

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON GOVERNMENTAL OPERATIONS

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December 14, 2011

Start: 1:12pm

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HELD AT: Council Chambers
City Hall

B E F O R E:
GALE A. BREWER
Chairperson

COUNCIL MEMBERS:
Inez E. Dickens
Erik Martin Dilan
Domenic M. Recchia, Jr.
Peter F. Vallone, Jr.

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

Sarni Naim
Assistant Counselor to Mayor Bloomberg

Donn Morrill
Executive Director
New York Technology Council

David Moore
Executive Director
Participatory Politics Foundation

CHAIRPERSON BREWER: Okay. Good afternoon. My name is Gale Brewer and I am the Chair of Governmental Operations and I represent the West Side of Manhattan. I'm here with Seth Grossman, who is attorney/counsel to the Committee and Tym Matisov, who is the policy analyst to the Committee, and I thank them tremendously for all their work. We're here at the Committee on Governmental Operations to talk about public participation in the rulemaking process and we have a specific piece of legislation sponsored by Council Member Chin. She's not able to be here. She's in Washington D.C. today at a meeting, but I will read a statement from her in a few minutes. This Committee as I indicated will consider Intro 698 sponsored by Council Member Chin. This particular bill seeks to modernize the notice requirements for public hearings by requiring city agencies to publicize hearings on their websites and via other electronic means. The City Administrative Procedure Act known as CAPA is a process by which city agencies promulgate regulations also known as the rulemaking process. Approved by the voters in November 1988, CAPA was

1
2 established in order to create a detailed process
3 for agency rulemaking and to increase public
4 participation in drafting new rules.

5 The standard rulemaking process
6 occurs in three steps; one, notice of the public
7 hearing or proposed rulemaking; two, public
8 comments; and three, notice of adoption or the
9 final rulemaking. Terms of the notice: at least
10 30 days prior to a public hearing or the
11 designated deadline for submission of written
12 comments, an agency must publish notice of a
13 propose rule or rule change in the city record. I
14 think we're the only ones in government-only
15 government people know about the city record or
16 people who are very familiar with belt way
17 [phonetic] issues. In addition to publication in
18 the city record, CAPA also requires that notice be
19 transmitted to the Council, the Corporation
20 Council, each Council Member, the Chairs of all
21 Community Boards, the news media and civic
22 organizations. In 2009, legislation enacted by
23 the Council established a regulatory review panel.
24 The main objective of the regulatory review panel
25 is to modernize the rulemaking process with the

1 specific goal of enhancing public participation.
2
3 In April 2010, the regulatory review panel
4 released a report containing 14 recommendations
5 for improving the city's regulatory system and
6 environment. One of the panel's recommendations
7 was to modernize the rulemaking process by
8 launching an accessible online platform for all
9 rulemaking actions. In May 2010, the city
10 launched this new website NYC Rules, a one stop
11 point of access for information about rulemaking
12 actions. Today the Committee will hear about how
13 new technology enables agencies to more actively
14 publicize upcoming rulemaking hearings and to
15 engage interested members of the public in the
16 rulemaking process. I just want to add that
17 Rachel—I think she has more hits than anybody else
18 on the Internet these days, but anyway she's been
19 talking about this at different tech conferences
20 around the city and I want to thank her for that.
21 How our agencies using electronic media to engage
22 the public in the rulemaking process, to what
23 extent use social media such as Twitter to inform
24 interested members of the public about upcoming
25 rulemaking hearings and solicit input and what

1
2 other means can agencies use beyond publication in
3 the city record that is not a hit on the text
4 circle, city record. The Committee will also
5 consider Intro 698, which seeks to encourage
6 public participation in rulemaking by modernizing
7 the notice requirements for hearings.

8 Now I will read the statement from
9 Council Member Chin. I apologize that I cannot be
10 here today to hear testimony regarding the
11 modernization of city notice requirements for
12 public hearings. I want to thank everyone who
13 took time away from their busy schedules to
14 testify as well as the Committee staff for their
15 hard work and the Chair of the Committee, Gale
16 Brewer. In our technology driven world, it is
17 time we modernize the way this city notifies the
18 public about hearings. Currently, the city is
19 only required to publish a notice in the city
20 record—a publication also lists information
21 regarding requests for proposals, contracts,
22 procurements and job openings, but that few New
23 Yorkers even know exists. Public hearings
24 especially are meaningless without adequate public
25 notice and - - the fact that public hearing notice

1 requirements have become outdated is a democratic
2 problem with a small d. Some city agencies have
3 started to use Facebook and Twitter and their
4 homepages to disseminate important information
5 about new programs, rule changes and public
6 meetings; however, this practice is not employed
7 consistently or across the board, despite Rachel's
8 efforts. I have introduced this legislation in
9 order to bring notice requirements in line with
10 what has become modern day common practice,
11 posting information on the Internet and to help
12 promote public hearings to a wider audience.

13 Citizens should not be precluded from the
14 democratic decision making process because they're
15 not aware of a public meeting. This law would
16 require agencies to prominently post information
17 about hearings on their website at least a week
18 before a hearing date and to the extent that they
19 can publicize public hearings via other electronic
20 means such as social media. I hope my colleagues
21 will join me in the push to modernize city notice
22 requirements and help increase transparency and
23 accountability in our city government. Thank you,
24 Margaret Chin.
25

2 And now we'd like to call the panel
3 to the podium. I also want to thank Will Colgrove
4 [phonetic] and - - from our staff and - - Council
5 Member Robert Jackson.

6 COUNCIL MEMBER JACKSON: [off mic]

7 CHAIRPERSON BREWER: Thank you
8 Robert Jackson. Welcome.

9 SARNI NAIM: Good afternoon, Chair
10 Brewer, Members of the Committee on Governmental
11 Operations. I'm Sarni Naim [phonetic], Assistant
12 Counselor to Mayor Michael R. Bloomberg and I'm
13 here on behalf of the Administration to testify in
14 support of Intro 698, a measure which seeks to
15 enhance the accessibility of the rulemaking
16 process. Let me first start that the
17 Administration remains steadfast in its commitment
18 to bringing greater transparency, accountability
19 and accessibility to the rulemaking process. As
20 you know, the rulemaking process known as the City
21 Administrative Procedure Act or CAPA was first
22 conceived almost 20 years ago by the 1988 Charter
23 Commission. Until recently the process has
24 changed little to reflect modern conditions and
25 circumstances or comport with contemporary

1 customer service and operational principles;
2 however, both the Administration and the Council
3 have taken significant steps in recent years to
4 strengthenize [phonetic] and modernize CAPA. For
5 example, in 2008 the City Council amended CAPA by
6 requiring agencies to e-mail information regarding
7 a proposed rule, rule change to community boards
8 and news medias, civic organizations and other
9 stakeholders. This e-mail requirement was
10 intended to supplement publication of the same in
11 the city record, which as you know, serves as the
12 official newspaper of the city of New York for
13 purposes of publishing official notices, such as
14 public hearings, meetings, property dispositions
15 and procurements and which incidentally does not
16 have a large subscription base. In 2010, the
17 Administration in partnership with the Council
18 launched NYC Rules, a website that allows the
19 public to search for all recently proposed and
20 adopted rules by date, agency or key word, submit
21 their comments on proposed rules directly to the
22 rulemaking agency via any home or office computer,
23 blackberry or other mobile device, learn more
24 about the rulemaking process through plain
25

1 language guides, processed maps and links to
2 regulatory resources, such as the complete
3 compendium of the rules of the city of New York,
4 and sign up to receive an NYC Rules e-newsletter,
5 which provides weekly updates regarding rulemaking
6 activities city-wide. While both these measures
7 have helped enhance the rulemaking process, we
8 agree with Council that more could be done to
9 ensure that rules are promulgated in an open and
10 transparent matter as possible. To that end, we
11 are updating the NYC Rules website to make the
12 process even more accessible to New Yorkers. The
13 new website will include features such as a more
14 user friendly interface and design, expanded
15 search and key word capabilities and a public
16 hearing calendar that will incorporate all
17 rulemaking public hearings city wide. This
18 calendar feature in particular will help the
19 public stay up to date on rulemaking activity with
20 a click of a button. Given the Council's
21 demonstrated commitment to the issue of greater
22 transparency and accessibility to the rulemaking
23 process, we would solicit feedback and comment
24 from the Council as we continue developing NYC
25

1
 2 Rules 2.0. Moreover once the website is launched,
 3 we will continue to accept feedback and comment
 4 from the public at large as well as the Council
 5 and in an effort to ensure that the site is
 6 relevant and useful to the user. Accordingly, we
 7 respectfully propose an amendment to the bill that
 8 would require agencies to post a link to NYC Rules
 9 furthering our efforts to create an accessible one
 10 stop shop for all rulemaking actions—a one stop
 11 shop which again includes a public hearing
 12 calendar that would make it easier for the public
 13 to stay up to date on agency rulemaking.

14 In conclusion we thank Chair Brewer
 15 and the Committee on Governmental Operations for
 16 calling this public hearing to discuss intro 698
 17 and look forward to continue to working with the
 18 Council to refine the bill and establish a process
 19 that results in a rulemaking process that is open
 20 and accessible to as many New Yorkers as possible.
 21 Thank you, and I'd be happy to answer any
 22 questions.

23 CHAIRPERSON BREWER: thank you.
 24 We've been joined by Council Member Inez Dickens,
 25 and I appreciate very much her participation. I

1
2 have just—because I know that the Administration
3 has made some efforts to get agencies to use some
4 social media, I just wanted to know if you think
5 it's had any increased public participation in the
6 rulemaking process or is there any way of tracking
7 that?

8 SARNI NAIM: There are a few
9 agencies that use Twitter, Facebook to announce
10 like rule changes or rule amendments. There
11 hasn't been a study to say what the impact has
12 been. I can say thought that with NYC Rules,
13 which is just sort of an online rulemaking, rule
14 changes that may not receive a lot of people or
15 invite a lot of people to a public hearing
16 physically in a public hearing setting have
17 nonetheless generated a lot of comments via the
18 website, so for example, like a recent rule I
19 think less than 20 people showed up at the public
20 hearing itself, but yet over 700 comments were
21 generated via the site.

22 CHAIRPERSON BREWER: and how do
23 those comments get incorporated? Is it as if one
24 has shown up?

25 SARNI NAIM: Yeah, Mayor Bloomberg

1
2 signed an executive order that required every
3 agency to accept comments submitted through NYC
4 Rules as they would through regular mail or a
5 public hearing.

6 CHAIRPERSON BREWER: Okay. Do you
7 have any sense 'cause I know you mentioned that
8 the city record has a small subscription base—do
9 you have any sense of how effective notice in the
10 city record is? Obviously, you wouldn't have
11 gotten the same online correspondence, but do you
12 have any sense of how effective it is? It's not
13 something that a lot of people read I think.

14 SARNI NAIM: Yeah, I've hear
15 anecdotally that the city record outside of
16 government subscriptions has a base of about 300
17 subscribers, so the website has done a great job
18 at improving and opening up the process to more
19 than those 300. I think it's a good model to use
20 to open up the rulemaking process beyond those in
21 the know.

22 CHAIRPERSON BERWER: Okay, and you
23 mentioned that—and we did too—that under CAPA the
24 community boards and other civic organizations are
25 getting material. Do you have some sense of

1
2 knowing if they're getting it—you're doing any
3 survey of the community boards maybe through
4 community assistance unit, et cetera to know if
5 this is something that they are appreciative of
6 and following up on and has it made any
7 difference, et cetera, et cetera? And also, just
8 putting together a civic list, and that's not an
9 easy task because you don't want to—you've got a
10 different constituency perhaps for different
11 hearings?

12 SARNI NIAM: I know different
13 agencies have worked hard to create their CAPA
14 list. You have stakeholders at the Parks
15 Department will not necessarily look like the
16 stakeholders at the Buildings Department. I also
17 know that again like anecdotally there's been like
18 a formal study, but since the measure has been put
19 into place to e-mail community boards and other
20 stakeholders, we've seen an uptick in comments
21 from those community boards and stakeholders
22 whereas maybe in the past you wouldn't have gotten
23 them.

24 CHAIRPERSON BERWER: Okay. Do you
25 have any sense—I don't know how many—I would say

1
2 there are 80 city agencies, but I don't know if
3 that's the right number. There are at least 40.
4 The question, do you have some sense of how many—
5 you know, who is monitoring—who is putting the
6 hearings on the website in a prominent location?
7 Who isn't? And then who follows up? Whose job is
8 it to do that?

9 SARNI NAIM: There are certain
10 agencies that have a really robust website. The
11 rules are accessible, amendments to the rules are
12 accessible, they're actually fun and easy to click
13 through. Other agencies, they just have a lot of
14 information up there, so it's hard and difficult
15 to organize in a manner, so perhaps, notices
16 regarding like emergency procedures are at the
17 forefront and notices regarding a public hearing
18 may not be as prominent as one would like. I know
19 that DUIT [phonetic] and of course the Chief
20 Digital Officer have done a great job—

21 CHAIRPERSON BREWER: [Interposing]
22 Who is Rachel.

23 SARNI NAIM: Yeah. They've done a
24 great job in just kind of standardizing how our
25 websites look and feel and trying to take a best

1
2 practice say at one agency and kind of - - city
3 wide, agency wide. As far as that goes and as
4 well as NYC Rules I think that's been posted on
5 NYC.gov and of course we have the newsletter to
6 kind of generate traffic there as well.

7 CHAIRPERSON BREWER: Okay. So it's
8 up to DUIT essentially to try to monitor and to
9 get agencies to conform to the CAPA requirements
10 is what you're saying? I'm just trying to figure
11 out-

12 SARNI NAIM: [Interposing] - -
13 general matter like when it comes to the user
14 interface and how the look and feel of websites
15 and how websites are developed and used, what best
16 way to design websites. I mean DUIT's an integral
17 partner as well as the chief digital officer
18 trying to seek ways to engage the public in the
19 best way across all agencies.

20 CHAIRPERSON BERWER: Okay. Who is
21 the either deputy mayor or agency who is supposed
22 to make sure that the community boards get the
23 material and the appropriate civics? In other
24 words, where does the buck stop on that?

25 SARNI NAIM: Every rule goes to the

1
2 law department regarding how to comply with the
3 CAPA procedures. The law department ensures that
4 the agency develop a CAPA list and distribute that
5 notice to their CAPA list, stakeholders, community
6 boards and what have you.

7 CHAIRPERSON BREWER: As somebody
8 who has a 50,000 person e-mail list that's
9 actually a lot of work to keep that CAPA list up
10 to date in the sense that people's e-mails change
11 often so I don't know. I just think it's
12 something that needs to be monitored because those
13 lists can go out of date very quickly. When you
14 develop the stakeholder list--it's hard to know
15 what to call it in today's world--do you tailor it
16 or do the agencies tailor it according to the
17 rule? Example, I just testified at a Marina
18 hearing at the Parks Department, and we did a good
19 outreach obviously 'cause we had an interest in
20 the outcome, but I don't know that the Parks
21 Department--and I have great respect for the Parks
22 Department--did any kind of an outreach that you
23 have just described, which is to the stakeholders.
24 I'm just trying to understand how this is done
25 because actually to be very honest with you, it's

1
2 a lot of work to put together these lists. I'm
3 not going to tell you otherwise 'cause as somebody
4 who a list nut, nerd I believe in constant lists
5 online and I keep them, but they're a lot of work.
6 So I'm just wondering either who's assisting,
7 who's monitoring, who's overseeing because people
8 get used to it. It's not like a subscription
9 where it's going to go in the mail no matter what—
10 actually the nail mail address doesn't change that
11 often, but e-mail... So I'm just wondering like who
12 is sort of thinking long term about this list,
13 stakeholder situation?

14 SARNI NAIM: Yeah, I mean the Parks
15 Department's a great example. You'll have just in
16 the past year rules regarding like ball fields,
17 green thumb gardens and the marinas and obviously
18 those rules get blasted out to different people, a
19 great majority of whom are the same—you know, the
20 community boards, the council members, but then it
21 does differ. Little leagues will get rules
22 regarding ball fields, but they may not
23 necessarily get notice about rules regarding the
24 marinas. Certainly the community gardens were
25 engaged throughout the rulemaking process on those

1
2 rules. Within each agency, yes, it is tailored to
3 what the rule is 'cause there is a good faith
4 effort to engage as many folks as possible in the
5 rulemaking process.

6 CHAIRPERSON BREWER: Okay and does
7 somebody from the law department if that's
8 appropriate maybe do some kind of spot check to
9 see what kind of lists are being developed by
10 calling appropriate stakeholders to see if the
11 process is working? I know it's early in this
12 process, but I'm wondering—because this such a
13 huge city, and I'm just wondering who is going to
14 take that role on?

15 SARNI NAIM: Yeah, I mean agencies
16 are probably in the best position to know who
17 their stakeholders are based on the feedback that
18 they get from constituents, based on just the
19 folks on the ground and how they're operations pan
20 out. The law department does check in with the
21 agencies and ask if they're complying with all
22 CAPA requirements including e-mailing out notices
23 of proposed rulemakings, but it would be hard to
24 create like a top down centralized list because
25 again, we want to make sure that the folks that

1
2 really care about these rules are engaged
3 throughout and focus our energies accordingly.

4 CHAIRPERSON BREWER: Okay, I hear
5 you. I do think it still needs a little bit—if
6 that's what's going on checking off a box at CAPA
7 has been met, somebody still needs to do a little
8 spot checking. If you're talking about a change
9 in rules regarding immigrants, the obvious is to
10 call some of the advocate groups that do this kind
11 of work to see if they got the notice in
12 appropriate fashion in a timely basis. That's not
13 complicated, but it does take time. That's not
14 being done yet is what you're saying?

15 SARNI NAIM: Well, I know each
16 agency works with our press office with their
17 intergov office to develop a list at the agency
18 level. Does it happen at a city wide level, I
19 don't think it does.

20 CHAIRPERSON BREWER: I mean the
21 other issue would be how does the city as a whole
22 promulgate NYC Rules and the fact that it exists.
23 I think it's a wonderful site, but again, it's not
24 something that is talked about much. Is that
25 something that's being looked at and considered?

2 SARNI NAIM: Yeah—

3 [crosstalk]

4 CHAIRPERSON BREWER: I mean if we
5 had webcasting, it wouldn't be such a big problem.

6 SARNI NAIM: We're trying to do an
7 overhaul of the site because we would like more
8 traffic. In the last year, a lot of comments have
9 been submitted through NYC Rules and it's taken a
10 prominent role in rulemaking. I think once we
11 have like a public hearing calendar, once we have
12 things such as making it more Google friendly,
13 maybe incorporating social media into the site,
14 it's a great platform and it's a start, but we're
15 continuing to develop it because frankly, agencies
16 want to engage and want to spur public
17 participation in the rulemaking process. All too
18 often, you'll have a rule—

19 CHAIRPERSON BREWER: They don't
20 always want to have too many people participate in
21 the agency—believe me, in the rulemaking process.

22 SARNI NAIM: But there's a process
23 and it's better that you comply than not comply,
24 and it's out there and the ball has already
25 started rolling and there's already momentum for

1
2 online rulemaking, so again, as the site develops,
3 we would look to incorporate more features,
4 generate more traffic and then rulemaking becomes
5 in the cloud.

6 CHAIRPERSON BREWER: Do you have
7 some sense—maybe I think you mentioned this—but do
8 the agencies link to NYC Rules or is that part of
9 the plan?

10 SARNI NAIM: That is definitely
11 part of the plan and it's why it would mesh neatly
12 with Intro 698 if there is a button kind of
13 generating traffic to the site. You may be
14 interested in a certain rule regarding buildings,
15 but then when you're at the site you can see other
16 rulemaking actions at other agencies, so we think
17 this is a good thing.

18 CHAIRPERSON BREWER: Are there any
19 plans to particularly when that happens to have
20 more public discussion of NYC Rules? Is there any
21 discussion about trying to do more with either the
22 mayor or others talking about NYC Rules? It is
23 not a really exciting topic, but it's the kind of
24 thing that academics and students and researchers
25 and I'm sure the press already know, but people—

1
2 the student, the researcher, the academic
3 community—is there any sense of how to do that or
4 to do that?

5 SARNI NAIM: Right, to solicit
6 feedback from the public to make--

7 [crosstalk]

8 CHAIRPERSON BREWER: --let them
9 know that it's there. IT's a wonderful thing for
10 like I said the university community in
11 particular.

12 SARNI NAIM: Currently there is a-

13 CHAIRPERSON BREWER: [Interposing]
14 It wouldn't be a tourism excitement.

15 SARNI NAIM: Currently there is a
16 contact NYC Rules tab and again, this is the first
17 iteration of the site, but we've gotten comments
18 about how to make the site better.

19 CHAIRPERSON BREWER: It's a little
20 small on the font just so you know.

21 SARNI NAIM: The more comments the
22 better, and again, as we do the overhaul for the
23 second iteration of the site-

24 CHAIRPERSON BREWER: [Interposing]
25 2.0.

2 SARNI NAIM: 2.0. We look to have
3 more comments about how to make the site better
4 because a lot of work goes into it, and we're
5 doing this so people use the site - - .

6 [crosstalk]

7 CHAIRPERSON BREWER: Do you have
8 some sense of how much traffic is on it now?
9 Obviously you're getting feedback from certain
10 hearings and certain stakeholders - - 700. That's
11 not necessarily NYC Rules. You have some sense of
12 how much traffic is using it now?

13 SARNI NAIM: I do have some
14 anecdotal evidence about the newsletter for
15 example, which you must sign up for. That doesn't
16 necessarily capture all the clicks, but for the
17 people who click and type in their e-mail and
18 confirm their submission, I think our newsletter's
19 subscription base is about 1200, which is four
20 times that of the city record.

21 [crosstalk]

22 CHAIRPERSON BREWER: That's exactly
23 what I was thinking. Yes. And the other question
24 is do you have some sense of the comments are
25 coming from--or the sign-ups are coming from

1
2 citizens or industry representatives or just
3 generally, do you have any idea about where the
4 1200 are coming from?

5 SARNI NAIM: I don't have any idea
6 of the subscription base, but as far as the
7 comments go, it's open it up to a lot of the
8 public, just general citizens. Again the rule I
9 mentioned of the 700 comments, those were all
10 citizens. It was a rule regarding the fees of
11 various permits at the Parks Department and
12 various tennis players, I think it was like 600
13 plus tennis players and just normal folks who use
14 the courts submitted their rules, and I'll let you
15 guess what they had to say.

16 CHAIRPERSON BREWER: I have no
17 idea. On terms of new technology I know we talked
18 a little bit about it in the opening statements
19 and I'm wondering again—you talked about the Parks
20 Department, but are others using emerging
21 technology and it's one thing to talk about it at
22 the forums, but it's sometimes more challenging
23 again to keep up with Twitter, to keep up the
24 Facebook. I'm very familiar with the time
25 involved, so I'm wondering is there training going

1
2 on? How do you engage people to take that step in
3 terms of the agencies? It is a time consuming
4 process. People who don't do it don't know that
5 it's time consuming.

6 SARNI NAIM: Actually when we
7 started the site, there were some agencies kind of
8 ahead of the curve that actually set up an e-mail
9 address to receive comments for example, which
10 sounds simple, but not every agency did that. As
11 we move forward with the site, I think the benefit
12 of the site is that when you make enhancements to
13 the site and when you incorporate more features,
14 it automatically has that city-wide sort of echo
15 effect, and so for example like you mentioned,
16 incorporating social media to the extent that the
17 new site would do that would sort of cover our
18 bases rather than to have 40 different social
19 media coordinators and maybe some agencies do a
20 better job than others, there's kind of a
21 standardized format to use social media and
22 incorporate into the rulemaking process.

23 CHAIRPERSON BREWER: My favorite
24 although it's not a complete analogy is the United
25 States Department of State. As I understand from

1 listening to their tech department in every
2 embassy or consul's office in the world, they now
3 have at least some form of tech staff and they are
4 working with individuals in that country be it
5 students, be it other farmers, be it workers to
6 participate in their discussions. Now again, I'm
7 not going to say that the time involved is
8 negligible, but when people want visas or there's
9 some allegation of corruption to dissuade it to
10 state that this is not the way the U.S. operates,
11 so whatever the situation may be, they mitigate
12 the problem by being involved with the chat rooms,
13 getting involved with the discussions and again,
14 that's very time consuming, but on an issue that
15 is either of interest to the Administration or to
16 the city even taking that next step would that be
17 something that people would consider? In other
18 words, if there was a challenging issue that maybe
19 had two sides to it, God forbid, we should have
20 two sides to issues—that had two sides to it then
21 would there be some interest in promoting people
22 participating in the process by taking that next
23 step to actually engage on Facebook or Twitter or
24 even in chat rooms and places where people are
25

1 engaged already?

2
3 SARNI NAIM: Well, I mean as far as
4 incorporating all those great tools in the
5 rulemaking process, we're seeking to do that as
6 well. Also being mindful that not everyone has
7 access to a computer, but they do want to
8 participate in the process and how to treat them
9 equally, so the challenge is how to not create a
10 forum online that's not available offline.

11 CHAIRPERSON BREWER: I agree with
12 that.

13 SARNI NAIM: And so when developing
14 the site and when pursuing any of these online
15 rulemaking initiatives, we're trying to balance
16 and create not an unfair advantage for someone
17 with a computer.

18 CHAIRPERSON BREWER: Now is there
19 something wiki-like that would be possible, so
20 that you would be able to explain more
21 historically and so on that would make more sense
22 for the public--again trying to get them engaged?

23 SARNI NAIM: There's been a recent
24 legislation which had operational review of
25 proposed rules. The goal of that was to make the

1 rules just a little bit easier to digest.

2 Obviously there are technical specifications and
3 certain regulations and I mean you can only make
4 it as plain language to a certain degree, but
5 certainly in format, certainly in the statement of
6 basis and purpose, there's been a marked
7 improvement in how these rules are presented, and
8 that was an effort to make the rulemaking process
9 a little bit more accessible to just regular folks
10 and again special interests have an easy ability
11 to kind of digest regulations. They might even
12 have a subscription to the city record. It would
13 be that golden 300, but I think this improvement
14 was again it's a recent one and we're getting
15 going, but you have seen a change in how rules are
16 presented and even it's further incorporated into
17 the draft making process. Right? So as the
18 agency--

19
20 CHAIRPERSON BREWER: [Interposing]
21 Explain that.

22 SARNI NAIM: So as agencies are
23 developing rules, they're sort of thinking about
24 what the questions that they may get from the
25 mayor's office of operations from the last time

2 they promulgated.

3 CHAIRPERSON BREWER: [Interposing]
4 Maybe making them more plain English and something
5 that the public could understand—wiki-like.

6 SARNI NAIM: Right and incorporate
7 that into the drafting of the rule and I think
8 we're starting to see that now, a year into the
9 reform.

10 CHAIRPERSON BREWER: I know in
11 public service we're always told correctly that we
12 don't get bonuses and we can't reward the agencies
13 in that way, but is there some sense perhaps to
14 have some kind of a ceremony for those agencies
15 that do distribute information in a fashion that's
16 accessible to the public that be linked to NYC
17 Rules and that use social media? Is there some
18 thought to having that as a "bonus" and
19 congratulating them?

20 SARNI NAIM: I'm not aware of one,
21 but it sounds like a fun idea.

22 CHAIRPERSON BREWER: Okay, so are
23 you going to institute that?

24 SARNI NAIM: I'm looking at the
25 intergov representative from DUIT right now and...

2 CHAIRPERSON BREWER: Alright, I
3 think that would be good because then people would
4 understand that there's a goal and that they want
5 to participate. Thank you very much. I really
6 appreciate your participation. We look forward to
7 working with you.

8 Okay, our next panel is David Moore
9 [phonetic] and Donn Morrill.

10 [background conversation]

11 DONN MORRILL: Chairperson Brewer,
12 Committee and Council Members, thank you for
13 affording me the opportunity to testify today... Oh,
14 I'm sorry. Is that it? Check. Great. I'll
15 start again. Chairperson Brewer, Committee and
16 Council Members, thank you for affording me the
17 opportunity to testify today on the use of
18 technology to facilitate better transparency of
19 local government. My name is Donn Morrill and
20 I'm the executive director of the New York
21 Technology Council. The Council is a New York
22 based trade association whose mission is to help
23 technology companies grow and thrive in New York
24 and to promote the technology industry as a source
25 of economic strength and job creation in the city.

1
2 As we all know, the issue at hand today is Intro
3 698 an important and timely amendment to local law
4 with the intention of increasing public awareness
5 of local administrative procedures. The digital
6 tactics outlined in the initiative are an
7 important step in the right direction toward a
8 more open legislative process, and I commend the
9 Committee for proposing it; however, I feel that
10 there is more that can be done. As a
11 technologist, I see many ways of achieving the
12 goal under consideration today and not all of
13 these recommendations need be codified. They are
14 simple to implement, make use of readily available
15 technology that is frequently free of cost and
16 would require a minimal investment of time and
17 resources. As I'm sure you're aware, the mayor's
18 executive order 133 stipulated the creation of the
19 NYC Rules website, a central repository of
20 legislative proceedings and hearings that is
21 readily available to the public. I applaud the
22 mayor's office for taking this critical first step
23 in the right direction. Here we have an
24 electronic format the information that we are
25 trying to more easily disseminate to the

1
2 constituency. In addition the New York City
3 record, the official publication of goings on in
4 city government, is another centralized source of
5 hearing information. The electronic version of
6 the record, the city record online, provides
7 searchable electronic format data for procurement
8 opportunities; however, to the best of my
9 knowledge the record does not provide electronic
10 format hearing data. To readers of the print
11 version of the city record—I know now there aren't
12 any—it would seem only logical that the online
13 version would also provide information on hearings
14 and procedures. I propose that an online version
15 of the city record provide digital access to city
16 rule changes and public hearings. While this
17 capability would seem to duplicate the functions
18 of the already existing NYC rules website, I feel
19 that the city record is a more logical and
20 intuitive location for people to look for when
21 seeking out information on hearings. As stated in
22 Intro 698 unless a person has prior knowledge of
23 the existence of the NYC Rules website, they have
24 little chance of stumbling upon it. One important
25 feature of the NYC Rules website is a sign up form

1
2 for an e-mail newsletter summarizing rulemaking
3 activities of city agencies. As it stands today,
4 citizens can provide their e-mail address,
5 password, a zip code to register for this service.
6 E-mail is the most fundamental yet powerful means
7 of reaching a target audience and I believe that
8 this capability to be drastically underutilized on
9 the NYC Rules website. I propose the following:
10 1) segment the e-mail capability by agency
11 allowing citizens to subscribe only to those
12 notices for the agencies that concern them, 2)
13 remove the password and zip code requirements to
14 sign up for the newsletter and add a simple
15 CAPTCHA to reduce spamming, 3) syndicate the e-
16 mail sign up capability through NYC Rules to all
17 city agencies' websites so that when a citizen
18 visits the agency's website, they can sign up for
19 procedural alerts without having to find their way
20 to NYC Rules—in essence, you're still centralizing
21 the e-mail activity to NYC Rules. Outside of many
22 social media initiatives I believe that a more
23 modern, more sophisticated e-mail strategy can
24 address many of the concerns regarding constituent
25 notification of legislative actions. Now many of

1
2 you are familiar with the NYC open data and the
3 associated NYC big apps [phonetic] competition.
4 To briefly summarize, NYC open data is a website
5 that makes hundreds of city agency data sets
6 available to the public in a computer friendly
7 open format, while big apps is an annual
8 competition that brings together the best and
9 brightest software developers in New York City to
10 create exciting new applications using this city
11 data. As I prepared to speak today, I was
12 surprised to learn that the agency hearing data
13 was not readily available on NYC open data. I
14 recommend that all hearing data currently made
15 public via the NYC Rules website also be made
16 available in a machine readable format on the NYC
17 open data website. The big apps competition will
18 take care of the rest. Resourceful entrepreneurs
19 will no doubt take advantage of the availability
20 of this data and incorporate it into multiple
21 applications encouraging city transparency--an
22 amazing and unique way to leverage the creative
23 ecosystem generated by open data and big apps. Of
24 course, this testimony would not be complete
25 without recommending that the hearing notices also

1
2 be published on Twitter. Please do that. It is
3 free. It commands a huge audience and in an age
4 where Mayor Bloomberg has 200,000 followers and
5 President Obama has 11 million followers, it is
6 fully expected by the citizenry.

7 In conclusion to summarize my
8 recommendations, I propose 1) that the online
9 version of the city record provide digital access
10 to city rule changes and public hearings, 2) that
11 outbound e-mail capabilities of NYC Rules be
12 updated, 3) that hearing notification data be
13 published to the NYC open data website and that
14 subsequently promoted to the big apps competition
15 and 4) that hearing notification data be published
16 to Twitter. Thank you for your time. I strongly
17 encourage you to consider these recommendations I
18 have outlined today as you work to increase
19 transparency and openness in governmental
20 procedures. If there are any ways that I or the
21 New York Technology Council can be of further
22 assistance on this matter, please let us know.

23 CHAIRPERSON BREWER: Thank you very
24 much.

25 DAVID MOORE: Am I coming in?

1 Good. Good afternoon. My name is David Moore.
2 I'm the executive director of the Participatory
3 Politics Foundation. We're a 501c3 non-profit
4 with a mission to increase civic engagement, and
5 we do that by building free software and websites
6 that are open to the public. We remix government
7 information at the federal, state and local level
8 to make it more user friendly. Thank you very
9 much for the invitation to speak. Thank you very
10 much, Council Member Brewer. This is an important
11 topic. Intro 698 is a good first step, but I'd
12 like to put it in a little bit of context, and
13 this is what is often referred to as the open
14 government movement or sort of open government
15 principles that have been generated by the
16 community that I'm just here to speak on behalf
17 of. For any government entity to be truly open
18 government requires that you get up to date with a
19 few simple but inexpensive, but easily achievable
20 tasks. For example, one of them is that the
21 government the primary source must publish data in
22 open formats, machine readable. These must be
23 available via a process called bulk access so you
24 can get a whole database at once easily, and then
25

1
2 ideally also via something called an open API—an
3 API an application programming interface of
4 course, and it's way of giving machine streams of
5 data that are regularly updated, and then there's
6 various improvements on this of course that you
7 can build on, but the foundation of open
8 government data is something that New York City
9 still doesn't have. So as much as we talk about
10 open government data and as much as we aspire
11 toward it with efforts like Intro 698, we're still
12 far short of it. The mayor's office has not yet
13 achieved it. The City Council has not yet
14 achieved it. Very few cities in the United States
15 have achieved it, although some have made some
16 really great steps. That's my plug for Intro 29,
17 which is currently in Committee. I know it's a
18 different bill, but I'd just like to liberate
19 legislative - - .

20 CHAIRPERSON BREWER: Wait a minute.
21 We're working on it. You have no idea.

22 DAVID MOORE: I believe it, so
23 please - - open government community as a
24 vociferous supporters. There's other things that
25 New York City is doing well with open government

1
2 right now. Rachel Stern leading social media
3 outreach is doing well. The big apps contest is
4 great. Open government in New York is a pretty
5 thriving community of which I'm proud to be a part
6 of. There's groups like Civic Commons, the Tech
7 Meetup and there's great assets here in the city
8 of designers and web developers who can take the
9 data from the primary source and put it into
10 various applications of which we can only imagine
11 right now. So in short, we don't have to come up
12 with the optimal solution. If the data is
13 liberated, the community in a way will both figure
14 out what users want. It's almost like saying the
15 market will make their decision in a way. People
16 will gravitate toward websites that are more user
17 friendly and that are going to allow them to
18 interface the rulemaking process specifically as
19 they'd like to.

20 Those are some good things in the
21 scenarios I see, but unfortunately there's some
22 problems with the existing NYC Rules site that I
23 see. The data isn't open. It's not comprehensive
24 I believe from different agencies and the
25 interface is pretty I'll be gentle here, and say

1
2 it's pretty sadly un user focused. It's not up to
3 contemporary best practices in web design. It
4 could easily be. If we wanted to throw it up on
5 the screen right now, I think we could all perhaps
6 share a chuckle at NYC Rules and how you can't
7 sort it by what's popular, there's no keywords,
8 there's no search... I could go on... I could think of
9 offhand two dozen open data developers who could
10 make a better NYC Rules site immediately, if the
11 data was open for them to do so, and they'd do it
12 both entrepreneurially or as a civic service.
13 Specific comparisons to a couple other cities are
14 possible. Recently an article in Fast Company
15 compared it less than glowingly to the city of
16 Boston's, Louisville, Kentucky and I know there's
17 a couple cities in Virginia that do well. I could
18 go on and provide more examples, but... The NYC.gov
19 site the list of agency city indexes is difficult
20 to search, so it's hard for visitors to even see
21 the rulemaking process, much less participate in
22 it, and for individual agencies the specific user
23 interfaces vary widely.

24 The ideal that I've mentioned is
25 with more open data--developers can remix it and

1
2 create a new site—a new version of NYC Rules that
3 would be located at their own URLs that people
4 would actually feel like was an actual social hub,
5 had some buzz behind it, and that had a pulse and
6 that didn't feel like an isolated place where they
7 could drop their comments. However, that's an
8 ideal build and I can - - that more specifically
9 with regards to 698. My specific recommendation
10 for an amendment which I believe is an amendment
11 is that—what would be the easiest sort of quick
12 fix would be if every agency was required to
13 publish its rulemaking info via XML. It's an open
14 data standard, XML, and so from this, they could
15 still post it on their 101 individual sites, but
16 it would be out there for the community to
17 subscribe to and then remix, so that you could
18 grab all the fields that you wanted to. I thought
19 your recommendations were more - - e-mail
20 subscription options were also really great. This
21 data stream should be licensed in—it should be an
22 open standards data stream, licensed in - -
23 copyright and then additional add ons that could
24 exist within a revamped NYC Rules would be public
25 markup tools for the community to have prevent

1 participation and then follow-up and a space for
2 community groups and interest groups to give their
3 input. There should be some public facing metrics
4 about what people are searching for and using on
5 the site. I don't believe that NYC Rules contains
6 that now, and that's sort of a basic idea of web
7 development 101. You can look to open 311 is a
8 great example for how that's achieved.

9
10 Then I'll conclude by pointing
11 toward if you open up the rulemaking info with an
12 open XML feed, which then anybody can then access
13 and use, NYC Rules.gov can still be improved
14 significantly with expending some design resources
15 on the user friendly redesign. There's lots of
16 ways of doing that, but—features for visitors, a
17 sort, search, comment, share and especially, to
18 write their city council members about proposed
19 rules; it would all increase participation
20 significantly. It would allow us to recruit
21 community partners and media partners to share it
22 and would increase public accountability. I
23 appreciate the opportunity to talk and I'm happy
24 to answer any more questions.

25 CHAIRPERSON BREWER: Thank you. I

1
2 know every time we talk about these issues, I
3 always think, "Oh, is the City Council doing it?"
4 Here we are asking the Administration to do
5 something, so I just throw that out. Thank you
6 for mentioning the City Council. I want to thank
7 you both. We've been joined again by Council
8 Member Peter Vallone. He was here earlier, and
9 Council Member Domenic Recchia.

10 A couple of questions. One is you
11 mentioned other jurisdictions, so either Donn or
12 David, can you just mention some of the other
13 jurisdictions including the federal, if you think
14 any of them do a more effective job of engaging
15 the public.

16 DAVID MOORE: I'll be happy to take
17 that one. So our nonprofit maintains two web
18 applications called open Congress.org and open
19 government.org, which enable the public to track
20 the government legislatures at the federal and
21 then at various state branches, so I can speak
22 from that perspective. Until recently out of the
23 federal government and then also 99 other
24 legislative bodies in the United States and it's
25 99 because Nebraska is unicameral, so out of the

1
2 99, only one of them we believe was truly
3 compliant with the open government data
4 principles, and that was the New York State
5 Senate. The New York Senate the way it
6 accomplished this roadmap to open was something
7 that received tremendous applause in the open gov
8 community. There was great buy in with the open
9 effort that the pioneered and they used open
10 source tools. They were involved in the
11 community. That's really the foundation. Being
12 on Twitter is great and encouraging hack a thons
13 [phonetic] is great, but opening the data in that
14 way was what I point to when I do presentations
15 like this as the definitive best take to date in
16 true open government.

17 CHAIRPERSON BREWER: I think we
18 know the people who put that together and we're
19 very fond of them. A couple other questions.
20 What do you think Donn in particular—first of all,
21 thank you both for putting together a lot of
22 thought for your presentations—Donn, do you think
23 that some of your suggestions are time consuming
24 or are they ones that could be done relatively
25 easily in terms of what you suggested?

1
2 DONN MORRILL: I think there's
3 probably some initial upfront investment in terms
4 of getting the systems in place and perhaps
5 getting some data feeds in place and putting e-
6 mail sign up forms on all of the agencies'
7 websites, but once all that infrastructure is in
8 place, it should be fairly automated from there
9 forth. It needs a little babysitting now and then
10 to make sure that the data feeds are still
11 working, to make sure that the e-mails are still
12 getting into the centralized database, but once
13 everything is set up, there should not be a lot of
14 ongoing maintenance and babysitting on these
15 systems.

16 CHAIRPERSON BREWER: And do you
17 also either one of you have any—have you ever
18 participated in the NYC Rules? Have you ever
19 testified? Have you—in other words, do you think—
20 what would make people participate more? It's one
21 thing to give them the information. It's like
22 getting people to register to vote, but then you
23 also want them to participate. Do you think
24 people will participate more online? I thought
25 the Parks Department had a good, but very self-

1 interested interest in the tennis permits. That's
2 the group that I know extremely well. What else
3 do you think would get people to participate? In
4 other words, you've got the online participation,
5 you've got the personally participating testimony.
6 You make some suggestions, but I was wondering if
7 you had any others? Is there a different group
8 that's going to show up from those who are going
9 participate online?
10

11 DONN MORRILL: I think the online
12 commenting of the rules and the hearings is a
13 great first step and you've obviously enticed a
14 whole new audience and brought a whole new
15 audience into the rulemaking process. As you
16 mentioned, I think unfortunately the rulemaking
17 process in New York tends to be somewhat of a dry
18 subject and the people that are going to be
19 interested and involved in that process are
20 probably going to find their way to become
21 involved in that process one way or another. I
22 think the best that we can do is make it as easy
23 and compelling for people to find the information
24 that they're looking for. Somebody wants to hear
25 more about the Parks Department and the marina

1
2 goings on, make it easy for them to find it, but I
3 don't think you'll—to be honest, I don't think
4 you'll rope a large new audience into the Parks
5 Department hearings just because it's more
6 available.

7 DAVID MOORE: I generally agree. I
8 think if the data was made openly available via
9 API we would find what emerges. I'm a member of a
10 bunch of different local discussion forums and
11 things like that, and none of them are on websites
12 that end in .gov. They tend to be on websites
13 that end in .com, .net. or .org, so we'll be able
14 to see what pops up and then bring that discussion
15 back to official websites, and I do think the gov
16 doesn't have to give up all of its skin in the
17 game so to speak. I think it can have a role, and
18 I think it can devote resources to fostering that
19 kind of commenting and community and it can do it
20 with a redesign of NYC Rules.

21 CHAIRPERSON BREWER: And then just
22 finally, what do you—this example I gave of the
23 state department, that's kind of what Dave was
24 talking about but where people in the state
25 department where there's a slightly different

1
2 agenda I mean trying really hard to make the
3 United States be more supporters so to speak in
4 some of these emerging markets, but are there ways
5 that you think of where city agencies again given
6 time and money constraints could participate in
7 the discussions that are going on? I know you've
8 talked a little bit about that, David, but it's
9 again, I'm a believer you can put all that
10 information out there, but you still need to put
11 it right in people's face almost online in order
12 for them to see the relevance and to see that
13 their participation is really welcomed.

14 DONN MORRILL: I think your analogy
15 to the state department is a good one, and I think
16 one solution to that is perhaps every city agency
17 should have its own Rachel Stern. They should
18 each have a curator of their digital and their
19 social channels whose responsibility it is to
20 promulgate the information about hearings and
21 other goings on within the agency and also to
22 interact with that constituency. Social media is
23 inherently a two way communication vehicle much
24 more than an e-mail or even a website posting, so
25 it's important there be that interaction that

1
2 people expect when they use social media, and so
3 perhaps, it's a part time position or a full time
4 position or somebody else within the agency who
5 already has a similar role, but there needs to be
6 a curator or a champion of that new level of
7 communication with the constituents.

8 DAVID MOORE: We scarcely even know
9 the answer to - - because NYC Rules currently
10 doesn't have any way to see where conversations
11 are happening. It's the simplest of even web 1.0,
12 2.0 basic features that the site currently lacks.
13 We would know more with a little bit more public
14 analytics.

15 CHAIRPERSON BREWER: Okay. Do you
16 know other jurisdictions that are doing public
17 mark up.org for instance? I don't know if the
18 state senate is doing that on the democratic side,
19 but I'm just wondering again back to this issue of
20 other jurisdictions.

21 DAVID MOORE: Doing specific public
22 markup I can look and I can e-mail Tym with any
23 follow-up. I would have to be certain.

24 CHAIRPERSON BREWER: I want to
25 thank you both very much first of all for showing

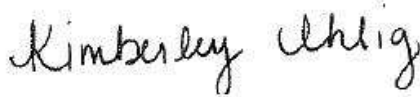
1 up, but second of all for putting a lot of time
2 and thought into your presentation. I really
3 appreciate it, and it will be taken very
4 seriously. Thank you. I want to thank John
5 Russell [phonetic] from the Finance department and
6 I want to thank my colleagues for being here and
7 for those of you who participated. This is
8 perhaps the most exciting topic, but for those who
9 know government this is really important because
10 if the public doesn't know what we're doing, then
11 I think the public is not well served, so thank
12 you very much. This hearing is concluded.

14 [gavel]

C E R T I F I C A T E

I, Kimberley Uhlig certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature

Handwritten signature of Kimberley Uhlig in cursive script, written over a horizontal line.Date 1/3/12