DEPUTY COMMISSIONER DEFALCO: No. We
8 don't inspect private re- no. No private residence.
9 We don't touch private properties, only the water
10 mains and sewers in the middle of the street.

11 COUNCIL MEMBER WONG: Okay. So, that's
12 perhaps something that the Department of Buildings
13 will look into, can you answer that?

14 ASSISTANT COMMISSIONER HYLTON: So,
15 Council Member,-

16 COUNCIL MEMBER WONG: [interposing] Yes.

17 ASSISTANT COMMISSIONER HYLTON: the
18 Department of Buildings do have inspectors operating
19 at night. However, those inspectors are responding
20 to emergencies. This is a night crew usually to
21 fires, to different things that happen afterhours,
and we certainly do not, as I said before, have the
capability of, you know, measuring light. We don't
have- even the inspectors are not trained on those
things. So, there would be some challenges into

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2 getting up to speed to be able to do that. Could we
3 do that? Of course, but it would be- it would be
4 intensive resources that would be needed to implement
5 something like that, and we'd have to see how this
6 bill works out in-

7 COUNCIL MEMBER WONG: [interposing] We'll
8 talk about funding if this needs- this bill needs to
9 be backed with certain amount of funding. We'd be
10 glad to talk about that. Question, is lumens or lux,
11 which one is a more appropriate measure of light,
12 since this was heavily edited? So, I want to hear
13 from you. Can anybody answer that?

14 ASSISTANT COMMISSIONER HYLTON: I could
15 not personally, but I believe they settled on lumens.

16 COUNCIL MEMBER WONG: Lumens?

17 ASSISTANT COMMISSIONER HYLTON: Is it
18 lux? Lux, I'm sorry.

19 COUNCIL MEMBER WONG: Lux.

20 ASSISTANT COMMISSIONER HYLTON: I don't
21 know the difference myself.

COUNCIL MEMBER WONG: Thank you. Okay, my
final question. How bright do outdoor residential
lights need to be safety reasons? How bright?

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2 ASSISTANT COMMISSIONER HYLTON: So, that
3 would have to be, you know, settled into the
4 legislation, right? We'd have to- again, this is not
5 something the Department of Buildings does right now
6 on a regular basis.

7 COUNCIL MEMBER WONG: That's why we have
8 a problem with these bright lights. People due to
9 various reasons buy the biggest, brightest lamp
10 fixture, put them in the back yards, front yards, and
11 then we have this problem today.

12 ASSISTANT COMMISSIONER HYLTON: I
13 understand.

14 COUNCIL MEMBER WONG: And the Chair
15 agrees. Thank you. And I want to- my final question.
16 Color temperatures, are there any color temperatures
17 that are known to be more or less associated with the
18 negative impacts of light pollution?

19 ASSISTANT COMMISSIONER HYLTON: Right. So,
20 I just- from my experts- I don't think we have that
21 expertise right now in our department to actually
22 come up with an answer to.

23 COUNCIL MEMBER WONG: Okay. So, I think,
24 Chair, we can conclude that this is an issue that

25

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2 there's no- no agency is responsible for enforcing or
3 for addressing, and we-

4 CHAIRPERSON GENNARO: [interposing] Yeah,
5 we got a lot of like orphan topics. We got orphan
6 drinking wells. We got orphan issues and stuff.
7 Like, who's got the ball on this? And so-

8 COUNCIL MEMBER WONG: [interposing] I did
9 not hear anyone stepping forward.

10 CHAIRPERSON GENNARO: Yeah, it is what it
11 is. These are all well-intentioned people-

12 COUNCIL MEMBER WONG: [interposing] Okay.

13 CHAIRPERSON GENNARO: trying their best
14 to, you know, give us the answers that we seek, but
15 you know, you've uncovered an area that heretofore
16 has, you know, hasn't really required a lot of
17 oversight or whatever. And people put lights on
18 their porch, and you know, DOT makes decisions about
19 how bright the street lights are. Recently they went
20 from like moderately bright to very bright. Okay.
21 You know? And so somebody put some brain power into
that. So, but we've uncovered an area where there
is, you know, not a lot being done on it now, other
than what DOT does to regulate the street lights.

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2 This is a whole area that the city needs to take a
3 look at, and you're the pioneer. So,--

4 COUNCIL MEMBER WONG: [interposing] Well-

5 CHAIRPERSON GENNARO: [interposing] And
6 Harvey's with these other fixtures, the drinking
7 water fixtures that are- you know, they are sort of
8 unclaimed by any city agency. This is why we're
9 here, Phil. We try to-

10 COUNCIL MEMBER WONG: [interposing] I hope
11 we can work with the administration to come up with
12 the best solution to this with appropriate funding,
13 because it's clearly a problem in residential homes,
14 and it's definitely distracting- is a distraction to
15 the neighbors and the residents living near these
16 homes with bright outdoor lights.

17 CHAIRPERSON GENNARO: I would agree. I
18 would agree.

19 COUNCIL MEMBER WONG: Thank you, Chair.

20 CHAIRPERSON GENNARO: I thank the panel
21 for doing their best. I think what we've seen is
that, you know, that this isuse needs a home, and so
we have to find a home for it. These are, you know-
everyone's- like I said, everyone's doing their best
to try to solve this rubix cube, but you know, right

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2 not it's like unsolved. So, we will solve it, and I
3 look forward to that day, because this is a pain in
4 the neck in my neighborhood.

5 COUNCIL MEMBER WONG: Thank you, Chair.

6 CHAIRPERSON GENNARO: You know, we have
7 lights- I mean, I don't have it, but as I- you know,
8 I'm going around my neighborhood at night, there's
9 really some obnoxious lighting. I'm just like- like,
10 are they kidding me, you know? So, yeah, we don't
11 want to- I- we should endeavor to figure out how
12 light pollution like any other pollution, light needs
13 to be regulated. And so, with that said, I don't
14 have any- I don't have any further questions. And
15 so, I think we had some big fun today. I think it was
16 good. It as worth it. You know, Easter Monday, you
17 know, is celebratory. Always great to have, you
18 know, some of the best talent in city government come
19 before this committee and to give the benefit of
20 their, you know, earnest and knowledgeable views on
21 the questions that we posed. We love working with
you all, and that's what makes this job fun. Going
back to our districts, that's not fun, you know,
because they're all over me. Is that on TV now? I
guess that's on TV now. I love my constituents.

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2 Nothing- when they call me at two in the morning, I'm
3 just thinking, I couldn't sleep anyway. So, now I get
4 to do something. And so yeah. No, they all have-
5 you know, they're very clingy and it's nice to be
6 needed, you know, but when we come here we do the
7 cerebral stuff and plan for the future, and that's
8 what we like doing. So, thanks so much for being
9 here and for your good testimony, and Shams [sp?],
10 [inaudible] I know him like, forget about it. Forget
11 about it. You know? Forget about it. And so, yeah,
12 so thanks very much. I got to set up the online- no,
13 the in-person, in-person. So, I'm going to call the-
14 the script, okay. I now open the hearing for public
15 testimony. I remind members of the public that this a
16 former government proceeding and that decorum shall
17 be observed at all times. As such, members of the
18 public shall remain silent at all times. The witness
19 table is reserved for people who wish to testify. No
20 video recording or photography is allowed from the
21 witness table. Further, members of the public may
not present audio or video recordings as testimony,
but may submit transcripts of such recordings to the
Sergeant at Arms for inclusion in the hearing record.
If you wish to speak at today's hearing, please fill

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2 out an appearance card with the Sergeant at Arms and
3 wait to be recognized. When recognized, you will
4 have two minutes to speak on the legislation being
5 heard today. If you have a written statement or
6 additional written testimony you wish to submit for
7 the record, please provide a copy of that testimony
8 to the Sergeant at Arms. You may also email written
9 testimony to testimony@council.nyc.gov within 72
10 hours of this hearing. Audio and video recordings
11 will not be accepted, only the transcripts of such
12 recordings will be accepted. And it says right here,
13 call the first panel. That's what I'm going to do.
14 Yeah. Allright. [inaudible] Okay. I'm going to call
15 the first panel. Now, most committee hearings that
16 you go to, you only get two minutes. We're going to
17 give you three. Count them, three. And so there you
18 go. The first witness will be representing
19 Riverkeeper. Looks like Em Ruby, like E-M, is that
20 right? Pardon? Okay. So, we'll hear from Em Ruby
21 from Riverkeeper, and- yeah, Dawn Ang [sp?]
representing myself. And so- two more? Yeah, why
don't we just- okay. And you know, because we can do
four, right? We can do four at the table, yeah. And
we have Kathy Nizzari [sp?] of the Lights Out

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2 Coalition and Margaret Lee, it looks like, of the
3 Lights Out Coalition. Oh, I know what the Lights Out
4 Coalition is going to talk about which is not our
5 bill, but I know it's going to be. Can we do- what's
6 that? Am I reading this? Okay. Tina P-i-n-o, and
7 then in parenthesis it has (Mother Pigeon.) Okay.
8 Representing myself. Is that you? Okay. Sure,
9 we'll make arrangements to seat you. The counsel-
10 oh, do you have to- okay, yeah. Let me just
11 [inaudible] eye drop first. Yeah, I always like
12 taking care of my medical needs on television. What
13 am I doing next? I got to do this one. I take
14 eyedrops all day long. It's like a thing. Okay. I'm
15 supposed to keep my eyes closed for a minute once I
16 put the drops in, so I'm going to keep my eyes closed
17 for that couple more seconds. But we're going to be
18 hearing this panel from my right to my left. So, it
19 would be starting way on the left, whoever that
20 witness is can just identify themselves for the
21 record and proceed with their good testimony.

EM RUBY: Thank you, Council Member
Gennaro. My name is Em Ruby and I'm the New York
City Advocacy and Policy Coordinator at Riverkeeper.
Thank you, Chairperson Gennaro and members of the New

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2 York City Council Committee on Environmental
3 Protection and Waterfronts, for your leadership in
4 improving water quality and for the opportunity to
5 testify today. Riverkeeper is a member-supported
6 watchdog organization dedicated to protecting and
7 restoring the Hudson River and its tributaries and
8 the waters throughout New York City. While
9 Riverkeepers strongly supports efforts by the Council
10 to improve water quality and increase testing for
11 pollutants in New York City waters, we believe
12 there's room to better target Intro 730A on pollution
13 that is a greater threat to New Yorkers rather than
14 the bill's current focus on harmful algal blooms and
15 petroleum. We also believe that testing locations
16 should be identified through a user study of New York
17 City waters instead of the broadly interpretable
18 waterfront areas used for recreation. This bill would
19 require DEP to test for harmful substances in New
20 York City waters with a particular focus on harmful
21 algal blooms and petroleum. Riverkeeper alongside
the Swim [sic] Coalition encourages the committee to
focus on combined sewerage overflows and their impact
on water quality rather than on HABs [sic] and
petroleum which are important but not the highest

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2 priority for recreational water users. In terms of
3 detection and measurements, HABs and Petroleum are
4 difficult to systematically detect through water
5 quality testing. HABs occur mostly in stagnant areas
6 that can vary from year to year. Petroleum emanates
7 from various sources intermittently and unoften.
8 That said, both of these pollutants are typically
9 visible to the naked eye when present in waters. In
10 contrast, CSOs are point sources and thus have
11 discrete locations that are easy to routinely monitor
12 to protect human and ecosystem health. Further, CSOs
13 represent the biggest threat to water quality for New
14 York City waters, and the city discharges more than
15 21 billion gallons of CSOs yearly. This represents a
16 significant threat to human and ecological health and
17 greatly restricts New Yorkers' access to swimmable
18 and fishable waters. To ensure the intent of this
19 bill is met, we recommend amending this legislation
20 to focus on CSOs as the primary harmful substance
21 measured by the presence of sewerage indicator
bacteria and to establish testing protocols for DEP
to monitor CSOs impact on water quality at
recreational access points. We have a couple of
recommendations to do so.

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CHAIRPERSON GENNARO: Please.

3

EM RUBY: Number one, to identify

4

priority testing locations based on the results of a

5

user study of New York City waters to determine where

6

New Yorkers are currently using the water, including

7

but not limited to commercial and industrial usage,

8

wading, and other near-shore and non-water

9

activities. We recommend using the user study that

10

was conducted in 2022 by Riverkeeper and the New York

11

State Department of Environmental Conservation as a

12

part of the advance notice of proposed rulemaking to

13

update water quality standards for New York sailing

14

waters. I, in my testimony, have provided you with

15

one page of that user study and I will attach the

16

rest to my online testimony. And the second

17

recommendation is to conduct near-shore testing that

18

is less than 15 feet from the water's edge so as to

19

ensure that results are useful for recreational

20

purposes. I dispute DEP's claim that they conduct

21

near-shore testing. I would also like to highlight

that real-time notification when CSO outfalls are

discharging is absolutely essential to protect public

health, and DEP is notifying users only when the

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2 discharges so thoroughly pollute a water body that it
3 violates water quality standards. Some open waters
4 like the East River rarely see such notices, despite
5 dozens of discharges each year. The city's current
6 warning system fails to protect kayakers, fishers,
7 and others who may unknowingly recreate at a flowing
8 outfall, and the Council-

9 CHAIRPERSON GENNARO: [interposing] And
10 why don't we do this, because I'm going to come back
11 to you with questions.

12 EM RUBY: Great.

13 CHAIRPERSON GENNARO: Because- and we can
14 get that substance on the record when I come in
15 questions.

16 EM RUBY: Thank you so much, Councilman.

17 CHAIRPERSON GENNARO: Because I don't
18 want to go too much past the three minutes. Next
19 witness? It's a pleasure to have you. Thank you for
20 your patience and look forward to your testimony.

21 KATHY NIZZARI: Thank you. Good
afternoon, Chair Gennaro and Council Member Wong.
Thank you for the opportunity to speak in support of
Intro 804. I'm Kathy Nizzari, founder and Chair of
Lights Out Coalition. Our mission is to protect

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2 urban wildlife and birds. That's 400 native species,
3 including 4 million pigeons alone and roughly 15
4 million migratory birds with spring migration
5 currently in full swing. Sadly, our build environment
6 is a death trap. Light pollution disrupts avian
7 navigation and reflective glass is imperceptible to
8 them. With one billion birds dying annually in North
9 America from building collisions, and 30 percent of
10 the migratory bird population permanently lost in the
11 last 50 years, we must take every possible step to
12 reduce these numbers. This weekend's Dancing
13 Woodcock- I don't know if any of you saw him- may
14 never happen again if we don't pass protective
15 legislation. Intro 804 is a vital step in this
16 effort by limiting brightness and requiring shielded
17 lighting, we can help birds avoid these fatal
18 collisions. Beyond the impact on wildlife, light
19 pollution is detrimental to human health. Medical
20 evidence links it to major diseases including cancer,
21 diabetes, and stroke, and it exacerbates mental
illness, particularly within homeless populations and
environmental justice communities. Furthermore,
light pollution contributes to climate change. And
as demonstrated by Professor Paul Boger[sp?]

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2 unshielded bright lights can actually impede personal
3 safety. Slides including in my written testimony,
4 submitted testimony, illustrate how shielded light
5 can reveal intruders who go undetected under brighter
6 lights. Passing Intro 804 will make the city safer
7 for birds, and as we say at Lights Out, if it's good
8 for animals, it's good for people and the planet. We
9 urge you to please pass it without delay. Thank you
10 for your time, and since I do have a few seconds
11 left, I just wanted to address a couple of questions
12 that Council Member Wong had. Blue light is worse
13 than other lights on the spectrum. It disrupts our
14 internal system. Red is used therapeutically, and
15 lumens are the appropriate measure. One of our
16 coalition members is International Dark Sky
17 Association, and I'm happy to connect you with them.
18 They could answer all of those questions for you.
19 Thank you for your time.

17 CHAIRPERSON GENNARO: Thank you.

18 Appreciate that. I'm sure the Councilman will be
19 following up with questions for you. Thank you and
20 the Lights Out Coalition. Next witness, please-

20 MARGARET LEE: Margaret Lee, a member of-

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2

CHAIRPERSON GENNARO: [interposing]

3

Pleasure to-

4

MARGARET LEE: Lights Out Coalition

5

supporting 804.

6

CHAIRPERSON GENNARO: Pleasure to have

you.

7

MARGARET LEE: One of the saddest sites

8

in our city of many sad sites are bodies of birds who

9

crash into windows. It's truly and tragically

10

heart-breaking, especially when we consider how very

11

preventable these deaths are. The easiest thing

12

everyone can do is simply turn off unnecessary lights

13

at night. There are other remedies as well which

14

Intro 804 seeks to address. I'm here as a member of

15

Lights Out Coalition to support this important bill

16

and to thank Council Members Phil Wong, Farah Louis,

17

and Harvey Epstein for their leadership in this and

18

the City Council for holding this hearing. Passage of

19

this bill has the potential to make New York City a

20

kinder place and to set an example of compassion

21

elsewhere in America and worldwide. In addition to

preventing these needless deaths, I'd like to see New

York City become a true oasis for birds and other

wildlife, a place where they can find actual

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2 sustenance and welcoming hospitality in gardens with
3 clean water and abundant food. I don't feel it's a
4 whole lot to ask. This healing transformation
5 possible through Intro 804 combined with Intro 806
6 will benefit not only the creatures here, but humans
7 as well who are too often cut off from the natural
8 world and who are also adversely affected by
9 offensive bright lights. Thank you.

10 CHAIRPERSON GENNARO: Thank you very much
11 for your testimony. I appreciate it. Thank you for
12 being here. Tina and we look forward to your
13 testimony. Thanks for your patience.

14 TINA PINA: Thank you. My name is Tina
15 Pina [sp?], also known as Mother Pigeon. I'm an
16 artist and social media influencer that elevates New
17 York City's wildlife through my work. I'm here to
18 support Intro 804 and any legislation that can kind
19 of help animals. We can't change the fact that there
20 are tall buildings where there used to be beautiful
21 trees, meadows, and streams. I know that most people
do care about nature. At the moment, migrating birds
are all the talk of the town. They stop here for a
little rest. Unfortunately, our city doesn't care
for its own birds, wildlife, much less the migrating

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2 birds. Our wildlife has to wait for heavy rain to
3 form dirty, chemical-filled puddles to drink from and
4 bathe in. These birds won't even find any food from
5 these designer trees and bushes. As it stands now,
6 our city has allowed pigeon poachers to come capture,
7 torture, traffic, and sell them to live pigeon shoots
8 by the thousands for decades. This city is still
9 poisoning the rats which is horribly cruel and
10 in-turn poisons the animals in our parks and
11 sometimes even hurts children. I ask to please take
12 the Intro 804 seriously. Animals will soon have a
13 rich, peaceful home that they deserve. The least we
14 can do is turn off the light. Thank you.

15 CHAIRPERSON GENNARO: Thank you very much
16 for your testimony. I thank this panel. Just a note
17 to you, Phil, you know, your bill is 80- what is it?

18 COUNCIL MEMBER WONG: 804.

19 CHAIRPERSON GENNARO: 804, and 806 which
20 is- which the witnesses made mention to, that's the-
21 yeah. Oh, that's your bill, too.

COUNCIL MEMBER WONG: Yes, that's right.

CHAIRPERSON GENNARO: That's for like the
tall buildings and all that, right?

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COUNCIL MEMBER WONG: [inaudible] No,
3 actually 806 is to amend the administrative code of
4 the City of New York in relation to the creation of a
5 citywide wildlife management team.

6 CHAIRPERSON GENNARO: Which includes
7 light management on big buildings, right?

8 COUNCIL MEMBER WONG: Well, it says, the
9 creating a citywide wildlife management plan. It
10 doesn't mention any specifics.

11 CHAIRPERSON GENNARO: Oh, okay. Because
12 there was another bill floating around that- some of
13 the advocates may know this- about restricting light
14 from big buildings-

15 COUNCIL MEMBER WONG: [interposing] That
16 is not on-

17 CHAIRPERSON GENNARO: [interposing] That's
18 not yours.

19 COUNCIL MEMBER WONG: Not being
20 discussed. I think that's-

21 CHAIRPERSON GENNARO: [interposing] Okay.

COUNCIL MEMBER WONG: being fine-tuned.

CHAIRPERSON GENNARO: I understand. But
20 whoever is doing that, I mean that-

21

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COUNCIL MEMBER WONG: [interposing]

3

Because I believe the office buildings openly believe
4 that New York City is a 24/7 city and there are
5 reasons for the lights to stay on.

6

7

CHAIRPERSON GENNARO: Yeah, I just wanted
to, you know, make you aware that there's another
8 bill in the Council from last session. Whether it's
9 been picked up by anybody or not, but it deals with
light pollution, not the same kind that you're
10 addressing and the bill that's being heard today. But
11 if it hasn't been scooped up by anybody, I'm just
saying-

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13

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COUNCIL MEMBER WONG: [interposing] Yeah,
15 I am- I introduced four bills and that was one of
16 them picked up from the last session.

17

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CHAIRPERSON GENNARO: The one on the tall
19 buildings?

20

21

COUNCIL MEMBER WONG: On the tall
buildings, yes.

22

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KATHY NIZZARI: No, no, I'm sorry to
interrupt. But Intro 896 I think is the one that
you're referring to addresses light pollution in
commercial buildings and retail stores over 4,000
square feet. It was prime sponsored by Francisco Moya

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2 who was term-limited, and we do have somebody who's
3 requested it from the Speaker.

4 CHAIRPERSON GENNARO: Oh, okay. So
5 that,-- anyway. That bill's out there. We have
6 information that another member has come forward to
7 ask to sponsor that, but I'm just saying that, you
8 know, they're similar bills. Different parts of the
9 city would be impacted by one versus the other. I
just wanted to make you aware of it.

10 COUNCIL MEMBER WONG: Thank you, Chair.

11 CHAIRPERSON GENNARO: If you want to work
12 with that member or- so, with that said, you may have
13 questions for this panel. I'm happy to recognize-

14 COUNCIL MEMBER WONG: [interposing]
15 Actually, I have questions on Riverkeeper. Now, due
16 to climate changes we have algae that grow at a
17 different rate now. We have fungus, fungi, that's
18 growing at a different rate. I noticed that because
19 I have some old books. When I start flipping them, I
20 noticed that the mold there is growing a lot faster
21 in recent years. You know, I cannot- I'm not- I
don't know enough to say it's got to be the climate
change, but I just see it happening. So, is there
any recommendations you would make, like should New

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2 York City be testing the water on other things, like
3 other algae growth, fungus growth, or something else
4 they should be testing? Because I noticed that
5 that's happening as we speak.

6 EM RUBY: Thank you for the question,
7 Council Member. I appreciate that. I also have a lot
8 of moldy old books in my house. Yes, I just want to
9 emphasize that Riverkeeper has been monitoring a
10 harmful algal bloom that was present last fall in the
11 Hudson River that was farther upriver. I would say it
12 was centered around Kingston, New York and the round
13 out there. We have not seen the same kind of harmful
14 algal blooms in the waters of New York City, and my
15 understanding for why that is is that there's a
16 larger flow volume, right, and there's water coming
17 in and out of the harbor that creates a certain water
18 temperature that harmful algal blooms don't thrive
19 in. that doesn't mean that we don't see them in the
20 city. We certainly do. I believe that we've
21 witnessed- you know, we've registered them in sort of
tributaries of New Town Creek, for example, where
there is water that is very stagnant and gets to be
very warm. And certainly you're correct that climate
change is making harmful algal blooms much more

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2 frequent and also much larger in a lot of different
3 waterways. And I'd also say this doesn't take into
4 account freshwater areas of the city, like ponds in
5 certain parks could certainly experience a harmful
6 algal bloom due to temperatures, etcetera. I'm just
7 talking about like our harbor waterways. With that
8 being the case, Riverkeeper does not see harmful
9 algal blooms as being right now a primary isuse for
10 human and ecosystem health in the waters of New York
11 City. we do see it as being a threat further
12 upriver, and we're doing a lot of water quality and
13 testing upriver on HABS to identify patterns and
14 tracks and different strains, for instance. I'd be
15 happy to talk with you more about that. I just- for
16 our testimony today in terms of testing, CSOs are the
17 main pollutant for New York City waters and provide
18 the main threat for both ecosystem health and public
19 health, and so that's why our recommendation is
20 around controlling for CSOs. They also- it's not
21 just, you know, bacterial- bacteria indicators that
go into the waterways. It's also combined sewer
overflows bring petroleum and, you know, trash off
the street and other pollutants off the street. But
would certainly be happy to talk more about a full

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2 spectrum of water quality testing. We could talk
3 about swimming in waterways and kind of certain heavy
4 metals to test for, etcetera. At this moment,
5 there's just this very large gap in testing for
6 bacterial indicators, and that's why that's our
7 recommendation.

8 COUNCIL MEMBER WONG: Okay. Thank you.

9 Regarding the other members of the panel, we do have
10 a bill that's- we have not had hearings on that, but
11 it's regarding office lights, that they should be
12 turned off. So I would invite you to come back once
13 those bills are being discussed. So I'm not going to
14 get into too much on that. Quick story- my office
15 have birds crashing into the windows, so we put
16 decals on the window. Well, I [inaudible] stickers,
17 but at least they save a lot of birds. So, that's
18 something we might want to consider once the bill-

19 CHAIRPERSON GENNARO: [interposing] Sure.

20 COUNCIL MEMBER WONG: The commercial
21 building bill is being discussed, but thank you.

CHAIRPERSON GENNARO: Thank you, Council
Member Wong. And Em, I have some questions for you
regarding your testimony. You know, we heard DEP's
presentation. You know, they didn't go into a lot of

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2 specifics. You know, we had some discourse back and
3 forth during the questioning, and you know, we're
4 really looking to partner with you and the Swim
5 Coalition. I understand there's been, you know,
6 colloquy back and forth between staff of the
7 committee and your organization and the Swim
8 Coalition. We're trying to get this right in a very,
9 you know, short amount of time. And we appreciate
10 that. And you know, why do a bill if you don't
11 really get it right. Now, the bill may not cover
12 everything, and there is always more work to do that
13 could be covered by a subsequent bill, maybe a bill
14 that deals with, you know, inland freshwater, you
15 know, which is not what we're talking about. But not
16 a bad idea, because there is work to do there as
17 well. And let me get to my question. In your
18 dealings with committee staff, is it your assessment,
19 without getting into too much detail- do we have, you
20 know, somewhat of a meeting of the minds here, do you
21 think? How would you assess that without giving away
the store?

EM RUBY: Yes, we had a very productive
meeting with the committee staff and we're very

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2 grateful to be reached out to, and look forward to
3 working quickly to get this bill ready for Earth Day.

4 CHAIRPERSON GENNARO: Right.

5 EM RUBY: And think that there's some
6 shifts that can be made. We did share with them, you
7 know, what I mentioned around the user study to
8 define where would be better to do more testing. We
9 also shared the focus on CSOs. And I just wanted to
10 emphasize again testing near shore. I think it would
11 be really beneficial if we could get an exact map
12 from DEP of where they are testing in their harbor
13 water quality survey.

14 CHAIRPERSON GENNARO: Right.

15 EM RUBY: I know that the DEP
16 representative today said that they test near shore,
17 but that's not the understanding of those who use
18 that data, including Riverkeeper and others. So,
19 when we go out and test New York City waters, we test
20 as near shore as we can, and we think that's a
21 really- that is the really- a very important measure
for recreational users. Mid-channel testing of the
East River is just not going to tell you what the
conditions are like in Brooklyn Bridge Park where we
know that there are children wading in the water.

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CHAIRPERSON GENNARO: Right.

3

4 EM RUBY: So, I think that that's an
5 example of a really important shift or measurement
6 that this legislation could and then I would
7 emphasize again a focus on some particular parameters
8 that are really important for recreational use around
9 CSOs particularly.

8

9 CHAIRPERSON GENNARO: Okay. And would it
10 be fair to say that both Riverkeeper and the Swim
11 Coalition of are the same mind in terms of the
12 changes that need to be made to the bill?

10

11

12 EM RUBY: Yes, and Riverkeeper is a
13 member of the steering committee of the Swim
14 Coalition, and we prepared our testimony jointly with
15 them today.

14

15

CHAIRPERSON GENNARO: Okay.

16

EM RUBY: Yeah.

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18 CHAIRPERSON GENNARO: It's good to have
19 that kind of synergy, and-

18

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EM RUBY: [interposing] Yes. Oh, and
Council Member, I just wanted to emphasize to you
that DEP is supposed to report on CSO outfalls
through the Sewerage Pollution Right to Know Act,
which is a state-level bill, but we don't believe

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2 that they are currently reporting to the public
3 adequately or even on a correct timeline when there
4 are CSO outfalls and where those are. As I sort of
5 mentioned in my testimony, they only will notify
6 users of those waterways when there's so much
7 discharge that pollution in a certain water body
8 would violate a water quality standard.

9 CHAIRPERSON GENNARO: Right.

10 EM RUBY: The East River is almost never
11 going to get that notification. So, I just want to
12 emphasize that we would love to work with this
13 committee to do an oversight hearing.

14 CHAIRPERSON GENNARO: Yeah, I was going
15 to say that. That sounds like a more- it lends
16 itself more to an oversight hearing. And you know,
17 when we- it's not like the old days where we have
18 like unlimited, you know, ability to do hearings.
19 Right now, we're doing like one hearing a month.
20 Like, the, you know, committees of the council and
21 that doesn't count, you know. The summertime we're
not really in session, and you know, the months where
the budget occupies the hearings. So, we- I could see
that being part of like an omnibus, you know, water
quality- yeah, I could see us having like a very

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2 broad far-reaching water quality hearing that
3 extends- that you know, goes all the way from the
4 filtration of ordinance determination to what's going
5 on in Goose Pond Park right-

6 EM RUBY: [interposing] Clean water, yes.

7 CHAIRPERSON GENNARO: Yeah. And so, yeah,
8 I think we have to cobble together like a big
9 oversight hearing that will cover everything, because
10 yeah, we need to- certainly that should get the
11 attention that it deserves. And with that said, I'm
12 really happy and pleased that this panel has come
13 forward and that has given us the benefit of your
14 views and we will take your testimony and do good
15 things with it. How about that, you know? Yeah, you
16 should treat yourself to a nice lunch. How about
17 that? It's three o'clock, though, but maybe you had
18 lunch before. I don't know. If you didn't have
19 lunch, have it. Okay, we'll now turn to remote
20 testimony. Once your name is called, a member of our
21 staff will unmute you, and the Sergeant at Arms will
give you the go-ahead to begin. Please wait. I
repeat, please wait for the Sergeant to announce that
you may begin before delivering your testimony. If
you start before then, the first couple of words are

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2 going to be cut off. So wait for the Sergeant on
3 that. And so I think that's all we have to do to do
4 that. okay. And now that we're all set up for remote
5 participation via Zoom, I'll call our first witness,
6 Michelle- it looks like Luebke. I hope I'm saying
7 that correctly, Michelle Luebke.

8 SERGEANT AT ARMS: You may begin.

9 MICHELLE LUEBKE: Hi, good afternoon. My
10 name's Michelle Luebke and I'm the Program Manager
11 for the Storm Water Infrastructure Matters, or SWIM
12 Coalition. Thank you, Chair Gennaro and the committee
13 for this opportunity to deliver public testimony on
14 the SWIM Coalition's recommendations for Intro 730A.
15 While we're generally supportive of bills like this,
16 the aim to reduce harmful substances from entering
17 our waterways, we have questions and comments about
18 Intro 730A. Specifically, how are defining
19 waterfront properties use for recreation? Does that
20 include informal access points for swimming or
21 boating? How and why were HABs and petroleum chosen
and why not something like CSOs that are a much
bigger threat to human and ecosystem health. Is the
intent to help track HAB threats in New York City or
is it to reduce threats to public health? Currently,

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2 the DEP is required under the Sewerage Pollution
3 Right to Know law to update the public after a CSO
4 discharge, which they are currently not. This bill
5 would require additional resources that DEP does not
6 currently have. Where are these resources coming
7 from? And can the Council conduct oversight over DEP
8 over their Sewerage Right to Know and DEP's failure
9 to provide regular updates to the public as required.
10 If I still have time- having read and discussed the
11 intent of Intro 730A, SWIM encourages the committee
12 to focus on combined sewerage overflows and their
13 impact on water quality rather than HABs and
14 petroleum which are important, but not the highest
15 priority for recreational water users. Petroleum,
16 trash, heavy metals, PFOS [sic], and sanitary
17 sewerage are all present in CSOs which compromise the
18 ability of New Yorkers to use our waterways as
19 resources. In terms of detection and measurement,
20 HABs occur mostly in stagnant areas that can vary
21 from year to year. Petroleum is a non-point source
pollutant, but CSOs are point sources and thus have
discreet locations that are easy to routinely monitor
to protect human and ecosystem health. While we
encourage the committee to direct the New York- the

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2 DEP to regularly test and inform the public of CSOs,
3 we urge allocating additional budgetary resources to
4 the DEP for these efforts. We also recommend that
5 any water quality testing occur at or near water
6 access points for primary or secondary recreations
7 with locations selected through community engagement
8 processes. These samples should be collected near
9 shore less than 15 feet from the water's edge, not
10 mid-channel as currently done in the harbor survey,
11 despite what the DEP said, for the most accurate
12 measurement of contact risk to the public. The DEP
13 currently uses modeling to determine the likelihood
14 of water quality violation due to a CSO event rather
15 than directly monitoring the outfalls to measure the
16 frequency and volume metric [sic] discharge of each
17 event. The SWIM Coalition has long advocated for
18 sensors or other types of technology to be installed
19 on the outfalls that could adversely affect existing
20 uses of nearby waters by people. Thank you for the
21 opportunity. Our more extensive written comments
will be submitted, and as always, we look forward to
partnering with you and your council and your staff
to advance any of these recommendations and
initiatives.

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3 CHAIRPERSON GENNARO: Thank you,
4 Michelle, and I thank the SWIM Coalition as well.
5 You raise many points and questions that are now, you
6 know, front and center in our deliberations and we-
7 I- we are more aligned with the perspective that you
8 put forward and others than we were in the original
9 draft of the bill, proving that hearings are a great
10 thing. Hearing was a great thing and reaching out to
11 stakeholders.

12 MICHELLE LUEBKE: Yeah, sorry I missed
13 out in person. You all had the fun there.

14 CHAIRPERSON GENNARO: Yeah, we always try
15 to have a little fun, and why not? But you know,
16 I've always found that stakeholder engagement and the
17 public hearing process is, you know, indispensable to
18 what we do here. And you know, it takes a village to
19 make a good bill and a good law. We have great, you
20 know, advocacy partners like the SWIM Coalition, and
21 we appreciate you and others that participate, and
lead us to make better laws than we otherwise would
have. We're going to take all the credit, though,
just so you know, okay?

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2 MICHELLE LUEBKE: Of course, as you
3 should. You take the credit. We'll just help you
4 make it better, and we all win.

5 CHAIRPERSON GENNARO: Here, here. I think
6 that's a- I think that's a fair deal, and I'll take
7 it. And Michelle, thank you so much. We appreciate
8 your good testimony and your ongoing advocacy for the
9 work that we do here. All the best.

10 MICHELLE LUEBKE: Thank you.

11 CHAIRPERSON GENNARO: And the next
12 witness, Juliet- looks like Hanlon, Juliet Hanlon.

13 JULIET HANLON: Yes, thank you, Mr.
14 Chairman. Thank you all for the opportunity to voice
15 some of my concerns that were raised well by Mother
16 Pigeon. I'll take off where she began and left off. I
17 live in District Six and I began rescues long ago of
18 all birds, migratories as well. And thanks to the
19 Wild Bird Fund, I have had the privilege to learn so
20 much about what involves care and how to properly
21 feed them, things involved that aren't really of
public awareness. In any case, recently channel four
broadcast derogatory story that really misinformed
the public that not only harmed the birds of New York
City, but I felt- drew my concern for the need for

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2 proper education. Conservation begins with children.
3 There's a need for informing on responsible feeding
4 of birds, not giving them garbage. But at the end of
5 this topic in the news it was blaming pigeons for
6 growing rat population which is vastly untrue. And I
7 felt passionate to speak, because you know, I feed
8 them bird seed, as that what's their beaks are built
9 for. I'm sure Mother Pigeon would second that, one
10 of the greatest heroes in the movement to conserve
11 wildlife in New York City. So, I really became
12 concerned to speak about the impact to humans who are
13 doing that. I've been threatened and given hate
14 comments whenever I feed on the sidewalks. I've been
15 chased into traffic. I've had threats to beat me to a
16 pulp, to slitting my throat. So, you know- and I
17 discovered many of the stores on the Upper West Side
18 in my district don't carry bird seed, at least big
19 enough packages for the public to properly feed
20 birds. So, thanks to the Wild Bird Fund, thousands
21 are rescued annually, and the need to educate public
is part of what I'd like to propose in this
privileged hearing. The responsible- the idea that
conservation involves responsible feeding, bird seeds
for birds, you know? This is part of what my

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2 testimony involves. The anti-pigeon protection
3 spikes that are everywhere, even on top of commercial
4 awnings, it's incredibly cruel. I've rescued babies.
5 Those spikes are out to six inches long. They become
6 nests for parent pigeons, and the babies fall. One
7 recent baby I rescued named Reeve [sp?], was, you
8 know- his scalp was gone. You know, just things like
9 that, that businesses like the Highline invested in-

10 SERGEANT AT ARMS: [interposing] Time
11 expired.

12 JULIET HANLON: Yeah, so-

13 CHAIRPERSON GENNARO: [interposing] Just
14 please-

15 JULIET HANLON: [interposing] I'd like to
16 see this resolution pass and I'm urging you to please
17 pass this resolution that will protect, and ask
18 further that this resolution consider education
19 programs for children in schools, and build
20 compassion and respect for wildlife and responsible
21 feeding. Thank you.

CHAIRPERSON GENNARO: Thank you very much
for your passion and for your patience in coming
forward to testify. I'm more concerned about your
safety. Make sure that, you know, you document- that

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2 you document these instances of like really bad
3 harassment that you go through and take steps to make
4 sure that you are safe. We want you to be safe, and
5 the birds want you to be safe. So, and thank you for
6 your good work and just do whatever you can to, you
7 know, to be safe and don't let the fake news get you
8 down, you know? It happens. It's out there. Channel
9 four, whatever. But we appreciate your passion and
10 your good information, and we wish you the best and
11 the birds all the best as well. And so, thank you
12 very much and all the best. Thank you. Okay, if we
13 inadvertently missed anyone who registered to testify
14 today and has yet to be called, please use the Zoom
15 raise hand function. If you are testifying remotely,
16 you will be called in the order that your hand has
17 been raised. If you are testifying in-person, please
18 come to the dais. Seeing no one, I will now close
19 the hearing. Thank you to the members of the
20 administration and the members of the public who have
21 joined us today. This hearing is hereby adjourned.

[gavel]

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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 May 6, 2026