

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON ENVIRONMENTAL PROTECTION

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HELD AT: 250 Broadway- Committee Rm, 16th Fl.

B E F O R E:

COSTA G. CONSTANTINIDES
Chairperson

COUNCIL MEMBERS:

DONOVAN J. RICHARDS
ERIC A. ULRICH
RORY I. LANCOUNCIL MEMBERAN
STEPHEN T. LEVIN

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

Nilda Mesa
Director
New York City Mayor's Office of Sustainability

Peggy Shepard
Executive Director
WE ACT for Environmental Justice

Beryl Thurman
Executive Director/President
North Shore Waterfront Conservancy

Mychal Johnson
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South Bronx Unite

Norris McDonald
President
African American Environmental Association

Aaron Mair
President
Sierra Club

Ken Gale
Producer/Host
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Director
New York League of Conservation Voters

Bruce Rosen
United for Action

Ronald J. Dillon
President
Concerned Homeowners Association

Katherine Scopic [sp?]
Artist Activist

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

Paul Schubert
Board Member
Friends of Clear Water

Cecil Corbin-Mark
Deputy Director
WE ACT for Environmental Justice

Oliver Harwood
Advocate
New York Legal Assistance Group

Harry Bubbins
[Testimony read by: Judith Konipa [sp?]]
Director
Friends of Brook Park

Annie Wilson
New York Environmental Law and Justice Project
And New York Safe Energy Campaign

Joel Kupferman
Executive Director
New York Environmental Law and Justice Project

[gavel]

CHAIR CONSTANTINIDES: There we go. Good afternoon and welcome. I am Council Member Constantinides, Chair of the Committee on Environmental Protection. Today we are holding a hearing on Intro 359, this mic keeps... So... 886. Both local laws intended to address environmental justice. On the hills of the civil rights and environmental movement to the 1960s and 70s the concept of environmental justice began to emerge in the 1980s as communities, organizations, and civil right leaders observe that some populations in low income and minority communities experience adverse health effects from pollution to a greater extent than the general population. Before and after the enactment of President Clinton's executive order on environmental justice in 1994 the communities of color struggled with disproportionate exposures to environmental pollution and inequity and access to environmental benefits. The history of the struggle around race and the environment predates the modern environmental movement. As early as the 1940s African Americans in the south, even in the north, and places like New Jersey and Connecticut... were

1 denied access to parks, beaches, golf course, and
2 pools and only gained access through litigation.
3 Since the early 1990s the Environmental Protection
4 Agency has documented disproportionate exposures to
5 environmental pollution and communities of color in
6 their report; environmental equity reducing risk
7 for all communities and subsequent, subsequent
8 documents. President Clinton also recognized this
9 when he issued executive order number 12898 mandate
10 that executive agencies incorporate environmental
11 justice into their agency duties. Ambient air and
12 most densely populated cities is not safe to
13 breathe but in some areas it is worse than others.
14 The New York City Department of Health and Mental
15 Hygiene found that 2,450 people die from poor air
16 quality in New York City every year. Columbia
17 University Center for Childs Environmental Health
18 studied the effects on Polycyclic Aromatic
19 Hydrocarbon, PAH, exposure on 725 pregnant African
20 American and Latino women from Washington Heights,
21 Harlem, and the South Bronx and followed the women
22 and their children from age, birth to 11. PAH
23 exposure which began in the room was associated
24 with traffic related air pollution, pesticides,
25

2 endo... endocrine disrupting chemicals such as
3 phellates [sp?], second hand smoke, and indoor pest
4 allergens. The study found that the prenatal
5 exposures to PAH, pesticides, and secondhand smoke
6 were linked to the... to reduced fetal growth and
7 developmental delays, and problems in children. One
8 of the safest places most mothers believe their
9 children can be found is on the school base.
10 Actually in many cases their children were better
11 off walking to school. One air pollution exposure
12 source unique to children is the air pollution
13 exposure that occurs during school bus commutes.
14 Several studies of pollutant exposure show high
15 levels of exposure inside school busses from a...
16 diesel exhaust to travel through the cracks and
17 finds its way into the school bus cabin. One study
18 found that school bus commutes are more important
19 than bus stops in terms of exposures because
20 children spend more time in commuting than stopped
21 with the highest concentrations occurring when
22 windows are closed. By using tracer gas experiments
23 that measure air quality in empty school busses and
24 in routes researchers were able to establish that
25 children riding a school bus inhale seven to 70

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times more exhaust than non-riding residents and hail from all school bus emissions in the area. ...report based on a study prepared by the NRDC, National Resources Defense Council, found that cancer risks faced by children are 23 to 46 times that level considered significant by the EPA. The council addressed this problem in 2009 but the school busses are still in the process of being retrofitted. Asthma is one of the most striking racial disparities in the United States and its prevalence in... in black and... and Puerto Rican children is double that of white children. And asthma increases as social economic status decreases. Furthermore, many black and Puerto Rican children do not respond to the most commonly prescribed asthma medication. According to the New... U.S. Census Bureau within 30 years the one... the white... nonwhite population in America will constitute more than 50 percent of the population. The nonwhite population of New York City already constitutes 66 percent of the population. Furthermore, even though the national institute for health revitalization act of 1993... the inclusion of racial and ethnic minorities in federally funded

2 research this is not taking place. By black and...
3 and Latino residents constitute 30 percent of the
4 United States population they make up just six
5 percent of all participants in federally funded
6 clinical trials. According to the National
7 Institute of Health minority communities shoulder a
8 disproportionate share of the country's
9 environmental problems. Yet there are major gaps
10 understanding how environmental exposures and
11 health interacts in these smaller subgroups. The
12 legislation being considered today will help to
13 address some of these environmental inequities. My
14 legislation calls among other things a study of
15 environmental justice communities substantial
16 sources of pollution in those communities a
17 description of the adverse environmental impacts
18 including negative health consequences that have
19 been scientifically linked to environmental
20 impacts. The current utilization and capacity for
21 few... future utilization of renewable energy sources
22 and potential environmental justice communities. A
23 description of barriers to meaningful participation
24 and environmental decision making based by each
25 potential environmental justice community

2 recommendations for legislation policy budget
3 initiatives and other measures the city can take to
4 mitigate or eliminate the adverse environmental
5 impacts identified. My bill would also mandate that
6 DEP submit its findings to the mayor and the
7 council no later than one year after the law's
8 effective date and would require DEP to present its
9 findings on an interactive map on the city website.
10 Now I believe that council member Richard who'll be
11 standing in for Council Member Barron with a
12 statement on her bill, Intro 886, as... she had a
13 death in her family and our condolences are... are
14 with her and her family tonight.

15 COUNCIL MEMBER RICHARD: Thank you so
16 much Council Member Costa Constantinides. And I
17 want to thank the staff here Samara Swanston who's
18 been working for a very long time... probably close
19 to a decade or a little bit over and Billy Murray
20 for their hard work. And good afternoon and welcome
21 all. I am Council Member Donovan Richards, a member
22 of the Committee on Environmental Protection. And
23 I've been asked to stand in for a council member
24 Inez Barron. She's much more beautiful than I am.
25 The author of this legislation who unfortunately

2 experienced a death in her family. This bill has 37
3 sponsors. So I begin this hearing with the very
4 good news that we had a veto... bill. It shows that..

5 [applause]

6 COUNCIL MEMBER RICHARD: Got to do this..
7 it shows that New York City... the New York City
8 Council is strongly committed to environmental
9 justice. The most recent incarnations of the social
10 movement for environmental justice focuses
11 primarily on pollution burdens in communities of
12 color. This focus has of course been appropriate.
13 However, environmental justice is at its most basic
14 level about land. It is about public and private
15 land ownership, land use, access to land, and land
16 management and policy including the substantive and
17 enforcement decisions affecting land and
18 environmental media. Environmental justice
19 advocates often say that the movement is about the
20 distribution of environmental burdens and benefits.
21 But to date almost all of the advocacy has focused
22 solely on environmental burdens. Inequitable
23 distribution of environmental benefits is also a
24 stark example of failed democracy and environmental
25 justice... in justice. Environmental justice

1 demonstrates a belief in democracy in its purest
2 form which promises that there will be full
3 participation in the kind of decision making which
4 permits a full enjoyment of life. This enjoyment
5 cannot take place in the absence of healthy nature
6 and a healthy environment. Environmental quality
7 improvement measures such as pollution controls are
8 also environmental quality benefits. But these
9 benefits are difficult to implement and hard to
10 measure. Additionally, improvement measures may not
11 qualify as real benefits because they may already
12 be required to come into regulatory compliance. If
13 a violator... a violator polluting the land, air, or
14 water undertakes measures to comply with the law
15 whether voluntarily or due to an enforcement
16 measures it does not necessarily guarantee that an
17 ambient air or surface water will be clean enough.
18 The emissions or discharges may be as clean or as
19 dirty as they should be to be released but the
20 ambient air or surface water possibly because
21 standards may not be protective enough or because
22 of the cumulative effect of all the violators and
23 permit-ees generally remains unhealthy in urban
24 areas. In order to be meaningful then true
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1 environmental benefits must at least meet and in
2 most cases exceed that which is required by law.
3 Access to public lands and parks was an important
4 civil right sought early in the social justice
5 unit. The early municipal benefits cases made no
6 distinction between denial of housing
7 opportunities, drainage, sewage, and denial of
8 parks for urban children. Access to beaches, pools,
9 and golf courses were part of the environmentally
10 quality benefits which earlier generations argue
11 should not be denied to communities of color. Park
12 maintenance has also been the source of charges of
13 environmental injustice. In New York City more than
14 35 years ago a community organization charge in a
15 federal lawsuit at the Crotona Park in the Bronx
16 was poorly maintained by the city because the
17 surrounding communities' complexion had changed
18 from white a community of color. However, in the
19 350 or more years since that lawsuit most
20 environmental lawsuits brought by communities of
21 color have focused on pollution. These are
22 certainly critical environmental quality concerns
23 but it remains pertinent to consider not just who
24 was getting the environmental burdens in the
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1 associated environmental health problems but also
2 who is getting the environmental benefits.
3 Environmental benefits and environmental quality
4 improvements can reduce environmental health risks
5 and disease. Racism and housing opportunities also
6 result in environmental quality problems and
7 environmental disease. According to some
8 commentators, discrimination and housing resulting
9 from environmental racism is also allowing the
10 person of color to rent housing but allowing those
11 accommodations to be made unsafe or be left unsafe..
12 unsafe. Lead paint poisoning is a chief example of
13 the overlap of racism in housing and in
14 environmental quality benefits. The distribution of
15 environmental quality benefits has long escaped the
16 hard.. the hard environmental racism analysis to
17 which other areas of environmental management have
18 been subjected. The conservation movement was
19 initially concerned with protecting pristine areas
20 which by definition were not in urban areas. This
21 admitted anti urban bias presently which still
22 exists. Others have correctly observed that the
23 lack of open spaces an important environmental
24 justice issue for communities of color. New York
25

2 City has the lowest open space standards for its
3 citizens of any metropolitan area in the country,
4 only 2.5 acres of open space per thousand
5 residents. Despite that low standard two thirds of
6 communities planning districts primarily
7 communities of color do not meet that standard.
8 However, in New York Environmental Justice activist
9 ... however in New York environmental justice
10 activists are taking notice of the... disparities and
11 a distribution of environmental burdens and
12 benefits and are organizing to respond to those
13 disparities. This bill requires the Director of
14 Environmental Coordination to convene an
15 interagency working group comprised of
16 representatives from the Departments of
17 Environmental... I think you went through this right?
18 Did you go through this? Department of
19 Environmental Protection, Parks, and Recreation,
20 Transportation, ...City Planning, Buildings, Housing
21 Preservation, and Development, and the Offices of
22 Sustainability Environmental Coordination,
23 Environmental Remediation, Management and Budget,
24 Data Analytics, and the city com... Commission on
25 Human Rights. The group must provide guidance to

2 agencies on criteria for identifying environmental
3 issues impacting minority populations and low
4 income populations, coordinate with agencies as
5 they develop and implement their environmental
6 justice plans, assistant coordinating research
7 amongst agencies, assistant coordinating data
8 collection, examine existing data and studies on
9 environmental justice hold public meetings, develop
10 interagency projects on environmental justice, and
11 respond to inquiries from the advisory board. The
12 bill would further require each agency to develop
13 an agency-wide environmental justice plan to
14 promote enforcement of all health and environmental
15 law and rules and enforcement is critical. Also
16 ensure a greater public participation in programs,
17 policies, and activities, improve research and data
18 collection relating to health and environmental of...
19 environment of minority populations or low income
20 populations, ensure equitable distribution and
21 access through environmental benefits, and promote
22 environmental justice. So with that being said I
23 would like to thank everyone for their hard work in
24 particular once again the chair who has allowed
25 this to come forward after such a long time, this

2 bill being in the wing and also the counsel Samara
3 Swanston who's done a lot of work on this and also
4 the environmental justice group such as WE ACT
5 who's been at the forefront of these battles for
6 decades. So with that being said I'm going to turn
7 this mic back over and want to thank everybody on
8 behalf of Council Member Inez... and thank her for
9 her leadership on this issue.

10 CHAIR CONSTANTINIDES: Thank you Council
11 Member Richards. Thank you for reading her... Alright
12 we will have up first Nilda Mesa... of
13 Sustainability... some issues with this...

14 COMMITTEE COUNSEL SWANSTON: Please
15 raise your right hand. Swear affirm to tell the
16 truth, the whole truth, and nothing but the truth
17 today?

18 NILDA MESA: Is this working? Okay good.
19 Chairman Constantinides and members of the..
20 working? No... oh here we go. Okay my name is... Good
21 afternoon Chairman Constantinides and mem... Okay.
22 Can you hear me? Good afternoon Chairman
23 Constantinides my name is Nilda Mesa and I'm the
24 Director of the...

25 [background comments]

2 CHAIR CONSTANTINIDES: Alright so let...
3 let's... let's resume. Alright. Wait... yeah there you
4 go. Okay.

5 [background comments]

6 NILDA MESA: Alright here I'm going to
7 put it right exactly... see now it sounds like it's...
8 like loose or some... like an old... See when I tap it...
9 it works. So maybe I should just tap through the...
10 okay that's fine... Okay good afternoon... the
11 Committee on Environmental...

12 [background comments]

13 CHAIR CONSTANTINIDES: Yeah ours... ours
14 are doing the... it... it starts it stops it...

15 [laughter]

16 [audio test]

17 NILDA MESA: Testing one, two... almost,
18 yep okay so far so good. We'll see. Good afternoon
19 once again Chairman Constantinides and members of
20 the committee on Environmental Protection... every
21 time, okay. And I'm the Director of the New York
22 City Mayor's Office of sustainability. ...send
23 condolences to Council Member Barron and her
24 family... thank you for the opportunity to testify on
25 Introduction 886 and Introduction 359. Intro 886

2 and Intro 359 both amend the administrative code of
3 New York City in relation to environmental justice..
4 would mandate a 29-member advisory.. a separate
5 agency working group public hearings. A study of
6 potential environmental justice communities, 70
7 separate agency inter.. welcome the opportunity to
8 work with council.. actionable initiatives.. that can
9 help us achieve full environmental justice in our..
10 Over the last few weeks we all watched in horror as
11 the news out of Flint, Michigan showed what can
12 happen to children and families when the health
13 concerns of lower income residents are
14 systematically ignored. Children with elevated
15 levels of lead may be at risk of lower IQs and
16 other long term impacts. Living in a poor
17 neighborhood means that they are already vulnerable
18 to other stressors from their environment. We have
19 seen environmental impacts affect low income
20 communities time.. again throughout the US over the
21 course of many years whether in Louisiana.. alright.
22 Don't mess with success here. Alright. Over the
23 course of many years whether in Louisiana,
24 Baltimore, or Las Angeles. As a 15 year long
25 resident of Central Harlem I have seen what some

1 days seems like all my neighbors suffering from
2 asthma. Early in my legal career I wrote the Amicus
3 Brief to the US Supreme Court on behalf of the
4 state of California in support of mothers of east
5 LA who successfully challenged the siting of a
6 waste incinerator in close proximity to schools and
7 hospitals in their low income neighborhood. I co-
8 authored President Bill Clinton's executive order
9 on environmental justice. While I headed the
10 Sustainability Office at Columbia University I
11 successfully advocated on behalf of my neighbors
12 for lower emitting new buildings, sustainable
13 construction practices to minimize particulate
14 matter and that Columbia lead the city in having
15 our neighborhood be the first to build out the
16 infrastructure to make clean heat a reality. I
17 worked on environmental justice for 25 years now
18 and I see what it means every day. New York City
19 attracts dreamers and those who would make their
20 lives and their children's lives better than the
21 ones they left behind. We betrayed them and the
22 promise of New York if we do not pay attention to
23 disparate environmental impacts and vulnerabilities
24 which can send our neighbors, their children, and
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their elderly relatives to the hospital and keep them from their dreams. Environmental injustice is often found in cities with a their relatively large populations of low income neighborhoods and ethnic minorities who often do not have strong political voices or access to power or information.

Environmental injustice can take many forms often including public health impacts or poor air or water quality, toxic contamination of soil, climate impacts, poor energy building performance which also then takes a higher proportion of residents' income as well as emitting more carbon into the... lack of access to information or medical attention, lack of access to good quality food and nutrition, and lack of a voice and decision making that affects community. Communities that are considered environmental justice areas meet a poverty test which could be the federal poverty level or a percentage of area median income or some other tests. A failure of environmental justice is a failure to meet environmental social inclusion and economic standards all at once. A case study for New York City is air quality. The sources of air pollutants here are mobile sources such as cars and

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trucks, stationary sources such as buildings, and sources outside the city boundaries such as power plants. While we have the most potential to improve stationary source emissions and traffic... it is important to recognize that a significant contributor of pollutants come from outside of New York... upwind power plants industrial sources and regional traffic... The smog that triggers the alerts limit physical activity comes from a brew of ozone nitrogen oxides and usually the summer heat. Ozone levels have not improved substantially in recent years following... and other major US... Ozone is formed downwind from major sources of nitrogen oxides or NOx and reduce NOx emissions in metro area counties upwind of New York City will be required to bring down Ozone levels in the city. Further improvements that NOx and other traffic related pollutants in our most congested neighborhoods will require continued and expanded local, regional, and federal efforts to address on road sources. Traffic related pollution also contributes carcinogenic pollutants such as benzene and formaldehyde which are found to occur at high levels in areas of high traffic density. Increased

1
2 efforts to reduce congestion and adopt low emission
3 vehicles are needed. Since roughly half of
4 particulate matter 2.5 in New York City's air
5 originates upwind and Ozone pollution is a regional
6 problem significant benefits... all NYC residents
7 particularly low income neighborhoods with higher
8 densities of vulnerable populations would be
9 realized through efforts to reduce emissions
10 regionally. Improvements in national vehicle
11 efficiency standards over the next few years will
12 also cut pollutant emissions. And the city strongly
13 supports EPA's power plan to rejoining on legal
14 briefs backing EPA and court challenges. We will
15 continue advocating for regional and national
16 policy changes that will improve our local air.
17 Particulate matter or soot is the other pollutant
18 that most affects New Yorkers. The Department of
19 Health and Mental Hygiene estimates that fine
20 particle pollution are most harmful pollutant
21 overall causes an average of more than 2,000
22 deaths, approximately 15 hundred hospital
23 admissions for lung and heart conditions, and over
24 5,000 emergency department admissions. Based on
25 levels in 2009 and 2011... In 2009 to 11 the rate of

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PM 2.5 attributable death was 19 percent higher in high pop... to low poverty neighborhoods. PM 2.5 attributable respiratory and cardiovascular hospitalizations were 74 percent and 46 percent higher in high poverty compared to low poverty neighborhoods respectively. The rates of emergency department visits for asthma exacerbated by fine particle exposures are four times higher in high poverty neighbor... to low poverty neighborhoods. While all New Yorkers have a stake in cleaner air those in our most vulnerable neighborhoods have the most to gain from efforts to reduce emissions in their own communities and... as air does not stay within neighborhood boundaries. For example, our clean heat programs will reduce emissions most in high income neighborhood... yet the largest share of health benefits will occur in low income neighborhoods. In NYC unlike other cities or nationwide even we do not observe consistent differences in levels of soot by neighborhood poverty but there are strong differences in soot attributable PM 2.5 attributable health events due to underlying neighborhood susceptibility. This is why it's so important to consider poverty levels

1 along with environmental pollute... pursuing
2 environmental justice. The mayor's office of
3 sustainability and the rest of Mayor de Blasio's
4 admin... is committed to including environmental
5 justice in policy and planning processes. The goals
6 and initiatives identified in 1 New York, the plan
7 for a strong and just city, or 1 NYC, recognize
8 that equity and environmental conditions are inter...
9 as the project director of 1NYC I am proud that
10 environmental justice was featured in the
11 sustainability section of the plan and I am proud
12 that environmental justice was featured in the
13 sustainability section of the plan. And I'm proud
14 that Mayor de Blasio will have equity in... NYC. At
15 this time also I'd like to take the opportunity to
16 thank the members of the environmental justice
17 community who serve on... Board; Elizabeth Yeampierre
18 executive director of... executive director of WE ACT
19 for Environmental Just... as well as all of you who
20 have provided advice and guidance through other...
21 Mayor de Blasio selected the name 1 New York, the
22 plan for a strong and just city, because he wanted
23 to make explicit that the city's sustainability,
24 resiliency, equity, and growth goals depend upon
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each other. The plan elaborates on the Mayor's commitment by specifying ways the city can achieve a more equitable and targeted approach when providing city services. Over the last several years the city has made good progress towards environmental justice though we can do better. Having seen the fits and starts that other governmental entities have gone through in implementing environmental justice we would like to learn from them. We have seen too many examples of well-intentioned efforts that end on a shelf, a box checked without the results, and resources wasted. We want to build upon what we have put in place thus far in terms of transparency, value of information, and accountability, and focus on the areas that can show real results. Here are some examples of city initiatives to address environmental just... The New York City Community Air Survey, NYCCAS or... is the largest urban air monitoring program in the US. The air quality monitoring network which began collecting data in December of 2008, the collaboration between the health department and Queens College. Its objectives are to measure air pollutants that

1 affect public health across the city, identify
2 local emission sources that impact neighborhood
3 quality, inform the public and city officials on
4 clean air priority... provide air pollution estimates
5 for health studies. The mayor signed intro 712 into
6 law which codifies the community air quality
7 survey. The NYC Environment and Health Portal
8 includes the NYCCAS as well as neighborhood level
9 data on many health outcomes and... which can be
10 viewed by area poverty indicators. Additionally,
11 DOHMH analyzes air and health data to evaluate the
12 number and distribution of health events due to air
13 pollution throughout the city and publishes
14 information on disparity... attributable health
15 events by neighborhood poverty. The environment and
16 health portal also includes a variety of additional
17 information viewable by neighborhood for housing
18 quality indicators such as cockroach prevalence and
19 use of supplemental heat, climate related
20 indicators such as air conditioner prevalence, and
21 plant cover... plant and tree cover as well as
22 prevalence of pest and pesticide use. The
23 Department of Sanitation is also making strides
24 through implementing the zero waste initiative as
25

1 well as its solid waste management plan or its SM..
2 SWMP or... Approximately 55 million vehicle miles of
3 waste hauling truck traffic annually... city and
4 regional roadways will end with the SWMP. As DSNY,
5 Department of Sanitation, waste management
6 operations will be ship... barges and rail transport.
7 In addition, DSNY trucks have reduced particulate
8 matter emissions by 90 percent through filters
9 ultra-low-sulfured biodiesel fuel and other
10 technology. Private carter trucks are also
11 improving as fleets are required to be upgraded or
12 replaced to meet new standards. DSNY is continuing
13 to roll out recycling at NYCHA facilities. The
14 total so far is 719 buildings... roll out to be
15 complete later... The Department of Environmental
16 Protection has hired more inspectors to enforce the
17 updated DEP air pollution control code and is
18 implementing registration fee waivers for mobile
19 food trucks that upgrade their auxiliary engines.
20 DEP is also working to develop legislation that
21 will require refrigeration trucks to use clean..
22 such as auxiliary power units or turn off their
23 engines after 10 minutes. In addition, the
24 revisions to the air code include requirements to
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control emissions in commercial char broilers.
Office of Environmental Remediation's secured
funding for Brownfield Jumpstart which provides
higher level... or environmental investigations and
co... affordable and supportive housing in mostly low
income... As part of its Play Space Community
Brownfield Planning Program OER is working with
over... and recently established new grants to help
community developers, non-profits, and faith based
developers identify.. Brownfield sites in their
communities develop... development that are
consistent with community goals and implement these
plans. Department of Parks and Recreation through
its community park... focused on improving parks that
have received little capital investment and are
located in areas... based on higher than average
poverty, dense population growth. HPD... Department
of Housing Preservation now requires a green
physical needs assessment for buildings seeking
financing as well as provides low interest loans
for energy... for affordable housing. DEP is
completing negotiations with the state that will
lead to significant investments to mitigate
combined... events in city water bodies. New York

1 COMMITTEE ON ENVIRONMENTAL PROTECTION 29

2 City Emergency Management establish NYC citizen

3 core to bring to... community based organizations,

4 the private sector government to promote

5 preparedness at the local level. It's also

6 organized a taskforce to evaluate how better

7 involved community based organizations and houses

8 of worship... resiliency planning as their

9 involvement is the key factor in ensuring

10 community... in the face of storm events. With

11 respect to energy and climate the Mayor's Office of

12 Sustainability... retrofit accelerator which I

13 previously mentioned in testimony to this

14 committee... and we're developing the program

15 designed for the community based retrofit

16 accelerator which will provide similar advising

17 services for buildings under 50,000 square feet.

18 One of the aims of this program is to speed the

19 conversion of the city... the city's dirtiest boilers

20 from number four to gas or number two fuel oil.

21 Significant... sulfur particulate matter emissions.

22 The air quality improvements result in the greater

23 benefit to communities with the greatest health

24 burdens. Residents can look at buildings to see

25 their energy performance on the New York City

2 Energy and Water performance map which you can find
3 off of our website, a visualization tool that
4 allows residents to understand the energy and.. of
5 the 26,000 largest buildings across the.. boroughs.
6 We're providing tools to empower residents and
7 building owners to learn how to improve their
8 building's performance, cutting costs as well as
9 greenhouse gas emissions. We also participate in
10 the full range of New York state energy proceedings
11 and regularly file comments on behalf of NYC
12 residents calling on energy to be renewable,
13 reliable, and affordable. Despite all of this we
14 can do more and we should do more to take data that
15 we gather in our regular agency operations and use
16 it to achieve environmental justice. We would like
17 to work with council on initiatives to best
18 accomplish our shared goals including integrating
19 environmental justice considerations into city
20 processes. Overall we support a collaborative
21 approach amongst city agencies to improve the
22 administration's response to environmental just... We
23 are concerned that the bills as currently drafted
24 would lead to delays in implementing initiatives to
25 address environmental justice as well as require

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additional time and funding from council for technical experts in addition to the ones already in the agencies. Instead we'd like to discuss the prospect of incorporating environmental considerations environmental just... into existing city agency processes such as the city environmental quality review or speaker process. This review of existing decision making process we believe would lead to improved integration of environmental justice into planning, prevent duplicative work, and maximize resources and city agencies. We'd also like to discuss with this committee the potential of adding environmental justice indicators to existing sustainability reporting. MOS would work with council to develop these indicators which could then be reported on as part of the annual 1NYC update. In conclusion the mayor's office of sustainability as well as the other city agencies are committed to ensuring that environmental justice is integrated into our ongoing operations and planning and reflects the feedback of all of you here today. We look forward to working with you on achieving this important goal. Thank you.

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CHAIR CONSTANTINIDES: Thank you. And thank you for your... appreciate all the work the mayor's done thus far and... want to recognize first my colleague from Queens Rory Lancman is here, has joined... First question I have is is there a mechanism through which the city regularly engages in environmental justice...

NILDA MESA: I would say that right now it's done through the course of some of the planning and you know... and sort of disclosure processes. With 1NYC we specifically called out environmental justice. I mean I thought it was something that... in past years and it was important to at least put that marker in 1NYC so that we could move forward with it. But I wouldn't... I don't know that I can say that there is a specific you know like an environmental... separate environmental activity right now.

CHAIRPERSON CONSTANTINIDES: It's... it's definitely something that we can...

NILDA MESA: Absolutely.

CHAIRPERSON CONSTANTINIDES: ...that there's... find a mechanism that we can have in... consistent basis from community.

2 NILDA MESA: Absolutely, yes,
3 absolutely. And I... and I think that it would... it...
4 like I said I think there's... we can do more than
5 what we've been doing. And I think that what I
6 would like to see is something that's... that's made
7 part of the fabric of you know what it is that
8 agencies are doing. And so you know let's look at
9 how we really embed it.

10 CHAIRPERSON CONSTANTINIDES: ...question
11 is that you know... is there a city office or agency
12 that... that centralize responsibility is for
13 tracking or researching or addressing... You're
14 saying it's more agency based and the individual...

15 NILDA MESA: I would say... you know so I
16 would say it's something that... that our office... the
17 you know MOS, Mayor's Office of Sustainability, on
18 our list of things to pull together. And it's
19 something we've talked to other agencies about. And
20 that's why it was in 1NYC. Department of Health has
21 a wonderful website, the environmental... the
22 environmental... the environmental... that provide a
23 lot of information and it's sorted and sortable by
24 all kinds of different criteria whether it be
25 poverty or you know as geographic as well. And I...

2 so I think that on the data side we're actually in
3 pretty good shape. So... like that you know. But... but
4 I think that there's more... I think a lot of the...
5 the really good elements are there already.

6 CHAIRPERSON CONSTANTINIDES: ...getting
7 those highlighted and pulling them out of some of
8 the agencies where the Department of Health may be
9 wonderful but there might be some others that we
10 can do...

11 NILDA MESA: Yeah it's possible but...
12 [cross-talk]

13 CHAIRPERSON CONSTANTINIDES: There's
14 opportunities.

15 NILDA MESA: Yeah but I mean equity is...
16 is such a big part of this mayor's you know agenda
17 that... and you know and again because it was so well
18 integrated into 1NYC and be... it's something that at
19 this point agencies, at least at the very you know
20 top levels are aware of and you know include in
21 their plan. But I think we can do more.

22 CHAIRPERSON CONSTANTINIDES: What about
23 efforts made to inform environmental justice
24 communities about renewable options as we you know
25 look to solar, wind, geothermal... What... what's being

2 done has sort of let them know about these
3 renewable energy options that are available?

4 NILDA MESA: That's a really tough
5 problem not just in New York City but other places
6 as well. We had a meeting yesterday with folks who
7 are interested in promoting solar in low to
8 moderate income neighborhoods sort of nationwide.
9 And they told us that only... there are only seven
10 low income communities that currently have solar
11 anyplace like nationwide... astoundingly low number.
12 And I think it's something that we ought to be
13 turning to. We've been looking at renewable energy
14 throughout. We've been you know sort of first
15 tackling what are the technical issues and... to ease
16 those... like DOB came out with its you know
17 wonderful thing to you know streamline permitting
18 for... so you know we're... we're doing it that way so
19 far but I think we can do more.

20 CHAIRPERSON CONSTANTINIDES: ...those... I
21 mean that's a huge piece of this and... and now... so
22 moving to my next question that sort of dovetails
23 is not only do we want these communities to have
24 access to renewable options and understand that
25 they... that they exist and... and bring them to those

2 neighborhoods on an affordable basis but also the
3 training of the young people who live in those
4 communities so that the... you're creating the next
5 sector of green jobs.

6 NILDA MESA: Yeah absolutely.

7 CHAIRPERSON CONSTANTINIDES: What are...
8 what are we doing right now to sort of work with
9 young people in environmental justice communities
10 to prepare them you know for the jobs of the 21st
11 century.

12 NILDA MESA: There's... there has been
13 some focus through the city's ongoing... workforce
14 development. I think we could be doing more,
15 honest. I think there's tremendous potential.

16 CHAIRPERSON CONSTANTINIDES: Yeah I... I...
17 I agree. Maybe Council this year through Green NYC...
18 Green City Forest... they do a lot of great... But I
19 think there are... we need to be able to foster more
20 of that and... and work collaboratively to provide
21 the funding to... to bring communities to provide
22 those 21st century opportunities. Once we give them
23 those skills they're able to take them throughout
24 their lives and... and... and make a good living.

25 NILDA MESA: Yeah.

2 CHAIRPERSON CONSTANTINIDES: And lifting
3 people up. And... we should be working... So I'm going
4 to turn this... the last question I do have before I
5 turn it over to... what do we do... conducting... what
6 kind of public outreach do we do in environmental
7 justice communities... environmental hazards that
8 they may face which is power plant emissions and
9 provide... information to residents on how they...

10 NILDA MESA: So right now you know again
11 a lot of that information is on Department of
12 Health's website on you know the... portal. And so
13 it's not... we haven't necessarily pushed out that
14 information to my knowledge. Push out things like
15 the... you know the health alerts on... days. And so
16 you know it's done that way and but right now it's
17 really you know via the city website that they're
18 you know... lot of that information.

19 CHAIRPERSON CONSTANTINIDES: I mean my...
20 my concern is that you know when you have... and sort
21 of developments in my community they only have 60
22 percent of the residents there have access to a
23 computer. So if... if our computer access is not
24 there how else can we get this to... [cross-talk]

25 NILDA MESA: Right.

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CHAIRPERSON CONSTANTINIDES: ...them...

[cross-talk]

NILDA MESA: Right.

CHAIRPERSON CONSTANTINIDES: ...and make
sure that there are... [cross-talk]

NILDA MESA: That's a very good point.

CHAIRPERSON CONSTANTINIDES: ...that
they're aware of... and I think the Mayor shared
this... shared goal of getting internet access for
all. But in that time in between we get to our goal
and where we are now we're missing so many... to talk
about what's happening in their new communities and
how they can be part of this conversation. So we
have to have more than... website though it's great
but we need to do more.

NILDA MESA: Yeah... yeah agree we need to
do more.

COUNCIL MEMBER LAN
COUNCIL MEMBER AN:

Turn it over at this point... I might come down for
round two but I'll turn it over to Donovan
Richards.

COUNCIL MEMBER RICHARDS: Thank you so
much Chair and thank you Nilda for certainly your
leadership on 1NYC and... and the administration for

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being open obviously to these bills. So I wanted to go back into workforce again. And I... this is a conversation that I've had with SBS in particular... small business services in particular because for instance I have a Workforce 1 Center... just recently opened in the Rockaways. And I find it absurd in this day and age that we are not training people in the future. We know that we're moving towards a more renewable future where we'll... we are seeing more homeowners in particular in the Rockaways. We're seeing more homeowners in Southeast Queens moving towards solar panels now, and we're not training the unemployed and underemployed in an industry that we know the world and the country is moving to. So I'm interested in hearing what this strategy is going to be moving forward with SBS in particular on his training which they do not... they don't even take this particular industry into account right now in their trainings and it's something I've raised with them. So that's something you're going to go back to them and perhaps speak to them on or can I hear a little bit more...

2 NILDA MESA: Yeah and... and we are in
3 discussions with SBS on a... on a slightly different
4 thing which is the... which is training for operators
5 and... closer buildings like on the energy efficiency
6 side. And so we are working with them... craft... you
7 know the... the right kind of program that meets
8 their criteria but also gets folks trained on
9 energy efficiency particularly for buildings. But
10 you know we're close but we're not there yet. But
11 I'm certainly adding the rest of...

12 COUNCIL MEMBER RICHARDS: And these
13 trainings will take place in the communities... EJ
14 communities?

15 NILDA MESA: I believe that they'll be
16 open to all. And I will go back and check and see.

17 COUNCIL MEMBER RICHARDS: So I would
18 just suggest as we move forward and we're going to
19 obviously be having discussions of rezonings in a
20 little while. And I know SBS centers... satellite
21 centers are going to be coming up for instance in
22 communities like east New York that we really take
23 into account you know these particular industries...
24 emerging industries that we know the world and the
25 country's moving towards. I'm going to get into

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something controversial which is waste equity. So there's been a lot of discussion around waste equity in the boroughs and obviously southeast Queens is a community that takes everybody's trash. And so I'm interested in hearing the strategy around waste equity in this conversation because this is one way to certainly reduce the burden on communities who have a lot of truck traffic right. And I know we have... is there a waist goal... but I'm interested in hearing what are we... where are we at in that discussion. And I know it's something the sanitation commissioner I believe didn't... doesn't support that bill. But has there been movement on this issue and more... waste equity...

NILDA MESA: I'm going to have to get back to you with the... with the details on this stuff but the... there is the... as you know there's a study that's going on that's between DSNY... on the private sector on the commercial... And that we're expecting that study to be out in a few months like by this summer and you know that shows us but you know that... that certainly relates to it and then I know... Sanitation Department... solid waste management

2 plan and their efforts... have some sort of
3 redistribute...

4 [background comments]

5 NILDA MESA: Here we go. Okay back.

6 Anyway so I know that Sanitation Department has
7 been... you know they've been looking at implementing
8 the... been... been... back to you on the specifics. And
9 particular...

10 COUNCIL MEMBER RICHARDS: Well I'm
11 definitely looking forward to that conversation on
12 waste equity. And then I know in the air quote I'm
13 very grateful to have work with you on... we pass so
14 we spoke about... well obviously number six is phased
15 out but they was number four which I believe the
16 phase out period was 2030. Has there been any
17 discussion on moving that phase out period up? And
18 I mean and I've spoken to people you know from the
19 building sector and they're like it's going to
20 come... we could probably do that now. So my question
21 is why are we waiting 'till 2030 if we're truly you
22 know trying to... to address EJ issues.

23 NILDA MESA: Yeah so a great question.

24 So we... as... as you may... you know some people here
25 may... we have as part of the 80 by 50 plan that

2 we've been developing... we have a... a buildings
3 technical working group that's been meeting for
4 almost a year... this is one of the items that's in
5 there. We identified... we identified the early phase
6 out of number... four fuel oil in 1NYC as something
7 that we... address. There are not... as it turns out
8 there are not that many buildings that are still
9 burning number four because most buildings as they
10 were converting from number six to either number...
11 did it to either number two or... or natural gas. And
12 so when we... so when we started the retrofit
13 accelerator earlier... you know in the fall of last
14 year what we did was we merged the clean heat
15 program in... so that we can as part of our outreach
16 were also... you know to provide building owners with
17 the... you know resources and information that they
18 need in order to retrofit their buildings was part
19 of that were including number four fuel oil. And
20 those buildings are amongst the ones that we are
21 targeting first to phase that out. But we are
22 looking at doing it sooner than 20...

23 COUNCIL MEMBER RICHARDS: Okay great.
24 And I would hope you know we get into the
25 discussion of natural gas all the time that we

2 don't necessarily push them to natural gas because
3 we know that that is moving us in a backwards you
4 know movement as well. But you know we should be
5 looking at... and I think there are a lot of
6 different technologies out there... solar thermal,
7 geothermal... [cross-talk]

8 FEMALE: Yeah we like to look at all of
9 them.

10 COUNCIL MEMBER RICHARDS: You know but
11 I... I would hope that we would really truly start to
12 move in that direction because then we would have
13 less frack gas... you know less dependency...

14 NILDA MESA: Yeah right... the problem we
15 have right now is that the... [cross-talk]

16 COUNCIL MEMBER RICHARDS: The
17 technology.

18 NILDA MESA: ...technology hasn't caught
19 up.

20 COUNCIL MEMBER RICHARDS: Yeah.

21 NILDA MESA: You know?

22 COUNCIL MEMBER RICHARDS: Mm-hmm.

23 NILDA MESA: So it's like we... we have
24 all of these things on our radars [cross-talk]. I
25 mean we're constantly...

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COUNCIL MEMBER RICHARDS: Mm-hmm.

NILDA MESA: You know what other options do we have and what else can we do but...

COUNCIL MEMBER RICHARDS: Great. And let me see. And then I just had one last question and that was on DEP's issue... they issue air permits for small sources of emissions so... such as dry cleaners, nail salons which primarily in communities of color we are overburdened with these particular sort of uses in our community. So I'm interested in knowing are they going to... we need to come up with more stringent... I don't know if they're zoning policies or something to ensure that you know communities... and I know it's free trade, free world business... you want to open a small business you should have the right. But there are particular communities that are overburdened. I mean I can just look on my boulevards in my district and every other store is a nail salon. You know... and we know what that means for communities of color. So DEP needs to seriously... we need to really look at reevaluating how many... maybe we slowed them down. I don't know about the legal aspects of this but ensuring... and it's just

2 something we should look into because there are
3 communities that are certainly overburdened with
4 these facilities. And we know that that leads to
5 poor air quality.

6 NILDA MESA: Yeah there's some... I know
7 that there's been some recent... internally, not out
8 of my office, but some... about that. And there are
9 some issues with federal jurisdiction when it comes
10 to things like nail polish or whatever. And so...

11 COUNCIL MEMBER RICHARDS: Mm-hmm.

12 NILDA MESA: ...that's something that we
13 haven't figured out how to address yet but these
14 are really good points and I'll take them back and
15 you know see what we can...

16 COUNCIL MEMBER RICHARDS: Definitely on
17 the permit issue I think the city there should be
18 aware... I know we can't control you know... look like
19 we're trying to address toxic toys and that's a
20 federal issue quote unquote too but we... we... we... we
21 do have control of the permit process and we should
22 look at that... [cross-talk] little more carefully.
23 Thank you so much for your leadership. We look
24 forward to passing this bill. I know Council Member
25 Barron is... would be happy today but I also know she

2 will be pushing for more so let's do more. Thank
3 you so much.

4 CHAIR CONSTANTINIDES: Thank you Council
5 Member Richards. We're joined by Council Member
6 Steve Levin from Brooklyn and Council Member Eric
7 Ulrich from Queens. Thank you both for being here.
8 Council Member Levin has some questions.

9 COUNCIL MEMBER LEVIN: Thank you very
10 much. Thank you Director. So I just wanted to ask a
11 few questions about... first the... legislation that
12 the council is considering... I'm the lead sponsor
13 around waste equity and updating the swamp plan to
14 better reflect waste equity in New York City and
15 totally candid with you it's... it's... conversations
16 with the administration has stalled with Department
17 of Sanitation on... and this is... I represent a... a
18 environmental justice community. I represent
19 community... one in Brooklyn. We handle close to 40
20 percent of... capacity in the city of New York. And
21 even when we have advancements like... as I'm sure...
22 effort with national grid of recapturing some of
23 the... through the slurry of organics. That's great
24 and everything but what... what's going to happen is
25 that's going to go from one end of community board...

2 those trucks are going to go from one end of
3 community board 1 to the other end of community
4 board 1 adding potentially hundreds of more truck
5 trips a day which obviously... environmental justice
6 level. So what... what would be great is if we can
7 get a commitment from your office that your office
8 is also part of that conversation. Because we're
9 looking forward... we're looking ahead at... at moving
10 forward on this legislation. We'd very much like to
11 do that. We would love to get... office to be part of
12 that conversation... your fellow agencies in the
13 right direction.

14 NILDA MESA: ...be included in that
15 conversation.

16 COUNCIL MEMBER LEVIN: You have... does
17 your office have an opinion on... at this point or
18 have you taken a look at it? Do you...

19 NILDA MESA: It's real... I mean it's
20 really been sanitation as... as you know that's been
21 in the lead on it but we're happy to be...

22 COUNCIL MEMBER LEVIN: Another bill that
23 I have introduced is around... banning fracking
24 waste. ...by the city of New York and... by... it's
25 actually very apropos right now well you know in...

2 in terms of using fracking waste as a... as a... a the
3 ...icing or I... I... you know helping with a major snow
4 event. Do you have... do you... does your office have
5 an opinion on... on... appropriate to ban fracking
6 waste for use by the city of New York?

7 NILDA MESA: I haven't looked at the
8 legislation yet but I will.

9 COUNCIL MEMBER LEVIN: We'll be happy to
10 share that with you and...

11 NILDA MESA: Great.

12 COUNCIL MEMBER LEVIN: And it... certainly
13 looking... I wanted to ask about green roofs in
14 whether... whether your office has taken a look at
15 how we can update our building code or other local
16 laws to... not just incentivize green roof
17 development but also put into place some mandates.
18 One thing that... become apparent to me over the last
19 few months is that... and obviously green roofs have
20 a... a significant health impact not just in terms of
21 reducing carbon emissions but also plant life is
22 able to filter out you know air pollution... We had...
23 I was at a conference this summer where and... you
24 were... where it was clear that other cities like
25 Philadelphia, Washington D.C., Toronto have much

2 more stringent or aggressive mandates for
3 developers to include green roofs as part of their
4 development. And it's a lot more effective than
5 what we're seeing here in New York City. And I
6 couldn't help but feel that we had... you know we're
7 missing an opportunity today to get more green
8 roofs built in New York City. Because as all of us
9 see we're right now in a... in a... a point in the
10 building cycle whether it relates to the New York
11 City economy there's a lot of development happening
12 right now. There's a lot more development happening
13 right now than there was five years ago. Right...
14 right now we're kind of in a place along... and you
15 know it's a cyclical thing but we're at a place in
16 that cycle that's around 2000 like what it was in
17 2004, 2005, 2006 in terms of how much development
18 is happening. And all of those buildings... a lot of
19 these are big buildings with... with large
20 footprints, we're missing a real opportunity
21 because our regulations aren't stringent enough.
22 And so I don't know do you have an... kind of an
23 opinion on it or have you... have you been looking at
24 what they do in Toronto, Philly, D.C...

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NILDA MESA: Well I can... I can tell you directly I know what they do because I was the one who had them first put in at Columbia almost ten years ago now. And green roof... so roof real estate is interesting because you can do... so when it comes to sustainability there's like several options that you can do with roofs right.

COUNCIL MEMBER LEVIN: Solar...

NILDA MESA: You can put solar, you can put...

COUNCIL MEMBER LEVIN: Right.

NILDA MESA: ...you can...

COUNCIL MEMBER LEVIN: Wind.

NILDA MESA: ...paint them white. You can... yeah wind not so much within the city because we don't have you know quite so much wind to make it worthwhile here but... but those are kind of the three big things right. So green roofs exceed when the roof is pretty new. And they also add some people say like 10 or 20 years to the life of a... So it's... you know so that's... that's one factor. I mean I would like to see us be a little more conscious about what we can do with roofs. And there's

2 legislation... been working with Council Member Costa
3 Constantinides regarding solar panels.

4 COUNCIL MEMBER LEVIN: Right.

5 NILDA MESA: And you know... and we know
6 green roofs have... also have a beneficial impact on
7 things like retaining storm water.

8 COUNCIL MEMBER LEVIN: Yep.

9 NILDA MESA: They help with
10 biodiversity. I mean one of the things that I saw
11 when I was... so I had... the very first green roof
12 that was put on at Columbia was directly above my
13 office and I used to go running up the stairs to
14 see what was going on with it all the time. And
15 even though it was sedum which is pretty much idiot
16 proof which is what I wanted to make sure that we
17 could show... really woodwork.

18 COUNCIL MEMBER LEVIN: Mm-hmm.

19 FEMALE: Even though it was sedum which
20 is not something that you would think would attract
21 a whole lot of you know critters it's... it attracted
22 butterflies and soon it attract... you know there
23 would be like more birds around. And part of it was
24 because of the proximity between like Riverside
25 Park, Morningside Park, and Central Park and so

2 forth but it was... it... but Columbia itself has you
3 know done research, established a... essentially a...
4 on green roofs and you know building on these. And
5 so one of the beneficial things that they found was
6 this increase in you know sort of biodiversity and
7 also places like for birds to land when they're
8 migrating. I mean there's... there are any kind of
9 you know number of benefits to it but I would... you
10 know it's... to figure out something on roof real
11 estate is something that we'd be interested in.

12 COUNCIL MEMBER LEVIN: So like in
13 Toronto they have... they have a mandate. If you
14 build a building over a certain square footage you
15 have to do it. If you don't do it then... then you
16 have to pay into a fund that helps to... to pay for
17 other sustainability efforts. And what they... I
18 think what they said at this... at this conference
19 was of the 300 buildings that have been built since
20 they've instituted that mandate only 30 have opted
21 out and paid into the fund. The rest of the 270
22 have gone ahead and done it. So that's... that's a
23 pretty good utilization rate. But it comes with a
24 mandate. It comes with... with the city saying you're
25 going to have to do this. And we in... in New York

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all we have is an incentive and our incentive is at five dollars a square foot. In D.C. their incentive... their... their... you know their incentive is 15 dollars a square foot. So nobody uses it in New York because it's not worth it. And so that's one thing that we should be looking at because... you know and it just... I mean it's... it was... what was striking was hearing the best practices and knowing that you know in other places where they're a lot more aggressive about it it does actually work. And so we can't just like throw up our hands and say oh we tried. We didn't really try you know. If we're saying five dollars a square foot, that's all that's out there to incentivize this and that's not working we should...

NILDA MESA: But I mean like every roof is going to be different right. You know there's going to be some roofs where solar is... [cross-talk]

COUNCIL MEMBER LEVIN: Oh absolutely.

NILDA MESA: ...great use. You know there are going to be some roofs where it's you know really green roofs. Some roofs where it's just you know a cool roof, you paint it white and... [cross-talk]

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COUNCIL MEMBER LEVIN: Sure.

NILDA MESA: ...help with the urban heat island affect that way. That may be the best. And... and it's going to depend on you know the budget of the building owner you know... [cross-talk] so...

COUNCIL MEMBER LEVIN: Absolutely but there... it should be part of the conversation but we... it... what I... my... my concern is that we have missed the... a top of... a high end of the cycle. And you know these... cycles... and so if we just... you know if... if development can start slowing down a little bit now you know then that would be unfortunate that we just kind of missed the boat on this one. Because I... I drive around my district there's like you know cranes upon... you know tons of cranes going on in terms of... building happening in... in my district downtown Brooklyn, Greenpoint, Williamsburg, there's a real opportunity there. So the... the more quickly we could work on this together I would very much welcome that. Thank you.

[background comments]

NILDA MESA: Thank you.

CHAIR CONSTANTINIDES: Alright the drum... fixed it so there you go. ...up we have Peggy Shepard

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COMMITTEE ON ENVIRONMENTAL PROTECTION

from WE ACT for Environmental... Mychal Johnson and...
Thurman. ...forward and Samara will swear you in.

COMMITTEE COUNSEL SWANSTON: Can you
please raise your right hand? Do you swear affirm
to tell the truth, the whole truth, and nothing but
the truth today?

PEGGY SHEPARD: Good morning. I'm Peggy
Shepard with WE ACT for Environmental Justice. I'd
like to begin by commending Council Member Barron
and the other bill sponsors for taking the first
step in addressing the city government's
accountability on the issue of equity and justice
in communities of color and low income here in New
York. I'd first ask the questions how do we address
the issue of disproportionate impact of pollution
that's fueling the asthma epidemic in our
vulnerable neighborhoods? How do we address the
transportation related health impacts of diesel
combustion in the air that exacerbates asthma and
heart disease? What do we do when studies at the
Columbia Children's Environmental Health Center
shows that when pregnant women are exposed to
traffic related toxins like DAH their babies are
born with low birth rate, at higher risk for

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obesity and asthma, and now we find that the unborn child's breast tissue is impacted and the child begins life at higher risk for breast cancer? So what do we do as a city to address these issues? We live in a city that takes seriously the idea that there are two cities and two realities within 1NYC. Our mayor was elected with a mandate to pursue equity and inclusion in all policies. So the first step in reducing exposure to our vulnerable population is to better understand what the impacts are, where they are, who is most impacted, and what impacts should be prioritized to build healthier sustainable communities. To do that Intro 359 proposes a study that would describe and map those communities with a goal of eliminating those adverse impacts and reducing exposure and disparity. My recommendation is that the study should include the health profile of those communities and it should be carried out not only by DEP and DOH but with the expertise of an academic institution as well. Because we know over the past 30 years of the national environmental justice movement an academic field of study has matured that involves scientists in the fields of

2 sociology, environmental science and health, and
3 GIS and that have produced numerous studies, peer
4 reviewed papers and academic disciplines. Students
5 now read about New York State's waste problems... the
6 North River Sewage Treatment Plant, and the impact
7 of diesel busses in Harlem. They read about New
8 York City issues like these in text books at
9 Harvard, Yale, and throughout our university
10 systems. These scientists are advising the city on
11 climate change and can do so on environmental
12 justice as well. You know studies are great but we
13 also need to hear from the affected communities.
14 That is the purpose of Intro 886. The EJ mantra is
15 we speak for ourselves and in order to do that and
16 to democratize decision making the city needs to
17 adopt the provisions of Intro 886, develop an EJ
18 advisory board, develop an interagency taskforce
19 that develops plans for reducing exposure and
20 promoting inclusion and decision making. I have
21 heard that the city thinks this would involve too
22 many meetings. How else can you understand the
23 challenges and impacts and set goals and priorities
24 without having meetings of those most affected? I
25 hear that it's too hard to get agencies to meet

1 with each other. And this is what I know. There can
2 be no comprehensive plan or strategy that is not
3 well coordinated between and among city agencies.
4 Why did the mayor have an array of agencies to
5 communicate the city's plan for the recent
6 snowstorm that affected mortality and morbidity,
7 sanitation, transportation, and human services? Why
8 is it taking a variety of agencies at the city,
9 state, and federal levels to take on the crisis of
10 environmental racism in Flint, Michigan. Why did
11 President Clinton in 1994 issue an executive order
12 on EJ that requires 17 federal agencies to issue
13 plans to reduce the disproportionate exposure of
14 pollution in EJ communities. So let's look at the
15 health status of our most vulnerable communities to
16 understand the impacts of diesel busses and trucks
17 on neighborhood streets. The leakage of
18 formaldehyde along Riverside Drive from the North
19 River plant. The trash trucks rolling into transfer
20 stations in Brooklyn, the Bronx, and Queens. The
21 illegal sale to ban pesticides of toxic toys, of
22 products with mercury all sold in 99 cent stores
23 that proliferate and have been mapped in low income
24 communities but are located predominately in
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African American neighborhoods. Though we have local lead law 2004 the city is not complying with or enforcing the law that should be protecting the 91 percent children of color who are lead poisoned each year in New York City. So if we want to understand the scope of this challenge then we must understand the necessity for comprehensive interagency approach to creating real change and achieving equity if that is a real goal and not just a slogan.

BERYL THURMAN: Hello, my name is Beryl Thurman. I'm the Executive Director of the North... North Shore Waterfront Conservancy of Staten Island. ...of the Northshore Waterfront Conservancy of Staten Island... WC or NSWCSI in Staten Island's Northshore... and waterfront communities. We advocate on... on behalf of... this day Thursday, January 28th, 2016 we are in favor of the passing of the bill 359 and bill 886. And it is our belief based on our experience that these bills are long overdue in becoming law in New York City. Early on Councilman Richards asked about the zoning issue. And the zoning issue is a huge issue for EJ communities because what is allowed to happen is is that our

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communities are red lined for all of the noxious toxic businesses, all of the social services that no one else wants in their communities. And red lining was actually abolished in the late 60s. But for our communities it is alive and well. Each year we're told that these various businesses and social services are allowed in our community because of as of right and that we can't do anything about it even though it's devaluing our properties and it is making our quality of life diminished each and every day. People of Staten Island are skeptics about studies because most of the ones that have been done on Staten Island have yielded no tangible results that improved our... the quality of life for our people in our communities. So we hope that with this particular study that we will see tangibles that will improve our overall quality of life and help our people in the situations that we have been continually bringing before our officials and the various agencies for decades. Therefore, if this environmental justice study comes back stating that it found no evidence of environmental injustice in New York City and on the Northshore of Staten Island we will know that something is truly amiss

2 when clearly there is so much evidence to be had.
3 This is an exciting chapter in the life of New York
4 City. And we look forward to experiencing all of
5 the good things that it will bring to our
6 environmental justice... people. Thank you.

7 MYCHAL JOHNSON: Okay I think it's
8 working. Hello my name is Mychal Johnson. I'm a
9 resident of the Mont Haven neighborhood in the
10 South Bronx and a co-founding member of the South
11 Bronx Unite, a coalition of residents,
12 organizations, and allies fighting for
13 environmental economic and social justice in the
14 south Bronx. I am here to testify on behalf of
15 South Bronx Unite in support of Intro 886 and Intro
16 359. We believe we'll... we'll believe... which we
17 believe will begin to lay an important foundation
18 in response to several decades of cycles of harm
19 and environmental justice communities. For far too
20 long proposed economic development and planning
21 have taken place in economic... in environmental
22 justice communities without either meaningful
23 community input or heightened environmental review.
24 Over the course over the last several decades the
25 South Bronx has been plagued with devastating... have

2 been plagued with devastating health impacts from
3 an extensive concentration of highway systems and
4 circling our community. In an oversaturation of
5 industrial facilities and diesel truck intensive
6 businesses which spread out across an 850 acre
7 significant maritime industrial area, one of the
8 largest, if not the largest in the city. It is well
9 known that the south Bronx suffers from asthma
10 rates eight times the national average. And asthma
11 hospitalization rates 21 times that of other New
12 York City neighborhoods while one in four of our
13 children have asthma. The cause is no mystery. 12
14 years ago the USEPA administered a study. The South
15 Bronx environmental health and policy study which
16 linked the extreme levels of asthma to the area's
17 oversaturation of highways and industrial
18 facilities. It recommended reduction of traffic and
19 more green space yet the assault on our community
20 continued without incorporating these
21 recommendations. Within the last year alone we have
22 been faced with three major environmental
23 struggles. First, 15 years ago, when then Governor
24 Pataki placed four Peaker power stations in our
25 community when he brought ten online throughout the

1 state of New York. Now the New York Power Authority
2 seeks to re-permit for the third time these
3 supposedly temporary installations that line our
4 waterfront. When first built these facilities
5 bypassed heightened environmental review on the
6 basis they would generate 79.9 Megawatts, just shy
7 of the trigger for... comprehensive... of environmental
8 impact. And no pollution mitigation plan was put in
9 place because ambient air quality was determined on
10 citywide basis rather than the south Bronx basis.
11
12 Over the last several months more than 200
13 residents of other... of residents and other
14 environmental leaders wrote letters urging
15 rejection of the re-permitting. Second, action
16 environmental system is seeking a permit of
17 expansion to operate its 3,000 ton per day waste
18 transfer station which also sits on our waterfront
19 or on our overburdened waterfront. Hundreds of
20 comments from the community were logged against the
21 permit expansion citing several permit violations
22 including extremely noxious odors, leaving garage
23 door... leaving garbage loaded tractor trailers on
24 public streets and littering the area outside the
25 gates. The community still awaits a decision.

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2 Third, and perhaps the most egregious is the
3 proposed relocation of fresh direct which would
4 bring a thousand additional truck trips, diesel
5 truck trips through the South Bronx every day all
6 with 130 million dollar subsidies most part of is
7 paid by city of New York. It shows our own city
8 agencies... New York City industry... environmental...
9 economic development corporation and industrial
10 development agency, IDA, oversaw and approved Fresh
11 Direct's... environmental assessment that was based
12 off of a 21 year... a 20-year environmental impact
13 statement. It somehow concluded that with the help
14 of a few lobbyists and government hires that this
15 volume of additional trucks would not exacerbate
16 our community's chronic respiratory illness. These
17 are just three examples of topics of struggles...
18 types of struggles from which this environmental
19 justice community is forced to defend itself. We
20 thank the members of this committee for the
21 opportunity to testify in regard... in this regard.
22 Our community like others across the city deserves
23 to have the same opportunity to live full and
24 healthy lives without having to constantly fight
25 for the right to breathe. This legislation is an

2 important step in the right direction. Particularly
3 if... particularly as it seeks to develop solutions
4 in... in partnership with the impacted communities.
5 We are happy to assist in further discussing the
6 sources of the problem as well as the breath of
7 solutions. One recommendations would... we would
8 offer today is that you consider incorporation as
9 an interagency working group member the Department
10 of Sanitation as well as the Department of Small
11 Business Service. As the agent... as this agency
12 funds EDC and IDA. Because these agencies have a
13 significant presence and impact in the South Bronx.
14 Thank you very much.

15 CHAIR CONSTANTINIDES: I want to thank
16 each and every one of you for your environmental
17 leadership. ...often have a disconnect between our
18 city and our state. We're phasing out four and six
19 oil. We're not hold... they're not help... they're
20 allowed to continue to burn four and six oil in our
21 communities and tell them that this... well New York
22 City is... They're very clear to me that New York's...
23 we're... we're not regulated by New York City, we're
24 regulated by New York state so we have a resolution
25 in to... to stop... asking the state to stop them from

2 burning four and six oils in our community. For the
3 clean heat project to really work we need them to...
4 we need power plants in our communities to stop
5 burning this dirty fuel oil in our back yard. So I
6 appreciate all the work that you're doing.

7 MYCHAL JOHNSON: Thank you for what you
8 all are doing. For bringing us forward, thank you.

9 CHAIR CONSTANTINIDES: I absolutely... I'm
10 not let... So you've heard earlier from the testimony
11 from the administration regarding what we can...
12 hearing input whether that's making sure that we
13 are you know getting information out to
14 communities... you know making sure... without... without
15 computer access getting that... you know getting
16 information into communities and making sure that
17 renewable options are out there, opportunities for
18 job trainings and... and access to 21st century job
19 opportunities are out there. Like what are... what
20 are your thoughts on some of the... the... the sort of
21 questions we raised earlier and what would your
22 recommendations be on some of these topics I
23 brought up?

24 PEGGY SHEPARD: ...environmental justice
25 communities in terms of energy security issues,

2 alter... fuels, environmental health is all being
3 done primarily by small environmental justice
4 organizations like those here and in the room. We
5 are all organizations with small capacity but big
6 hearts and big reach. And a... a lot of our members
7 of all of groups are here today but the city is not
8 doing that kind of outreach. The Department of
9 Health does some very focused effective outreach.
10 But again they may not have the capacity to do as
11 much as they would like and it would be helpful if
12 the city council was to certainly support the
13 Department of Health, getting additional funds to
14 do that kind of outreach.

15 CHAIRPERSON CONSTANTINIDES: Definitely
16 on board. I... Department of Health, we should get
17 them more resources to do that... sort of outreach I...

18 BERYL THURMAN: What we are not seeing
19 is a coordinated effort on part... various city
20 agencies and... helping our environmental justice
21 communities. And when we speak to the various
22 individual agencies what we usually get are blank
23 stares... no answers. They... what we're finding is... is
24 that a lot of times when they come to our
25 communities and even when proposals are made to our

2 communities they either add to the problems that we
3 have or they create new ones. But we don't see any
4 types of proposals that actually solve any of the
5 problems. And this has been going on for a very
6 long time. I have spent years having the same
7 conversations with various people because in those
8 agencies the people we start out with are not the
9 people that we end up having in five years. And so
10 it's always a retraining of someone new to talk
11 about old issues and it gets real old after a while
12 when you feel that you are the source of training
13 these people in how to do a job rather than them
14 actually doing the job.

15 MYCHAL JOHNSON: And I think you got the
16 answer which is there's no heightened review for
17 environmental justice communities from the various
18 agencies. There's nothing in place. And we're
19 seeing it every day in terms of the supposed job
20 creation is always about we have to create jobs.
21 What about people... to breathe. And that's second,
22 it's not first. If you can't breathe you can't work
23 so... it... you know we need... it needs to be in place
24 what this legislation is talking about doing which
25 making sure that environmental justice and health

2 is looked at first before anything else. Because
3 nothing else happens. You can't do anything other
4 after that.

5 CHAIRPERSON CONSTANTINIDES: I... as a
6 father who you know I... that number of you know one
7 in four children with asthma is a... one.

8 MYCHAL JOHNSON: When I go to schools
9 and talk and I ask a room like this how many people
10 know someone who has asthma in our community, 95
11 percent of people raise their hand and I'm telling
12 them that's not normal but we're living like it is
13 in the South Bronx and other communities. That
14 should not be the norm in the 21st century, in New
15 York City, the richest city in the richest country
16 in the world. And we're only like six miles away
17 from Wall Street and our people live in a totally
18 different existence. That's not how we should be as
19 a... as a set society.

20 CHAIR CONSTANTINIDES: I mean I... I... I... I
21 believe in what the Mayor's attempting to do with
22 1NYC. And I think that... you know... taking that
23 program and... and... and building upon it you know
24 like we are today with these two bills as the
25 purpose of this hearing and making sure that the

2 issues relating to environmental justice
3 communities are heard and implemented and... and not
4 just talked about. This is not a hearing today we
5 are just looking to have oversight. We're... we're
6 proposing two pieces of legislation to make things
7 happen and to propose policy to move forward. So I...
8 I... I'm totally with you.

9 PEGGY SHEPARD: Also like to say that
10 one thing that Nilda Mesa said that was important
11 was that we do need to focus on a... regulations here
12 at the city.

13 CHAIR CONSTANTINIDES: Mm-hmm.

14 PEGGY SHEPARD: Because often times
15 they are revealing significant projects but we also
16 have to understand whether CEQA is really
17 considering and reviewing all of the kinds of
18 problems that we do have in EJ communities as... as
19 well.

20 CHAIR CONSTANTINIDES: With that I'm...
21 I'm going to turn it over to my colleague, to Steve
22 Levin for a few questions.

23 COUNCIL MEMBER LEVIN: Thank you Mr.
24 Chairman. I just wanted to thank this panel for
25 your ongoing advocacy as somebody that represents

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part of environmental justice community in North
Brooklyn. It is always the community advocacy that
highlights the issues, continues to hold the
politicians accountable, those of us like ourselves
here, to... to do the right thing. And you know one
thing Mr. Johnson that you mentioned that just...
jumps out at me is this issue of Fresh Direct in
the South Bronx, being able to finesse or
manipulate that environmental impact statement and...
and... and... looking at our CEQA analysis and seeing...
You know that should not be allowed. We should... we
should be all looking at what we could do to make
sure that the... that it's... that we're not supporting
fictitious reports or manipulated reports. And any
of us that are here facilitating it bear some
responsibility. If we vote for it based on these
misleading conclusions, you know then we're also
responsible. And I think that we all need to
collectively take a deep look in the mirror and...
and make a commitment to ourselves and to each
other in this city that we're not going to stand by
and just do this over and over again. And it's not
just a formality and it's not something to be...
that's just a hurdle to get past in order to... you

2 know on our way to the almighty dollar but that
3 it's... it's there for a reason. And I think this
4 collectively... this is something for us to look at
5 too at the city council. We need to take this very
6 seriously and we need to understand. On something
7 like this where you're talking about a thousand
8 truck trips a day that has an impact, you know that
9 has an impact, I know that has impact, everybody
10 here knows that that has an impact. And we need to...
11 we need to own up to that. And if it's going to
12 have an impact and we still want to see it move
13 forward then we need to come up with mitigations
14 that... commensurate and we don't do that. So I want
15 to thank you very much for bringing that to our
16 attention and please continue to hold us
17 accountable. Thank you.

18 BERYL THURMAN: Here's something that I
19 would like to add. We recently, well it's been
20 three years now, and this has to do with the
21 Bayonne Bridge construction project where the Port
22 Authority and the US Coast Guard were allowed to do
23 an environmental assessment and not an
24 environmental impact statement. And it was a 7,000-
25 page environmental assessment that they expected

2 the community to read. And... and to do this within,
3 I believe it was a 60-day period. The problem with
4 that assessment is that their own consultant in...
5 that dealt with the hazardous aspect of this said
6 that that property had asbestos, arsenic, PCBs,
7 lead, and other heavy materials. And we never saw a
8 methodology to how they planned on remediating any
9 of those contaminates so that the community that
10 lives directly underneath that bridge would not be
11 impacted. And the city of New York has basically
12 been helpless throughout this whole process in
13 helping the people of these communities. And we see
14 that a lot. And what we don't understand and what
15 we can't seem to explain to our community members
16 because we don't understand it is how is it
17 possible that the city of New York is helpless in
18 helping its own people.

19 COUNCIL MEMBER LEVIN: One thing just I
20 would like to... that reminded me is that you know we
21 have... we have representatives from state DEC in the
22 room. They have in their process for state
23 superfund an opportunity for community groups to
24 apply for funding to hire a consultant to be able
25 to go through these documents. And actually in... in

2 Williamsburg we had a community group apply for
3 that on a state superfund site. That's a good model
4 because it's... it's... it allows for the community to
5 have an objective and professional evaluation of
6 all these materials because we don't have the
7 expertise to do it always. And so that's one thing
8 that we should all be looking at on the city... on
9 the city level as well is making sure that... that
10 we're doing at the very least what DEC does in
11 terms of allowing for funding to be in place for
12 community consultants. Thanks.

13 MYCHAL JOHNSON: One thing. So I want to
14 mention the swamp... solid waste... plan and it needs
15 to be revised. I believe you mentioned it...
16 Chairman. In the South Bronx in my neighborhood...
17 our neighborhood has a 5,000 ton per day waste
18 transfer station other than the... waste transfer
19 station that's there as well. And it handles all
20 the Bronx waste in one community. That means all
21 the garbage trucks from all over the Bronx comes to
22 one particular spot in the south Bronx. On our
23 waterfront which there's no flood mitigation plan
24 and no direct access for 90,000 people that live
25 within two miles of that waterfront. So we're

2 blocked by all these manmade... make our... our
3 children healthier, increase our quality of life.
4 But what we are... are asked to do and shoulder the
5 burden for which is for the waste and all the
6 industrial facilities in the largest SMIA in the
7 city. It's wrong.

8 COUNCIL MEMBER LEVIN: Three communities
9 in the city, southeast Queens, north Brooklyn, and
10 south Bronx handle 80 percent of the city's
11 capacity for solid waste, 80 percent in three
12 communities.

13 PEGGY SHEPHARD: I'd also just like to..
14 to say to Donovan Richards because I know you're a
15 co-chair of 1NYC and there'll be a progress report
16 in April you... and Constantinides, yes. I... I
17 understand that there are a number of initiatives
18 and goals in 1NYC that actually are not funded. Now
19 I know we were told that everything was funded and
20 budgeted for but it is not the case. And so we need
21 to be very vigilant on that. And some of the things
22 that are not funded are very important initiatives
23 from the Department of Health. And we need to
24 really talk with the Office of Management and
25

2 Budget around those issues because that seems to be
3 where the... the larger jam is.

4 CHAIR CONSTANTINIDES: Now I... if we
5 don't put the money behind our goals then it's just
6 a wish. So we... we're not in the business of wishes,
7 we're in the business of making things happen and I
8 think the... office understands that and are
9 committing to that and... and we are on the council
10 willing to you know make sure we make these
11 investments to see the results that were... are
12 needed, not... you know not wanted but needed in
13 communities. So wholeheartedly agree with you. With
14 that thank you all for your... again for your
15 environmental leadership. We appreciate your time
16 and your testimony. Thank you. Okay so we're going
17 to... Alright so we have an interesting wrinkle. We
18 have... for the first time ever we're going to have
19 Skype used in an EP hearing. So we're going to have
20 Norris McDonald... There 21st century. Here we go.

21 NORRIS MCDONALD: Alright do you have
22 me?

23 CHAIR CONSTANTINIDES: ...African American
24 Environmental Mr. Normal... Norris McDonald. If
25 Samara if you can swear Mr. McDonald in.

2 COMMITTEE COUNSEL SWANSTON: ...you please
3 raise your right hand Norris. Do you swear affirm
4 to tell the truth, the whole truth, and nothing but
5 the truth today?

6 NORRIS: I do.

7 CHAIR CONSTANTINIDES: You may go ahead
8 with your testimony.

9 NORRIS: You can hear me okay?

10 CHAIR CONSTANTINIDES: We hear you good,
11 thank you.

12 NORRIS: Great. My name is Norris
13 McDonald and I'm the founder and president of the
14 African American Environmental Association. We're a
15 national environmental group. We support both bills
16 and recommend that the New York City council pass
17 both bills immediately. Passage of these bills will
18 represent a historic leap forward in protecting
19 vulnerable communities that currently have no
20 protection from environmental injustice. I would
21 like to thank the Environmental Protection
22 Committee Chairman Costa Constantinides, former New
23 York Council Member Charles Barron, and New York
24 City Councilwoman Inez Barron for their efforts in
25 guiding this legislation to approval so it can

1
2 protect vulnerable communities. My condolences also
3 to Councilwoman Inez Barron. I hear that she had a
4 death in the family and it has been mentioned so
5 sorry that she can't be there. I'd also like to
6 compliment on Donovan Richards for his efforts when
7 he was chairman of the committee and his fine work.
8 He was a good chairman. And thank you for your
9 support on this bill. I drafted the environmental
10 justice bill for Councilman Charles Barron in 2003.
11 And Council Member Charles Barron introduced the
12 bill, bill number 404 in 2004 with 7 co-sponsors.
13 After meeting with Councilwoman Inez Barron in 2014
14 to request reintroduction of the legislation and
15 after much review and revisions by the Committee on
16 Environmental Protection Councilwoman Barron
17 introduced the legislation that we are considering
18 today. The legislation has numerous co-sponsors, I
19 believe it's 37, and I sincerely hope that this
20 legislation will be passed by the council and
21 signed into law by the Mayor. The New York EJ
22 legislation is drafted after a national EJ bill I
23 drafted that we still need to get past in the US
24 Congress. I formed the Environmental Justice
25 Coalition to work for the passage of the national

1 legislation. The national bill... the national bill,
2 New York bill, Maryland bill, and a Mt. Vernon bill
3 are listed on our environmental justice blog. And I
4 have a full written statement and the links are at...
5 put notes in the written statement. Let's see. We
6 have recommendations as I said. AAEEA supports both
7 bills and we have specific recommendations that
8 would improve the legislation. Although we like the
9 Environmental Working Group and Advisory Board
10 provisions in bill 886 the bill needs additional
11 protections for vulnerable communities. The
12 additional protections from our national
13 legislation that should be included in 886 include
14 providing a citizen lawsuit provision to allow
15 potential victims of environmental race
16 discrimination to enforce the EJA and the
17 regulations promulgated thereunder, providing a
18 citizen endorsement provision to allow potential
19 beneficiaries of non-polluting economic development
20 to enforce the environmental justice act and the
21 regulations promulgated thereunder. I think those
22 two provisions are very important; a citizen
23 lawsuit provision but also a mechanism for non-
24 polluting, a non-polluting entity to get
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preapproval from a set of entities that the committee could... could establish. Establishing... criteria for determining potential violations and endorsements based on comparative community health statistics, comparative community pollution sources, and comparative community economic development all... much of that is kind of already included in the bill. But also addressing acts of discrimination and investigating all community complaints and recommendations related to development projects whether filed before or after issuance of construction and operating permits. Also empowering citizens and DEP at the request of citizens to obtain injunctions to prevent construction and operation of discriminatory polluting facilities of operations that violate the environmental justice act regulations. Empowering citizens and DEP at the request of citizens to endorse the construction and operates the nondiscriminatory non-polluting facilities and operation that do not violate environmental justice act regulations. Providing a... providing a definitive permitting process regarding demographics for citizens, developers, government

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agencies and investors, developing the DEP to develop EJ... directing the DEP to develop environmental justice act regulations. Also in bill 359 should include types and amounts of pollution that the sources call for by the bill. AAEA produce pollution studies for Washington DC that included types and amounts of pollution in each facilities listed as an emitter. It would be very helpful to effective citizens to have this sort of information at their disposal. Finally, we support both bills and recommend that New York City council pass both bills immediately. This is historic and I'm delighted that the council is taking this action. Thank you very much. And also Council Samara Swanston for her hard work on this legislation. Be happy to answer any questions at this time?

CHAIR CONSTANTINIDES: Can you hear me okay?

NORRIS MCDONALD: I can hear you fine.

CHAIR CONSTANTINIDES: Alright fantastic. This is... this is working better than our microphones here in New York City.

NORRIS MCDONALD: Great.

2 CHAIR CONSTANTINIDES: But I want to
3 thank you for your efforts and... and long term
4 efforts on these issues. And I'm not sure if you've
5 been able to hear all the testimony that's been
6 given here today..

7 NORRIS MCDONALD: I have... I have.

8 CHAIR CONSTANTINIDES: Okay so I mean...
9 question I'll ask is what are your thoughts in... in
10 to relation to the testimony that was given thus
11 far and how can we sort of... what can we do better
12 is sort of my main question here.

13 NORRIS MCDONALD: Well you have great
14 resources in New York City. New York City has
15 probably the most aggressive and... and informed, and
16 educated environmental justice activists of any
17 city in the United States so you won't have any
18 trouble getting feedback. But what... what the city
19 needs really is... is prevention of a situation such
20 as we see in Flint, Michigan today. And I think
21 that's the importance of having an environmental
22 justice law that then provides the mechanism not
23 only for stakeholders in... in the private sector
24 and... and community stakeholders but also it
25 protects the city. There were mechanisms that were

1 missed by the governor, by the state agency, by
2 federal EPA, that an environmental justice act such
3 as this I think would somewhat serve to prevent
4 that sort of situations and other sort of
5 situations that then get the communities up in
6 arms. And you have all of this controversy and
7 tragedy, and suffering. And I think this law will
8 do that. Some of the highest asthma rates, and
9 they've gone over that, and WE ACT has done great
10 work in that area and I'm an asthmatic myself. Some
11 of the highest asthma rates in the city... I mean in
12 the nation are in New York City. And I think this
13 law will go far in helping to mitigate that
14 situation. So I... I think that if you pass this
15 legislation and frankly implement some of the
16 recommendations we made with amendments that New
17 York City will be more protected, the city will be
18 more protected, community stakeholders will be more
19 protected, you'll provide a framework for the
20 state, Department of Environmental Conservation,
21 and EPA to interact I think more efficiently and
22 more effectively if you have a regulatory framework
23 that... that practically and... and effectively deals
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2 with the environmental justice in environmental
3 injustice situations in New York City.

4 CHAIR CONSTANTINIDES: I... I agree with
5 you in that when... when you talk about the
6 environmental activists. I think we have some of
7 the greatest here in New York City and...

8 NORRIS MCDONALD: Yes you do.

9 CHAIR CONSTANTINIDES: And it's just a
10 matter of allowing them to be better connected with
11 government. We can unleash them and kind of bring
12 their work higher up... up the chain and making sure
13 their voices are heard even louder. So I agree with
14 you whole heartedly and looking forward to working
15 with you and all these great activists here. So
16 thank you. I want to thank you for your efforts and
17 your time and being the first to skype into our...
18 our hearing. Thank you so much.

19 NORRIS MCDONALD: Thank you very much
20 for this opportunity to testify before the
21 committee today.

22 CHAIR CONSTANTINIDES: We appreciate
23 that. Thank you very much. Alright next up we have
24 Aaron, Aaron Mair from the Sierra Club who'll be

25

2 skyping in as well and then we'll be coming back to
3 testimony for here in this room.

4 [skype calling]

5 CHAIRPERSON CONSTANTINIDES: Aaron can
6 you hear us?

7 AARON MAIR: I'm... can you... can you see
8 me?

9 CHAIR CONSTANTINIDES: Not... not yet, we
10 can hear you... now we can see you fantastic.

11 [background comments]

12 AARON MAIR: Hold on one second.

13 [background comments]

14 CHAIR CONSTANTINIDES: Aaron your... the
15 video feed that you're seeing might... might be a
16 little frozen but you should be able to hear us
17 fine and... and hopefully that will get the job done.
18 Mr. Mr. Mair do you hear us okay?

19 AARON MAIR: Okay. Hello can you hear
20 me?

21 CHAIR CONSTANTINIDES: Yes... we do hear
22 you. Do you hear me okay?

23 AARON MAIR: I can hear you fine now. I...

24

25

2 CHAIR CONSTANTINIDES: Alright
3 fantastic. Alright so Samara Swanston our... our... our
4 attorney is going to swear you in okay?

5 COMMITTEE COUNSEL SWANSTON: Aaron can
6 you please raise your right hand.

7 AARON MAIR: Right hand raised.

8 [laughter]

9 [background comments]

10 COMMITTEE COUNSEL SWANSTON: Do you
11 swear or affirm to tell the truth, the whole truth,
12 and nothing but the truth today?

13 AARON MAIR: So help me god.

14 CHAIR CONSTANTINIDES: Please proceed
15 with your testimony.

16 [background comments]

17 AARON MAIR: Hold on a second let me
18 just get the volume so I can hear you. Yes, my name
19 is Aaron Mair and I am the 57th President of the
20 Sierra Club. The Sierra Club is the nation's oldest
21 and largest organization environmental action, in
22 environmental action with over 2.4 million
23 volunteers, activists, and leaders throughout the
24 country working to defend and protect our wild
25 lands, our wild places but also our urban scenic

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wonders, our urban wonders, our urban parks, or urban open spaces as well. The organization has been one of the leaders and allies with regards to the Environmental Justice movement. I personally come from the Environmental Justice field specifically with over 30 years of experience. I've worked with numerous leaders that you had their on the panel; Peggy Shepard, Elizabeth Yeampierre, Samara Swanston with regards to environmental protection as mentioned earlier. This movement has informed not only the pedagogy but has even created new fields of studies with regards to health disparities in urban health and urban health monitoring in ways that have never existed before. Unfortunately the Environmental Justice Community for all that it is brought with regards to activism awareness and how to better serve the American people and in your case in particular the people of the City of New York our communities still lag behind and are at a disadvantage when it comes to being as they say at the next generation or the green two... 2.0 or 4.0 level meaning that rather than react to issues having proactive laws and protections on the books that actually factor in

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the conditions that lead to injustice. And so one of the things we are pleased to... and proud to announce that we're in support of Intro 886 and Intro 359 because this is the first time that we'll actually have strong laws on the books. While not perfect they lead the nation and the country in a direction to start to promote... legal... legal rules and... and... and... and statutes that will be more protective of human health in the environment. The communities of color are not seeking any special treatment or favorable treatment. They're seeking just an equal treatment under the laws. It is a sad tragedy to recognize that because of one's race and economic or socioeconomic status their class or their case of protection when it comes to environmental amenities or negative amenities they are at the bottom of the heap. What this law tries to remedy is decades of past discrimination that is treated in this case in resonance case from New York City as second class citizens. It should serve and will serve as a model hopefully for our state and hopefully for our nation. Because right now we have an executive order, we do not have a national law. I am very pleased that you are... as they say

1 institutionalizing some of the interagency
2 provisions. Because of the areas by which injustice
3 creeps in or environmental harm to minority
4 communities creeps in is through one agency as say
5 operating under its laws that may be inconsistent
6 with another agency. And what's now important is
7 that we have a framework by which the New York City
8 Department of Environmental Quality and New York
9 City Department of Health can actually handshake.
10 So you can be... you cannot have a project go forward
11 as they say that combination communicating with one
12 another. It's not... it should not be sufficient
13 enough that a project will be safe under one set of
14 statutes and regulations and rules but violate the
15 spirit and letter of the law of another agency's
16 statute letter... rules. So you can get a project
17 permit under DEQ, Environmental Quality, but it may
18 not necessarily be kosher when it comes to
19 protecting human health or its impact on human
20 under Department of Health code. So it is this
21 balance hopefully that this interagency up by the
22 statute as they say will start to bridge and as
23 they say and remedy. So I am pleased on behalf of
24 our organization to recognize this historic step,
25

2 this historic moment. We want to commend Mayor de
3 Blasio and the legislature for taking this
4 important step. And I... and I would encourage more
5 to be done. But this is indeed quite significant
6 and we do endorse this law and this action. It is
7 well long overdue.

8 CHAIR CONSTANTINIDES: I want to thank
9 you I mean for your national leadership and for all
10 of your great work with the Sierra Club and.. and
11 being involved with the Environmental Justice
12 Movement. So I want to thank you for your time
13 here. First and foremost, you know I've asked how...
14 how much of this have you been able to sort of hear
15 throughout the entire hearing?

16 AARON MAIR: Well with my... as I say
17 being in the nation's most advanced technological
18 area we have as a... a herkey-jerky internet speeds.
19 This is one of those things hopefully for all the
20 competition will start to remedy but I have heard a
21 majority of it but there's been a delay and a bit
22 of a lag. But in short I have captured most of the
23 hearing testimony. I've caught the past panels.
24 Believe it or not Norris McDonald's skype session
25 for some reason came through in its entirety. Again

2 Kudos and also in recognition of his work that he's
3 done to lay some of the foundation I want to say
4 Norris job well done but again we have much more to
5 do, much more to go. But again I've heard most of
6 the testimony and... and am in support of and
7 recognize and can testify to I've been participant
8 in some of the actions and have drafted letters of
9 support of some of those grass roots actions that
10 have been testified to earlier.

11 CHAIR CONSTANTINIDES: Yeah I think
12 we've heard good testimony from all of our
13 environmental organizations here today. And you
14 know from the mayor's office where you know... 1NYC
15 is a great step and making sure that these bills
16 have teeth, making sure there's real actions behind
17 them, making sure that real action is going to
18 follow from the work that we're doing here today is
19 our mission. So that is our commitment today to
20 everyone that's working, our environmental justice
21 you know issues and working in communities that
22 today will you know bring forth legislation that is
23 going to act quickly. So we're... we're looking to
24 move these bills as soon as we possibly can. So...

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but I want to thank you for your time and... and your efforts.

AARON MAIR: Thank you. And again I also want to point out... I think somebody had mentioned earlier some of the gaps with the state environmental quality review act. And there are cases like up in Albany New York with the current... what they call the bond trains or the trains that are taking... and Crude into the port of Albany. And one of the gaps is that when a permit-ee is allowed to fill these things out and that permit-ee is allowed to define whether or not a an environmental justice community is there, ignoring the fact or the tool kits that are... been created by the state to assist an applicator and yet when they draft their... their application can as they say omit some very very salient details resulting in projects going forward that may cause harm. I am hoping that this law becomes a bridge by which it starts to work with the state to as they say update and modify and significantly overhaul its state environmental quality review act. Another piece of the injustice is as you are aware and as you have heard testimony about I want to go back to the

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Croton Water Filtration Plant right there in Van Cortland Park. Again communities have to wait on promises whereby the burdens that they have to bear, the commitments should actually be enshrined to the law. I think that there should be provisions hopefully in later iterations of this law or corrections to this law that as communities to.. are losing green assets, significant pieces of their park like in Van Cortland Park that revenues in our... or as they say or investments be set aside to either... or parcel or better you know set aside for these communities so that they breed... receive the benefits... the benefits should never be an afterthought or promises made and money set aside. But after the... the compliance with say a federal or a local projects or mandates that they then all of a sudden neglect to implement or install these benefits to the community hopefully that the law will be tweaked and adjusted to as they say make hard and... and deliverable commitments to communities as well as it should make hard and deliverable the removal of injustices to these communities.

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CHAIR CONSTANTINIDES: I wholeheartedly agree with you that anything that's coming into a community should be integrated and there should be real benefits that aren't there at the end but are there throughout the process and... and not just promises that are... can be left empty.

AARON MAIR: Well the thing is that this law perhaps is a bridge or it can be tweaked to enshrine that in law. We understand that commitments and words are wind but things that are written into statute and written into regulations are solid commitments that the community can as they say hang their hat on. And I think that hopefully these tweaks and these adjustments to the law will be included.

CHAIR CONSTANTINIDES: I... I have a good friend Bishop Mitchell Taylor who runs Urban Upbound and he always says it stinks until... so... so I... I... I... I agree with you there that just promises have to be in writing. So I agree with you there. So thank you so much for your time and... and your testimony here today.

AARON MAIR: You're welcome, thank you.

2 CHAIR CONSTANTINIDES: Alright. Next
3 panel. Next panel live here in the chamber we have
4 Ken Gale from New York City safe energy. We have
5 Ya-Ting Liu from the League of Conservation Voters.
6 And we have Bruce Rosen, United for Action.

7 COMMITTEE COUNSEL SWANSTON: Can you
8 please raise your right hands. Do you swear affirm
9 to tell the truth, the whole truth, and nothing but
10 the truth today?

11 KEN GALE: Yep. Thank you for holding
12 this hearing and for the opportunity to speak. I'm
13 Ken Gale. I produce and host an environmental radio
14 show on WBAI FM and I'm the founder of the New York
15 City Safe Energy Campaign. Environmental justice
16 has been with us a long time. Let me tell a story
17 from 19th Century New York City coed from visits to
18 the Tenement Museum and exhibit of the History of
19 Sanitation a few years ago at the New York Public
20 Library, another reason to keep the libraries open.
21 When the Erie Canal was built and there were more
22 jobs on the New York City waterfront than we had
23 workers for people immigrated here in waves from
24 all over the world often with nothing but the
25 clothes they were wearing. And there was always

2 someone from the home country ready to exploit
3 them. Apartments on the lower east side that are
4 too small for a modern family of four would have
5 two families with six or seven in them and no
6 running water and one outhouse in the back of the
7 whole... for the whole building. A breeding ground
8 for disease in the poorest parts of New York City.
9 Lower eastside sanitation of the 19th century was...
10 was things like pigs running loose eating the
11 garbage. Rather than improve sanitation they simply
12 passed a law that pigs were not allowed to run
13 loose in the parks on Sunday. I think that law is
14 still on the books. And please leave it there, it's
15 part of our history. The reaction of the richer
16 people... richer people back then was to notice that
17 immigrants were dirty and catholic or Jewish, the
18 "wrong" religion to them. Rather than improve
19 conditions for the poor working class they created
20 a slogan, cleanliness is next to godliness. It was
21 only when the diseases of the poor spread to
22 everyone else that they woke up to the fact that
23 maybe the poor had more diseases because they had
24 no running water and no sanitation thus starting a
25 series of tenant laws that still exist and still

1 should exist. You see where I'm going with this.
2
3 The environment is not some abstract thing. It is
4 the air we breathe, the water we drink, and all of
5 this affects our health and our health costs.
6 Polluted air doesn't stop at the boarder of say
7 East Harlem and the upper east side. And sure
8 enough asthma rates on the upper east side
9 bordering east Harlem are higher than the other
10 parts of that district. Don't be like the city
11 council of the 19th century and wait for diseases
12 to spread to the whole city before action is taken
13 to improve the environment of the poorest parts of
14 the city. Solutions. I applaud the council's recent
15 decision to look into putting solar panels on all
16 city owned buildings. That's a great solution to
17 keep from creating asthma and other respiratory
18 diseases by burning stuff for electricity. By the
19 way 10 years is too short of time to look at the
20 energy savings of solar panels. Solar cells are
21 warrantied for 20 to 30 years so use that as your
22 standard. We also need to improve the energy
23 efficiency of our buildings so we don't have to
24 burn so much oil and gas. When the air or water are

2 clean, thank an environmentalist, if not become
3 one. Enough said. Thank you.

4 CHAIR CONSTANTINIDES: Thank you for
5 your testimony. Ya-Ting.

6 YA-TING LIU: Good afternoon Chair
7 Constantinides and Samara and Bill. Thank you so
8 much for the opportunity here to comment on these
9 two bills which the New York League of Conservation
10 Voters are very proud to support. In fact, Intro
11 886 is one of our... is in our 2015 City Council...
12 card. Or to working with the council and the
13 administration in the weeks ahead to actually move
14 this pieces of legislation forward. I'm not going
15 to read my testimony in full just for the interest
16 of time. And I... so I just want to focus on sort of
17 two sort of ideas or suggestions as you guys move
18 into the sort of negotiations of flushing out more
19 of the details with the administration. With
20 regards to Intro 359 and the area of data... one area
21 to look into is that DOHMH currently already
22 conduct what they call community health profiles
23 where they take a very in depth sort of snapshot of
24 59 community districts across the city. They are
25 the most comprehensive reports of neighborhood

1 health ever produced by the city to date. And they
2 look at... at health. It was the first time that they
3 looked beyond traditional health measures such as
4 infant mortality and stroke hospitalizations to
5 broader measures of community wellbeing including
6 housing quality, incarceration rates, school
7 absenteeism, even the square footage devoted to
8 supermarkets. So one idea could be that in these
9 community health profiles to include additional
10 environmental indicators such as access to parks
11 and open space, number of various sites or
12 facilities that might have a negative impact on the
13 community health, etcetera. So again that's an
14 example of data and that's... the health department
15 is already collecting and it can conceivably be
16 very easy to just include other indicators that
17 exist. I believe Director Nilda Mesa mentioned that
18 DOHMH already has this... what they call the
19 environment and health data portal where anybody
20 you know with access to the internet can go and
21 search and look at all these fancy data. I think
22 the issue is that it's not published in a... in a
23 report form that's very readily digestible for the
24 public. So the city's already doing that on the
25

2 community air surveys. Conceivably they can do the
3 same for these other types of environmental health
4 data that they're considering. So requiring DOHMH
5 to publish those data on an annual biannual basis
6 presumably would not be that onerous on the
7 administration.

8 CHAIR CONSTANTINIDES: I'm going to
9 agree with you on that. And having it available...
10 readily available at senior centers, at libraries,
11 at... in places where people congregate I think would
12 make a lot of sense.

13 YA-TING LIU: That's right, that's
14 right.

15 CHAIR CONSTANTINIDES: Especially when
16 you... you know you have... in... in many communities 40
17 percent of the residents don't have internet
18 access.

19 YA-TING LIU: Right. And then...

20 [background comments]

21 CHAIR CONSTANTINIDES: Let's...

22 YA-TING LIU: And then...

23 CHAIR CONSTANTINIDES: ...let's stay on
24 topic.

25

2 YA-TING LIU: Sorry, sorry. And then
3 just one other comment with regards to Intro 886.
4 You know we support it, it was in our 2015 score
5 card. I think we do want to echo some of the
6 comments made by Peggy Shepard from WE ACT which is
7 that... and which is... the city council is taking lead
8 on. We need a infrastructure in place to... to get
9 the city to start implementing some of the goals in
10 1NYC. And with the one-year progress report that is
11 due in April that is a opportunity to really nail
12 down some of the metrics and the indicators that
13 relates to the environmental justice goals. And I
14 think it's very important that we get that in there
15 by the one-year progress report as a way for the
16 city to keep tracking 1NYC progress going forward.
17 That's it. Thank you.

18 BRUCE ROSEN: Hi... Sorry. UFA is a grass
19 roots group that came about at a reaction to
20 fracking and... in addition to everything that has
21 been done, testimonies... York and New Jersey,
22 Pennsylvania, and D.C. etcetera has gotten into an
23 expanded agenda against all extreme forms of energy
24 including nuclear. And... and I know that there are
25 people on the council that are against it. The

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2 mayor... is misinformed. I will suggest that you keep
3 your eyes on a report to be released soon on Carbon
4 14. Nuclear power is a carbon generator not just in
5 excavation of uranium and... and a very serious one,
6 a problem on that. And of course we're into
7 renewables. So I... I will try and fill in what I see
8 our gaps and what have been said in this
9 extraordinary testimony. I don't... I thought I was
10 going to focus as an example because you... suggested
11 examples, South Bronx where I was born but you had
12 great testimony from South Bronx unite for Mychal
13 Johnson who I participated in... in a number of... I
14 will point out... side of the Fresh... Fresh Direct is
15 supposed to be a multi model transportation
16 facility which was never properly developed, got a
17 lot of subsidies, has a long term contract which
18 should be looked into, it's not an appropriate use
19 there. And with specific to this and EJ Fresh
20 Direct has long agreed that they were going to
21 replace their vehicles, their delivery vehicles
22 with low emission vehicles. That long agreement
23 that they've never done came about with then
24 attorney general and current New York state
25 Governor Andrew Cuomo so it's a... it's a problem. It

2 was raised by your first speaker of... of a problem
3 with CEQA and changes to that. The core problem
4 with CEQA is its advisory. It doesn't mandate
5 anything. You have as an example of where it shows
6 up, where it affects building is... is when you have
7 a SECRA review and it's indicated that a site had
8 something hazardous go on it it shows up on the
9 appropriate zoning map. Every other part of the
10 city that has ever had such a review is not going
11 to indicate that there was a problem there. So you
12 need to have a mandate that something is done, not
13 simply report. The problem with reporting at all is
14 that it's very good but once again if it's only
15 advisory nobody has to do anything about it. And
16 the coordination part is a coordination part that
17 everyone suffers via the city or the state level or
18 the federal level. If the mayor or the governor or
19 the president does not mandate that the agencies
20 under his or her control come out with something
21 coordinated, it won't happen. One of the things
22 that that Robert Moses did well was to coordinate
23 lots of things. There's lots of negatives we all
24 know about him and certainly in EJ but he knew how
25 to put things together. So if things were not being

2 put together, that you're not having the
3 construction or reconstruction of a building or a
4 site so that it's the best environmental standards
5 which does not have negative impacts on the people
6 who live there, work there, go to school there.
7 That's a... that's a problem of a lack of... lack of
8 coordination. I would suggest that you have as
9 resources of information the Department of
10 Environmental Management, it's a department that's
11 what the voters made it not an office, the Fire
12 Department... I had both of them because they're
13 excellent sources of information, the Housing
14 Authority because we know the impacts there, the
15 Department of Education, the Department of Design
16 and Construction which has pioneered because of
17 people who've worked for it in cutting edge
18 environmental provisions in new building and... and
19 landscapes and the like for the whole country. So...
20 so they could be doing a lot more of that. And two...
21 two agencies which were supposed to be put together
22 which people don't want to... to deal with and tend
23 to have negative impacts across the board, the
24 Economic Development Corporation and the Schools
25 Construction Authority. I would suggest that the

2 appointees, the advisory appointees be given
3 independent authority from whoever the borough
4 president to the mayor or the council who may be
5 appointing them, they have to be able to speak
6 their minds. We can't have another commissioner or
7 advisory body that is simply a group of bobble
8 heads that does not serve the public well. They
9 have to be informed and they have to be able to
10 sell... to tell truth, to parrot. It's up to you, to
11 the mayor to... to act upon that. But they have to be
12 able to tell the truth of what's... what's going on.
13 I think I had... I would suggest as a source of data
14 that you would put in it's not as... as a data... if it
15 can be data center... over there. And now I think
16 it's pretty much at... I... I think that you have a
17 really solid base to start on. And I think you for
18 the opportunity to speak.

19 CHAIR CONSTANTINIDES: I want to thank
20 all... each and every one of you for your... all of
21 your great work and all of your activism. And we
22 appreciate your testimony here today and... and being
23 here and being part of this hearing and helping to
24 move these initiatives forward. So thank you. ...up
25 we have Mr. Ronald Dillon, we have Paul Schubert,

2 and Harry Bublins [phonetic]... Bubbins, if you can
3 all... Oh, okay if you hand it up... bring it up. If
4 you can give it to the Sergeant at Arms if... they'd
5 be happy to take it. Alright Katherine Scopic.
6 Samara if you can swear in the panel please. Oh
7 your... okay great then that's who you are.

8 COMMITTEE COUNSEL SWANSTON: Can you
9 please raise your right hands. Do you swear or
10 affirm to tell the truth, the whole truth, and
11 nothing but the truth today?

12 [combined affirmations]

13 CHAIR CONSTANTINIDES: Go ahead with
14 your testimony please.

15 RONALD DILLON: My name is Ronald J.
16 Dillon President of the Concerned Homeowners
17 Association, a civic association in the
18 environmental justice community in the Old Mill
19 section of New Lots Brooklyn that has been dealing
20 with environmental impact issues including
21 environmental justice for more than two decades.
22 The Association was instrumental in halting the
23 illegal New York City Department of Sanitation
24 Solid Waste Processing Facility at the Old Mill
25 Creek Park in the face of the opposition of

1 multiple city and state agencies and without any
2 assistance from so-called environmental justice
3 organizations all from Brooklyn elected officials.
4 The battle ultimately was won by a group
5 headquartered in New Jersey represented by an
6 organization from Westchester. The limitations of
7 the proposed legislations are many... defectively
8 precludes the participation of civic associations
9 such as the Concerned Homeowners Association. It
10 does not address the millions of dollars owed to
11 the old mill creek community due to past
12 contractual obligations but not yet paid. IT does
13 nothing to afford redress for past and ongoing
14 environmental justice violations. It does nothing
15 to address the collusion among agencies to violate
16 existing regulations to further the objective of
17 the sponsoring agency. It does nothing to address
18 the reality that the EPA and the New York state DEC
19 do not enforce their existing regulations when it
20 comes to New York City agency violations in
21 environmental justice communities. It does nothing
22 to mandate the strict enforcement of existing rules
23 and regulations in EJ communities that would
24 necessitate the closure of offending operations.
25

2 The New York state DEC has similar regulations with
3 seemingly lofty aspirations. But as a practical
4 matter they afford no protections to EJ
5 communities. The Concerned Homeowners Association
6 has been fighting this battle as I said for more
7 than 20 years. It needs not another study or
8 taskforce but rather the immediate closure of
9 operations illegally permitted by many city
10 agencies. If the commissioner of an agency tells
11 his or her staff to locate an objectionable
12 facility in an EJ community, the legislation will
13 do nothing to stop the offending operation. In its
14 consideration of the permit for the illegal New
15 York City DOS facility at the old Milk Creek Park
16 the New York state's DEC commissioner overruled his
17 own ALJ recommendation and permitted the operation.
18 The commissioner acknowledged and then ignored his
19 agency's EJ guidelines. It took hard action to halt
20 the operation. And I'd like to just add from my
21 prepared remarks two things that I've heard in
22 previous testimony. One is waste equity. Waste
23 equity for the south Bronx and for northern
24 Brooklyn and I've talked to Councilman Levine about
25 this is waste inequity for new lots. Because

2 they're sending their waste to our community. Their
3 waste while it may be objectionable is in M3
4 districts, heavy manufacturing districts. They're
5 sending it to a light manufacturing district which
6 supposedly has strict performance standards. And
7 unfortunately when this... their legislation was
8 proposed they were not even aware that there are
9 waste transfer stations in new lots. You know I
10 don't know what to say when legislatures to address
11 their community's concerns are dumping into other
12 communities where not knowing the full effect of
13 what they're doing. The other issue I have in... and
14 it's been addressed a couple things is CEQA. The
15 CEQA's statement... and I used to go and actually
16 read those documents and comment on it... all an age...
17 a lead agency needs to do with CEQA is acknowledge
18 that there might be some impacts, may say that
19 they're going to address some but ultimately can
20 say is there's an adverse impact, we can't do
21 anything about it, but we acknowledge it. So going
22 the CEQA route doesn't really address anything. And
23 while I'm... you know I did enjoy going through these
24 documents it was telling when I talked to a staff
25 member or an elected official about the upzoning

2 and I said did you read through the CEQA and he
3 said why, I'm not going to... there's no point in
4 reading through the Environmental Assessment
5 Statement because that's not where the... the action
6 is. The decision has already been made. And so I...
7 you know I don't really see this legislation.
8 Helping us... it doesn't further us. And I... and I
9 always... one of the things I'm not the last speaker
10 but you know you have a committee and I... I thank
11 the chairman for stay... usually I'm talking to the
12 staff members. You know you have a whole committee.
13 I would think that if they're really serious about
14 this, every committee member should be here from
15 the beginning to the end. Just my opinion.

16 CHAIR CONSTANTINIDES: Thank you for
17 your testimony. I appreciate it. Thank you. But
18 please stay at the dais until the panel is through.

19 KATHERINE SCOPIC: Thank you Chair Costa
20 Constantinides and New York City council members
21 for this legislation regarding environmental
22 justice communities. My name is Katherine Scopic
23 and I'm an artist activist who has been working on
24 environmental issues for several decades through my
25 art, teaching the United Nations, faith groups, the

2 Peoples Climate Movement New York shutdown in Du
3 Pont now and other groups like WE ACT who does such
4 great work. I'd like to make three points; one,
5 congratulations on addressing EJ community needs,
6 two, stop carbon energy usage, that's fossil fuel,
7 methane, and nuclear power, and three install
8 renewable energy sources wherever possible as
9 quickly as possible. One, low income disadvantaged
10 communities are frequently located in areas most
11 vulnerable to extreme weather events and are
12 historically the siting locations for the most
13 polluting causing infrastructures such as
14 incinerators with heavy traffic causing incidents
15 of asthma, COPD, cancer, and other pollution
16 related diseases as has been brought out already.
17 Legislation addressing these problems bringing
18 equity to all is overdue and welcome. Two,
19 Christiana Figueres, Executive Secretary of the UN
20 Climate Change Secretariat says that carbon equals
21 poverty, or more correctly carbon in the atmosphere
22 equals poverty. A recent UN report shows that
23 during the past 20 years 4.1 billion people have
24 been injured in extreme weather events. And that's
25 almost half of the earth's population. And 600

1 thousand people killed and this trend is worsening.

2 The most critical task we have before us is to stop

3 burning fossil fuels. 195 countries signed the

4 agreement in Paris December 12, 2015 to do just

5 this. It was an historic moment, a turning point.

6 The world recognized our role in causing climate

7 change. And our role, ability, and responsibility

8 in stopping it. Commitments have been made, final

9 signing will take place here in New York City,

10 Earth Day, April 22nd, 2016. Three, in alignment

11 with UN COP-21 Paris Agreement national climate

12 goals New York City climate initiatives such as

13 REV, reforming the energy vision, and our own NYC,

14 1NYC, the New York City Council has over the years

15 introduced outstanding environmental legislation to

16 address problems and create solutions.

17 Implementation of renewable energy being the most

18 significant at this point in time. Impediments to

19 solar installation in the city need to be removed.

20 And the pace of solar installation hastens as well

21 as the realization of offshore wind and the closing

22 of the Indian Point nuclear power plant that is

23 neither green nor clean and whose replacement

24 energy is available. I also suggest more

25

2 coordination between the state and city as in the
3 case of Fresh Direct who requested the location of
4 a truck depot in the Bronx that was greatly
5 protested by residents of the Bronx receiving
6 support from members of the New York City Council.
7 Although several options for this garage other than
8 in the Bronx were available the Bronx resident
9 protests fell on deaf ears as on February 19th,
10 2015 the Empire State Development revote granted
11 Fresh Direct the truck garage in the Bronx. This
12 overburdened EJ community would have yet another
13 barrage of truck traffic and the already have a
14 pollute... heavily polluted air. This could... could
15 this legislation have prevented this situation? And
16 will it prevent such abuses in the future? You have
17 my full support in doing so. Thank you for your
18 exemplary and much needed legislation.

19 CHAIR CONSTANTINIDES: Thank you. Mr.
20 Schubert.

21 PAUL SCHUBERT: My name is Paul
22 Schubert... Okay thank you. My name is Paul Schubert.
23 I'm known as Tiger in the Rockaways. I have... I'm
24 also a board member of New York City Friends of
25 Clear Water. Now upon the New York state supreme

1 court building.. are these words written in stone;
2 the true administration of justice is the firmest
3 pillar of a good government. Now for those of us
4 who... New York City history that area is five points
5 where the gangs of New York would hang out, the
6 Irish battling the Italians and a few other people.
7 But I be... now when I went to New York City website
8 yesterday and I tried to look up Title 16-123
9 removal of snow I could not find it. The reason is
10 the person, the company contracted to publish and
11 post New York City laws he said on the site the
12 contract ran out. And as a result New York City
13 citizens cannot access the rules of city of New
14 York or any administrative code. I want to bring
15 that to your attention. I had to go to a secondary
16 site. Second, being we need the firm administration
17 of justice we have New York state law which is
18 article 15 penal code criminal liability. Now I was
19 advised by counsel that we should co-enforce this
20 law. And I quote from the law; criminal negligence,
21 a person acts with criminal negligence with a
22 respect to a result at or to a circumstance
23 described by statute to find the offence which...
24 fails to perceive a substantial and unjustifiable
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2 risk that such result will occur or that such
3 circumstances exist. The risk must be of such
4 nature and degree that the failure to perceive it
5 constitutes a gross deviation from the standard of
6 care that a reasonable person would observe in a
7 situation. How can we apply the law? Can be as
8 simple as a... a property owner who refuses to remove
9 ice from a sidewalk, like the property owner Mr.
10 Amar [sp?] at 9511 Rockaway Beach Boulevard. I
11 took...

12 CHAIR CONSTANTINIDES: If we can keep
13 our comments germane to...

14 PAUL SCHUBERT: And...

15 CHAIR CONSTANTINIDES: ...the two bills
16 we're considering today.

17 PAUL SCHUBERT: Okay. Okay. Okay.

18 CHAIR CONSTANTINIDES: That... that'd be
19 very helpful thank you.

20 PAUL SCHUBERT: Okay now. Okay now. We
21 have in New York for the sake of all legal...
22 environmental groups we have 91 manufactured... toxic
23 waste sites which need to be dealt with
24 immediately. And they're everywhere as shown by
25 this map. I want this bill to empower the local

2 environmental organizations to make use of Article
3 15, co-enforce it with the enforcement agencies of
4 New York City and thus I may have a clean and safe
5 environment in... in my city from the Rockaways to
6 the Bronx if possible. Thank you.

7 CHAIR CONSTANTINIDES: Thank you all
8 very much. I appreciate your testimony, thank you.

9 KATHERINE SCOPIK: [off mic] You're
10 welcome. Thank you for the opportunity.

11 CHAIR CONSTANTINIDES: ...Corbin-Mark from
12 WE ACT for EJ... Environmental Justice, Oliver
13 Harwood from New York Legal Assistance Group, and
14 Judith Konipa [phonetic] who's going to be reading
15 Harry Bubbins' testimony. Please come forward.
16 Oliver Harwood. Is there an Oliver Harwood here?
17 Okay so I'm going to... I'm going to call up the last
18 two to... to fill out this panel. So Annie Wilson, is
19 Annie Wilson here? She isn't. ...Kupferman? Alright
20 she's coming, she's coming. Okay. Alright great.
21 Alright fantastic. Alright so if you can all come
22 forward. ...Kupferman is... are you... you're coming,
23 great. Okay. If we can just pull over a seat for
24 him there so... Great.

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COMMITTEE COUNSEL SWANSTON: Can you please raise your right hands? Do you swear or affirm... do you swear or affirm to tell the truth, the whole truth, and nothing but the truth today?

CHAIR CONSTANTINIDES: Fantastic. We can start with the testimony there and... if you want to begin and we'll...

CECIL CORBIN-MARK: Good afternoon. And thank you for the opportunity to testify in support of Intro 886 sponsored by Council Member Inez Barron and Intro 359 sponsored by Costa Constantinides. WE ACT for Environmental Justice wants to affirm our support for both of these bills and we thank both Council Member Inez Barron and our chair for introducing the bills that if passed by this council and signed by the mayor will provide a clear road map as to what the challenges are in environmental justice communities, where those communities are located, create formal plans by the various city agencies to address environmental justice, and establish a mayoral task force to review agency environmental justice plans and provide guidance, advice, and... and advice to the administration about these matters. In short

2 these bills will take what the vision, the mayor,
3 and his team so eloquently laid out in 1NYC and
4 provide an infrastructure and a clear set of plans
5 and timelines by which that vision will be
6 realized. At the outset it is important to set
7 forth that even in the best city in the world, New
8 York City, still today we are not immune from the
9 negative impacts of the reality that in this
10 country environmental laws, regulations, and
11 policies have not been applied fairly across all
12 segments of the population. There are far too many
13 people of color and low income who live in
14 communities that receive far less protection than
15 others and bear a disproportionate burden of the
16 city's environmental hazards, pollution problems,
17 and polluting facilities. The consequence of these
18 practices has been that the same communities year
19 in and year out are the ones with the worst health
20 indicators, the poorest educational outcomes, and
21 the... socioeconomic stats. Despite the best
22 intentions these communities remain the places that
23 lag behind, the more affluent and prosperous parts
24 of our city and serve as the poster children for
25 the Tale of Two Cities. And let me offer some

1 statistics to support the picture I painted in the
2 paragraph above. I'll start with East Harlem... which
3 is in my neck of the woods where I was at a
4 community planning session around the East Harlem
5 rezoning until 10:00 p.m. last night. East Harlem
6 is a diverse neighborhood of predominately Latino
7 and African American residents with a rich culture
8 and history that includes the likes of Tito Puente
9 and many others. But sadly according to the New
10 York City Department of Health Environmental Health
11 tracking portal East Harlem has the highest rates
12 of asthma hospitalizations for children ages zero
13 to four and five to 14. While we don't know what
14 causes asthma we do know what triggers it. And poor
15 air quality and allergens like mold are on the
16 list. We know from the city's health department
17 records that East Harlem registered some of the
18 highest levels of concentration for pine... of fine
19 particulates, fine particulates. According to the
20 US Environmental Protection Agency fine
21 particulates produced by vehicle exhaust and
22 certain types of heating oil can lead to aggravated
23 asthma symptoms, decreased lung function, and
24 irregular heartbeat. Mold is a known trigger as
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2 well for asthma. And for those of us who work in
3 East Harlem it is no surprise to find out that
4 based on a review of 3-1-1 complaints that East
5 Harlem also ranked among the highest neighborhoods
6 for complaints about mold. Further from our
7 collaborations with Columbia University's mailman
8 center for... children's center for environmental
9 health we know what some of these allergens and...
10 and pollutants can do to the development of
11 children. They can result in smaller brain... head
12 circumference and reduce IQ functions later in
13 life. They can alter... alter... permanently alter
14 genetics and DNA. We also know that parents
15 frequently miss days of work for care for children...
16 for their children who have asthma. And those
17 asthmatic children lose days of school or have
18 reduced activities as a result of the disease. I
19 could paint a similar picture and indeed you've
20 heard today of... of these types of stories for the
21 South Bronx, Jamaica, Flatbush, Buschwick, or
22 Stapleton on the north shore of Staten Island.
23 These neighborhoods are the asthma belt in the
24 city, the lead belt, the low birth weight belt, or
25 said another way they are the forgotten slash

1 ignored sacrifice zones of our city. I live in one
2 of those neighborhoods and I hope today that this
3 committee will quickly pass Intro 886 and Intro 359
4 so that the city can get to... get to the business of
5 conducting the necessary studies to define these
6 neighborhoods as environmental justice communities
7 and the respective city agencies can develop plans
8 to address this legacy of pollution and disparate
9 health and socioeconomic outcomes. The mayor in
10 1NYC recognize that the equity and environmental
11 conditions are inexorably linked. Environmental
12 hazards translate into poor health, loss of wages,
13 and diminish quality of life particularly for
14 residents of low income communities that have
15 historically been burdened with a disproportionate
16 share of environmental risk. 1NYC promotes
17 environmental policies addresses the sources of
18 disparities and health outcomes such as asthma and
19 cardiovascular disease as well as environmental
20 impediments to economic opportunity and
21 neighborhood stability. It calls for a more... a more
22 equitable and targeted approach to a broad variety
23 of city services such as solid waste and storm
24 water management tending our open spaces and
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environmental remediation. Through 1NYC the mayor has said that we are committed to improving air quality in vulnerable communities through reduced and diverted truck trips resulting from implementation of zero waste, increased bargaining of waste under the solid... increased bargaining of waste under the solid waste management plan, and a freight strategy to shift the movements of goods to rail and water transport. Air pollutants emissions will be reduced they have said. And you can find all of these promises and commitments in visions one and three. Addressing indoor and health hazards in homes is also there through... making sure that New York City housing has mold remediation in vision two. All of these things are wonderful and we support and applaud 1NYC. We think however that this is pathway Intro 380... Intro 359 and Intro 886 are a pathway to making some of these visions very concrete and creating a set of concrete timelines for... and plans for realizing environmental justice. Advancing... sorry the federal agencies have adopted the elements proposed in both of these bills. And the report produced by the University of California - Hastings School of Law - Environmental Justice

2 for All, a 50 state survey of legislation,
3 policies, and cases describes action... actions and
4 cases that have advanced in all 50 states. Several
5 states; New York, New Jersey, and California to
6 name a few have enacted similar measures to those
7 proposed in Intro 886 and 359. We at WE ACT believe
8 that Intro 886 and 359 represent a clear path to
9 operationalizing the ideas set forth in 1NYC and we
10 urge the committee and the council to pass these
11 bills without delay. Thank you.

12 JUDITH: Hi, I'm Judith Konipa. And I'm
13 reading on behalf of Harry Bubbins. I'm going to
14 skip the beginning because he's naming the intros.
15 We support the intention to forge greater
16 environmental justice and protect and improve the
17 health and environmental quality of our
18 communities. We believe the energy and momentum
19 could be better channeled to achieve mandates and
20 enforceable regulations rather than studies a
21 nonbinding advisory board. Good afternoon. My name
22 is Harry J. Bubbins Director of Friends of Brook
23 Park, FOBP, the south Bronx based environmental
24 arts and sustainable economic development
25 organizations. Friends of Brook Park is committed

1 to ensuring that our Mont Haven, Melrose, and Port
2 Morris communities enjoy access to fresh organic
3 vegetables with related environmental educational
4 opportunities, investment in green jobs with urban
5 agricultural affinities, and public access to green
6 open space and amenities as is befitting other
7 neighborhoods in New York City. Thank you for the
8 opportunity to speak today. There are enough
9 studies. We need to act. While learning more about
10 the type, sources, and locations of the entities
11 and infrastructure that are leading to the health
12 crisis impacting parts of our city many of us know
13 all too well what and where the problems are. We
14 need enforceable mandates on the kind and scope of
15 pollution and create limits that any one community
16 or borough is forced to handle. For example, this
17 could take the form of limiting to 20 percent the
18 amount of garbage handled by a borough, the number
19 and acreage of power plants allowed in any
20 community board, the number of diesel truck
21 industries or dry cleaning facilities allowed in
22 any neighborhood and so on. The ULERP process needs
23 to be improved to better consider and address the
24 cumulative impacts of a number of densely located
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2 polluting facilities in any area. For example, the
3 Bronx terminal market and the Yankee stadium
4 projects were considered each in isolation without
5 evaluating the cumulative impacts of these adjacent
6 projects. Community voices need to be heard in
7 every aspect including the no build mitigation and
8 alternative section of that process. Local
9 resources and knowledge are uniquely positioned to
10 best inform this process. State agencies and land
11 and roads need to be included in the ULERP process.
12 The task force as proposed does not include
13 representatives from NYC economic development
14 corporation and/or the industrial development
15 agency. As the ongoing controversy around landing
16 one of the largest subsidy packages ever on diesel
17 truck company Fresh Direct shows... see below, the
18 EDC and IDA have been guilty of negatively
19 impacting environmental justice communities with
20 their opaque decision making that gives away cash
21 grants and tax breaks to polluting low wage
22 industries. ...of any advisory board needs to be as
23 democratic and reflective of the real grassroots
24 demographics of communities. The council should
25 look at best practices across the country for the

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best method of composing such an advisory board. As currently proposed what happens if there is not an EJ ally as speaker. 17 appointees by the speaker might seem like a smart strategy with an ally in office but for long term success and involvement this power ought to be more evenly distributed to borough presidents, community boards, or others. In fact, why not have at least one member of the EJ advisory board from every community board. Other such EJ boards and task forces offer cautionary tales. The New York Power Authority currently has an EJ taskforce with members from NYC and all of New York state. They do not meet regularly and have little if any information online. No one from our south Bronx neighborhood, the Port Morris neighborhood of the south Bronx is part of it despite the fact they have temporarily permitted not one but four power plants on prime waterfront real estate that has thwarted the aspirations of our community. We have to take care that the advisory board does not become an instrument and tool of recommending pet projects in more politically connected areas of the city where more monetary resources are then invested to the

1 detriment of other communities. Mandate a greater
2 amount of EJ advisory meetings in an accessible
3 locations and times. Currently could be only once
4 this year and at the most two times a year. If EJ
5 issues are to be considered serious this is far too
6 few. There are many... very many other concerns we
7 have but look forward to a constructive dialogue as
8 to the... as the final version of these pieces of
9 legislation are formulated and other policies and
10 practices that could readily advance the cause of
11 environmental justice are considered by this
12 community, by this committee and the New York City
13 Council as a whole. P.S. end gargantuan subsidies
14 to corporations like Fresh Direct. I'm almost done.
15 Consider the case of the controversial and
16 currently litigated subsidies proposed to Fresh
17 Direct. Fresh Direct is a trucking company around
18 for a decade that has not made a profit in all
19 these years. They originally received over 10
20 million dollars in public subsidies to open their
21 operation in Long Island city, Queens. Now they
22 want to abandon that public site for a proposed
23 move to the south Bronx that is much contested and
24 was opposed by the current mayor on the campaign
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1 trail. The Fresh Direct proposal is an example of
2 how not to support a serious EJ policy. This
3 proposal if it was not stopped by the local
4 community and allies would one, have devastating
5 environmental and health effects on a community
6 that already suffers from asthma rates eight times
7 the national average, two, would pay low wages with
8 no guarantee of jobs to local residents. Fresh
9 Direct's truck intensive business will cause
10 additional irreparable harm to south Bronx's
11 residents' health. There's an asthma crisis in the
12 south Bronx dubbed Asthma Alley. South Bronx asthma
13 rates are eight times the national average and one
14 in five children in our community has asthma.
15 Hospitalization rates for asthma in the South Bronx
16 are 21 times higher than those of more affluent
17 parts of New York City. It a zone application to
18 the New York City Industrial Development Agency the
19 company disclosed that it would bring 938 diesel
20 truck trips every day in and through the Mont Haven
21 Port Morris neighborhood. To make matters worse the
22 lead agency for this project, the IDA, relied upon
23 a 20-year-old environmental impact statement that
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2 was incapable of assessing the impacts that this
3 project would have. And...

4 CHAIR CONSTANTINIDES: Thank you for
5 your testimony. Ms. Wilson.

6 ANNIE WILSON: Hi, good afternoon. I'm
7 Annie Wilson and I'm affiliated with the New York
8 Environmental Law and Justice Project and the New
9 York City Safe Energy Campaign. So I'd like to
10 begin with a first commending this initiative. It's
11 about time that the city implements a... a program on
12 Environmental Justice and looking at Environmental
13 Justice such as... as it... two bills propose. Since
14 1994 in the executive order with Clinton and then
15 1999 with the state we are now moving forward in
16 the city catching up. This is a good thing. So in
17 quickly looking through the details of each of the
18 bills I wanted to raise a few issues. First
19 relating to the environmental justice area in the
20 886 bill there is a reference to the 25 percent as
21 a census group. And relating to the other bill
22 there's a reference to 23.59 percent for the census
23 group. So I think you might want to look at those
24 numbers and they should maybe be the same numbers.
25 I think the 23.59 was a DEC number so just double

2 check on that so that it's consistent between the
3 two bills. Okay. First thing. Thank you. And I
4 wanted to address some other concerns such as the
5 census data which is renewed every 10 years. That's
6 a big lag in ten years. I know it's the only thing
7 we have but it is a big lag for 10-year review what
8 the census data will be applied to for example the
9 maps and the considerations. And there could be
10 other impact areas such as the article 10 law and
11 the half mile review requirements not that I think
12 we'll have any more power plants with all this
13 renewable energy going on. Something to keep in
14 mind that there's other criteria and I don't know
15 how you're going to just... let's hope there's never
16 again a power plant. There is also relating to the
17 interagency working group when providing guidance
18 to the agencies and the criteria one could consider
19 the procurement power that these agencies have. And
20 the procurement power could have some negative
21 impacts on the exportation of environmental
22 injustice such as shipping off waste to
23 Environmental Justice communities such as recently
24 proposed in Rockland County. There was going to be
25 a incinerator there within an environmental justice

2 community that apparently the developer has just
3 pulled back the application for. But we need to
4 really be mindful of also not exporting our
5 environmental injustices within New York City when
6 the agencies make certain decisions also with the
7 procurement of course of the renewable energy power
8 that the mayor has addressed this past summer. We
9 don't want to be purchasing... dams in Canada in
10 Indian country, on pristine rivers that are being
11 destroyed for the exportation, the... Hudson Power
12 Express. Relating to the public meetings and
13 hearings and increasing meaningful community
14 participation I hope that there's a nice budget for
15 publicity and outreach because so often I don't
16 think there's big enough outreach initiative to... to
17 bring folks that have not typically been involved
18 in these preceding... types of proceedings and maybe
19 it... extra push in that direction. Relating to the
20 exemptions clause in again the 886 I'm concerned
21 about you know the... the criteria for the exemption.
22 And hopefully there will be a lot of transparency
23 and accountability relating to those exemptions
24 when approved or prior to their approval. And
25 regarding the appointments the speaker makes 17 of

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the 19 appointments, the mayor makes two. How about the public advocate... that's just an idea... It's a lot of power onto the speaker. But there... there could be other constituencies represented that are across the city such as maybe the seniors and their fixed income or people living with disabilities, undocumented immigrants, or homeless populations... you know that... our 20,000 homeless children and how could possibly these neglected, underserved, and disenfranchised communities be represented and incorporated in the... in the... in the appointments. Relating to the two weeks for the meetings of the advisory board I think that's not really a lot of time, maybe three weeks, or maybe 30 days. Just to have a little more outreach to get more involvement from again those that... people... the people that have not been typically involved in these... I'll close with on the website which is an excellent idea. I hope it's updated regularly as an interactive system. There could be other issues posted there; maybe cancer rates, fresh food access, transportation access, and how about tax increases and gentrification and looking at the displacement

2 of populations which are being impacted by the tax..
3 etcetera. So thank you very much.

4 CHAIR CONSTANTINIDES: Thank you. Go
5 ahead.

6 JOEL KUPFERMAN: Joel Kupferman, New
7 York Environmental Law and Justice Project. I also
8 represent the South Bronx community congress and
9 then the National Lawyers... Environmental Justice
10 Committee that I have to point out our lawyers are
11 on the ground in... Flint as we... We applaud the
12 committee for taking these bills into serious
13 consideration. It's a really really good start. But
14 one of the law projects mantra is that a good law
15 without enforcement can be worse than no law. It
16 basically lets the community feel that someone else
17 is doing the job. And all the points that the
18 previous pro speakers brought up I basically agree
19 with. But I just... I'm coming from the perspective
20 as the lawyer that when all of this stuff fails
21 then I get calls in the middle of the night for
22 many many community organizations. ...the problem is
23 that we are in court now on three different cases.
24 And... opponent is the city law department. Okay..
25 believe the problem is is that a lot of legislation

2 goes through, a lot of projects are approved,
3 proposed... let's just do city planning...
4 considerations. And also it goes through city
5 council and city council approves it and passes it
6 on. And Mr. Chairman I apologize for the outbreak
7 about the library... outburst but I think...

8 CHAIR CONSTANTINIDES: Well there's a
9 time... you have a microphone now so...

10 JOEL KUPFERMAN: Right.

11 CHAIR CONSTANTINIDES: ...that's when the
12 best time... [cross-talk]

13 JOEL KUPFERMAN: Okay. Well I guess...

14 CHAIR CONSTANTINIDES: Unless you have
15 peanuts you shouldn't be throwing things...

16 JOEL KUPFERMAN: You got it. But I guess
17 I couldn't hold back my anger and... and... and... and
18 part of it is is that we talked today about the
19 bad, the detriment, and the loss of the public
20 goods. Some of the cases that we dealt with were
21 against NYCHA and the city in terms of losing the...
22 the... the common ground that was in the middle of
23 those buildings. It was displace cut to build
24 needless buildings in one... in one case it was a... a
25 charter school. There's other places to build yet

2 city council approved the... you know approved these
3 projects. One of the things I propose in this bill
4 is that in... the committee that's set up advises
5 city council. The city council when they look at
6 any land use review and ULERP review they take it
7 to this committee that you're setting up and ask
8 for their recommendations and their... in a report to
9 the city council. And I think that that's going to
10 give some teeth to this bill. We heard a lot about
11 air monitoring. The city now has... has a program out
12 there where there's monitors every five, six
13 blocks, or eight blocks but when we go to court
14 that's not enough. Even the city says... the city law
15 department says this data is too broad, not enough.
16 I believe most of the environmental health impacts
17 that are happening now is at construction sites.
18 There's no reason why the city health department,
19 buildings department whatever cannot set up more
20 concentrated air monitors around each of these
21 sites. Okay. The construction cost... the building
22 boom that's going on is involving millions and
23 billions that are going on. There's no reason why
24 when... when... when a builder applies for a
25 construction permit there couldn't be a... an extra...

2 an extra fee, a small fee, a small one percent
3 transfer tax to pay for that. The trouble is is
4 when we go to court we always are told there's not
5 enough data. We call up the Buildings Department.
6 We call the Health Department to come into a site.
7 They tell us they don't have enough enforcement
8 people and all the like. You had listed the
9 committees that should be... the departments that
10 should be on there. One of the departments that
11 should be added is the Department of Finance. Why?
12 Because the city in the year 2014 heard 513,000 ECB
13 violations. Bad air, bad mold, bad whatever. The
14 city is owed over 440 million dollars on those
15 fines. So the word on the street out... the word on
16 the street is basically we don't have to do
17 anything. We could just continue with the bad
18 construction, the bad dust, the bad everything
19 that's... there. So we have to work on enforcement.
20 One of the ways to strengthen this is was mentioned
21 before is the citizen supervision, but also the
22 city has something called the bad actor policy.
23 Back in 2000 the city decided to spray us with
24 Malathion and other chemicals in... in fighting West
25 Nile Virus. The workers that the city hired, the

2 contractor came to us, we brought in DEC, we
3 brought in... in... in the OSHA. We end up with a labor
4 violation against the company for not providing
5 enough masks for those people. What we did do is
6 when the city went to hire the same company the
7 next year we pointed out that the city procurements
8 policy states that if there's a labor... a serious
9 labor environmental violation the city has the
10 right not to hire or not to lease from those
11 people. The city ripped up an 18-million-dollar
12 contract and hired their own people. One thing that
13 you should put into this EJ bill and also the
14 enforcement is is that if there's a series of EJ
15 violations the city shouldn't lease from these bad
16 landlords, the city shouldn't give construction
17 contracts and award them with large ...dollar
18 contracts and just slap them with two 300 dollar
19 fines and not bother to collect. So we think it's
20 really important to just really put some... you know
21 some teeth into this. Air code... the... the last air
22 code that was... that's been proposed that was passed
23 here has some serious problems. We're talking about
24 boilers. We're talking about... carbon imprint... What
25 they did do and I'll get the details is we're

2 concerned about the registration of boilers that
3 are 2.8 to 4.2 million BTUs. Formerly they had to
4 be certified by an engineer. DEP for some unknown
5 reason changed it that all they need is one-page
6 registration on those boilers. So there's no... and
7 those registration does not require a certified
8 engineer anymore. So now we have scores or hundreds
9 of buildings out there of... of apartments up to 65
10 units that have bad boilers that there's no way
11 that the city's even sending out their inspectors
12 anymore. And also there's a problem with... with
13 trees okay. New York City has the one million... one
14 million tree program. I'm going to give you a
15 report of someone couldn't be here today, a
16 certified arborist, when they do construction
17 around the city there's... there's supposed to
18 enforcement of the tree law which there's trees
19 along the streets, especially the larger veteran
20 trees that are... that are given a lot more value.
21 Those trees are being cut down and destroyed by
22 construction. The city is doing nothing against it
23 primarily in low income neighborhoods. So it's a
24 serious environmental justice issue. So as a lawyer
25 I just want to bring back... bring up the fact that

2 it's the enforcement side. When the city passes
3 these laws and there's no enforcement the bad
4 developer, the bad contractor always uses in court
5 that the... the city hasn't enforced it okay. So in
6 some ways it gives them a... yeah a chip, you know.
7 So we want to equalize the playing field is that
8 make sure that you put enforcement into these laws
9 and look at those provisions. Thank you.

10 CHAIR CONSTANTINIDES: Thank you all for
11 your good testimony and taking your time out today
12 to be part of this hearing and give us testimony.
13 So thank you very much. Is there anyone else here
14 who wishes to testify today? I again want to extend
15 my condolences to the Barron family and... and wish
16 them well and wish Inez you know my... I want to make
17 sure that I want to thank each and every one of you
18 today that participated in this hearing. And look
19 forward to working with you to enact both piece of
20 legislation that will provide opportunities to
21 address the communities that have been affected...
22 environmental justice communities. And of course I
23 want to thank our... our Stallworth [sp?] attorney
24 and... and someone who I know is very passionate
25 about this issue, Samara Swanston.

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[applause]

CHAIR CONSTANTINIDES: I... I'll break the rule of doing this just for Samara because she deserves it. We... we... if anyone deserves it it's Samara. So thank you Samara for all of your work. It's very appreciated, very appreciated. And Bill Murray our Policy Analyst and then Jon... Jonathan Seltzer as well.

[applause]

CHAIR CONSTANTINIDES: And of course my staff Nick Widzowski, my Legislative Director and my new legislative intern John Benjamin as well who's here today for the first time. So thank you all for being here. I look forward to working with the administration to get this done. With that the Committee on Environmental Protection is closed.

[gavel]

C E R T I F I C A T E

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



Date February 12, 2016