

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON PARKS AND RECREATION

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January 19, 2017  
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HELD AT: 250 Broadway - Committee Room  
16<sup>th</sup> Fl

B E F O R E: MARK LEVINE  
Chairperson

COUNCIL MEMBERS: Darlene Mealy  
Fernanado Cabrera  
James G. Van Bramer  
Andrew Cohen  
Alan N. Maisel  
Mark Treyger

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

Mitchell Silver, Commissioner  
NYC Department Parks and Recreation

Therese Braddock, Deputy Commissioner  
Capital Projects  
NYC Department Parks and Recreation

Matt Drury, Director of Government Relations  
NYC Department of Parks and Recreation

John Luisi, Assistant Commissioner  
Agency Compliance  
NYC Department of Parks and Recreation

Mike D'Ambrosio, Chief Contracting Officer  
NYC Department of Parks and Recreation

Lowell Barton, Vice President & Organizing Director  
Laborers' Local 1010

Denise Richardson, Managing Director  
General Contractors Association

Klari Neuwelt, Chair  
Parks and Environment Committee  
Community Board 7

Lynn Kelly, Director  
New Yorkers for Parks



2 [sound check, pause]

3 CHAIRPERSON LEVINE: Good afternoon,  
4 everyone. Welcome. I'm excited about this great  
5 turnout for an important topic. I'm Mark Levine,  
6 Chair of the City Council's Committee on Parks and  
7 Recreation, and I'm pleased that I'm joined by my  
8 colleagues, Council Member Ritchie Torres, Council  
9 Member Barry Grodenchik, Council Member Andy Cohen,  
10 and Council Member Jimmy Vacca. We have committee  
11 stalwarts here as well as bill sponsors and other  
12 visitors, and we expect more members to be joining us  
13 throughout the hearing. Today, we will be examining  
14 the Parks' Capital Process and we'll be considering  
15 two bills, which would improve public reporting on  
16 this process: Intro 407 whose lead sponsor is  
17 Council Member Jimmy Vacca, and Intro 1340 whose lead  
18 sponsor is Council Member Ritchie Torres. There is  
19 no issue under the purview of this committee and few  
20 issues in the Council as a whole which elicit as much  
21 consternation among my colleagues as the Parks  
22 Capital Process. Dog runs, which take five years to  
23 complete; comfort stations—stations which—cost  
24 more than \$2 million, budgets that grow by hundreds  
25 of thousands of dollars after their initial cost

2 estimates. Nearly every council member has their  
3 share of such stories, and we'll hear about many of  
4 them today. Commissioner Silver, I know has heard  
5 these concerns, and he deserves credit for placing a  
6 high priority on improving the department's Capital  
7 Process, and I know he's going to update on that—also  
8 on that today, and it's important that in this  
9 hearing we will not rehash the greats hits of problem  
10 project that took place under the previous  
11 administration. That's why we're focused exclusively  
12 on the past three years in an effort to understand  
13 the state of the Capital Process today.

14 Specifically, we'll look at four categories of  
15 challenges. Long timelines and unexpected delays,  
16 high costs and budget overruns, consistency and  
17 timeliness of communication with Council Members and  
18 the public, and contracting and payment problems.

19 The state of Parks' capital projects in my own  
20 district in Uptown Manhattan illustrates many of  
21 these challenges. There are currently 16 active  
22 fully funded Parks capital projects in the Seventh  
23 Council District, half of which were actually funded  
24 before I took office in 2014, but in the past three  
25 years, not one of those 16 projects has reached

2 completion and only four of the 16 have thus far even  
3 made it to the construction stage. The Booker T.  
4 Washington Playground reconstruction project, for  
5 example, was funded 4-1/2 years ago, and is not  
6 expected to be completed for at least three more  
7 years, giving it at least a seven-year timeline. The  
8 137<sup>th</sup> Street and 139<sup>th</sup> renovation project of the  
9 Broadway Malls, as another example, was also funded  
10 4-1/2 years ago and construction is not expected to  
11 be completed until at 2019 or 2020 likely giving it a  
12 six-year or more timeline, and these cases are not  
13 unique. Approximately three-quarters of the active  
14 projects in my district have faced a delay in at  
15 least one phase of the Capital Process. The cost of  
16 the Parks projects in my district also illustrate the  
17 elevated price tags that have become so common. \$1.7  
18 million for three blocks of sidewalk repair in  
19 Riverside Park; \$1.6 million for a comfort station  
20 reconstruction in Carmansville Playground; \$1.8  
21 million for basketball court repair in Morningside  
22 Park, but the high cost of estimates are not the end  
23 of the story. Approximately half of the 16 active  
24 projects in my district have had their budgets  
25 adjusted upward since they were initially funded, and

2 since most of the projects are still at an early  
3 stage, the odds are good that there will be more cost  
4 adjustments ahead. These challenges are  
5 unfortunately not unique to the Seventh Council  
6 District, as you'll hear shortly from my colleges,  
7 and the frustration of many of us is compounded by  
8 the fact that we often see larger and more  
9 complicated projects in our districts completed more  
10 quickly by other agencies. The School Construction  
11 Authority, for example, can build a school from  
12 scratch in three to four years, and the SCA has had  
13 an average on-time record of 99% over the past four  
14 years. Similarly, DOT has a 100% on-time performance  
15 for bridge capital projects over the past three  
16 years. Even the State Parks Department, which has a  
17 number of properties here in the five boroughs  
18 completed projects in relatively speedy fashion.  
19 I've witnessed this first hand as they're on track to  
20 complete a greenhouse construction project in my  
21 district in Riverbank State Park less than a year  
22 after the funding was put in place. In fact, the  
23 City's Parks Department itself has shown at times  
24 that it can complete projects in relatively  
25 expeditious fashion. After Hurricane Sandy in 2012,

2 Mayor Bloomberg pushed to have all beaches reopened  
3 by the following Memorial Day, requiring a massive  
4 reconstruction effort of boardwalks, comfort stations  
5 and other infrastructure. The Parks Department did,  
6 indeed, meet this ambitious goal showing that a  
7 faster timeline is possible when there is sufficient  
8 political will. Current directors working on Parks  
9 Department projects report a problem, which  
10 indirectly complicates and delays capital projects  
11 citywide, the remarkably high rate at which invoices  
12 are rejected for payment. The problems have become  
13 so serious that established contractors are  
14 increasingly choosing simply not to bid on Parks  
15 Department work. Lack of adequate bidders has in  
16 turn made procurement more time consuming and has led  
17 to higher costs. Council Members funding Parks  
18 projects in their districts too often face the  
19 frustration of not knowing when and why a project is  
20 delayed, and not being aware of contracting problems.  
21 This makes it impossible for us to keep community  
22 member accurately informed. The Parks Capital  
23 Tracker is, in fact, a major step forward in  
24 transparency and one which Commissioner Silver should  
25 be commended for. The tracker makes it easy to see



2 start and completion dates of the design, procurement  
3 and construction phases, and it contains helpful  
4 descriptions of the status of active projects.  
5 Several key pieces of information are missing from  
6 the Tracker, however, and including the date at which  
7 projects were fully funded, the names of the Council  
8 Member or other elected officials who funded the  
9 project, the names of the contractors, the cause for  
10 delays in any of the phases, and information on  
11 budget changes.

12           Intro 1340 by Council Member Torres would  
13 mandate that Parks provide this missing information  
14 directly to Council Members on a quarterly basis for  
15 all projects they have funded.

16           Intro 407 by Council Member Vacca would  
17 require that Parks inform Council Members in real  
18 time when projects they have funded undergo a change  
19 order. Additionally, Intro 1340 would require that  
20 Parks inform Council Members and contractors when  
21 invoices for capital work are rejected including the  
22 reason for the rejection, and how the problem can be  
23 corrected. I look forward to hearing the testimony  
24 of a wide range of stakeholders on the many important  
25 issues we're discussing today, and I want to turn it

2 over to the sponsors of the legislation today  
3 starting with Council Member Vacca for a few words on  
4 his bill.

5 COUNCIL MEMBER VACCA: Thank you very  
6 much and I—I think our chair has indicated the  
7 frustration that many members have felt with the time  
8 involved in getting the shovel in the ground and  
9 going to work from the day that the money is  
10 allocated. I do have to say that I think I had more  
11 experience in that than all of you because I've been  
12 around with this frustration much, much longer than  
13 many of you here. I was a district manager to a  
14 community board for 26 years before I came here to  
15 the Council. This is 12<sup>th</sup> year, and it doesn't seem  
16 like we've addressed the issue as we should. I do  
17 acknowledge that we've seen improvements lately, and  
18 I know that the Parks Department is committed to  
19 doing more quickly, but as the Chair indicated, we  
20 have to look at also the cost of many of these  
21 projects, as well as how long it takes to actually do  
22 them. We in the City Council get capital money, and  
23 we want to help the Parks Department. We want to  
24 fund projects in our district that are Parks  
25 projects, and I talk to you a someone who has in his

2 district the largest park in the city of New York,  
3 Pelham Bay Park, as well as Ferry Point Park, and a  
4 whole host of playgrounds, but the reality is that  
5 our money, our capital money is not a bottomless pit.  
6 Our capital money is finite. It's allocated at a  
7 certain level, and when we see the price tags of what  
8 some of the capital projects cost, it's really a  
9 deterrent to us in so much as allocating money for  
10 the project we know that the neighborhood needs. \$2  
11 million for a bathroom. I mean who has a \$2 million  
12 bathroom in their house? I don't get it. Are  
13 toilets that expensive? [background comments] I  
14 mean, right. I mean it just goes on and on, but the  
15 list goes on and on, and the prices seem like  
16 ridiculous, but it's the reality. So when you see a  
17 price tag like that, and you have priorities to make,  
18 you often say to yourself well, my money may not go  
19 to Parks this year. Can't afford it, can't wait five  
20 years for the project, and cannot allocate that much  
21 money because then it deprives other neighborhood  
22 projects of any consideration. So I have a bill  
23 before you today that I've introduced, and I thank  
24 the chair for having this hearing, and this bill  
25 would require the Department of Parks and Recreation

2 to provide notice to Council Members who allocated  
3 funding to a capital project, but then had a change  
4 order implemented by the agency. New York City  
5 Council Members have the discretion to allocate  
6 capital money, as I've indicated before, and often  
7 times we do put it toward the Department of Parks. We  
8 fund green streets. We—we fund playgrounds, and a  
9 whole bunch of recreational capital infrastructure  
10 type improvements. Now, New York City Parks has in  
11 place a structured Capital Process that dictates the  
12 progression of all capital projects. From state to  
13 finish, the capital project process takes years to  
14 complete from the day money is allocated to the day  
15 the ribbon is cut, and the facility is opened. While  
16 it may take some time to procure the funds, design  
17 the project, select the contractor, and then finally  
18 start construction, many Council Member's experiences  
19 suggest that the process is further held up by  
20 contractor's change orders during the course of the  
21 construction. Very honestly, if there are change  
22 orders, and the project from what the Council Member  
23 funded is changed, I as a Council Member who funded  
24 that project want to know about. I don't want to  
25 hold up the business. I don't want to hold up the

2 works, as they say, but I do think that as a Council  
3 Member that funded a project based on community  
4 input, and a process that was inclusive of public  
5 hearings and community board comment, we should at  
6 least be notified that there was a change order made.  
7 It's not to hold up the process. Believe me, bigger  
8 and better things have been holding—or bigger and  
9 worse things have been holding up this process for  
10 years. In my district, one such project was delayed  
11 because of change orders, namely the Pelham Bay  
12 Little League Field. When finally completed, the  
13 project seemed much different than what the community  
14 stakeholders and I believe it would be from the  
15 outset. Lack of proactive communication from the  
16 Parks Department during construction contributed to  
17 this confusion and exacerbated among the Little  
18 League staff any type of impatience and frustration  
19 they had. In this case, it was absolutely necessary  
20 for the Little League to be knowledgeable about the  
21 progress of the project since the fate of the  
22 impending softball and baseball seasons depended on  
23 the completion, on the work at that field. So we  
24 lost the season because things were done that we

2 didn't think were going to be done based on the scope  
3 that was approved for the project and changed.

4 Intro 407 would require the Department of  
5 Parks to proactively inform Council Members about  
6 significant changes to the capital projects to which  
7 they allocated funds. Increasing the Parks  
8 Department transparency through these notifications  
9 will allow Council Members to keep their constituents  
10 informed about improvements to their local parks. So  
11 I urge the committee to consider this measure. I  
12 thank you for the hearing. I thank the Parks for all  
13 the great work you do, and your people are great,  
14 Commissioner. I see our Bronx Commissioner is here,  
15 and our former two Bronx commissioners are here, and  
16 I want to give them all—all three a shout-out over  
17 the years working with them both at Board 10 and—and  
18 in the Council has been my honor. Thank you.

19 CHAIRPERSON LEVINE: Thank you, Council  
20 Member Vacca, and as long as we're acknowledging  
21 commissioners, we have the newly appointed Brooklyn  
22 Commissioner of the Parks Department Marty Maher is  
23 here, and—and my own very popular Manhattan  
24 Commissioner Bill Castro is somewhere around here as  
25 well. Thank you, Bill. I want to acknowledge we've

2 been joined by Council Member Margaret Chin as well  
3 as Council Member Alan Maisel, and I'd like to pass  
4 it off to Council Member Torres for comments on his  
5 bill.

6 COUNCIL MEMBER TORRES: I'm actually  
7 going to offer my strong opinions—opinions during  
8 question.

9 CHAIRPERSON LEVINE: Alright.

10 COUNCIL MEMBER TORRES: I just want to  
11 get on with meeting.

12 CHAIRPERSON LEVINE: Okay, very good, and  
13 that— -- [pause]—Okay, no problem. Well, without  
14 further ado then, we're going to turn it over to—to  
15 the Commissioner for remarks on behalf of the  
16 Administration and just a formality, if I could ask  
17 our Committee Counsel Chris Sartori to do the  
18 affirmation.

19 LEGAL COUNSEL SARTORI: Do you affirm to  
20 tell the truth, the whole truth, and nothing but the  
21 truth in your testimony before this committee today?

22 COMMISSIONER SILVER: Yes, I do. Well,  
23 good afternoon, Chair Levine, and members of the  
24 Parks Committee and other members of the City  
25 Council. I am Mitchell Silver, Commissioner of the

2 New York Department Parks and Recreation, and I'm  
3 joined her today by Therese Braddock, our Deputy  
4 Commissioner of Capital Projects; Matt Drury our  
5 Director of Government Relations. Thank you for  
6 inviting us here today to testify about the agency's  
7 Capital Process as well as Introduction 407 and  
8 Introduction 1340, both pertaining to the  
9 notification of Council Members regarding work  
10 performed on capital projects. When I began my  
11 tenure as Parks Commissioner in May 2014, it was  
12 clear that many of you were frustrated with the  
13 agency's Capital Process. My professional background  
14 as a planner, and as a professional consultant has  
15 provided me with broad experience in identifying and  
16 reducing inefficiencies. So I made it my top  
17 priority to take a hard look at our internal  
18 operation, and improve our ability to deliver smart,  
19 and well designed capital projects as quickly as  
20 possible. We've undertaken a comprehensive and  
21 focused effort to streamline every portion of the  
22 Capital Process within our control, and we have seen  
23 significant and tangible improvements such as  
24 improved communications, increased transparency,  
25 better efficiency, and shorter delivery timelines.



I'd like to begin by providing some background about the Capital Portfolio because I think it's the unique nature, scale and raw volume of our capital projects are important—important factors to keep in mind. New York City Parks currently is managing 549 active capital contracts for Parks improvement projects including 217 in design, 151 in procurement, and 181 in construction. To put this in perspective, at this time in 2015, we had 398 projects in process, a 38% increase over two years. Another indicator of our increased volume is the number of construction contracts we bid out. 182 contracts—construction contracts were bid out during Fiscal Year 2016 representing a 61% increase over Fiscal year 2014. Of those 182 contracts bid out, we registered 101 contracts for construction. That construction number of the number of contracts registered is more than the Department of Transportation, Department of Environmental Protection and NYPD combined. This increase in corresponding (sic) investment in New York City Parks Capital staff to manage a growing portfolio demonstrates a marked commitment from the Administration to further Park equity, and ensure all parks achieve a state of good repair, and we will

2 take it as a vote of confidence that City Council  
3 continues to make significant and much needed  
4 investments in our parks and open space. Since  
5 Fiscal year 2014, we have been fortunate enough to  
6 receive \$155 million from the borough presidents and  
7 \$278 million from City Council, but it's also true  
8 that this robust volume of projects increases our  
9 exposure to the kind delays inherent in the process  
10 that is governed by State and local laws, multiple  
11 regulatory entities, and our rigorous citywide  
12 policies. Throughout our discussion today it's  
13 important to keep in mind that thoughtful, engaging  
14 and efficient design can be difficult to define, but  
15 we all know it when we see it. New Yorkers recognize  
16 beautiful vibrant parks, and are vital to our quality  
17 of life, and New York City Parks believes that an  
18 effective design can create a beloved neighborhood  
19 amenity for completely redefined and existing public  
20 space in surprising and delightful ways. Perhaps  
21 more importantly the spaces we build need to be safe,  
22 maintainable, and requires thoughtful planning. Good  
23 design is important, and that takes time. Avoiding  
24 hiring non-responsive or non-responsible contractors  
25 is important, and that takes time. Safety

2 constructed and quality project that will last and  
3 provide value is import, and that takes time as well.  
4 In all, we believe that the final projects resulting  
5 from our Capital Process reflect advance forethought,  
6 preparation, due diligence necessary to make sure  
7 that every completed project has a full useful life  
8 as valuable as the public we'd like to achieve. We  
9 can always do more in our efforts to improve and  
10 continue everyday here at New York City Parks, but  
11 I'm tremendously proud of the great strides we have  
12 made, and even more proud to introduce the person  
13 responsible for overseeing this effort. I'd like to  
14 introduce Therese Braddock, our Deputy Commissioner  
15 for Capital Projects to give you more detailed  
16 Information about the Capital Process. [pause]

17 DEPUTY COMMISSIONER BRADDOCK: Thank you,  
18 Commissioner Silver. Thank you for your kind words,  
19 and the vote of confidence in me and my team. As  
20 many people know, your enthusiasm for the Parks  
21 Department is infectious, and it has given us all a  
22 renewed energy for our work. I'm grateful for your  
23 support for all the changes we've made to our Capital  
24 Process over the past few years. We have achieved so

2 much, and it would not have been possible without  
3 you.

4                   Good afternoon, Chair Levine, members of  
5 the Parks Committee and other members of the City  
6 Council. I am Therese Braddock, Deputy Commissioner  
7 for Capital Projects at Parks. I want to briefly  
8 walk you through the steps in the Capital Process and  
9 highlight what we've done in the past few years to  
10 streamline our efforts, and improve project delivery  
11 time. The improvements we've made and are still very  
12 much in the process of making, are a combination of  
13 our own internal decisions of what to focus on  
14 improving as well as some of the suggestions we  
15 received from the June 2014 New Yorkers for Parks  
16 Report. As you'll hear from my comments, we've been  
17 focusing on the steps that are within our control,  
18 which are mostly in the design and construction  
19 phases. I'm going to ask that you--my testimony will  
20 follow along with the Power Point presentation upon  
21 the screen. Otherwise, I hope my frame works out.  
22 (sic) So, starting at the very beginning, this slide  
23 is one that you've--most of you have actually seen  
24 from us before, and it shows the five different  
25 phases of the Capital Process: Needs assessment,

2 project initiation, design, procurement and then  
3 construction. Needs assessment and project  
4 initiation occur prior to the official start of a  
5 project. The clock then starts when we begin design,  
6 and continues on through procurement and  
7 construction. Overall, if everything goes well, on  
8 average it takes between 2-1/2 to almost 4 years to  
9 complete a capital project from beginning to end with  
10 design taking an average of 10 to 15 months;  
11 procurement taking an average of 7 to 10 months; and  
12 construction taking an average of 12 to 18 months.  
13 The first idea of a capital project starts with what  
14 we call our Needs Assessment process. Currently, a  
15 Parks project can be identified by nearly anyone. It  
16 can be Commissioner Silver, an elected official, a  
17 Friends of group or a member of the public. The  
18 request then makes its way to the Capital Division  
19 and we put together a cost estimate based on  
20 preliminary information received—we receive about  
21 what needs to be done at the site. The cost estimate  
22 is then given to a Parks borough commissioner or  
23 Commissioner Silver, who in turn request the funding  
24 from elected officials or our Funding Office of  
25 Management and Budget. The majority of our funding

2 comes in at budget adoption, but we can also receive  
3 funding in the January and September budget plan.

4 One of the improvements we've made to our Needs

5 Assessment process is the baselining of \$1.8 million

6 in expense funding for pre-designed testing that we

7 receive from OMB starting in 2015. This has allowed

8 us to have a better understanding of existing site

9 conditions, and subsequently create more accurate

10 cost estimates for about 40 sites each year. In

11 addition, it has helped us decrease the number of

12 change order later on in construction since there are

13 fewer surprises. On the topic of estimating, I know

14 many of you, and as we've heard this morning—heard

15 from your testimonies, many of you have expressed

16 concern about our estimates and how they are created.

17 One of the main hurdles that we face is that an

18 estimate is created prior to the community scope

19 meeting where the scope of the project is actually

20 defined. So our estimates are based on square

21 footage of a site, and some assumptions about what we

22 think the community would like to see, which can

23 often be difficult for us to predict until we have a

24 more—more detailed discussion at our public scope

25 meeting, and gain a true sense of what the

2 community's priorities really are. We recognize,  
3 however, that even with that hurdle, there are lots  
4 of things that we can do improve our estimating  
5 process. To this end, we started a pilot in  
6 September 2016 by hiring two professional estimators  
7 for our landscape architecture teams, and we also  
8 purchased new estimating software. These estimators  
9 are responsible for creating the estimates throughout  
10 the life of a project from its first inception  
11 through design, procurement and then in construction.  
12 We will evaluate this pilot after a year to see if  
13 we've been right on target—on target with our—with  
14 the cost of our projects. Although prices, as you  
15 have seen and have heard have very significantly in  
16 the city's current competitive bidding climate.  
17 Another big improvement underway related to needs  
18 assessment is transforming how we put our new needs  
19 together. Currently, we don't have a consistent way  
20 to track the conditions of our ask bids or compare  
21 proposed projects to one another to objectively  
22 prioritize our new needs. We'd like to be able to  
23 get to a point where we're able to be more proactive  
24 rather than reactive, and actually have reliable  
25 conditions data to justify the funds we request. In

2 March 2016, we started working with a consultant KPMG  
3 to create an inspection protocol and prioritization  
4 model that will allow us to determine our priorities  
5 based on actual conditions of our properties. The  
6 goal is to have conditions data on all the Parks'  
7 5,000 assets, and then use this cost benefit analysis  
8 to determine where we'll get the most out of the  
9 capital dollars that we spend. It will take several  
10 years to fully build out this system, and complete  
11 the conditions assessment for all of our properties,  
12 but we're very excited about it, and we've already  
13 started using the system to do determine our  
14 priorities for synthetic turf field projects. The  
15 next step in the process is project initiation. Once  
16 we receive funding at adoption, we spend several  
17 weeks going through a huge list of budget lines to  
18 determine which projects are actually fully funded  
19 based on the initial estimates we put together, and  
20 which projects are only partially funded. For the  
21 fully funded projects, we assign staff accordingly  
22 when they are available. Then, we hold a pre-scope  
23 meeting with internal stakeholders, and hold a public  
24 scope meeting with the community and external  
25 stakeholders to discuss the project and inform its



2 scope of work. The only exception to this is when we  
3 have a replacement in kind project that can move  
4 forward without a formal scope meeting. We've made a  
5 lot of improvements in this way—in this phase  
6 particularly focusing on the increased communication  
7 and transparency. As I just mentioned, we hold a  
8 pre-scope meeting with internal Parks stakeholders  
9 from our Maintenance and Operations staff, Recreation  
10 staff and other interested Parks divisions and  
11 sometimes representatives from sister agencies like  
12 DEP or DOT, and in this case, we were gathering  
13 information about the project's sites, use and its  
14 potential issues. This is a new step in our process  
15 that we found to be very beneficial, and sharing  
16 information about a project site and communicating  
17 early on about what Parks' needs are so that they can  
18 be incorporated early on in the scope of work. We've  
19 also created a standard process for our external  
20 scope meetings, which now only happen when a project  
21 is fully funded and staffed. These scope meetings  
22 occur at night, when more stakeholders are able to  
23 attend, and really focus on getting as much input as  
24 possible from the public about what programming and  
25 park elements they want to see in their parks.

2 Another improvement we've made to the process is  
3 increased communication about a project's status to  
4 you in the City Council as well as our other funders.  
5 This past fall, we sent letters about the status of  
6 Parks projects we funded this fiscal year that aren't  
7 able to move forward during—because of the funding  
8 shortfall. We're aware sometimes the information is  
9 not what you want to hear, but we think it's  
10 important to be transparent about which projects we  
11 can move ahead with, and which ones we cannot. The  
12 very good news is that since 2014, we received  
13 approval to hire an additional 121 staff including  
14 the 55 that you were so instrumental in getting  
15 approval. Thank you again for that assistance. That  
16 really started the ball rolling in terms of a  
17 conversation with OMB, and this new staff has helped  
18 us significantly increase our productivity. The next  
19 phase in the process is design where we focused a lot  
20 on streamlining the process and creating  
21 efficiencies. This graphic shows at a very high  
22 level the basic steps in the design process, which  
23 includes design development where we create a concept  
24 design, and then a more fully develop schematic  
25 design, internal and external reviews and then

2 construction document preparation. On average, it  
3 takes between 10 and 15 months to move through the  
4 design process. One of the first improvement we—we  
5 made to this design process is to streamline our  
6 internal review meetings from five to two, and this  
7 really helped us reduce, rework and to clarify design  
8 direction for our designers. In addition, we've  
9 increased the use of standard templates. So we don't  
10 start every project from scratch. An example is our  
11 comfort stations. We have an image her on the slide  
12 where we worked with our maintenance staff, our  
13 design staff, the Public Design Commission altogether  
14 to create a design that is not only beautiful, but  
15 uses stock materials that are easy for our  
16 maintenance and operations staff to repair and  
17 maintain. A few other improvements to highlight are  
18 our new written Standard Operating Procedures for  
19 Design, which serve as a great resource for our  
20 recently hired and existing—existing staff, as well  
21 as our design consultants. In this case, it puts us  
22 all on a level playing field. We're all operating  
23 from the same point in time. We also have new what  
24 we call red zone meetings with—with Commissioner  
25 Silver to immediately troubleshoot projects that are

2 not moving for one reason or another. This also  
3 helps to increase accountability since staff has to  
4 present to the Commissioner if there is an issue. We  
5 also have Commissioner level interagency coordination  
6 meetings to elevate and resolve issues with the  
7 sister agencies we interact with most like DEP, DOT  
8 and DDC. Several other design improvements worth  
9 note-noting relate to the Public Design Commission  
10 where we've made great strides in improving commun-  
11 the communication of our design philosophy for some of  
12 our key assets like green infrastructure, comfort  
13 stations and synthetic turf all of which has made it  
14 easier for us to receive approval. We've also  
15 reduced the documentation required for our  
16 submissions, which has allowed us to move through the  
17 process much faster. Overall, we increased our  
18 approval rate for first-time submissions to PDC from  
19 20% several years ago to 83%. It's a remarkable  
20 achievement that is a credit to both agencies.

21 Now, we'll get into the procurement  
22 phase, which is where we have the least control over  
23 how our contracts move through the process. In this  
24 phase, we have four main steps: Pre-solicitation  
25 review, which includes several legal reviews.

2 Solicitation where we release the contract out on the  
3 street. Pre-Award where we perform many reviews to  
4 determine the lowest responsive-responsible  
5 contractor, and finally, award and registration where  
6 we submit the contract to the Controller's Office for  
7 approval. On average, procurement takes seven to ten  
8 months. I'm not going to go into every step of the  
9 procurement process, but we included this slide to  
10 emphasize that a majority of the steps we follow are  
11 mandated by state and city laws as well as the city-  
12 as well a citywide policies as you can see by the  
13 boxes outlined in red. We tried to make it a little  
14 bit easier to read in this slide. In total 73% of  
15 the steps in the process are required by entities  
16 outside the Parks Department. It's important to  
17 recognize that this is the same procurement process  
18 that all other city agencies follow. It's not as if  
19 we do anything differently than DDC or DOT or DOP-  
20 DEP. In addition, the Mayor's Office of Contract  
21 Services has been working with Parks and other city  
22 agencies to alleviate some of the required steps in  
23 this process. We are very hopeful that when all  
24 their improvements are in place, we'll be able to  
25 move through it at a must faster pace. Very often we

2 hear how much faster the School Construction  
3 Authority is able to do Parks related projects. This  
4 slide here shows a side-by-side comparison between  
5 Parks, a New York City agency, and the School  
6 Construction Authority, which is a State authority,  
7 and it shows particularly in procurement how  
8 different we are, and that it really isn't an apples-  
9 to-apples comparison. For a number of important  
10 reasons, all city agencies are subject to a variety  
11 of state and city rules and laws including the  
12 Procurement Policy Board rules, which include many  
13 procedural notifications and oversight requirements.  
14 It includes Local Law 63, which requires us to  
15 advertise work when we intend to contract work out to  
16 consultants as well as reviews from oversight  
17 agencies like the Law Department and MOCS. The New  
18 York State Legislator-Legislature granted the School  
19 Construction Authority specific exemptions from a  
20 majority of the laws, rules, policies and procedures  
21 that Parks and all city agencies are required to  
22 follow. In light of these exemptions, the SCA can  
23 plan, procure and award contractors much, much faster  
24 than the Parks Department or any other City agency  
25 can. As I mentioned, we really focused our

2 improvement efforts in areas where we can realize the  
3 most change. Although we can't change rules and laws  
4 relating to procurement, we have been able to improve  
5 some aspects our of internal processes. We've  
6 ensured our internal legal review process moves as  
7 quickly as possible. We've also created a new system  
8 built by in-house staff to automate how we put our  
9 landscape architecture contract books together, which  
10 reduces this effort from two weeks to about two  
11 hours. Not only have we saved significant time, but  
12 the contract books we release to the public are now  
13 more professional and more accurate reducing the need  
14 for us to issue-issue addenda to the contract,  
15 potentially extending the solicitation. Finally,  
16 we're working to enhance the Parks web page for our  
17 vendors. We hope in the near future contracts will  
18 be able to go directly to our web site and download  
19 contract books and receive other information related  
20 to our projects, which will also save time and money  
21 for everyone. Finally-I'm almost there-and the last  
22 phase in the Capital Process is construction. After  
23 a contract is registered with the controller, we set  
24 a start date called the order to work date, which  
25 starts the clock for construction. Our staff

2 oversees subcontractor approvals, material sample  
3 submittals, change orders, and payments. On average,  
4 construction takes 12 to 18 months, and the majority  
5 of our site work projects having a contract duration  
6 of 12 months, and the majority of our building  
7 projects having a duration of 18 months. Similar to  
8 design, we've made a lot headway in improving our  
9 construction process since we have more control over  
10 this phase than--than the procurement process. One of  
11 the biggest impacts has been the sharp reduction in  
12 the number of change orders we approve during  
13 construction. Prior to Commissioner Silver's  
14 arrival, we would process a lot of design changes  
15 while we still in construction. Now, because of the  
16 mandate that we shouldn't move forward with change  
17 orders during construction unless it's a life safety  
18 issue. In addition to the fact that we're  
19 incorporating more comments from the public early on  
20 in the design process and producing better design  
21 documents, we reduced our change orders by 78%  
22 between Fiscal 14 and 16 from 470--407 change orders  
23 to 90. We've also created a training from our  
24 construction staff. In fact, just this week we  
25 started an eight-week course led by our Deputy Chief



2 of Construction that goes through the entire  
3 construction process from pre-construction planning  
4 through closeout. We worked hard to improve our  
5 relationships with our contractors by increasing  
6 community, and lastly we're in the process of  
7 creating written standard operating procedures for  
8 our construction process similar to what we did in  
9 design. I'd like to turn the presentation back to  
10 Commissioner Silver and to talk about some of the  
11 early indications we are seeing that give us  
12 confidence that these process improvements are having  
13 an impact.

14 COMMISSIONER SILVER: I recognize this is  
15 a long testimony, but these are some important point,  
16 and so I'll be focusing some numbers. I'd like to  
17 publicly thank Commissioner Braddock, for her team,  
18 for their hard work and dedication. As I think their  
19 presentation makes clear we've tackled concerns about  
20 the Capital Process head-on, and we're seeing the  
21 results. So if you look at these charts comparing  
22 the Fiscal Year 2015 and '16, we reduced the average  
23 time period of design by 54 days, nearly two whole  
24 months. Furthermore, in the past two years only 20%  
25 of our project designs were being approved by PDC, as

2 was already stated, before submission. That approval  
3 rate is now 83%. We automated and standardized the  
4 process to compile the contract books. What used to  
5 take two weeks, now only takes two hours.

6 [background comments] We want just to share with you  
7 what this contract book looks like, and this is now—  
8 we've been able to accomplish that now in two hours  
9 as opposed to two weeks. On the topic of this  
10 morning [laughs]—on the topic of contracts, this is a  
11 good moment to mention our exemplary MWBE efforts as  
12 we awarded 91 million contracts in Fiscal Year 2016  
13 to MWBE firms, the second highest total among city  
14 agencies. As was stated, we reduced the number of  
15 change orders of projects and construction phase by—  
16 by 78% from 407 to 90, and nearly a quarter of our  
17 Fiscal Year 2-016 construction projects were  
18 completed early, over 30 days before the scheduled  
19 completion date. The average construction project in  
20 Fiscal Year 2016 took 99 fewer days than Fiscal Year  
21 2015. Keep in mind these improvements are all taking  
22 place in the context of a higher volume of individual  
23 projects ever seen by the agency. As I mentioned  
24 earlier, we registered over 100 construction projects  
25 in Fiscal Year 2016. Despite this ambitious

2 portfolio, the Mayor's Management Report on Fiscal  
3 2016 demonstrated New York City Parks' construction  
4 completion was 86% on time and 88% within budget, a  
5 significant improvement over past years as this chart  
6 before you shows. At the same time, we have made  
7 more robust public information available about our  
8 ongoing capital projects than any other point in the  
9 agency's history. Our online Project Tracker  
10 launched in the fall in of 2014, makes the process  
11 more transparent than ever before. The Capital  
12 Project Tracker is an online searchable tool updated  
13 daily, and allows anyone to be—whether it be an  
14 elected official, a supporter or specific park user  
15 or just a curious New Yorker to look up a specific  
16 park and learn about the capital project status. I'm  
17 proud to say that the Council—to the Council today  
18 that the tracker has received well over 250,000 web  
19 visits giving citizens the information they need, and  
20 deserve about Park improvements in their community in  
21 real time. To be clear, we understand that there's  
22 more work to be done, and we're always searching for  
23 additional ways to make the process more efficient,  
24 and would value your partnership in this effort. How  
25 can you do that? We'd welcome the Council's support

2 in prioritizing funding for critical state of repair

3 projects in your district and ask that you

4 communicate with us in advance before making any

5 allocation decisions to discuss the project, and

6 obtain a formal estimate from our Capital Division.

7 We ask you continue working with us to ensure your

8 constituents get involved early in the scoping

9 process to ensure designs truly reflect the

10 community's desires and don't face design changes

11 later on in the process. And we would ask that you

12 carefully consider the potential impacts of local

13 laws and proposed legislation to help us streamline

14 the number of administrative steps in the process,

15 which is a perfect segue to the proposed legislation

16 of Intros 407 and 1340 under discussion today. New

17 York City Parks understands the importance of

18 ensuring Council Members get regular updates on

19 capital projects in their district. We believe New

20 York City Parks' existing practice of regular and

21 robust communication between Council Members and our

22 dedicated borough commissioners in addition to our

23 Project Capital Tracker provide Council Members with

24 up-to-the-moment status updates, the capital projects

25 they support with discretionary funding. If a given

2 council member feels that is not the case, and have a  
3 specific question about a project whether it regards  
4 the change orders, the project timeline or other  
5 issues, my door is always open, and our borough  
6 commissioners are always available to address your  
7 concerns. In short, we are concerned that mandating  
8 additional administrative steps like those described  
9 here in these two bills would only serve to delay our  
10 Capital Process and add that time that we work so  
11 hard to serve—to save, which is in direct conflict  
12 with our shared goal to move projects forward as  
13 quickly and efficiently as possible. Intro 1340  
14 would further compel the agency to provide an update  
15 to Council Members when a contract was denied  
16 payment. It may be helpful to provide some  
17 background here. Pursuant to the directive from the  
18 City Comptroller, every agency that deals with  
19 construction projects has an Engineering Audit Office  
20 operating independently from the Capital Unit to  
21 audit and assess proposed payments to contractors.  
22 The engineers of the Parks EAO verify that costs are  
23 reasonable, consistent with the contract or change  
24 order, and properly documented all in a timely manner  
25 to enable prompt payment pursuant to the rules of the

2 Procurement Policy Board. Upon arriving, it came to  
3 my attention that the communication between key  
4 parties was not robust as it could be leading to  
5 delays in resolving disagreements and processing  
6 payments. So I created a new position, an Assistant  
7 Commissioner for Agency Compliance to directly  
8 oversee the EAO and encourage more productive and  
9 proactive communication between contractors and our  
10 agency. I'm pleased to report that complete payment  
11 denials to our contractors are extremely infrequent,  
12 as EAO is empowered to encourage—to authorize partial  
13 payments for work performed, withholding only those  
14 amounts, which require further documentation,  
15 clarification or review. While EAO continues to  
16 identify discrepancies in a contractor's processes  
17 and calculations, would communicate more openly,  
18 encourage a project to continue, while specific  
19 issues are being worked out. As a result,  
20 contractors now can anticipate agency demands and  
21 work stoppages and delays due to non-payment are now  
22 increasingly rare. Similar to other concerns about  
23 the Capital Project if a Council Member has received  
24 specific feedback about a project audit, our agency  
25 is fully available to answer any questions. As I

2 close, and we appreciate the Council's interest and  
3 advocacy regarding these topics, and look forward to  
4 continue to work with you and your colleagues to make  
5 New York City parks and playgrounds better than ever.  
6 As we hope today's testimony has demonstrated, New  
7 York City Parks has made it a priority to streamline  
8 our Capital Process and deliver quality improvements  
9 to our parks in a faster and more thoughtful manner.  
10 Of all the initiatives I've started under my tenure  
11 here at New York City Parks, streamlining the Capital  
12 Process is one which I am most proud. Thank you for  
13 inviting us here to testify. We would be happy now  
14 to answer your questions.

15 CHAIRPERSON LEVINE: Thank you,  
16 Commissioner, Deputy Commissioner. Thank you, Matt.  
17 I'm please that we've been joined now by my colleague  
18 Daneek Miller, Mark Treyger, Fernando Cabrera and our  
19 Majority Leader Jimmy Van Bramer. Do you all have a  
20 hard copy of the Power Point by chance?

21 DEPUTY COMMISSIONER BRADDOCK: [off mic]  
22 Yes.

23 CHAIRPERSON LEVINE: Okay, is that  
24 something you can--do you have copy here for the  
25 members?

2 DEPUTY COMMISSIONER BRADDOCK: [off mic]

3 Can we add them here? (sic)

4 CHAIRPERSON LEVINE: Yes, that would be  
5 very helpful. Sorry, we should have thought of that  
6 earlier. I-I-I truly appreciate the scale of effort  
7 that you all have described here, and the many  
8 efficiencies that you're extracting throughout ever  
9 stage of the Capital Process. I'm trying to square  
10 that with what we're experience in our neighborhoods,  
11 and-and projects that do still drag on often for  
12 years, and I think it's important to clarify that  
13 from the public-from the public's perspective, the  
14 clock starts ticking as soon as the money is  
15 allocated, right? That's when we give the good news  
16 to our communities, we sometimes put it in our  
17 newsletter. It-it gets some-some press sometimes.  
18 Great new, we just got \$10 million to renovate some  
19 major party, but if-if I'm understanding the way you  
20 measure timeliness, you don't actually start the  
21 clock ticking at that point?

22 COMMISSIONER SILVER: [off mic] That's  
23 correct.

24 CHAIRPERSON LEVINE: You start it at the  
25 time that the Capital Division begins work.



2 COMMISSIONER SILVER: Correct.

3 CHAIRPERSON LEVINE: Right, now that--that  
4 could be months later. I think in some cases it  
5 could be years later. Now, what--what will--?

6 COMMISSIONER SILVER: [interposing] I  
7 will--Yes. Prior to me coming on board, we started  
8 the year with a--it would take well over a year to  
9 assign that project, and when I came on board there  
10 was still a backlog of projects from the previous  
11 fiscal year and then when we get a new batch of 120--a  
12 100 plus projects, that now we have to assign to  
13 staff. If you recall from previous testimony, I've  
14 now reduced that backlog, and we now made a goal of  
15 the project being assigned within that fiscal year.  
16 Nine months is our goal. So as projects come in, we  
17 now want to make sure they're now assigned within our  
18 fiscal year. This year, for example, we got 150.  
19 It's very difficult within a month just to assign  
20 those to staff. We have a specific number of how  
21 many projects depending on complexity each staff  
22 member can handle. We do it by borough teams, and  
23 that's how we assign it. When they're freed up, we  
24 then assign that project, and our commitment and goal  
25 is now to do that when we first sign on--

2 CHAIRPERSON LEVINE: [interposing] Right,  
3 I-I understand that, but again--

4 COMMISSIONER SILVER: [interposing] So  
5 that's when the project was. Before that it's just  
6 sitting waiting to be assigned. So the clock does  
7 not start ticking until it's actually the beginning  
8 of the scope meeting, and that's when the clock  
9 starts.

10 CHAIRPERSON LEVINE: Right, but from the  
11 public's perspective they don't care whether a year  
12 is lost because we're waiting to start the capital or  
13 because it's been designed or procurement. They  
14 don't know. They don't care--

15 COMMISSIONER SILVER: [interposing]  
16 Right.

17 CHAIRPERSON LEVINE: --even if a project  
18 is done or not, and so--but just to understand so--so  
19 when you talk about an average of 2-1/2 to 4 four  
20 years for projects, from the public's perspective--  
21 perspective, that's really more like 3-1/2 to 5  
22 years, right? So, if we--if we began to track from  
23 the moment the project is fully funded is that  
24 accurate?

2 COMMISSIONER SILVER: We will have to  
3 communicate that better. We just have to manage  
4 those expectations. It is impossible to assign 150  
5 projects in one month. It just can't be done. We  
6 have just seen a surge since I've been here that the  
7 numbers continue to escalate, which is good news for  
8 the department.

9 CHAIRPERSON LEVINE: [interposing] Well,  
10 no doubt you get them all dumped on you roughly on  
11 June 30<sup>th</sup>--

12 COMMISSIONER SILVER: [interposing] Yes.

13 CHAIRPERSON LEVINE: --every year. We--  
14 we understand that, and that's just the challenge  
15 that we--all of us as policymakers have to deal with  
16 because the clock is ticking in--in the public's  
17 perception. But you--you made a--a comparison of I  
18 think 2015 or to 2016, you made a comparison on  
19 construction time savings--

20 COMMISSIONER SILVER: Correct.

21 CHAIRPERSON LEVINE: which sounded  
22 encouraging, but I just want to understand if you  
23 look at the projects that were continued last year,  
24 which there, which I think was about a hundred or so--

25 -

2 COMMISSIONER SILVER: Okay.

3 CHAIRPERSON LEVINE: --and you compare  
4 them to the projects continued the--the previous year,  
5 what was the average time it took from start to  
6 finish for the projects last year? Do we have that?  
7 There's got to be an--an exact number. It was X  
8 number of months, right?

9 COMMISSIONER SILVER: To--to put it in  
10 context, since I came on board we're starting to see  
11 how the--the new improvements starting in the fall of  
12 2014. So we have to go through that full cycle since  
13 I've been here to see how these changes have taken  
14 place. Anything else is now before I got here, and  
15 is accounting for the issues that were embodied in  
16 that capital process. What we're seeing as we track  
17 various pieces with the improvements we've made for  
18 those segments, we're seeing much better timelines  
19 but for the procurement process, which is out of our  
20 control.

21 CHAIRPERSON LEVINE: Right.

22 COMMISSIONER SILVER: So design we've  
23 saved on average two months. Construction we're  
24 seeing a savings of 99 days. S o as we're tracking  
25

2 those segments, we're seeing improvements between  
3 this fiscal year and previous fiscal years.

4 CHAIRPERSON LEVINE: Right. Those--those  
5 are important. They're--they're all behind the scenes  
6 from the public's perspective it.

7 DEPUTY COMMISSIONER BRADDOCK: Yeah, I  
8 just--it's--it's important for everyone to note that  
9 the Capital Process doesn't follow exactly the fiscal  
10 year. So at any given time projects are moving in  
11 and out of the design, procurement and construction  
12 phases. So you can't just say I'm going to start the  
13 clock ticking July 1<sup>st</sup>, and see how well I did and  
14 compare all those projects in one fiscal year against  
15 another, but there's--they're constantly moving in and  
16 out and completing--

17 CHAIRPERSON LEVINE: [interposing] Okay.

18 DIANA CHRISTIAN: --within.

19 CHAIRPERSON LEVINE: Even--even using your  
20 later state date, which--which as I point out is  
21 probably about a year later than this funding, but  
22 let's just use that date. In the last fiscal year  
23 what was the average number of months from the moment  
24 you got the project to the ribbon cutting, or to--to  
25 the point of completion?

2 DEPUTY COMMISSIONER BRADDOCK: Really I  
3 don't have those. WE don't have those numbers.

4 CHAIRPERSON LEVINE: We-wouldn't that be  
5 easy? It's just 97 projects used. Wouldn't you just  
6 add it up, and-and divide by 97. It's-it's-

7 COMMISSIONER SILVER: You-you can't  
8 complete those within a year. If you look at our  
9 chart there are-really there's a crunch negotiation  
10 but there are three components to a project. We're  
11 now looking at what happens by October or by the fall  
12 of 2017, which is when all these changes that I put  
13 into effect went into play so we can start the  
14 comparison. Before that, we're just looking at  
15 comparing phases because everything is under my  
16 tenure. Of all the projects that we started in  
17 October, are still now-many of them in the  
18 construction phase.

19 CHAIRPERSON LEVINE: Right-

20 COMMISSIONER SILVER: So that's why I'm  
21 saying-

22 CHAIRPERSON LEVINE: [interposing] But  
23 let-let me-let me try-let me try to explain it an  
24 additional way. Like in-in management consulting--  
25 [background comments] In-in management consulting

2 they talk about throughput and output right? So,  
3 throughput are the things, you know, behind the  
4 scenes. They're the processes, and the output is  
5 just-it's-t's-it's the bottom line. It's the final  
6 result, and you-you-you've made-clearly made progress  
7 on the interim steps but, you know, we are here to  
8 advocate for the public's interest, and so we  
9 ultimately care about this experience for the public  
10 perception, and-and what matters to them really at  
11 the end of the day is from the moment the project is  
12 funded to the moment I can go to the park and spend  
13 time there, how much time passes. So, and-and even  
14 forgetting this. Again, putting aside this year or  
15 so where you're waiting to start, and we understand  
16 is a big backlog there. But you must know in any  
17 given fiscal year, you've got a discrete number of  
18 projects. Last year it was 97. The fiscal year  
19 ended six months ago. Can't you just tell us on  
20 average how long those projects took?

21 COMMISSIONER SILVER: We will try to get  
22 that number back to you, and see how we can formulate  
23 it because it is complex. It's something we can't  
24 answer at this moment, but we recognize the concern.  
25 As you know, we're trying to do some more creative

2 intervention such as target improvements. So even  
3 though the project is going underway, we're going in  
4 to horticultural changes, sports coating and painting  
5 play equipment. So we recognize the fact that the  
6 public—I agree and I found coming on board the  
7 timeline unacceptable, which it became my number one  
8 priority. But we are trying to do things such as  
9 activating the space with programming just to show  
10 that these spaces are not forgotten. We want to do  
11 something very quickly. W will try to get that  
12 number for you to see how we can present it in a way  
13 that will get to you and the discussion--

14 CHAIRPERSON LEVINE: [interposing] Yes,  
15 and—and I think we've got—we've—we've arrived at the  
16 heart of the dissonance here between what you're  
17 describing as tremendous efforts, and what we're  
18 describing as a continued feeling that they you  
19 probably are taking too long, and—and the other  
20 things that we've describe. And, I think this little  
21 piece of day is at the heart of it that until we see  
22 that number move on a year-to-year, that we just  
23 don't know the—the--

24 COMMISSIONER SILVER: [interposing]  
25 Right.



2 CHAIRPERSON LEVINE: --the sum total of  
3 these efforts.

4 COMMISSIONER SILVER: Right.

5 DEPUTY COMMISSIONER BRADDOCK: That's  
6 correct.

7 COMMISSIONER SILVER: Yes.

8 CHAIRPERSON LEVINE: You are certain on  
9 that?

10 COMMISSIONER SILVER: Well--well, so it's  
11 okay.

12 CHAIRPERSON LEVINE: Alright--alright no  
13 problem. So, looking at the MMR, it does list the  
14 number of projects completed per year. That's where  
15 I got the number 97 from last, and it's reading back  
16 five years. So in FY12, the MMR lists 132 projects  
17 completed. In FY13 it says 123. FY14 it says 114.  
18 FY15 it says 84, and then last year, as I mentioned,  
19 it ticks up to 97. But the trend line is down there,  
20 and I wonder if you can explain what appears to be a  
21 lower production rate?

22 COMMISSIONER SILVER: Not each project is  
23 the same. When we looked at those project  
24 completions, you can have a major park renovation  
25 versus a playground, versus a comfort station, and so

2 we look at those, the complexity of the project  
3 determines that it's not just the same for each one.  
4 Each project is—is different, and so that's what  
5 we're looking in terms of the number of projects that  
6 Commissioner Braddock wants to add to it. But  
7 they're—they're all different, and so we continue to  
8 push that number to get as many done as possible,  
9 that reflects just the difference of the projects  
10 that are being completed on an annual basis.

11 CHAIRPERSON LEVINE: Yeah, no I—I--

12 COMMISSIONER SILVER: [interposing] Did  
13 you want to--

14 DEPUTY COMMISSIONER BRADDOCK: I—just—  
15 just to say that we were also completing during those  
16 high peak years. We were—we were completing some of  
17 the prior administration's projects like the—some of  
18 the primary C projects. We had a lot of the smaller  
19 projects like the school yards to playgrounds that  
20 had multiple smaller sites included in that number.

21 CHAIRPERSON LEVINE: Right.

22 DEPUTY COMMISSIONER BRADDOCK: So--

23 CHAIRPERSON LEVINE: Well, you could  
24 account—you could account for the difference in scale

2 provided that you tracked the total dollar value of  
3 the capital projects completed.

4 COMMISSIONER SILVER: Yes.

5 DEPUTY COMMISSIONER BRADDOCK: Yes.

6 CHAIRPERSON LEVINE: Maybe that should be  
7 in the MMR. On the number of--Commissioner you cited  
8 an on-time percentage of--was it 80--?

9 COMMISSIONER SILVER: 86--on time, 86, on  
10 budget 88.

11 DEPUTY COMMISSIONER BRADDOCK: It's 88.

12 CHAIRPERSON LEVINE: Now here again,  
13 there--there must be some dissonance because I cited  
14 in my remarks the projects I know best, which are in  
15 my district where of the 16, already 8 had had one  
16 stage or another that pushed it back. But I've spent  
17 some time perusing the Capital Tracker and--and  
18 actually I spent a lot of time, and--and I rarely  
19 found a project that didn't list a delay in--in one or  
20 multiple phases--phases. I mean it's got to be well  
21 over 90% of the project. According to the Capital  
22 Tracker, which--which is data you guys prepare, almost  
23 every case or maybe not 100%, but--in the vast  
24 majority there was a delay in one or more phases

2 usually more than one. So how do you square that  
3 within an on-time record of 87%?

4 DEPUTY COMMISSIONER BRADDOCK: The MMR  
5 number calculates the construction duration for the  
6 project. So it's focusing on that specific phase  
7 itself. So it's based on the contract duration that  
8 is put out in the book there, and how you against  
9 with that contract duration. It does not calculate.  
10 The MMR does not count the time that it takes to get  
11 through procurement for instance.

12 CHAIRPERSON LEVINE: Okay, but—

13 DEPUTY COMMISSIONER BRADDOCK: There are  
14 different—like there are different indicators that  
15 look at that.

16 CHAIRPERSON LEVINE: I—I think we're  
17 holding ourselves by the wrong accountability  
18 measurement. To—to assign the entirety of your on-  
19 time percent is just to one phase when you're not  
20 counting construction and procurement and again the  
21 pre—the pre-development period. If this—it's not  
22 going to square with reality for the public, right?  
23 So why—why in the world would the MMR only account  
24 for one phase?

2                   COMMISSIONER SILVER: Well, that is  
3 certainly a—a separate question internally. I've now  
4 set up, as was stated in Commissioner Braddocks'  
5 testimony, what I call Reso meetings any time  
6 projects are stuck or delayed. If I start seeing  
7 them slipping, we intervene to have a meeting to find  
8 out what's going on. I'm informed about any delay  
9 internally to see what we can do to expedite it.  
10 Some delays can be minor, but still meet that target  
11 of being with the net 30 to 45 months. So, in terms  
12 of what you're saying, these delays could be quite  
13 minor, a month or two for a variety of reasons, but  
14 all in all, we're very proud that we're seeing—we'll  
15 certainly save time in the design process, and we're  
16 certainly seeing some savings on the construction  
17 side. So, it's a good conversation that we can talk  
18 with the Administration about that MMRs have the  
19 right number, but we are seeing in terms of the  
20 projects moving forward since October that they are  
21 now being streamlined.

22                   CHAIRPERSON LEVINE: [interposing] Look,  
23 again, I know—and I know you're pushing heroically on  
24 the inside, and we—we appreciate that and it came  
25 through today, but all we can do is look at the—the

2 output. And, you—you explain in your remarks, or  
3 maybe it was Commissioner Braddock that it's the  
4 designs phase where you have the most influence--

5 DEPUTY COMMISSIONER BRADDOCK:

6 [interposing] Uh-huh.

7 CHAIRPERSON LEVINE: --and I think where  
8 you've done the most work to try and streamline. But  
9 the one accountability measure on—on time in the MMR  
10 doesn't even account for the phase that you're most  
11 in control of, right?

12 MATT DRURY: [interposing] And if I may.  
13 That's why I think it's actually important that the  
14 discussion we had earlier about when you define the  
15 beginning of design—

16 CHAIRPERSON LEVINE: [interposing] Right.

17 MATT DRURY: --is so important. And I  
18 think that's a discussion where I know in terms of  
19 perception whether it's the allocation of funds, we  
20 argue that actually to begin a design with a—you  
21 know, a designer is assigned, and a public scope  
22 meeting is held, is the public's first true  
23 interaction with that project.

24 CHAIRPERSON LEVINE: Right.

2 MATT DRURY: We'd argue and now-now that  
3 we are—and this is a recent change—that we are  
4 defining that. I think that will give us a better  
5 metric moving forward--

6 CHAIRPERSON LEVINE: Right.

7 MATT DRURY: --and obviously since that  
8 is a more recent development I think that makes it  
9 tougher to have a body of data sort of to—to the  
10 point of your questions. I think that the definition  
11 of when a—a project starts in the design actually is  
12 really quite—even though it sounds sort of flunky and  
13 technical, actually I think it was a very value--

14 CHAIRPERSON LEVINE: [interposing] No,  
15 it's—it's the whole game.

16 MATT DRURY: --and important definition.

17 CHAIRPERSON LEVINE: Absolutely.

18 DEPUTY COMMISSIONER BRADDOCK: I think  
19 that and it's really important because that is the  
20 life, that is the transparency between the elected  
21 official, the public, and the Parks Department that  
22 when we're actually starting the project as opposed  
23 to we don't want to set false expectations to that at  
24 the beginning of the fiscal year when all of this

2 money gets put into the budget that we're going to  
3 able to start every project within the--

4 CHAIRPERSON LEVINE: [interposing] We're--  
5 we're--we're not asking--we are asking you to do the  
6 opposite. We want to actually be upfront and  
7 transparent about the fact there's going to be a  
8 year, maybe nine months investing--

9 COMMISSIONER SILVER: [interposing] I  
10 agree.

11 DEPUTY COMMISSIONER BRADDOCK:  
12 [interposing] We all--

13 COMMISSIONER SILVER: I agree.

14 CHAIRPERSON LEVINE: If the public is  
15 hearing that on average it's 2-1/2 to 4 years, but  
16 the truer average is 3-1/2 to 5 years, then we're--  
17 we're--we're actually confusing them, and we're--we're  
18 giving them the wrong expectations, right. And--but,  
19 I--I do want to move onto another area of dissonance  
20 between what--what I've experience, what my colleagues  
21 and I have heard on--on this--this issue of payment of  
22 invoices to contractors, which as I mentioned, is--is--

23 DEPUTY COMMISSIONER BRADDOCK:  
24 [interposing] Right.



2 CHAIRPERSON LEVINE: --it may sound  
3 esoteric, but it is directly- [background comments]  
4 Do you all want to call someone up for this?

5 COMMISSIONER SILVER: Yes. Yes, we do.

6 DEPUTY COMMISSIONER BRADDOCK: Well, it's  
7 the-yes.

8 CHAIRPERSON LEVINE: Yeah, this-this--  
9 this is directly related to I believe the efficiency  
10 and pricing in the capital process because as I  
11 understood it-understood, you have shortage of  
12 bidders on some of these projects, and sometimes you  
13 put a contract out, and you got--you don't get enough  
14 input, and go to re-bid it, and I'm sure that adds  
15 months to the process.

16 COMMISSIONER SILVER: It does.

17 CHAIRPERSON LEVINE: And also the loss of  
18 the market is if you have few bidders, you're just  
19 going to get a higher price. And lastly, if you  
20 don't-if you can't pick and choose among the most  
21 capable bidders, then you might have to give the  
22 contract to someone who's not quite up to it, and  
23 then if they don't pull it off, then you guys take it  
24 away from the, and you lose more time. So, there's a  
25 lot of reasons why we need a lot-we need as many

2 contractors are possible bidding on these projects,  
3 right?

4 DEPUTY COMMISSIONER BRADDOCK: I-I-I-I'm-  
5 I would love to see the info-information because I  
6 have to say with my experience and I can ask our  
7 agency Chief Contracting Officer who is here. We do  
8 not have a shortage of bidders on our jobs. It's a  
9 pretty rare instance that nobody bids on our jobs.  
10 It's pretty rare. We do not have any bidders. (sic)

11 CHAIRPERSON LEVINE: [interposing] Well,  
12 I-I certainly see projects where they're-they're put  
13 out to bid again.

14 DEPUTY COMMISSIONER BRADDOCK: Yes, we-  
15 we--

16 CHAIRPERSON LEVINE: Is that not because-  
17 -?

18 DEPUTY COMMISSIONER BRADDOCK: No, no,  
19 we-when something is rebid, it's not because someone  
20 has-we have not received a-any contractors to bid on  
21 the project. Often times we have to rebid. That  
22 terrible, horrible slide with all those red boxes on  
23 it, you have to go through what's called the  
24 responsibility determination to determine whether or  
25 not that contractor is responsible enough to take on

2 that work, and that is a series of processes that you  
3 go through. We have to look at their Vendex. We go  
4 through the Law Department. MOCS weighs in. It  
5 might be that contractor did work on another city  
6 project, and he did not get a good evaluation, and  
7 maybe you don't want to hire that contractor. So the  
8 changes of--reasons why we rebid are not necessarily  
9 because we didn't get a contractor to bid on it at  
10 all. There are times--I'm just looking right here,  
11 our Fiscal 16 rebidding numbers. There were 35--19%  
12 of our contracts were rejected out of 182.

13 CHAIRPERSON LEVINE: Okay, that--that--what  
14 about on the payment end? What--what percent of  
15 invoices were processed on the first--

16 DEPUTY COMMISSIONER BRADDOCK: That's a  
17 totally different--different--different vendor.

18 COMMISSIONER SILVER: This is  
19 Commissioner John Luisi. [pause]

20 COMMISSIONER LUISI: Good afternoon, and  
21 I affirm all the testimony of bids.

22 CHAIRPERSON LEVINE: Okay.

23 COMMISSIONER LUISI: The Engineering  
24 Audits Unit performs a vital function in terms of  
25 reviewing all payments before they're actually

2 approved. So As the work progresses, the contractor  
3 will submit requests for payment. The Engineering  
4 Audits Office will review those requests and compare  
5 them against the work that was actually done, and  
6 compare, you know, as per the field office, the—the  
7 engineers we have out in the field as far as their  
8 records go, as far as actual visits out to the field  
9 the Engineering Audits Unit as well as actually  
10 comparing it against the contract. If the amount  
11 requested is not—does not basically square up with  
12 any one of those factors, there will be a trimming of  
13 the payment made to the contractor. Basically, the  
14 amounts that were withheld were withheld generously  
15 in favor of the Parks Department as an incentive to  
16 try to get the contractor to basically—

17 CHAIRPERSON LEVINE: But what's—what's  
18 the rate of follow-up on these payments?

19 CHAIRPERSON JOHNSON: It's about—it's  
20 about 2%.

21 CHAIRPERSON LEVINE: So 2% in 98—in 98%  
22 of the times you're paying out on this person.

23 CHAIRPERSON JOHNSON: [interposing] Yes,  
24 because what we do now is we look at the work at the  
25 work that was done, and if there's any ability to

2 justify a payment to the contractor as opposed to  
3 justifying a hold-back, we—we make that payment for  
4 the work that was actually performed and only  
5 withhold for the actual amount of work that was not  
6 done the way it was supposed for something like that.  
7 (sic)

8 CHAIRPERSON LEVINE: Alright, I—I want to  
9 pass it on to my colleagues who have great questions  
10 waiting, but I'll just—just say that I've heard  
11 directly from contractors who have told me they  
12 stopped bidding on Parks Department work because of  
13 the problem in getting invoices processed.

14 COMMISSIONER LUISI: Right.

15 CHAIRPERSON LEVINE: I—I hope we're going  
16 to hear from some today, but there—something is not  
17 clicking there.

18 COMMISSIONER SILVER: Well, again I don't  
19 know when. It takes some time to address some  
20 concerns. Commissioner John Luisi is the  
21 Commissioner. I had suggested it was created  
22 specifically to address the issues of compliance and  
23 overseeing the EAO Office. So I don't know if these  
24 concerns came in after these practices were in  
25 places. So we've changed our entire approach. So we

2 certainly want to tell the contracted community  
3 previous concerns they have. By this testimony we're  
4 saying that our approach is now different. The  
5 relationship is better. The con—the conversation  
6 between the agency and the contractors have improved.  
7 Ly at this. So we certainly have this concern of  
8 some of those contractors. We welcome them to come  
9 back. We have anew approach. We want them to  
10 benefit from that new approach.

11 CHAIRPERSON LEVINE: Alright, good.

12 COMMISSIONER SILVER: So I don't know if  
13 that could be squared off. I don't know at what  
14 timeframe. It was in 2012/2013. Again, these  
15 changes didn't—this one wasn't 2014 and I think it  
16 was in 2015. So now, we just want to make sure that  
17 there's a new approach in place.

18 CHAIRPERSON LEVINE: Alright, that's—  
19 that's good to hear, and I'm—I'm really grateful that  
20 all my colleagues have stayed, and I know so many of  
21 you have questions. So, we—we'll be hearing from—  
22 just to give the—the cue here, we'll go to Council  
23 Member Torres, Vacca, Grodenchik, Cohen, Miller and  
24 Van Bramer. So Council Member Torres, please kick us  
25 off.

2 COUNCIL MEMBER TORRES: Thank you, Mr.  
3 Chairman for your questioning, and I think most  
4 people would assume as I did that when you're judging  
5 on-time performance the clock should begin at the  
6 moment at allocation not at the moment of assignment.  
7 I mean that's what conscience dictates, and so I do  
8 find the statistics that the Parks Department has  
9 provided to be somewhat misleading without mentioning  
10 that context. So I want to appreciate—I appreciate  
11 the—the effectiveness of your questioning. During  
12 your testimony, Commissioner, you mentioned that  
13 Parks Department has a far greater—a far greater—a  
14 far--higher number of capital projects than the rest  
15 of the City agencies but it's—it's also true the  
16 projects are probably far less complicated than those  
17 at DEP with water and sewage infrastructure or DOT.  
18 So to borrow a phrase from the Deputy Commissioner,  
19 that's not exactly an apples-to-apples comparison.

20 COMMISSIONER SILVER: Our projects still  
21 are complex. A lot of these are site work. So I—I  
22 don't know all the project portfolio with DEP and  
23 DOT. In some cases, DEP has some minor projects. In  
24 some cases they have very complex projects.

2 COUNCIL MEMBER TORRES: [interposing] But  
3 they have substantially large capital budgets--

4 COMMISSIONER SILVER: [interposing] They  
5 do.

6 COUNCIL MEMBER TORRES: --than you do.  
7 So that speaks to the complexity---

8 COMMISSIONER SILVER: [interposing]  
9 Correct.

10 COUNCIL MEMBER TORRES: --and scale of  
11 their project.

12 COMMISSIONER SILVER: So we're just  
13 saying in terms of the volume that we have to move  
14 compared to our other sister agencies. In my opinion  
15 some of these projects even though they are site work  
16 and in some cases building work, are-are quite  
17 complex. So there is quite a large volume compared  
18 to others.

19 DEPUTY COMMISSIONER BRADDOCK: And I-I  
20 just like to add that I don't think that the dollar  
21 value of the contract is and indicator of a-the  
22 complexity of-of a project. I-I think that's not a  
23 fair apples-to-apples comparison. I also feel like  
24 for the-the perks department even though you might,  
25 you know, you might characterize and say that a



2 playground project is not very complex, there are so  
3 many approvals that are needed for Parks projects  
4 from sister agencies that are in some ways very  
5 similar to large-scale projects. Granted we're not—  
6 you know, we're not building a sewage treatment plant  
7 like DEP might be, but the complexity of the fact  
8 that we—we probably have the largest most robust  
9 community engagement process than any other city  
10 agency. We're very, very proud of the—proud of that  
11 as well, and all of the approvals. Just about every—  
12 down to when we put a drinking fountain in a  
13 playground, you're getting permits from all of those  
14 sister agencies. So there's a level of complexity  
15 that's—that's part of it. Again, I agree. We're not  
16 building a sewage treatment plant. I—I-I understand  
17 that, and everyone follows. The other thing is  
18 everyone follows the exact same procurement process.  
19 It's hardly—every city agency—every city agency is  
20 like that.

21 COUNCIL MEMBER TORRES: You know,  
22 speaking of the procurement, I—I noticed there were  
23 frustrations with procurement law as an obstacle to  
24 more efficient completion of capital projects. What  
25 as absent from your testimony were suggestions on how

2 to improve it. Like what laws do you recommend  
3 repealing so that we have a more efficient capital  
4 process? I-I heard no recommendations at all?

5 COMMISSIONER SILVER: Well, that's  
6 something the Mayor's Office have charge, the Mayor's  
7 Office of Contracts, MOCS, to take a look at. We  
8 know they've taken that very seriously. I believe I  
9 had mentioned that in my testimony. I thought I did  
10 anyway, that they are taking leave to see how we can  
11 improve the procurement process. So that's something  
12 we look forward to hearing back from them this year.  
13 It's something they've heard loud and clear of the  
14 Mayor, and has charged them with some of those  
15 changes to expedite the process.

16 MATT DRURY: Actually, if I may provide  
17 an additional detail there.

18 COUNCIL MEMBER TORRES: Sure.

19 MATT DRURY: As the Commissioner said,  
20 it's a citywide conversation that, you know,  
21 obviously working with it closely with MOCS as that  
22 conversation continues, and I know MOCS has actually  
23 been working really closely with Council Member  
24 Rosenthal, and her works on the Contracts Committee  
25 kind of taking charge and in terms of an overall

2 assessment. We're obviously looking forward to  
3 being a part of that process. I will signal two  
4 bills that were--that I believe the City is very--it's  
5 important in terms of their intents and aims, and  
6 look forward to working with the Council to examine  
7 them further, and that's Intro 1224 and Intro 1271,  
8 which both take a look at Vendex in terms of  
9 modernizing and--and changing some of -

10 COMMISSIONER SILVER: And Council Member  
11 Cohen is a co-sponsor.

12 MATT DRURY: Oh, yeah. Council Member is  
13 a co-sponsor. Thank you for that, and so those are  
14 two examples of the types of I think we think  
15 efforts, but I think we look forward to a more robust  
16 discussion between obviously a citywide approach  
17 because as I was say, it's not as if there's a Parks  
18 procurement process. It's, you know, the citywide  
19 process. So, I think we--we look forward to a more  
20 active citywide discussion on the front.

21 COUNCIL MEMBER TORRES: I have--I have a  
22 question about contractors. Suppose you had a  
23 contractor who was inexperienced bidding for the  
24 first time, and emerged-- [coughing] Bless you, and  
25 emerged as the lowest bidder, how would Parks go

2 about determining if that contractor had the capacity  
3 to execute the project on time, properly?

4 DEPUTY COMMISSIONER BRADDOCK: We would  
5 go through the same—the same process as we would for  
6 a contractor who had—had experience, but there would  
7 be the added layer of having that personal one-on-one  
8 interaction with them, with having them come into the  
9 office to explain, and talk to us about their  
10 qualifications to make sure that we felt comfortable.  
11 We are actually very proud of the fact that we have a  
12 lot of new contractors that get their foot in their  
13 door—in the door with the city's—bidding on city work  
14 through the Parks Department. It's also one of the  
15 reasons why our MWBE numbers are so high. It's  
16 because we get a lot of those new contractors that  
17 haven't done business with the city before that come  
18 in and like—like to do work with the city.

19 COUNCIL MEMBER TORRES: And suppose the  
20 lowest bid is suspiciously lower than the next lowest  
21 bid or the next set of lowest bids?

22 DEPUTY COMMISSIONER BRADDOCK:  
23 [interposing] There's a process for that that every  
24 city agency has to follow and that's called due  
25 diligence. So if you have a disparity between the

2 first and second bidders, \$300,000 or 10%. Thank you  
3 or 10% between the first and second bidders, there is  
4 a whole process called due diligence that every city  
5 agency has to go through to actually do that homework  
6 to—to figure out why there's—that disparity exists.  
7 We do happen to have quite a number of reviews, due  
8 diligence reviews for that reason, and I think also  
9 because the bidding climate is so ridiculously crazy  
10 when you--

11 COUNCIL MEMBER TORRES: [interposing] How  
12 often do you undertake due diligence review?

13 DEPUTY COMMISSIONER BRADDOCK: Okay, so  
14 my staff is wonderful, and the need these numbers to  
15 do. Six percent of contracts bidding in Fiscal 15, 8  
16 of 126 required due diligence reviews, 21% of  
17 contracts bid in Fiscal 16, 39 of the 182 required  
18 due diligence. So you can see there's a huge jump,  
19 and I think a lot of that is also because of the  
20 bidding climate that exists in the city. There is so  
21 much construction work out there. It's not the Parks  
22 Department, just the Parks Department. It's every  
23 city agency, but it's every—privately, you can't go  
24 anywhere these days in the city without seeing some  
25 kind of construction.

2 COUNCIL MEMBER TORRES: [interposing] We  
3 should have the construction Parks market testify  
4 here on this. What's the timeline for due diligence?

5 DEPUTY COMMISSIONER BRADDOCK: Due  
6 diligence runs to--anywhere between I'm going to say  
7 two to six to eight months. It depends on how much--  
8 how much work we have to do to figure out what the  
9 disparity is. You have to call the contractor--

10 COUNCIL MEMBER TORRES: [interposing] But  
11 that's a wide range. Why--why would it be--

12 DEPUTY COMMISSIONER BRADDOCK:  
13 [interposing] Because sometimes--

14 COUNCIL MEMBER TORRES: --at eight  
15 months?

16 DEPUTY COMMISSIONER BRADDOCK: --  
17 contractors are very happy to provide you with  
18 information and, sometimes contractors are not so  
19 happy to provide with the information you need.

20 COUNCIL MEMBER TORRES: But--but often the  
21 information that you're seeking is about labor  
22 standards and prevailing wage violations. And so if  
23 I'm a contractor who's complying with the law, what  
24 reason is there for me to withhold information that  
25 show compliance with the law. It's only those who

2 are non-compliant who might be disinclined or  
3 resistant to providing with that information. So  
4 doesn't--doesn't a delay in cooperation suggest that  
5 the bidder might not be as responsible as--

6 DEPUTY COMMISSIONER BRADDOCK: I'm going  
7 to have--this is Mike D'Ambrosio who is our Agency  
8 Chief Contracting Officer who oversees--

9 COUNCIL MEMBER TORRES: [interposing]  
10 Sure.

11 DEPUTY COMMISSIONER BRADDOCK: --the  
12 process.

13 MICHAEL D'AMBROSIO: Hi, good afternoon,  
14 everyone. [background comments, pause] So during the  
15 due diligence review, you are requesting from each  
16 contractor a breakdown of their labor and materials  
17 for the contract, right. So ultimately, you're  
18 taking a look under the hood, if you will, to review,  
19 to make sure (a) that they are hiring the proper  
20 trades to perform the work, and that they're paying  
21 those trades a prevailing wage. Most contractors are  
22 very--most of our regular contractors that are used to  
23 the process are equipped in providing responses to  
24 us. In other cases it may be a little bit longer

2 process, but we are conducting a consistent review of  
3 all of the--

4 COUNCIL MEMBER TORRES: [interposing] At  
5 what point do you say the process is dragging on too  
6 long? Because two to eight months is a wide range?

7 MICHAEL D'AMBROSIO: Well, I think if a  
8 contractor is not--

9 COUNCIL MEMBER TORRES: [interposing] And  
10 that's within your control. That's not something you  
11 can blame on procurement law.

12 MICHAEL D'AMBROSIO: That's true. I  
13 think—I think I certain circumstances if a contractor  
14 is not being forthright, and they're not providing  
15 the information that we are requesting, we do have  
16 the ability to find them non-responsive pursuant to  
17 the PPB Rules.

18 COUNCIL MEMBER TORRES: And at what point  
19 does that determination—do you—is it the sixth month,  
20 the seventh month, the eighth month, the ninth month?

21 MICHAEL D'AMBROSIO: It's—it's a judgment  
22 call and I think it's made on a case-by-case basis.

23 COMMISSIONER SILVER: And that is an idea  
24 I can take—go back to talk to staff about what is the  
25 point in time when we had to establish a deadline so



2 long with they rose. (sic) So that is a good  
3 recommendation that we can go back and take a look at  
4 through the due diligence. So long as we're  
5 following all procedures, it's a great suggestion to  
6 establish a cut-off date that is not as long as eight  
7 months.

8 COUNCIL MEMBER TORRES: In a conversation  
9 with—and I actually had this with you. We had—we had  
10 a meeting, a wide ranging conversation about change  
11 orders, and customized designs, and—and the—the GCA  
12 the General Contractors Association shared with me  
13 that there was a point in time when the contractor  
14 base for Parks Department was heavily union, and that  
15 in the past decade there's been a—a serious  
16 hemorrhage of union contractors out of displeasure  
17 with the management of your Capital Program. I think  
18 it might be fair to say, but if you had a—a much  
19 robust—much more robust union contractor base, there  
20 would be less of a need. There would be essentially  
21 no need for the due diligence review because  
22 prevailing wage violations tends to be endemic to  
23 non-union contractors. Do you agree with that  
24 analysis? Do you disagree?

2 DEPUTY COMMISSIONER BRADDOCK: Well, we  
3 went back after that meeting to actually check that  
4 because that was something that, of course, disturbed  
5 us to-to hear. So went back to check the numbers,  
6 and found that four of the construction contracts  
7 that were completed in Fiscal 15, 40% of them were  
8 union contractors and 60 were non-union. And then  
9 for construction contracts that were completed in  
10 Fiscal 16, 55% were union contractors and 45 were  
11 non-union. So we are not seeing a hemorrhaging of  
12 union contractors moving away from us at this point.

13 COUNCIL MEMBER TORRES: I think the  
14 person was talking about a much-a much more-a much  
15 longer arc of hemorrhage not in the last two years.  
16 Within the last decade. So if you-do you have  
17 statistics?

18 DEPUTY COMMISSIONER BRADDOCK: I have  
19 only '165 and '16--

20 COUNCIL MEMBER TORRES: [interposing]  
21 Okay.

22 DEPUTY COMMISSIONER BRADDOCK: --but we'd  
23 be happy to go back and look at earlier years, but I  
24 can tell you that's it's not a current-it's not a  
25 current issue for us.

2 COUNCIL MEMBER TORRES: What's the--what  
3 are the number of employees you have dedicated to  
4 investigation allegations of prevailing wage  
5 violations and-- [background comments, pause]

6 MICHAEL D'AMBROSIO: So we have a Vendor  
7 Compliance Unit that's comprised of four individuals.  
8 We also work very closely with our Legal Unit. I  
9 don't know off the top of my head how many employees  
10 we have in Legal, but it's--it's certainly a  
11 partnership between my shop, the ACCO shop as well as  
12 our Legal Unit to make sure that we're vetting our  
13 contractors consistently and as quickly as possible  
14 under the rules.

15 COUNCIL MEMBER TORRES: So you were--  
16 because you have some of the--you have the highest  
17 number of capital projects of any agency but only  
18 four employees who are dedicated to investigating  
19 allocations of prevailing wage thefts?

20 DEPUTY COMMISSIONER BRADDOCK: Mike is  
21 saying there are four within the Capital Unit, but  
22 it's a joint effort between the Capital Unit and the  
23 Legal Division.

24 COUNCIL MEMBER TORRES: Do we have a  
25 number for the Legal Division?

2 DEPUTY COMMISSIONER BRADDOCK: I-I don't  
3 know the number between-between the-there, but there  
4 is a specific unit, Labor Law Investigation Unit  
5 that's specifically devoted to this but we can get  
6 it--

7 COUNCIL MEMBER TORRES: [interposing] But  
8 you don't know the number of employees?

9 DEPUTY COMMISSIONER BRADDOCK: I don't  
10 know the number of employees.

11 COUNCIL MEMBER TORRES: [interposing] Any  
12 estimate? Is it a big unit? Is it a small unit? Is  
13 it a small unit? Is it--?

14 DEPUTY COMMISSIONER BRADDOCK: I don't  
15 know the number of employees, but what I'm saying is  
16 I don't know the number of employees in the Legal  
17 Unit, but we can find that out for you? [background  
18 comments]

19 COUNCIL MEMBER TORRES: And your  
20 enforcement of prevailing wage laws is it purely  
21 responsive to complaints or allegations or do you  
22 take a proactive approach to enforce-enforcing  
23 prevailing wage lists?

24 DEPUTY COMMISSIONER BRADDOCK: When-yes,  
25 of course-of course do. The proactive approach is

2 that when you have resident engineers that are in the  
3 field that are supervision their work they're  
4 constantly, of course, looking to see--they're the  
5 ones that are earmarking which title is required for  
6 each piece of work, and then they are working  
7 directly and the Engineering Audit Office informs  
8 that auditing function when they're physically out  
9 there in the field to make sure that those titles and  
10 the wages are meeting that. (sic)

11 COUNCIL MEMBER TORRES: And how often is  
12 the resident engineer out there on the project? Is  
13 it--

14 DEPUTY COMMISSIONER BRADDOCK:  
15 [interposing] The resident--we used to--this is one of  
16 the really--the things that prior to us getting  
17 additional staff, we would often times--a resident--  
18 have a resident engineer to cover two and three jobs.  
19 We're much, much closer at this point to a one-to-one  
20 ratio. That doesn't mean that this person doesn't  
21 get to reach their bath mark (sic) to take on for  
22 something like that, but for the most part it's a  
23 one-to-one ratio of resident to--to construction jobs.  
24 I'm hearing right here that I guess they texted  
25 someone. There are seven people in the Legal

2 Division that are—are working as—as part of the Labor  
3 law.

4 COUNCIL MEMBER TORRES: Do we know the  
5 number of allegations and cases that they're  
6 investigating? [background comments]

7 DEPUTY COMMISSIONER BRADDOCK: I don't  
8 have—I don't have the number of cases now.

9 COUNCIL MEMBER TORRES: Do you feel like  
10 seven is a properly resourced?

11 DEPUTY COMMISSIONER BRADDOCK: Seven  
12 combined with—we have four in his shop. Yes, I—I—do,  
13 but I would like to go back. I forget what the  
14 number of cases are.

15 COUNCIL MEMBER TORRES: And so the  
16 resident engineer is responsible for monitoring  
17 construction safety conditions is that--?

18 DEPUTY COMMISSIONER BRADDOCK: Yes.

19 COUNCIL MEMBER TORRES: Okay. Are you—  
20 are you familiar with the—

21 CHAIRPERSON LEVINE: [interposing]  
22 Council Member, if you can do one—one more and then  
23 we'll come back for a second round.

24 COUNCIL MEMBER TORRES: Sure.

2 CHAIRPERSON LEVINE: I want to let other  
3 folks have--

4 COUNCIL MEMBER TORRES: [interposing]  
5 Actually, I'll--I'll come back.

6 CHAIRPERSON LEVINE: Okay. Thank you. I  
7 am going to put folks on a five-minute clock just  
8 because we have six of you waiting, and then we'll  
9 come back for as many additional rounds as you need.  
10 The reminder we have Council Members Vacca,  
11 Grodenchik, Cohen, Cohen, Van Bramer and Treyger in  
12 the queue, and so please, Council Member Vacca.

13 COUNCIL MEMBER VACCA: My question  
14 concerns contractors who default. Once they start  
15 the job they can no longer continue due to financial  
16 reasons or due--okay, you know what I mean. Let me  
17 state this: What--let me ask this: What percentage  
18 of contractors default? What do you do when a  
19 contractor defaults, and what does that do to the  
20 time period involved in completing the project?

21 DEPUTY COMMISSIONER BRADDOCK: So let me  
22 just start out by saying that we do everything within  
23 our--that is legally possible and within our control  
24 to keep from going the default route, and the reason  
25 why we say is because it often in many cases causes

2 that there was delay in the project. I don't know  
3 whether or not we have the number of defaulted. We  
4 don't. I'm going to--No I don't want to--I don't want  
5 to guess, but I'm going to say it's less than--less  
6 than five per year. So what typically happens is if  
7 it's a bonded contract, you go to the bonding  
8 company, and the bonding company then has to provide  
9 the company that is going to complete the work for  
10 you. That can be a fairly smooth transition. It's  
11 just a legal negotiation between the bonding company  
12 and their attorneys and the attorneys at the Parks  
13 Department. The probably and Council Member Torres  
14 actually experienced this in his district, which was  
15 one of--one of the incredible delays there is that  
16 sometimes--it doesn't happen often at all. In my  
17 tenure I've never remembered it happening. In this--  
18 this case, the bonding company actually liquidated.  
19 So we had to completely repackage, and we did that  
20 job all over again. Again, we try to--we do our best  
21 to keep that from happening because we want to--  
22 everybody wants to see. The contractor wants to get  
23 paid, and the Parks Department wants to see the job  
24 continue.



2 COUNCIL MEMBER VACCA: Can't you maintain  
3 a list of contractors that are ready to go rather  
4 than have a process that delays the project even  
5 longer when this default issue comes up? Can't there  
6 be a list of contractors that bid on a citywide  
7 contract or requirements contract or something like  
8 that? Can't we do something like to mitigate when  
9 this happens rather than go through a whole process  
10 all over again?

11 DEPUTY COMMISSIONER BRADDOCK: We  
12 actually have four contracts that are not bonded,  
13 which means they're lower in dollar value. We do  
14 have what's called a completions contract, which we  
15 have all—we have used in the past to engage getting a  
16 new contractor to complete the job.

17 COUNCIL MEMBER VACCA: I—I'd urge you to  
18 look at this because then we have some bigger ones  
19 where we're saying that the bigger ones are going to  
20 have to wait. I appreciate the smaller ones. The  
21 smaller ones, what do you mean by the smaller ones,  
22 less than \$150,000, less than \$200,000 jobs things  
23 like that or although I don't think there are many  
24 but--

2 DEPUTY COMMISSIONER BRADDOCK: The  
3 bonding capacity actually was recently increased from  
4 \$500 to a million so jobs under a million dollars--

5 COUNCIL MEMBER VACCA: [interposing] Under  
6 a million dollars--

7 DEPUTY COMMISSIONER BRADDOCK: --do not  
8 require a bond.

9 COUNCIL MEMBER VACCA: --do not require a  
10 bond. So then if a contractor defaults, they don't  
11 have to go through an open bid-rebidding process?  
12 There does not have to be a rebidding process, you're  
13 telling me?

14 DEPUTY COMMISSIONER BRADDOCK: If-if the  
15 contractor defaults and it's under a million dollars  
16 then we'll try to go to our completions contract to  
17 complete the job.

18 COUNCIL MEMBER VACCA: We will try. What  
19 does that mean? Are you going to do it or not?

20 MIKE D'AMBROSIO: It's-it's a capacity  
21 issue I think. We would make every effort to make  
22 sure that that that contract-know how long the  
23 procurement process could take to procure a new  
24 contract, we would make every effort to utilize a

2 completion contract to ensure that the project itself  
3 can continue and be completed.

4 DEPUTY COMMISSIONER BRADDOCK: I mean one  
5 of the—we have to remember that in the completions  
6 contract itself, it's set up with certain items. So  
7 to make it very simplistic you might have safety  
8 service in the playground equipment, and I don't  
9 know, a drinking fountain, but the project that was  
10 defaulted didn't include those items. So it doesn't  
11 make sense necessarily to use that particular  
12 completions contract unless you're going to do a  
13 bunch of change orders to it in order to get the work  
14 done. Do that--?

15 COUNCIL MEMBER VACCA: Yes, I-I--

16 DEPUTY COMMISSIONER BRADDOCK: It's very  
17 simplistic, you know, but I-I--

18 COUNCIL MEMBER VACCA: I hear you. I-I  
19 just wanted to raise your awareness so on this  
20 issues. I-I almost had it in my district, and I  
21 don't think I have it now.

22 DEPUTY COMMISSIONER BRADDOCK: Yeah, you  
23 don't have it any more, but we are working on that.

24

25

2 COUNCIL MEMBER VACCA: [interposing] I  
3 don't have it any more, but I want to thank you for  
4 your help.

5 DEPUTY COMMISSIONER BRADDOCK:  
6 [interposing] We worked it out.

7 COUNCIL MEMBER VACCA: But for awhile it  
8 was scary--

9 DEPUTY COMMISSIONER BRADDOCK:  
10 Islamophobia it was.

11 COUNCIL MEMBER VACCA: --because we waited  
12 long enough and then--then to face the prospect that  
13 because of a default you were going to wait another  
14 year or two.

15 DEPUTY COMMISSIONER BRADDOCK: Well, he  
16 has--the contractor has come in and meet with Mike. So  
17 we took care of it.

18 COUNCIL MEMBER VACCA: Whatever that  
19 means, I appreciate it. [laughter] I know what that  
20 means, by the way. I engaged in that myself. Thank  
21 you. Thank you.

22 CHAIRPERSON LEVINE: Thank you, Council  
23 Member Vacca and next is Council Member Grodenchik.

24 COUNCIL MEMBER GRODENCHIK: Thank you,  
25 Mr. Chair and thank you for holding this today and

2 I'm happy to join on an ad hoc basis today the Parks  
3 Committee, which I did ask for, but I haven't gotten  
4 there yet, but hope springs eternal. It's so good to  
5 see Commissioner Silver, and I think the very first  
6 conversation that I ever had with you when I met you  
7 I whispered in your ear that if you want to help the  
8 children and the adults and the seniors of this city,  
9 we'll wrap our arms around this construction process,  
10 an somehow wrestle it to the ground. I would be  
11 remiss, though, if I didn't compliment your Deputy  
12 Commissioner Therese who I've had the pleasure of  
13 working on--on a number of issues including the Brown  
14 House when I served on the board of directors there,  
15 and, of course, the great Queens Parks Commissioner  
16 Dottie Lewandowski, who I've been working with. In  
17 fact, I'll give away secretes, Dotty. So I won't say  
18 anything beyond that, and her great staff. The rest  
19 of my colleagues I think would all agree that we do  
20 receive great communication certainly in Queens and I  
21 know the Commissioner from the Bronx is here, and  
22 I've worked with her as well. We receive, and we  
23 talk--I'm talking to Parks if not on a daily basis on  
24 a weekly basis, and some of it is, you know, small  
25 little issues. I--I do want to ask some questions. A

2 lot of my questions have been asked by my colleagues,  
3 but maybe this is for Commissioner Braddock. Can you  
4 estimate the amount on a percentage wise basis that  
5 is added to your construction projects due to the  
6 city contracting process? That if we could eliminate  
7 the bottlenecks and, you know, the paperwork, and all  
8 those kind of things or streamline. Maybe it's for  
9 the ACCO. You know, if a million dollar project, you  
10 know, would it--would it now be a \$500,000 project?  
11 Would it be a \$750,000 project? And I know, you  
12 know, no two projects are alike. I know we have  
13 baseball fields. We have Bocce courts. We have, you  
14 know, all kinds of stuff. Commissioner, if you'd  
15 like to, or--

16 DEPUTY COMMISSIONER BRADDOCK:

17 [interposing] I--

18 COUNCIL MEMBER GRODENCHIK: --anybody  
19 that wants to swing this bat.

20 DEPUTY COMMISSIONER BRADDOCK: I'd be  
21 hard pressed to come up with a number. We could  
22 think about, and maybe get back to you, but that's  
23 not something that I feel like I can just pull out of  
24 my--out of the top of my head.

25

2 COUNCIL MEMBER GRODENCHIK: What about  
3 time, then, the amount of time that's added to it.  
4 You know, we're talking about almost four years in  
5 some cases for capital projects? [background  
6 comments]

7 MICHAEL D'AMBROSIO: If I understand the  
8 question, you're saying removing the contracting  
9 process.

10 COUNCIL MEMBER GRODENCHIK: Not removing  
11 it, but streamlining it. I know that, you're--

12 MICHAEL D'AMBROSIO: [interposing] Well,  
13 that's the process--

14 COUNCIL MEMBER GRODENCHIK: [interposing]  
15 I don't want to press you because I know that the  
16 Mayor's Office is working on this.

17 MICHAEL D'AMBROSIO: [interposing] Right  
18 now, it's--it's the seven to ten month window, and  
19 that's what MOCS is taking a look at. In some cases,  
20 it's longer than ten months.

21 COUNCIL MEMBER GRODENCHIK: If it is.

22 MICHAEL D'AMBROSIO: Bidders find to be,  
23 you know, not responsive, but that is our experience  
24 on average is seven to ten months. Clearly, the  
25 Mayor's Office is looking at what innovation can take

2 place within that seven to ten months. Our hope is  
3 that they can save as much time as possible, but they  
4 still have to go through both State, City and  
5 Comptroller regulatory steps. So that's the part that  
6 we don't control except 33% of it we don't control,  
7 but that's where we believe some of the time  
8 savings. It's just hard to give you a number--

9 COUNCIL MEMBER GRODENCHIK: [interposing]  
10 Okay.

11 MICHAEL D'AMBROSIO: --because I don't  
12 know what elements of it could be streamlined or  
13 changed.

14 COUNCIL MEMBER GRODENCHIK: Do you know  
15 when that process is going to be completed? I know  
16 that you must be talking, and you--you've got the most  
17 construction projects. I'm sure they're looking to  
18 you for advice.

19 COMMISSIONER SILVER: It is underway, and  
20 I know they already testified at Helen Rosenthal's  
21 committee on the two Intros that were mentioned. So  
22 we do know--I'm sure Council Member Cohen had attended  
23 that meeting that they did give some preliminary  
24 conversation. I hope it's going to be sometime this  
25 year.



2 COUNCIL MEMBER GRODENCHIK: Okay, would it  
3 be helpful—are there—are there areas in your agency  
4 that would help move capital construction along if—if  
5 you had a wish list to add to your—the expense side  
6 because we know that it takes people and—and all the  
7 people that work for you, and I know you've got over  
8 2,000 employees. If you could add to—add  
9 individuals, where would you add them?

10 COMMISSIONER SILVER: Well, clearly in  
11 the Capital Division we'd never say more to more  
12 staff and we're grateful for all the staff that we  
13 receive, and that's been helping us to expedite the  
14 process because as we get the large volume, we can  
15 now spread that work among more employees. Just  
16 across the board from our architects, landscape  
17 architects, support and our resident engineers. As  
18 you heard, we now have engineers that can cover a  
19 one-to-one ratio versus what we were handling before.  
20 So clearly, having more staff at our Capital Division  
21 would be very helpful.

22 COUNCIL MEMBER GRODENCHIK: Thank you, Mr.  
23 Chairman. Thank you very much, Commissioner.

24 CHAIRPERSON LEVINE: Grodenchik and now  
25 we'll hear from Council Member Cohen.

2 COUNCIL MEMBER COHEN: Thank you, Chair.

3 I do just quickly want to echo in terms of the  
4 communication. I—I think it is indisputable. I  
5 laugh with Commissioner Rose Rodriguez that often  
6 want—that I think she should pay rent in my office  
7 [laughs] because she—she spend a lot of time there,  
8 and—and there are times when we meet when we're—we're  
9 joking that we've seen each other, you know, week  
10 after week after week after week. So I definitely  
11 have to commend the agency and particular borough  
12 commissioner in terms of communication. There—there  
13 is not—that's not the place where there is an issue.  
14 I—I will say that I'm concerned about a variety of  
15 things, though. And—and again, I think you're to be  
16 applauded on your effort, but I, you know, in your  
17 own testimony, you know, you sort of emphasize within  
18 our control. I'm wondering if the—if the Parks  
19 Department has made any effort to work with the state  
20 in terms of—because I think even the—the—the Capital—  
21 - What's—I'm sorry, what is your name again?

22 DEPUTY COMMISSIONER BRADDOCK: Therese.

23 COUNCIL MEMBER COHEN: Therese, you know,  
24 talked about the comparisons to SCA, but SCA  
25 obviously has—has a carve-out from the State

2 Legislature. Has—has the Parks Department ever gone  
3 to Albany and said—

4 COMMISSIONER SILVER: Again, this this a  
5 citywide issue affecting all city agencies that have  
6 to follow that are not similar to SCA.

7 COUNCIL MEMBER COHEN: But not—but no all  
8 citywide agencies have the same problems or the same  
9 challenges I think that—that your agency does?

10 COMMISSIONER SILVER: They do. We held  
11 many meetings upfront when the Mayor identified us as  
12 an issue, and all the different agencies. Some they  
13 had different aspects whether design/build. Some of  
14 the larger agencies are looking for other  
15 efficiencies that current—don't currently exist.

16 Because of our volume and the small contract—value of  
17 our contracts, our issues are a bit different, but we  
18 all collectively share our concerns and the Mayor's  
19 Office for Contracts is taking the lead to see how  
20 they can address it. So those meetings have occurred  
21 very early on. I believe it was even 2014 and 2015,  
22 and now there's—even the leadership under MOCS  
23 Michael Owh, and so he is now processing all  
24 information to see exactly what they can do. A lot o  
25 recommendations were submitted. And so now they're

2 processing it to see what works. I don't know  
3 whether there's a recommendation to create a Parks  
4 construction authority similar to SCA that requires  
5 state legislation, but certainly, it's something that  
6 the Administration is aware of because it affects all  
7 agencies in different ways.

8 COUNCIL MEMBER COHEN: Would you support  
9 the creation of the Parks Department Construction  
10 Authority.

11 COMMISSIONER SILVER: It is certainly  
12 something we would like to talk about because I right  
13 now am looking at any way we can streamline the  
14 process. I like to be with all of you both to break  
15 ground and cut ribbons and get these projects to the  
16 public as soon as possible. So anyway and what's on  
17 the table we can do to expedite the process, I'd be  
18 for it.

19 COUNCIL MEMBER COHEN: I know I'm running  
20 out of time. In terms of the 500 projects, again I-I  
21 think that from, you know, my own measure, I measure  
22 from the day that I got it in the budget. That's the  
23 day I do my victory lap. That's the day I feel very  
24 good and I pass—you know, I did my part and I pass it

2 off to Parks. Do you know what the ages of the 500  
3 or so? What's the average age of each budget?

4 COMMISSIONER SILVER: We actually that.  
5 We've been working on our backlog. That's a good  
6 question. [background comments] We can get that  
7 number to you because I was very interested to know  
8 how many at the start of my tenure existed because a  
9 lot that I've heard, projects they said it took ten  
10 years or seven years, but I want to focus on how to  
11 move those forward. So I know the specific ones  
12 because we had reso meetings. I don't know in  
13 totality how many preceded my tenure, but it's  
14 something we can certainly take a look at.

15 COUNCIL MEMBER COHEN: I do know in all  
16 fairness, too, that in my district there have been  
17 some projects that had been particularly thorny, and  
18 we—you know, again, none of them have completed--

19 COMMISSIONER SILVER: [interposing]  
20 That's—that's a dog run.

21 COUNCIL MEMBER COHEN: A dog run  
22 [laughter], Putnam Trail. I mean the list goes on,  
23 but—but we have progress in that, you know, from  
24 stalled to not stalled.

2           COMMISSIONER SILVER: Right, and two of  
3 your have surfaced. When I instituted the red zone.  
4 The red zone started to count the numbers on the  
5 stand. Any time I see a substantial delay, we call a  
6 meeting of all parties to find out what we need to do  
7 to troubleshoot. In some cases we may decide just to  
8 end the project. Putnam Trail was one that was  
9 teetering, but we decided to move forward and  
10 intervene in both the dog run, Putnam Trail and many  
11 others from the district. We just sit down there and  
12 troubleshoot because I will not allow these delays to  
13 continue and to find out exactly what's going on, and  
14 then we make a resolution and move forward. They've  
15 been so helpful, and I do those once a month.

16           COUNCIL MEMBER COHEN: I-I don't want,  
17 you know, beat up Parks because I think that a lot of  
18 what's--there are structural impediments that I think  
19 that we need that, you know, and I'm glad that MOCS  
20 and Parks is collaborating with MOCS, but I think  
21 it's time that we try to take on that--those  
22 challenges that, you know, I feel like the clock is  
23 ticking. So I would like to be kept apprise of that  
24 and whatever I can do to assist. Thank you, Chair.

2 CHAIRPERSON LEVINE: Thank you, Council  
3 Member Cohen. Council Member Miller.

4 COUNCIL MEMBER MILLER: Thank you, Mr.  
5 Chair for inviting me in and—and—and coming out and  
6 visiting a park in the district and knowing that this  
7 was very important and it's still in the invitation  
8 so that we will hear, and thank you, Commissioner,  
9 for you and your team as well. And I do want to kind  
10 of preface it by saying I remember one of the first  
11 hearings, a budget hearing and you said that you did  
12 want to focus on streamlining the process, and we're  
13 looking at design and that that was very important to  
14 you, and I commend you for being able to do that.  
15 But we had this conversations amongst our—my  
16 colleagues. It is that—that Parks is that agency  
17 that you want to steer away capital projects from  
18 particularly if you are doing participatory budgeting  
19 where people are voting and allocating money, and  
20 they're looking to that project happen, and—and so  
21 this is about how do we get better in—in a number of  
22 ways. So and—and one way is the cost. How do we  
23 address the cost? You know, would—do you thin that  
24 it is—the cost of the administration. Is it the lack  
25 of competitive bidding? Is it—this—this agency has

2 looked at the equipment of the military with \$900  
3 handlers (sic) right? We did a simple thing like the  
4 comfort stations. I think the first comfort station  
5 that I did enter in the country was a little over a  
6 million, and the second one less than a year later  
7 was a million—over a million and a half. It is  
8 exactly the same comfort station, and so if we have  
9 the templates, and it's not a matter of design and  
10 all these other things, why—why are going running  
11 into these problems.

12 COMMISSIONER SILVER: We have the exact  
13 same thing concern. When I came on board our comfort  
14 stations were just little over one million. Recently  
15 now we're seeing comfort stations that are getting  
16 close to and over \$2 million. Parks doesn't  
17 establish the prices. The industry responds based  
18 upon the bid. So we have questions also why costs  
19 are escalating, and so that's something that we just  
20 don't have the answer to Parks does not set the  
21 price. We put it out and do a competitive bid  
22 process. We select the lowest responsible bidder.  
23 There is variety strata. It's not just Parks. We're  
24 hearing from our colleagues from DDC to DEP to DOT.  
25 Everyone has experience in cost escalation, and there



2 are some cases which is difficult where we have to  
3 reject the bid because it's now going so far above  
4 the estimate, it's just-it's very difficult to go  
5 back to a council member to say we need additional  
6 funds. We're improving our estimating, but we're  
7 just seeing across the board we're all getting  
8 shocked when we open those bids and seeing the  
9 prices. Comfort stations are now over \$2 million.  
10 We're in a state of shock.

11 COUNCIL MEMBER MILLER: Yeah, and-and  
12 they're pretty much the same comfort stations as when  
13 I was child.

14 COMMISSIONER SILVER: And now, if you  
15 noticed from our presentation we even provided a  
16 standard template that has been the same for several  
17 years, and we're still seeing the prices increasing  
18 hundreds of thousand per year. So it's something  
19 where Parks when you're saying comparing us to the  
20 military, there's no profit for us here. We're  
21 putting out a bid and saying please tell us what this  
22 will cost to build, and the industry is telling us it  
23 is growing exponentially each year.

24 COUNCIL MEMBER MILLER: So, in-in terms  
25 of the human capital we want to kind of-as we deal

2 with the timing of the job, and so as we streamline  
3 obviously one portion of it, there's still the  
4 conundrum of time, and as again we are trying to  
5 deter folks from—from capital projects in the  
6 district and that is a horrible thing.

7 COMMISSIONER SILVER: I just wanted to  
8 share with you, staff just shared with me the price  
9 now of new comfort stations.

10 COUNCIL MEMBER MILLER: Uh-huh.

11 COMMISSIONER SILVER: This will show you  
12 the shock that we're feeling and then how we have to  
13 approach council members. Bid prices to build a  
14 single new comfort station has increased 175% from  
15 2011 to 2016.

16 COUNCIL MEMBER MILLER: That's—that's  
17 here in these--

18 COMMISSIONER SILVER: [interposing] But  
19 now the estimate to build a new comfort station is  
20 now approaching \$3 million.

21 CHAIRPERSON LEVINE: So, can—can you give  
22 us those numbers again?

23 COMMISSIONER SILVER: The bid prices to  
24 build a new comfort station have increased 175% from  
25 2011 to 2016.

2 CHAIRPERSON LEVINE: And so now you're  
3 estimating the bid price for a new comfort station is  
4 \$3 million?

5 COMMISSIONER SILVER: Including site  
6 work.

7 CHAIRPERSON LEVINE: My goodness.

8 COUNCIL MEMBER MILLER: Yeah, and you get  
9 those 50 blocks (sic) there.

10 DEPUTY COMMISSIONER BRADDOCK: Can I just  
11 say that's after we have spend the time and effort to  
12 come up with that standard template. So we're—we're  
13 building the same thing.

14 COMMISSIONER SILVER: [interposing]  
15 That's new. To reconstruction is \$1.7, and existing  
16 comfort station.

17 CHAIRPERSON LEVINE: So merely \$1.7 for a  
18 reconstruction. Okay.

19 COMMISSIONER SILVER: So, yes.

20 COUNCIL MEMBER MILLER: Can we—can we—can  
21 I spend the rest of this time on reconstruction, and  
22 I know you said that you have resident engineers.  
23 I've seen a project in the district that has-- First  
24 of all, how do we procure? What is the timeline on  
25

2 procuring from—from start to finish on the comfort  
3 station on—on the traditional comfort stations.

4 COMMISSIONER SILVER: Seven to ten  
5 months.

6 COUNCIL MEMBER MILLER: So, I have one  
7 that's probably taken like three years and—and no one  
8 knew that—that the contractor was—wasn't on the job.  
9 Fortunately, worked it out with the Commissioner and—  
10 and they had some issues, and they were doing  
11 multiple jobs and—and some payment issues, and we got  
12 them u and running, but was that a matter of—of lack  
13 of human capital that we didn't have the oversight  
14 that that kind of just fell by the wayside or was it  
15 something that we—that is common?

16 COMMISSIONER SILVER: Commissioner  
17 Braddock has some insight on that particular project.

18 DEPUTY COMMISSIONER BRADDOCK: So some—  
19 sometimes what we try to do in an effort to keep the  
20 cost down is we do what we call bundling some of our  
21 sites together. So, we might bundle a few comfort  
22 stations together in one contract in the hopes that  
23 we'll get a better price because it's larger dollar  
24 value for the contractor, and maybe more people will  
25 bid on it. So that's the positive side of doing

2 that. Sometimes the downside then of doing that is  
3 that you have a contractor who is then responsible  
4 for doing three sites and, of course, we want them to  
5 do all three sites at once, and so that becomes  
6 sometimes, depending on the contractor, a manning  
7 issues in that sense. Is-is it worked out that that  
8 contractor can do one from beginning to end, or is it  
9 the kind of thing that they can work on all three  
10 projects at once?

11 COUNCIL MEMBER MILLER: So it's seven  
12 months—I—I think I saw that it was scheduled to be a  
13 two-year job and ended up being more than that. So,  
14 yeah, that probably is not a good idea moving  
15 forward, and—and I know we're pushed. So that is it,  
16 and I just want to say that I am cutting ribbons of  
17 my predecessor, and there are also jobs from my  
18 predecessor that has not begun as well, which I find  
19 really discouraging. So whatever we can do, as—as  
20 was—I would reiterate what was said by my colleagues.  
21 We had two fine commissioners there. I have had the  
22 pleasure of working with each of them, and—and I  
23 would hope that whatever resources that they need to  
24 continue to do the work that they're doing , that  
25 they're given that. Because I know it is not a—it is

2 a really a difficult challenge and we all hear it.  
3 So and we thank you for being here.

4 CHAIRPERSON LEVINE: Thank you, Council  
5 Member Miller, and Majority Leader Van Bramer.

6 COUNCIL MEMBER VAN BRAMER: Thank you  
7 very much. So Commissioner, there was meeting at  
8 the Queens Delegation a year or so ago, a year and a  
9 half or so ago and many of you, if not all of you,  
10 remember that meeting, and it was a difficult meeting  
11 for—for you all in some ways because some folks  
12 detailed their—their parks horror stories, if you  
13 will. Now, I have felt blessed in many ways because  
14 we've have some—some very, very good projects move,  
15 and—and I've often thought that Parks was—was  
16 targeted unfairly in some of ways because of that.  
17 So I want to preface what I'm going to say by saying  
18 that I've long been a supporter, but the Queensbridge  
19 Park—Park has sort of become my Parks horror story,  
20 and—and I'm really disturbed by it. I'm angry on  
21 behalf of my constituents that's it happened, and—and  
22 want to speak to you obviously about that. That has  
23 served my parochial issue, but it speaks to some of  
24 the larger issues that you've talked about. One,  
25 this red zone where—where you sensed that things were

2 taking too long. There is a problem. Have you had a  
3 red zone meeting about the Queensbridge Park Park  
4 House? Is this on your radar screen as something  
5 that has run into significant troubles, and if not,  
6 why?

7           COMMISSIONER SILVER: It—well, first of  
8 all beyond now, but we have one every month. So I  
9 don't know if it's on the schedule for this month.  
10 I'll defer to Commissioner Braddock, but I just heard  
11 about this within the last week. So I'll get more  
12 details to find out exactly what is the issue if  
13 there's a delay or is it still within the window of  
14 our desired timeframe. So I'll let Commissioner  
15 Braddock respond.

16           DEPUTY COMMISSIONER BRADDOCK: Thank you,  
17 and I appreciate your concern, and your concerns are  
18 valid. What I have to say about—about Queensbridge a  
19 couple of things, and I think this speaks to the—a  
20 little bit of the semantics of when you actually  
21 decide and the community, and the elected official  
22 who is giving the funding understands when the  
23 project actually starts, the design process. And so  
24 here is a case where we did something. We have now  
25 changed the process so we don't do it again, which is

2 we held a scope meeting on something, and we didn't  
3 have the proper staff on site—on staff to actually  
4 start the project. So, shame on us that you were  
5 thinking all along that this project is moving  
6 through the design process when actually that person  
7 had not been assigned here. So that's certainly  
8 something that we take—we take that—

9 CHAIRPERSON LEVINE: What does the Cost  
10 Tracker read for that? Council Member, do you know?

11 COUNCIL MEMBER VAN BRAMER: I don't.

12 CHAIRPERSON LEVINE: We should—we should  
13 look that up.

14 DEPUTY COMMISSIONER BRADDOCK: So in this  
15 one, there was one other—another contributing factor  
16 in this case where we did expand the square footage  
17 of—of the site. I guess I—I don't know if it was the  
18 community. Dottie might be able to help me out here.  
19 I don't know if it was the community elected official  
20 or whatever where we actually expended the square  
21 footage of the community space, and we have to do a  
22 little bit of redesign work, which took some  
23 additional time there, and because of that, we had to  
24 get additional funding to—to fund that additional  
25 meeting space. So that was an issue, right.



2 COUNCIL MEMBER VAN BRAMER: So, we—we got  
3 the additional funding so I'm very, very familiar  
4 with that process.

5 DEPUTY COMMISSIONER BRADDOCK: Yes.

6 COUNCIL MEMBER VAN BRAMER: But because I  
7 have limited time, I mean I think it's unacceptable,  
8 and I also am disturbed that it hasn't yet gone to  
9 the red zone for the Commissioner because this is  
10 Queensbridge Park, and it's the largest public  
11 housing development in the United States of America.  
12 Commissioner Silver has been there several times with  
13 me, and I have had people in Queensbridge come to me  
14 and say you told us you were going to do this.

15 DEPUTY COMMISSIONER BRADDOCK: Uh-huh.

16 COUNCIL MEMBER VAN BRAMER: You—you stood  
17 with us in this park, and you haven't done it for us.  
18 Let me just say, nothing gets me more angry than when  
19 a constituent says to me you said you were going to  
20 do it, and you haven't done it because I do  
21 everything I say I'm going to do for my constituents.  
22 This project is incredibly important, and it will, of  
23 course, be done. Of course, explained to the  
24 constituents that—that I have done my part, and we  
25 are going to fight to get this done, but Parks has

2 not done its part. In the 50 seconds that I have  
3 remaining, I just wanted to ask this question:  
4 There's a capital division, and we work very well  
5 with our Queens Commissioner who's here. Is the  
6 Capital Division somehow removed from the borough  
7 commissioners? Have they been sort of removed from  
8 that process, or disempowered in that process at all.  
9 I just want to know if they're kept in the loop, and-  
10 and are fully involved because my sense of it is  
11 there's like some centralization of the capital  
12 process in the Capital Division, and the work that's  
13 going on. And are-are our borough commissioners as  
14 involved as involved as they need to be?

15 COMMISSIONER SILVER: They are very  
16 involved. Each borough has a team. We have a number  
17 of chiefs. We have team leaders and they're always  
18 in direct communication because the commissioners  
19 need to know what is the status of a project because  
20 they have interface with you, and also our Capital  
21 Division needs to understand the issues so that they  
22 understand so we could reach the red zone should  
23 there be an unfortunate delay. So, in-in our-our  
24 agency there's a lot of communication across the

2 board. The fact that capital is an instead (sic),  
3 there is regular communication, constantly.

4 COUNCIL MEMBER VAN BRAMER: So I want to  
5 respect my colleague Council Member Treyger who's  
6 next, but-but I just want to follow up and say (a) I-  
7 I really think we need to have a very high level  
8 meeting about this project, the information that  
9 they've today, and what's the latest on this project.  
10 You know, we could not see construction complete  
11 until what the mid or late '18 when I first funded  
12 this project in '13. I think that's unacceptable by  
13 any standard, but how we measure these projects  
14 whether it's the public's perception of when I  
15 announce funding or it's your time table in terms of  
16 when something starts. Either way, five, six, years  
17 to build a relatively beautiful, but simple project  
18 is-is in my mind not appropriate and-and really  
19 outrageous. So I-I just want to implore you  
20 Commissioner to-to add this to your next red zone  
21 meeting and-and let's get the Queensbridge Park Park  
22 House done. The people of Queensbridge deserve this.

23 CHAIRPERSON LEVINE: Thank you, Mr.  
24 Majority Leader. We'll hear from Council Member

2 Treyger followed by a second round of questions from  
3 Council Member Torres.

4 COUNCIL MEMBER TREYGER: Thank you Chair  
5 Levine for holding this very important hearing, and  
6 welcome commissioner. I want to begin by actually  
7 really commending and also celebrating the news of  
8 Marty Maher as the New Brooklyn Borough Commissioner.  
9 Marty has—is a staple certainly in my district, and—  
10 and I think it was a great, great decision. We  
11 commend you and congratulations, Commissioner Maher.  
12 Commissioner, just a couple of quick questions, and  
13 I'll—I'll get to the comfort station. That's been a  
14 peeve of mine as well. How does the timeline change  
15 if a park has a conservancy? Does it change? So for  
16 example if the Prospect Park Alliance requests money  
17 to build a shed or a warehouse or something in  
18 Prospect Park or the Central Park Conservancy wants  
19 to build something in Central Park, are they bound by  
20 the same rules and processes that you have here  
21 outlined in these materials?

22 COMMISSIONER SILVER: I'll let  
23 Commissioner Braddock respond, but if you're talking  
24 about a—we have different levels of conservancies.  
25 So if it's just a Friends group or an alliance that's

2 just probing the park, they have to go through the  
3 city. However, if it's the Central Park Conservancy,  
4 I'll-I'll let Commissioner Braddock respond.

5 COUNCIL MEMBER TREYGER: Thank you.

6 DEPUTY COMMISSIONER BRADDOCK: So I think  
7 in the-probably the best case that you're most  
8 familiar with is the Prospect Park-the Prospect Park  
9 Alliance, and so the Prospect Park Alliance has staff  
10 that is funded by-by the Alliance themselves that  
11 actually do a lot of design work themselves in-house.  
12 So unlike the Capital Division where we have to wait  
13 until the city money is in the budget so that we can  
14 charge staff time to that project, the Prospect Park  
15 Alliance can start the project and design whenever  
16 their staff is available to do that. The Prospect  
17 Park Alliance, however, has to follow since their  
18 funding comes from the city. It has to follow that  
19 same procurement process, that same level slide with  
20 all of our boxes, the same procurement process with  
21 city funds and, in fact, it's the Parks Department  
22 that is building the projects themselves. So it's  
23 not the-it's the Alliance is actually constructing  
24 and supervising the projects. It's the Parks  
25 Department.

1 COMMITTEE ON PARKS AND RECREATION 110

2 COUNCIL MEMBER TREYGER: But-but have  
3 they shaved off 10, 15 months from the process?

4 DEPUTY COMMISSIONER BRADDOCK: I'm sorry?

5 COUNCIL MEMBER TREYGER: Have they shaved  
6 off 10, 15 months from the process?

7 DEPUTY COMMISSIONER BRADDOCK: You mean  
8 in terms of just-- They still follow it and very  
9 robust community engagement for that--

10 COUNCIL MEMBER TREYGER: [interposing]  
11 But how much time have they saved?

12 COMMISSIONER SILVER: Probably a few  
13 months on design.

14 DEPUTY COMMISSIONER BRADDOCK: But-but  
15 just on design, because they have to follow the same  
16 procurement--

17 COUNCIL MEMBER TREYGER: [interposing]  
18 Because you have design listed for 10 to 15 months.

19 DEPUTY COMMISSIONER BRADDOCK: Correct.

20 COMMISSIONER SILVER: So that would shave  
21 off a few months. So they still have to prepare the--  
22 the contract. Well, that's the contract books. So  
23 it's a few--I'd probably say a few more months. In  
24 other words, the concern--

25

2 DEPUTY COMMISSIONER BRADDOCK:

3 [interposing] They don't—yeah, they don't have to  
4 wait until the money appears in the budget before  
5 they start design. We do.

6 COUNCIL MEMBER TREYGER: Now, is this the  
7 same for the Central Park Conservancy?

8 DEPUTY COMMISSIONER BRADDOCK: Yes, and  
9 it's—but I think the difference is in some cases the  
10 Central Park Conservancy actually designs, procures  
11 the private dollars and builds and supervises the  
12 work themselves.

13 COUNCIL MEMBER TREYGER: And—and how much  
14 time has and money do they—how much funds could they  
15 save on a project?

16 DEPUTY COMMISSIONER BRADDOCK: Right. We  
17 have like this has come up several times. We've gone  
18 back to check with particularly the Prospect Park  
19 Alliance and the Central Park Conservancy, and we've  
20 been told the same thing that their design time is  
21 the same design time as our in particular because  
22 they have the same community engagement process.  
23 They follow the same rules of going to the community  
24 board, going to the Public Design Commission or the  
25 Landmarks Preservation Commission.

2 COUNCIL MEMBER TREYGER: But--

3 DEPUTY COMMISSIONER BRADDOCK:

4 [interposing] So they design--the actual length of  
5 the design time is the same.

6 COUNCIL MEMBER TREYGER: But somehow they  
7 get stuff done less expensive and--and more time---  
8 more timely.

9 DEPUTY COMMISSIONER BRADDOCK: The--they  
10 follow the same. In the case of the Prospect  
11 Alliance they follow the same procurement rules  
12 because of city dollars. It follows--that goes  
13 through the same contract process as Bayside Houses.  
14 (sic)

15 COUNCIL MEMBER TREYGER: [interposing] I  
16 just, you know, just to kind of, you know, go onto  
17 this issue of the comfort station. Over--about half  
18 the Council now participates in the--the budgeting  
19 when the community gets to vote PB (sic) in our  
20 districts. When people come, the first meeting is  
21 always packed because everyone has ideas and they're  
22 excited. When you tell people what would you do with  
23 a million dollars, and about a quarter or half the  
24 room wants a bathroom in a park? They leave after  
25 they--they hear the price of the bathroom. So PD in



2 my district, I don't know about other my colleagues,  
3 is just mainly now PTAs. We'll construct computers  
4 in their schools, which—which I'm okay with, but  
5 Parks is almost out of the equation automatically  
6 because what can you spend a million dollars in parks  
7 these days. Not much. So, and it's still hard to  
8 grapple with the fact that a comfort station costs  
9 two three million dollars. It's a—it's a toilet. I  
10 mean again say this respectfully. It's a toilet,  
11 it's a sink. The design phase I'm—I'm not sure why  
12 it's—it's this long. With all these agencies  
13 involved with PDC, LP, don't they realize that this  
14 is not a new revolutionary bathroom. This is the  
15 same bathroom that they've approved 50,000 times  
16 before. This is not some oh, my God, did you see  
17 that new toilet with that new thing? No, this is the  
18 same thing. These are some of the frustrations I've  
19 had in a different committee as Chair of the Recovery  
20 Committee. Some agencies are just—they're just not  
21 moving fast enough or it's—it's not rocket science.  
22 It's just—it's the same bathroom. So have you had  
23 discussions with your agency partners?

24 COMMISSIONER SILVER: We—we have had  
25 discussions with PDC when we've moved toward more of

2 a template approach. We share with them in advance.  
3 When I explained that we were 20% on first  
4 submission, now 83%. They're used to now we're not  
5 going to customize play equipment. We're now doing  
6 more standardized. We've standardized the design on  
7 our comfort stations down to the screening of the  
8 example we showed, and now it's getting approved for  
9 the first review. They're used to seeing it. But  
10 the current rules requires that for city funded  
11 projects, it must go through PDC, and as a result of  
12 PDC it means that we have to also go to the community  
13 board. So that is just part of the process that we  
14 have to follow.

15 COUNCIL MEMBER TREYGER: I—I hear you,  
16 and I'm just—

17 COMMISSIONER SILVER: So in the terms of  
18 the cost I won't repeat the escalation, but that is  
19 what the market is responding, and it's something  
20 that Parks itself cannot control. Our response is to  
21 put out a standard produce. So that--

22 COUNCIL MEMBER TREYGER: [interposing]  
23 Yes.

24

25

2 COMMISSIONER SILVER: --so that we now  
3 can compare project to project over time, and that is  
4 the responses that we're getting.

5 COUNCIL MEMBER TREYGER: I'll-I'll just  
6 close, Chair, by saying I think, you know, I think-  
7 Commissioner, I appreciate and understand the  
8 situation that you're in. I just think that we're  
9 getting ripped off. We're getting ripped off big  
10 time and taxpayers in the city of New York, and  
11 adding to the list of Parks procurement reform, I  
12 actually think that it would make sense, and I said  
13 this before, to have Parks build things in-house with  
14 Parks Department employees wearing the Parks Leaf  
15 logo, training our local residents from our  
16 communities to build and to be a part of these  
17 things. We should be at the mercy of contractors and  
18 subcontractors, and subcontractors and subcontractors  
19 who up the price, up the ante, rip off people and rip  
20 off taxpayers. Thank you very much.

21 CHAIRPERSON LEVINE: Very powerfully put.  
22 Why-why not, Commissioner, build in-house.

23 COMMISSIONER SILVER: We actually are  
24 starting a pilot to do on reconstruction. The answer  
25 is yes.

2 CHAIRPERSON LEVINE: So, you're hiring  
3 up--

4 COMMISSIONER SILVER: We are using in-  
5 house staff. We have five boroughs trades, and right  
6 we're using the pilots to see not new, but how we can  
7 use them to—but again, we can only do one at a time,  
8 we have a volume of reconstruction, but we are  
9 experimenting to see if we can do so. So there is  
10 actually underway.

11 CHAIRPERSON LEVINE: Please keep us  
12 posted on that, and I—I also want to echo a point  
13 that Council Member Treyger made about the  
14 conservancy of—the Central Park Conservancy says it  
15 can build things in half the time. Now, granted,  
16 there are far fewer constraints. It's not a fair  
17 comparison, but there's a very powerful point, which  
18 the council member was making, which is that model is  
19 only going to work in a park that has millions of  
20 dollars in private money, and for the other 1,900  
21 parks, they live and die by what the public system  
22 can produce. So it really is an equity question to  
23 sort this out because those parks which can do it  
24 with private dollars and—and entirely independent of  
25 the city, are doing just fine. And for Coney Island

2 and other places that are never going to have that  
3 kind of money, we—we—we have to fight for them so  
4 there's parity in the system. Alright, Council  
5 Member—thank you Council Member Treyger, and Council  
6 Member Torres.

7 COUNCIL MEMBER TORRES: Sure. I have a  
8 question about a particular construction firm. Are  
9 you familiar with the company RML Construction?

10 COMMISSIONER SILVER: Yes, yes, yes, sir.

11 COUNCIL MEMBER TORRES: And my  
12 understanding is that the Parks Department hired RML  
13 Construction to remove trees on Richard Street on Red  
14 Hook, and that they contractor did not use--

15 COMMISSIONER SILVER: [interposing] They  
16 had--

17 COUNCIL MEMBER TORRES: --did not use—I'm  
18 sorry.

19 COMMISSIONER SILVER: They—they had an  
20 overall contract to remove trees.

21 COUNCIL MEMBER TORRES: Right, and the  
22 contractor did not use four-person crews as required  
23 by law nor did the contractor secure the area in  
24 question with cones and tapes as required by law, and  
25 so RML's disregard for safety protocols led to the

2 death of 48-year-old delivery man in Brooklyn, Jing  
3 An Liu, who was fatally struck by a tree branch. Did  
4 the Parks Department conduct an investigation--

5 DEPUTY COMMISSIONER BRADDOCK: Uh-huh.

6 COUNCIL MEMBER TORRES: --of the  
7 aftermath of his death?

8 COMMISSIONER SILVER: We did as well as  
9 NYPD.

10 COUNCIL MEMBER TORRES: And was the-what  
11 were the findings of your investigation?

12 COMMISSIONER SILVER: I don't recall.  
13 All I know is that we had changed internally our  
14 practices, and I believe we had terminated that  
15 contract with RML. In terms of specifics of the  
16 investigation--

17 COUNCIL MEMBER TORRES: [interposing] Do  
18 you still do business with RML?

19 COMMISSIONER SILVER: We do not.

20 COUNCIL MEMBER TORRES: As a result of  
21 that incident, right?

22 COMMISSIONER SILVER: Correct.

23 COUNCIL MEMBER TORRES: Okay, and was the  
24 resident engineering--the reg--the resident engineering  
25 site who is responsible for maintaining--monitoring

2 conditions, was that resident engineer held  
3 accountable?

4 COMMISSIONER SILVER: This was under our  
5 forestry contract. So there is no resident engineer  
6 for that one. It's overseen by our Forestry  
7 Division.

8 COUNCIL MEMBER TORRES: My understanding  
9 is that Mr. Liu died on November 16<sup>th</sup>, 2015, and that  
10 the Parks Department received warnings about RML  
11 Construction four months before his death. From July  
12 15<sup>th</sup> 2015 to September 16<sup>th</sup>, 2015, Lowell Barton, who  
13 represents Local 1010 the Pavers and Road Builders  
14 sent the Parks Department a series of emails  
15 expressing concern about the safety conditions of  
16 construction sites run by RML Construction. On July  
17 15, Mr. Barton wrote regarding this historic Jumel  
18 Mansion Restoration project. The scaffolding is  
19 clearly and OSHA violation and a safety hazard. The  
20 temporary fence is pushed out-out into a live traffic  
21 and secured with random large stones and rocks in the  
22 road. The fire hydrant is fenced off from FDNY  
23 access. Some tress are not properly protected and  
24 some are used for storage or construction debris.  
25 Loose flammable debris are stored in the street near

2 the entrance of the mansion. He sent this email on  
3 July 15<sup>th</sup>. He went a week without receive a response  
4 from your agency, and so he sent a subsequent email  
5 and finally, one of your employees said that she  
6 would look into it, and then did not follow up until  
7 September 16<sup>th</sup>. What I gather from these emails is  
8 that your agency did not respond as quickly as you  
9 should have, and if you're receiving a complaint  
10 about serous hazardous conditions on a construction  
11 site, why would your employee wait a week before  
12 responding, and then not get back to the union  
13 months--

14 COMMISSIONER SILVER: I--

15 COUNCIL MEMBER TORRES: [interposing] And  
16 then four months later someone died as a result of  
17 this firm's utter disregard for safety protocols.

18 COMMISSIONER SILVER: I do not have the  
19 specifics of the emails and details. I do recall the  
20 matter that summer, but in terms of the details of  
21 how it was followed through by staff, I--I do not have  
22 those--that information, that timeline before me.

23 COUNCIL MEMBER TORRES: Was anyone held  
24 accountable as a result?



2 COMMISSIONER SILVER: I do not recall how  
3 the matter-- Again, I was not prepared for this  
4 question. It's something that we could certainly  
5 look into and find out the timeline. How staff  
6 responded to it, and what the final disposition of it  
7 was.

8 COUNCIL MEMBER TORRES: I know you're  
9 saying you're not prepared, but this is obviously not  
10 a run of the mill situation right? It's not everyday  
11 that someone dies as a result of disregard for safety  
12 protocols on one of your sites.

13 COMMISSIONER SILVER: Our record would  
14 show that we have an outstanding safety record, and  
15 the contractor in question no longer does business  
16 with the Parks Department.

17 COUNCIL MEMBER TORRES: I'd be curious to  
18 know who was held accountable. Just two final  
19 questions: What are your thoughts on PLA.

20 COMMISSIONER SILVER: Right now, we're in  
21 conversation with the city. We value work from our  
22 contractors. We do know there's a desire for more  
23 PLAs with the Parks Department. Right now we're just  
24 in conversations, and we look forward to having that

2 with the Administration and--and the various industry  
3 to find out what we can do with PLAs.

4 COUNCIL MEMBER TORRES: Are you in favor  
5 of a PLA?

6 COMMISSIONER SILVER: Right now we have  
7 some--some questions that we'd like to discussion. The  
8 administration will have those, and be on--

9 COUNCIL MEMBER TORRES: [interposing]  
10 What are those questions?

11 COMMISSIONER SILVER: Just some questions  
12 in general about--in terms of how the PLA, what the  
13 expectation is for the PLA. How it will benefit the  
14 agency. So as far as we're concerned we do know that  
15 the administration is having that conversation, and  
16 we will have that conversation at that time.

17 COUNCIL MEMBER TORRES: Well, one benefit  
18 could be removing the need for due diligence, which  
19 can drag up to eight months. Right, if you have  
20 union contractors who have an approval record of  
21 complying with prevailing wage standards, you're  
22 removing two to eight months from the process. That  
23 strikes me as an--as an appreciable improvement in the  
24 on-time performance of your capital program.

2 COMMISSIONER SILVER: As I stated, we're  
3 joining the administration and having that  
4 conversation about the PLAs and I'm sure we'll reach  
5 an amicable resolution sometime I'm sure this year.

6 COUNCIL MEMBER TORRES: I want to press  
7 you for what are your concerns on that?

8 COMMISSIONER SILVER: We're just over-we  
9 just want to have-we have some questions we've seen  
10 over time about the-the trend with some of the PLA  
11 contracts of how they've declined over time. So we  
12 just want to dig a little bit more just to understand  
13 the PLA itself, but we do know there is value, and  
14 they see that value in the PLA. We just want to have  
15 that conversation with the Administration just to see  
16 how we can address PLA with contracts going forward.

17 COUNCIL MEMBER TORRES: And do you have a  
18 timeline for when these conversations will come to an  
19 end. It went three years into your term--

20 COMMISSIONER SILVER: [interposing] The  
21 administration is driving those--

22 COUNCIL MEMBER TORRES: -so I'm worried  
23 it's going to be going on indefinitely.

24 COMMISSIONER SILVER: The Administration  
25 is driving those conversations. Again, these are

2 citywide issues even though Parks has been one that's  
3 been identified that they like to see more PLA  
4 contracts, but that's something the administration is  
5 taking the lead.

6 COUNCIL MEMBER TORRES: What about a  
7 prequalified list? Is that something you can decide  
8 unilaterally or is that decided--

9 COMMISSIONER SILVER: I think we already  
10 had a prequalified list.

11 COUNCIL MEMBER TORRES: You have a  
12 prequalified list?

13 DEPUTY COMMISSIONER BRADDOCK: We do have  
14 a prequalified list that has 35 contractors on it.

15 COUNCIL MEMBER TORRES: For everyone of  
16 your projects?

17 DEPUTY COMMISSIONER BRADDOCK: There's a  
18 prequalified list that is for non-complex site work  
19 that you can use for any-any particular project that  
20 meets the requirements of-of the PQL.

21 COUNCIL MEMBER TORRES: And what about  
22 for the rest of the site work?

23 DEPUTY COMMISSIONER BRADDOCK: It's only  
24 for a specific-specific non-complex work like  
25 excavation. I'm trying to think.

2 COMMISSIONER SILVER: Grading.

3 DEPUTY COMMISSIONER BRADDOCK: Grading,  
4 drainage, that kind of thing.

5 COUNCIL MEMBER TORRES: Okay, are there  
6 projects that are to which a prequalified list is not  
7 applicable?

8 DEPUTY COMMISSIONER BRADDOCK: Sure.

9 COUNCIL MEMBER TORRES: And why?

10 DEPUTY COMMISSIONER BRADDOCK: Well, in-  
11 in-in this case this has actually worked very-very  
12 well for us. We've had a total of 52 contracts that  
13 were registered against the-the-the PQL, and so we  
14 use it as much as we can where it is applicable.

15 COUNCIL MEMBER TORRES: Why not use it in  
16 other cases? On-on that?

17 DEPUTY COMMISSIONER BRADDOCK: It is  
18 specifically for non-complex general construction  
19 site work under \$3 million. So it has a specific  
20 scope of work that it can be used for.

21 COUNCIL MEMBER TORRES: But could you  
22 extend it more broadly, or are you bound by-

23 DEPUTY COMMISSIONER BRADDOCK: I can show  
24 this letter-we could certainly look into that. It's

25

2 not-citywide it's not something we've—we've looked at  
3 for the moment.

4 COUNCIL MEMBER TORRES: Okay. That's it  
5 for my questions. Thank you.

6 CHAIRPERSON LEVINE: Thank you, Council  
7 Member Torres. Just to clarify, are—is a study of a  
8 PLA underway? Does it require that formal—

9 COMMISSIONER SILVER: There is a—just a  
10 discussion. We know a recommendation has been made  
11 to expand PLA work with the Parks. I assume with  
12 other agencies as well. I don't know, but I do know  
13 that there is a conversation—that the administration  
14 is leading the conversation, and then when we're  
15 brought in to discuss it, we'll have that  
16 conversation. So I do know there is a desire on the  
17 industry side to see whether there can be an  
18 expansive PLA and Parks project.

19 CHAIRPERSON LEVINE: And look, and that  
20 could reduce your costs, and the idea of a study is  
21 let's—let's look at that, and get the facts, but—

22 COUNCIL MEMBER TORRES: Mr. Chairman--

23 CHAIRPERSON LEVINE: Please.

24 COUNCIL MEMBER TORRES: And I just know,  
25 and just want to say how wonderful the Bronx

2 Commissioner is. So I just want—it's—it's a widely  
3 shared sentiment among the Bronx Delegation here.  
4 I'd be remiss if I didn't say that.

5 COMMISSIONER SILVER: Something tells me  
6 I need to retire to be a borough commissioner.

7 DEPUTY COMMISSIONER BRADDOCK: That's  
8 right. [laughter]

9 CHAIRPERSON LEVINE: It's—it's  
10 unfortunate that no council members from Staten  
11 Island are here. So there's no shout-outs for it.  
12 It's no a De Long any more. It's--

13 COMMISSIONER SILVER: Linda Ricciardone.

14 DEPUTY COMMISSIONER BRADDOCK: Linda is  
15 here.

16 COMMISSIONER SILVER: So I'll give her a  
17 shout-out. We have an amazing Staten Island  
18 Commissioner Linda Ricciardone. Just wave your hand  
19 so I know who you are. [laughter]

20 CHAIRPERSON LEVINE: Hi, Linda.

21 COMMISSIONER SILVER: Yes.

22 CHAIRPERSON LEVINE: Alright, we have a  
23 second round question from Council Member Grodenchik.

24 COUNCIL MEMBER GRODENCHIK: Thank you  
25 very much, Mr. Chair. My favorite issue in all the

2 city of the Public Design Commission. We actually  
3 passed legislation yesterday requiring them to tile  
4 an annual report for the first time in over 115  
5 years, and since they were formed. So that might  
6 help. Nobody really seems to know what they do. We  
7 know what they do, but, you know. Let me ask you a  
8 question. How long from the time that you submit  
9 documents to PDC, do they have to get back to you on  
10 their review, their first round of review?

11 DEPUTY COMMISSIONER BRADDOCK: They hold  
12 monthly-monthly meetings, and so we submit in one  
13 month, and then the projects are reviewed the  
14 following month, but it's a---I think we--as both  
15 Commissioner Silver and I have said, we've actually  
16 struck up a very, very good collaborative working  
17 relationship with them. Again, the statistics show  
18 that we--many years ago we only in our first  
19 submission to them we only got through on 20% of  
20 projects. We're now up to 83% of the projects get  
21 approved on the first go-round. It has taken on both  
22 parts quite a bit of an education process.  
23 Commissioner Silver has been front and center in  
24 that. We've made several presentations to the entire  
25 Commission, the Board members themselves to explain



2 the philosophy behind some of our design, and that  
3 has really helped in terms of getting that approval  
4 rating up.

5 COUNCIL MEMBER GRODENCHIK: Have you  
6 worked with them on standardizing designs so that  
7 they don't poke at everything and, you know, it's-

8 COMMISSIONER SILVER: [interposing] Yes.

9 COUNCIL MEMBER GRODENCHIK: -it's like  
10 buying a used car, you know.

11 COMMISSIONER SILVER: We would—we would  
12 know we were going to certain standardized design.  
13 We brought it to them in advance. Very recently, the  
14 comfort stations worked on—we now have just the  
15 palette of screening and colors. In some cases, PDC  
16 is interested in colors. So we came up with a color  
17 palette, a screening palette with the comfort station  
18 that's standardized. We're doing that where we start  
19 seeing repetitive projects in order to expedite the  
20 process, and they appreciate that heads up.

21 COUNCIL MEMBER GRODENCHIK: And generally  
22 if they don't approve on the first time, would it be  
23 fair to say that they approve it the second time  
24 around or--?

25 COMMISSIONER SILVER: Yes.

2 DEPUTY COMMISSIONER BRADDOCK: Yes.

3 COUNCIL MEMBER GRODENCHIK: Because I  
4 know I've heard of, you know, in years past, and I'm  
5 going back a while.

6 COMMISSIONER SILVER: It is fair.

7 COUNCIL MEMBER GRODENCHIK: It is six  
8 times, seven times. You know, it's just—it's head  
9 banging against the wall, the timing. It just—it  
10 just drives you nuts.

11 DEPUTY COMMISSIONER BRADDOCK: I—we—we do  
12 that. At one point in time it was. It could be very  
13 frustrating. It is not that way any longer. That's  
14 not to say that there aren't sometimes or where they  
15 might have some comments and we might have to do a  
16 little bit of reworking, but it is a very positive  
17 working relationship.

18 COUNCIL MEMBER GRODENCHIK: Okay.  
19 Commissioner, I'm going to give you a shout-out  
20 because we all do appreciate what you're doing. We-  
21 we love our borough commissioners. We love you, too.

22 COMMISSIONER SILVER: I see that.

23 COUNCIL MEMBER GRODENCHIK: We love you,  
24 too.

25 COMMISSIONER SILVER: I love them, too.

2 COUNCIL MEMBER GRODENCHIK: And it's-it's  
3 nice to see you as much as we do in Queens, and I  
4 know especially in my part of Queens where I have  
5 over a thousand acres of parkland and the oldest  
6 tree, the biggest tree in the city. You know, public  
7 springs although those are in Paul Vallone's district  
8 which are with him, but-

9 COMMISSIONER SILVER: And--and Chair, I-I  
10 understand the concern of Council. Starting in 2014  
11 as I had stated upfront this is probably the project  
12 or the initiative I'm most proud of. It is very  
13 difficult to look at projects that preceded 2014. I  
14 do know the numbers speak for itself, and there are  
15 some specific projects you've experienced. I had  
16 eleven of your 16. I don't know where the other  
17 five-maybe those are the ones that are still in the  
18 queue, and were not fully funded. But we're still  
19 committed to move this forward, and so I'd be very  
20 pleased this fall when we're able to measure the full  
21 three-month period since I've been here to see how-  
22 three-year period. I'm sorry-since I've been here to  
23 see how these innovations have taken hold, but we're  
24 certainly committed, and I've got a number of ideas  
25 from this meeting itself on how we can improve the

2 process further. But from my perspective this whole  
3 issue about the capital process we want it to be a  
4 legacy of the past, and in my opinion, we've turned  
5 the corner. The numbers are showing it, but I think  
6 there are still some discrete projects of, you know,  
7 within that 12 to 10% that not hitting the number I  
8 think was really elevated and show at this meeting.  
9 But I'm particularly proud of my staff for really  
10 working beyond the call of duty to make sure that  
11 we're that we're improving the process for all of New  
12 Yorkers.

13 CHAIRPERSON LEVINE: Right, and—and we  
14 appreciate that effort, and your prioritizing this.  
15 Anecdotes only get us so far, and I think we probably  
16 agree on that, which is why we need data, and a few  
17 very simple pieces of data can settle questions about  
18 whether we're improving the timeliness. Simply  
19 averaging the day from funding to ribbon cutting--

20 COMMISSIONER SILVER: Right.

21 CHAIRPERSON LEVINE: --across a  
22 relatively small number of parks that we finish every  
23 year is going to tell us a powerful amount. I—I do  
24 have a question, one or two more and then—then we'll  
25 let you guys go, but on—on prior issue with the

2 timeliness, which is the budget, and you set I think  
3 a very high number for the percent of projects which  
4 are on budget, 86.

5 COMMISSIONER SILVER: Correct. 80-on  
6 time 86. On budget 88.

7 CHAIRPERSON LEVINE: So, here—here again  
8 it just an incredible dissonance is what I've  
9 experienced. You don't include budget overruns in  
10 the Parks Tracker. So I can't give you a global view  
11 on that, but I can tell you for the parks in my  
12 district at least half have had budget adjustments  
13 up, and—and you're not done. So, it could be much  
14 higher than that eventually. So I'm wondering where  
15 again this is a case of you only holding yourself  
16 accountable for cost overruns that are incurred  
17 during the construction phase, and not during the  
18 other phases.

19 DEPUTY COMMISSIONER BRADDOCK: Yes, that—  
20 that is—that is accurate. That—that measure is for  
21 the period in construction. The—it might be a matter  
22 of semantics. When say a cost overrun during design,  
23 you're estimating something, and you're coming up  
24 with the estimate, but then you have to wait until  
25 through procurement obviously to know what the bid

2 price is. So, sometimes that estimate doesn't match  
3 up with the--with the bid price. That for us is--is  
4 just disconcerting. You have a shortfall in your  
5 budget. It's not a cost overrun in--in capital space  
6 shall we--shall we say. It's just like you don't--you  
7 have a funding shortfall. You don't have--

8 CHAIRPERSON LEVINE: [interposing] Right,  
9 explaining the difference between a--

10 DEPUTY COMMISSIONER BRADDOCK:  
11 [interposing] Allocation.

12 CHAIRPERSON LEVINE: --funding shortfall  
13 and a--and a cost overrun.

14 DEPUTY COMMISSIONER BRADDOCK: No, a cost  
15 overrun is typically when you're in construction, and  
16 you have a project where you don't have enough money  
17 to complete the construction. You've already awarded  
18 the contract. We've set aside money, and for some  
19 reason, you've come up with--

20 CHAIRPERSON LEVINE: [interposing] A  
21 change order.

22 DEPUTY COMMISSIONER BRADDOCK: --a change  
23 order or something that caused your project budget to  
24 increase. Okay, as opposed to when you're developing

2 an estimate that is going to get you to a project  
3 that is actually awarded.

4 CHAIRPERSON LEVINE: Right but--

5 DEPUTY COMMISSIONER BRADDOCK:

6 [interposing] Sometimes that's a project shortfall.  
7 You just--you don't have enough money to award the  
8 job.

9 CHAIRPERSON LEVINE: Look, here again,  
10 from a the public's perspective, the cause of the  
11 disparity--

12 DEPUTY COMMISSIONER BRADDOCK:

13 [interposing] Of the shortfall.

14 CHAIRPERSON LEVINE: --and what you've  
15 funded and what it costs is almost irrelevant. They--  
16 they know that the taxpayers put in \$5 million--

17 DEPUTY COMMISSIONER BRADDOCK:

18 [interposing] And then it's not enough.

19 CHAIRPERSON LEVINE: --and they were told  
20 at the time they'd get a new playground, and then a  
21 year later they were told oops, it's \$6 million and  
22 the 18 months after that it's \$6.5, and--but that  
23 could be because of design change. It could be  
24 because of procurement challenges you didn't foresee.  
25 Estimators could have been inaccurate.

2 DEPUTY COMMISSIONER BRADDOCK: Uh-huh.

3 CHAIRPERSON LEVINE: Unforeseen site  
4 commissions. There's--there's a myriad of potential  
5 causes for that overrun, but, you know, that--that's  
6 why we pay people to be estimators so they can  
7 account for that, and--and if they're doing their job  
8 right, they should on average be no more likely to be  
9 over than under, but that's not what we're seeing out  
10 there, and the public is rightly upset.

11 COMMISSIONER SILVER: And we are upset.  
12 It's--it's very difficult because--and it's not just  
13 us. We've had meetings with our partners, DDC, DOT  
14 all of them saying the same thing. We--DDC in some  
15 cases bills our projects and they're coming back and  
16 in a state of shock, and they have to tell us that  
17 they need more. So the same conversation we had with  
18 you, DDC has with us because they're building it for  
19 us, and because these are larger projects, the  
20 numbers are even larger. So we're experiencing the  
21 same thing, and we're just seeing across the board  
22 this is a hot market, and our estimators are even.  
23 I've asked staff to even with the estimators to see  
24 if they can increase it to what is permissible by  
25 percentages, and even then we're still off. So, it's



2 just something where estimators are estimating. It's  
3 not a perfect science. If this was a very weak  
4 market right now, you'd probably see it a lot better.  
5 If it was a very strong market, a lot of competition  
6 and as a result, we're just seeing prices that we're  
7 sitting back in a state of shock.

8 CHAIRPERSON LEVINE: Right. So on the  
9 Parks Tracker and there's--there's only one number  
10 provided, which I presume was the funding allocated  
11 at the start of the project. Is that right?

12 [background comments]

13 DEPUTY COMMISSIONER BRADDOCK: The queen  
14 of our tracker.

15 CHAIRPERSON LEVINE: Okay.

16 DEPUTY COMMISSIONER BRADDOCK: This is  
17 her, Diane.

18 DIANE: In the beginning before the  
19 project is actually then awarded, we give a range of  
20 what we expect the project is going to cost, and then  
21 once the project is actually--the contract is actually  
22 awarded, then the dollar-dollar figure shows--

23 CHAIRPERSON LEVINE: Okay.

24 DIANE: --shows on the Tracker.

2 CHAIRPERSON LEVINE: But should there be  
3 a change subsequent to that, there's no indication of  
4 that on the public documents right. I certainly  
5 don't--there's some parts in my district where we've  
6 gotten increases in price, and it's the original  
7 number that's still down there, and so it makes it  
8 impossible for--

9 DIANE: Increases while you're in  
10 construction?

11 CHAIRPERSON LEVINE: I couldn't tell you  
12 that specifically, but we--we were asked to find more  
13 money, and it's--it's the original number that is  
14 still. It's--

15 DIANE: [interposing] It's prior. It's  
16 prior. Prior okay.

17 CHAIRPERSON LEVINE: But still--

18 DIANE: It's prior. Okay, that explains  
19 that.

20 CHAIRPERSON LEVINE: But at least on the  
21 timeline question we can see the original completion  
22 date--

23 DIANE: Yes.

24 CHAIRPERSON LEVINE: --estimated actually  
25 complete dates, but on the--the spending front, we

2 have no comparison. The public has no access to that  
3 information right now. Why not include a history of  
4 your price adjustments.

5           MICHAEL D'AMBROSIO: Well, if I may  
6 actually, one of the complicating factors I think is  
7 that how the funding comes together. It varies  
8 pretty widely. So—so for example a council member  
9 might, you know, without consulting anyone frankly  
10 making allocation. Should that be considered the  
11 original project budget? I think we should argue it  
12 wouldn't. So I think there's a degree to which, you  
13 know, I think we recognize your point, and that's  
14 valuable to take this—

15           CHAIRPERSON LEVINE: You—you can take—you  
16 can take—take any trigger that certifies the number,  
17 but then let's track when that changes.

18           MICHAEL D'AMBROSIO: Sure. I guess for  
19 us the most valuable metric we think is when the—when  
20 the—when the contract is awarded. So I mean that's—  
21 that's the most sort of, you know, solid.

22           COMMISSIONER SILVER: We'll—we'll take  
23 that recommendation back, and see how we can  
24 incorporate it.

2 CHAIRPERSON LEVINE: Yeah, and—and are  
3 other item on the—the Tracker, which it would be  
4 helpful. You don't list the name of the contractor  
5 or contractors. Is there—what's the rationale for  
6 that? [background comments]

7 COMMISSIONER SILVER: I—I don't know. I  
8 think initially the goal of the Tracker was to give  
9 someone a status of where it was in the process.  
10 That's how we built it. It was a searchable  
11 database. You could look in your borough, look in  
12 neighborhood, and find out by a bar where the project  
13 is because that's what I was hearing. There was just  
14 this mystery about where it stood. So the initial  
15 intent and it's tied to one of our internal  
16 databases. I just don't know if those if those  
17 fields—because there are so many projects, we did not  
18 want someone to go in there and type it in manually.  
19 That enters human error. So it was tied to one of  
20 our internal databases that just puts that out. I  
21 have to find out if that internal database has those  
22 elements in them that could be then translated to the  
23 Tracker.

24 MICHAEL D'AMBROSIO: I think I can also  
25 add that I—this is one of sort of a transparency and

2 about the contracting process. It also kind of fits  
3 into that bucket. Like I think one of things they  
4 are exploring, and I think there's some proposed  
5 legislation out there about, is, you know, public  
6 access to that type of information. So I think from  
7 our perspective that sort of—it's a little more into  
8 that citywide conversation about the procurement  
9 process in general

10 COMMISSIONER SILVER: Right, and—and in  
11 general, we'd rather if there are concerns or  
12 complaints come directly to the Parks. We'll talk to  
13 the contractors. That is something we—the  
14 contractors work for us. We're not sure having the  
15 contractor. If a Council Member wants to know who  
16 the contractor is we'll supply that, but we certainly  
17 want to make sure that there's a concern that the  
18 public contacts us. Then we can find out who the  
19 contractor is if there's a specific issue.

20 CHAIRPERSON LEVINE: Alright. So, we're—  
21 we're huge fans of the Community Parks Initiative  
22 here, and—and you are rightly proud of—of that great,  
23 great initiative. Can you say anything about the  
24 speed of implementation of those capital projects?

2           COMMISSIONER SILVER: All the projects,  
3 CPI including others that started in the fall of  
4 2014, are all benefitting from the expedited process.  
5 So there's no advantage or booster put on the CPI  
6 projects compared to others. When I made these  
7 changes that went into place in the fall of 2014,  
8 were CPI and other projects, and so that's why I was  
9 saying earlier we want to see after three years how  
10 all those projects, CPI and others are performing.  
11 So it went in with other projects when they kicked it  
12 off, a new streamlined process.

13           CHAIRPERSON LEVINE: I have to say my-my  
14 anecdotal experience has been the CPI stuff moves  
15 really fast, which is great, but move very quickly to  
16 community meetings, et cetera. But you're saying  
17 that it's-it's-there's no distinction between the CPI  
18 timeline and-?

19           COMMISSIONER SILVER: There was probably  
20 more press attention. So I think it got highlighted  
21 more, but we now require scope meetings for all of  
22 our projects moving from the afternoon to the  
23 evening, and so a lot of projects that went out to  
24 even your community now have scope meetings. CPI  
25 just got more attention so there was more notice of

2 them than some of the others, but there were a lot  
3 that had just moved quickly through the process along  
4 with CPI projects.

5 CHAIRPERSON LEVINE: Thank you. I know  
6 Council Member Grodenchik has another and final  
7 question.

8 COUNCIL MEMBER GRODENCHIK: I just want  
9 to make a comment to what Councilman Torres said  
10 before about in-house work. You know, competition  
11 breeds success and it breeds fast results, and I do  
12 know—I kind of remember being at the arsenal seeing  
13 that amount of workers that you had at the Parks  
14 Department a long time ago, that big sign. I vaguely  
15 remember it. But you would be able to deploy people  
16 a lot faster, and you would be in competition with  
17 your own contractors, which might be a good thing.  
18 It might scare them. So I would just gently ask you  
19 to take a very serious look at that. I remember  
20 years ago when I worked for Claire Shulman, she had  
21 funded maybe not the—the right word, but a SWAT team.  
22 That's what we called them for—for-not for Parks, but  
23 for schools, and every month she would get a report  
24 from the Department of Education, SCA, about where  
25 they had visited, and it had a skilled tradesperson,

2 you know an electrician or plumber paint or whatever  
3 needed to be done, and they went into every school,  
4 and that might be something you can say that's not a  
5 capital thing, but it's—it's a nice idea for Parks  
6 because at least, you know, each park manager would  
7 know if they expect things. I know that the parks in  
8 my community are in a great state of repair—

9 COMMISSIONER SILVER: [interposing]  
10 Right.

11 COUNCIL MEMBER GRODENCHIK: --but it's  
12 just a couple of things to think about.

13 COMMISSIONER SILVER: And I agree. I  
14 mean we currently have that right now. We have both  
15 citywide trades and borough trades, and they do  
16 exactly what you're suggesting. They just go in and  
17 if it's a bench repair or something to fix on a  
18 comfort station, they do that. This one is very  
19 specific. It's having a team, and when you pull the  
20 team away, we have work orders that we generate to do  
21 the work in a SWAT team fashion. It will pull that  
22 team away as they focus specifically on a comfort  
23 station. So that's what we're doing as a pilot to  
24 see how it works. If we wanted to replicate that and  
25 have a team exclusively to do comfort stations, we'd



2 have to see how long it takes, do the full  
3 renovation, and then that group is offline to do  
4 other work with Parks. So again, it's a balance. So  
5 we're looking at the pilot, seeing if can work,  
6 whether we need to staff it more to be more  
7 successful going forward, but we'll certainly report  
8 back on our success with that.

9 COUNCIL MEMBER GRODENCHIK: [interposing]  
10 I would appreciate that I know, and ask the chair to  
11 follow up with you on maybe in the fall about that.  
12 I'm not a member of this committee, but as I said,  
13 hope springs eternal. [laughter]

14 CHAIRPERSON LEVINE: We wish you were,  
15 and you're welcome back any time.

16 COMMISSIONER SILVER: Yeah, we know how  
17 much you love parks.

18 COUNCIL MEMBER GRODENCHIK: Thank you,  
19 Commissioner and thank you Mr. Chair.

20 CHAIRPERSON LEVINE: Thank you, Mr.  
21 Grodenchik and thank you very much the Administration  
22 for your extended testimony and questions. Thank  
23 you, and I'm now going to call up the first panel of  
24 witnesses, which is Lowell Barton from Local 1010;  
25 Denise Richardson from the General Contractors

2 Association; and Klari Neuwelt, if I'm pronouncing  
3 that correctly from CB7 Manhattan. [background  
4 comments, pause] You want to kick us off?

5           LOWELL BARTON: Yes. Thank you very  
6 much.

7           CHAIRPERSON LEVINE: Of course.

8           LOWELL BARTON: Laborers' Local 1010 is  
9 the premier paving road building union in New York  
10 City. Our members work together to build parks,  
11 streets, bridges and highways throughout the five  
12 boroughs of New York City. Local 1010 is an  
13 affiliate of New York State Laborers representing  
14 40,000 men and women across the state. It's a proud  
15 affiliated of the Laborers' International Union of  
16 North America, LIUNA. I would like to thank the City  
17 Council on Park-on Parks and Recreation and Chari  
18 Mark Levine for holding this hearing today as well as  
19 Council Member Ritchie Torres for introducing  
20 legislation to ensure accountability and transparency  
21 of New York City agencies especially the Department  
22 of Parks and Recreation regarding regular updates to  
23 Council Members on the status of each phase of those  
24 projects. Capital project delays in parks prevent  
25 community members from using New York City parks for

2 months and sometimes years at a time. Laborers'  
3 Local 1010 and New York Laborers' Union support  
4 Introduction 1340, which would provide regular  
5 updates of council members who fund capital projects  
6 in the parks on this bill. Let them know the status  
7 of those projects, and notification to a contractor  
8 when they're denied payment for work done by such  
9 contract on a—on a park capital project including the  
10 reasons for such denial, and the process for the  
11 contractors to satisfactorily complete the project  
12 and receive payment. New York City must protect the  
13 public from the devastating results of—due to lack of  
14 accountability and delays of DPR to provide timely  
15 and safe projects to community members. For this  
16 reason, Laborer's Local 1010 and the New York State  
17 Laborers applaud the steps that New York City Council  
18 Members are taking to better start—better alert  
19 community members of any delays and to hold DPR  
20 accountable on those projects deadline and safety  
21 measures. In 2013, New York City Controller—  
22 Controller found that half of New York City Park  
23 capital projects were behind schedule. The Audit  
24 Report on the Department of Parks and Recreation of  
25 oversight of capital projects highlights the

2 tremendous delays that a New York City DPR capital  
3 projects can have with delays ranging from one day to  
4 1,181 days. A brief overview of the projects listed  
5 on the DPR Tracker show not much has changed since  
6 the 2013 audit. Of the 30 citywide projects listed  
7 as completed on the DPR Capital Project Tracker, 28  
8 had some sort of delay ranging from 2 to 31 months.  
9 Additionally, of the first 22 active projects listed  
10 as being in the Bronx on the DPR Capital Project  
11 Tracker 19 have delays ranging from on 1 to 37  
12 months. While this does not include all of the  
13 current active projects in that borough, we ware  
14 confident that further research would expose a  
15 similar result. Finally, of all the projects pulled  
16 from the Capital Project Tracker during the week of  
17 December 19, 2016, 58 had delays ranging from one  
18 month to 24 months. Why should council members  
19 continue to allocate funds to DPR or should  
20 committees trust an agency that is not meeting their  
21 own deadlines set forth? Unfortunately, while delays  
22 are an issue, there are worse outcomes due to lack of  
23 accountability and transparency of DPR. DPR also  
24 often fails to accurately vet awarded contractors to

2 ensure they are abiding by the law, and do not have a  
3 history of in compliance.

4           In the aftermath of Hurricane Sandy, the  
5 Department of Parks and Recreation caused that New  
6 Jersey based RML Construction to move trees at  
7 Richard Street new Pioneer Street in Red Hook located  
8 in Council Member Menchaca's district. The city  
9 rules required the firm to use four-person crews  
10 including the foreman for removal of street trees.  
11 The company admittedly—admittedly only used two men.  
12 In addition, the area was not properly secured with  
13 cones or tapes, and the City also requires, and there  
14 was no DPR oversight. The failure to comply resulted  
15 in the death of 48-year-old Jing An Liu. This  
16 tragedy could have been prevented with the following  
17 or property protocol. Congresswoman Nydia Valazquez  
18 shortly after the incident also made a statement  
19 expressing her concern. The Congresswoman questioned  
20 whether the contractor had followed safety protocols  
21 that might have prevented Liu's tragic death. The  
22 New York State Laborer's have submitted a detailed  
23 FOIL request to collect all the information  
24 pertaining to this case to ensure faulty contractors  
25 are held accountable for their actions. Initially,

2 FOIL request received show that no comprehensive  
3 investigation had been conducted following the  
4 incident, and that no form of standard safety  
5 protocols had been instituted. Contractors such as  
6 RML Construction were hired by the Department of  
7 Parks and do not follow City requirements are putting  
8 pedestrians and workers' lives at risk. Most  
9 troubling regarding this incident prior to this  
10 accident, I alerted the New York City—I alerted  
11 employees at Parks the potential for danger on  
12 multiple sites by RML Construction. These emails  
13 were sent from July 15<sup>th</sup> to September 16<sup>th</sup>, 2015.  
14 They expressed concern for the safety of the workers  
15 on the job site, and the surrounding pedestrians. I  
16 included photographs. I took myself on safety  
17 hazards on the surrounding-surrounding job site.  
18 Despite RML's poor safety record and proved evidence,  
19 the—and the provided evidence, the DPR allowed them  
20 to continue work, and other jobs ultimately resulting  
21 in the death of a New Yorker.

22 In addition, KNS Contracting, also  
23 awarded the contracts through the Department of Parks  
24 and Recreation in Ritchie Torres' district, were  
25 found to have violated Labor Law Section 220 by

2 willingly failing to pay 36 of its workers the  
3 prevailing rate of wages and benefits on public  
4 works, falsified payroll documents, employed  
5 kickbacks on wages to avoid paying the prevailing  
6 wage. According to a recent OATH decision, KNS  
7 Contracting now owes \$3.2 million to their workers.  
8 Today, I just learned that they were unbonded. So  
9 probably those workers will not get the money that  
10 they deserve, and this happens again and again  
11 because recently immigrant workers are the target of  
12 corrupt contractors, and they are exploited again and  
13 again, so they just take their wages. And when it's  
14 found that these contractors are robbing them again  
15 and again and again, and they get caught, nothing  
16 happens to the contractor except "Pay them back."

17 Let's see. KNS was awarded a quarter  
18 mile bike path along the Bronx River known as the  
19 Bronx River West Farms Bike Path located on the  
20 border of Council Districts 15 and 17. This project  
21 originally began construction in 2008. It saw  
22 significant delays. The project award was originally  
23 award \$1.8 million. This project was expected to take  
24 one year. It was put on hold. Since then, KNS  
25 Contracting was investigated for alleged allegations

2 listed above. The project was posted again in 2014  
3 through DPR, and is still currently in the  
4 procurement process. I believe KNS workers would  
5 have lost less of their wages if we had the proper  
6 documentation to flag this case earlier.

7 Unfortunately, because of the long turnaround, it  
8 received a FOIL request information I made for the  
9 certified payment. This was not possible. Proper  
10 vet-proper vetting of contractors that weed out bad  
11 actors who skirt the law, pose a higher risk to  
12 community members and workers. So when we make a  
13 simple request for a certified payroll, who's doing  
14 the job, what's going on, these take months. BDC it  
15 took a year on one contract, and all we're looking to  
16 do is find out what the story is so we can explain to  
17 the workers what's going on. This helps the case,  
18 and what's really said is that when a worker has  
19 stolen wages, the City Controller only goes back two  
20 years to pay them the wages. So if you wait a year  
21 or wait seven months to get those certified payrolls  
22 to start that case, that worker will receive pennies  
23 on the dollar.

24 In conclusion, Intro 1340 will begin the  
25 process of ensuring that the Department of Parks and



2 Recreation follow a transparent process and are  
3 accountable to the City Council Members and community  
4 members. As a member and Vice President of a 1,700-  
5 member construction local, it is imperative that the  
6 agency oversee the timely process of capital projects  
7 to prioritize integrity and safety on all job sites.  
8 Thank you for the consideration of our comments. We  
9 look forward to continue to work with the City  
10 Council to create meaningful accountability in our  
11 city.

12 CHAIRPERSON LEVINE: Thank you so much,  
13 Mr. Lowell for your informative and impassioned  
14 testimony. We can't emphasize enough that the  
15 victims of these unscrupulous contractors, and it  
16 isn't the public who might be in danger, are workers  
17 themselves who are often if there is a language  
18 ability or citizenship status, and they are fearful  
19 of coming forward, and that makes it easy for a  
20 contractor with no morals to exploit them. And we as  
21 a city have to do everything in our power to prevent  
22 that from ever happening to protecting every worker.  
23 So that no one gets cheated out of their wages, and  
24 no one's life is in danger, public or worker, and I

2 really thank for bringing these issues to light  
3 today. Thank you very much. Okay, Ms. Richardson.

4 DENISE RICHARDSON: Thank you. In the  
5 interest of time, I will just state that the General  
6 Contractors' Association supports both measures, and  
7 you can take a look at my testimony. I want to  
8 address a couple of things that came up in the course  
9 of the hearing.

10 CHAIRPERSON LEVINE: Yes.

11 DENISE RICHARDSON: In terms of Parks and  
12 the procurement cycle, one thing that I do think will  
13 help significantly is MOCS proposal to automate the  
14 Vendex process. That has been a bottleneck for  
15 years, and I think that that will help in that seven  
16 to ten-month timeframe, and that's something that we  
17 are also supporting. The other thing that I want to  
18 point out to address your concern as a Council Member  
19 in terms of what happens from the time that you  
20 allocate money for a project and Parks actually  
21 begins work. There needs to be some tighter  
22 coordination with OMB and the CP approval process.  
23 There's almost--there's very little relationship  
24 between the time that you actually put money in the  
25 budget for a particular project and OMB approves the

2 CP, which is Parks' signal that they can start work.

3 So some tighter coordination in that area will help

4 address your concerns about why it takes so long. So

5 I just wanted to highlight that.

6 CHAIRPERSON LEVINE: It's the delay  
7 between the budget approval and the CP approval.

8 DENISE RICHARDSON: [interposing] It  
9 could be a year. It could be--

10 CHAIRPERSON LEVINE: [interposing] Wow.

11 DENISE RICHARDSON: --six months. It  
12 could be two months. It's--it's a very fluid process,  
13 and I think that that's something that you could look  
14 at to kind of improve that coordination. I'm just  
15 kind of looking back from my city budget days to  
16 address that. Also, I--I know the issue of comfort  
17 stations was a big one today. So I just want to  
18 point out a couple of things. That--that you, what  
19 the Council Members should look at when they're  
20 looking at a comfort station in a park. One of the  
21 big cost drivers in the whole issue of comfort  
22 stations--and everybody looks at it as well it's just  
23 like this simple little building---is what is the  
24 distance from the comfort station to the water and  
25 sewer main that you're tapping into, and in many of

2 the parks, you don't have that existing  
3 infrastructure. So a big issue when you come back  
4 with the initial estimate of why—why is the comfort  
5 station going to cost so much is to look at alternate  
6 locations where you can move the comfort station  
7 closer to the existing water and sewer main that  
8 you're going to be tapping into.

9 CHAIRPERSON LEVINE: [interposing] But—  
10 but--

11 DENISE RICHARDSON: That is a significant  
12 cost driver.

13 CHAIRPERSON LEVINE: Right, but even  
14 renovations, which presume we don't need any storm  
15 drains moved or water mains moved, are running \$1.7  
16 million according the Parks Department.

17 DENISE RICHARDSON: I've—I've got some  
18 emails out to a couple of our members who are, in  
19 fact, doing comfort stations, and my understanding is  
20 that they're both new construction. And so, I will  
21 get back to you with some information on what the  
22 cost drivers are. But in terms of the new station,  
23 the site work issue is something that should be  
24 looked at all the time to try and make that a little  
25 bit more efficient. Because once you start to bring

2 in the water and sewer main, then you're looking at  
3 ripping up existing work and all of that.

4 CHAIRPERSON LEVINE: [interposing]

5 Absolutely understood, and can--can you comment on the  
6 extent to which there is currently today a problem  
7 with invoices not being paid, and is that impacting  
8 the--your members of the type for--

9 DENISE RICHARDSON: [interposing] It's  
10 still, the payment process is still a concern. It  
11 definitely determines whether or not a contractor  
12 will bid, whether or not there is--you know, since our  
13 members kind of walked away from Parks work, we have  
14 picked up the School Construction Authority  
15 playground work. They're just doing them right now.

16 CHAIRPERSON LEVINE: [interposing] Well,  
17 hold on--hold on. That's a great comment you just  
18 said. I just want to--I want to rewind the tape  
19 there. So you said your members have walked away  
20 from the Parks Department.

21 DENISE RICHARDSON: For the most part  
22 yes. If you look back, again, I appreciate their  
23 data from the last couple of years, but if you look  
24 back historically, if you look back ten years or even  
25 20 years ago, the GCA members probably built better

2 than three-quarters of the parks in-in the city. And  
3 if you look back to our history, our very long  
4 history, that was how many of us started our  
5 businesses. And we have left that work because of  
6 issues associated with payment, design problems,  
7 construction problems, as the School Construction  
8 Authority playground work became more robust. Most  
9 companies who do Parks' work specialize in Parks  
10 work. And so, as we've had other opportunities with  
11 the State, and with the SCA, and was part of, you  
12 know, some of DOT's street reconstruction projects  
13 and DDC's projects, we have moved that expertise away  
14 from working for Parks and working other agencies.

15 CHAIRPERSON LEVINE: [interposing] Well,  
16 I'm glad that for your business that you've go other  
17 agencies where you can get contracts, but it's-it's a  
18 huge loss for the city if you're not applying-if  
19 you're not bidding on Parks' projects, and we need to  
20 figure out what barriers we have to remove so that  
21 you feel that it is-it is worthwhile to bid because  
22 otherwise we're going to be paying inflated prices.  
23 We're going to reduce quality. We're going to face  
24 risks to worker wellbeing, and that's not good for  
25 anybody. So, if you have some-some distinct thoughts

2 on that now. Otherwise, I'd love to talk to you  
3 offline about what do we need to do? What barriers  
4 do we have to break through to make it worth your  
5 while to bid on this work?

6 DENISE RICHARDSON: Well, I think that  
7 Parks is—you know, they presented a lot of  
8 information today about improving—improvements that  
9 they're trying to make for the contractors that are  
10 doing Parks work right now. I can say that they are  
11 experiencing varying degrees of difficulties, and  
12 again, part of the issue is in any of the large  
13 capital agencies, and I would consider Parks one of  
14 them, what happens at the level of the Commissioner,  
15 and what happens at the level of the field is often  
16 very different, and I think that we're still  
17 experiencing some of that to a large extent.

18 CHAIRPERSON LEVINE: Alright, well we—we  
19 appreciate you being here, and for helping to shed  
20 light on this, and we want to work with you as well  
21 as with Local 1010 on solving this very, very  
22 important problem.

23 DENISE RICHARDSON: Thank you.

24 CHAIRPERSON LEVINE: Thank you both.  
25 Okay, please.

2 KLARI NEUWELT: I'm Klari Neuwelt. I'm  
3 Chair of the Parks and Environment Committee's  
4 Community Board 7 member--

5 CHAIRPERSON LEVINE: [interposing] Is-is  
6 your button on for the mic, ma'am?

7 KLARI NEUWELT: Okay, what do I need to  
8 do?

9 CHAIRPERSON LEVINE: Okay. Thank you,  
10 Sergeant.

11 KLARI NEUWELT: Okay, I'm Klari Neuwelt,  
12 Chair of the Parks and Environment Committee of  
13 Community Board 7. We support Intros 407 and 1340,  
14 both of which require updated on DPR capital projects  
15 to Council Members who have secured funding for those  
16 projects. However, we also strongly urge that the  
17 bills be amended to require the same notice at the  
18 same time to the Community Board in whose district  
19 the projects are located; the identification of the  
20 need for a DPR--the need for a DPR capital project,  
21 the security of funding, the planning and the  
22 construction most often involve a three-way  
23 collaboration among elected officials usually but not  
24 always the Council Member or members, the Community  
25 Board and DPR. For example CB7 I believe like other



2 community board develops its annual list of capital  
3 projects for DPR—of capital priorities for DPR  
4 projects in consultation with DPR staff. We then  
5 actively work with our Council Members and other  
6 elected officials to have funds allocated for  
7 projects that we've identified as priorities. CB7  
8 then also tries as best we can to monitor and support  
9 the progress of capital projects from the time when  
10 the funds are allocated through their completion.  
11 However, as discussed extensively today, a large  
12 percentage of such projects for which funds have been  
13 allocated take years from that point until completion  
14 even under the smoothest of circumstances, but even  
15 worse in many instances, the bids from contactors come  
16 in over the amount that's allocated and available, a  
17 situation that is sometimes exacerbated by DPR's  
18 combining numerous or other unrelated projects in one  
19 bidding package bundling as was referred to today.  
20 So it does it that often, and sometimes what happens  
21 is one or more high priority projects that's part of  
22 the bundle ends up in limbo for long periods because  
23 another project is over-budget and the one that we  
24 care about wasn't, but it's bundled and in limbo.  
25 Sometimes as a result of bids that are too high or

2 for other reasons, the plans that are shown to CB7  
3 for approval are modified along the way either prior  
4 to contract or by change order after construction is  
5 underway. Even if the plans are not changed, there  
6 are often long delays during the course of  
7 construction. We may think that a project will be  
8 completed within the announced schedule, and have  
9 notified our—and repeatedly told our communities that  
10 what we've been told only to discover that  
11 construction has not even started or is way behind  
12 the projected schedule. It's often through our own  
13 commitment to following the progress of these capital  
14 projects, and our own diligence at CB7 that we  
15 learned from questioning DPR and not the other way  
16 around about a problem or a delay with a project. We  
17 sometimes make these discoveries even well before the  
18 elected official who allocated the funds receives the  
19 same information. In some cases, and I can think of  
20 some recently, is in CB7 and not DPR that has first  
21 told the relevant elected official about a funding or  
22 other problem or delay with a capital project.  
23 Knowing how capital projects are progressing and the  
24 reasons for delays or other problems is essential to  
25 our ability adequately to represent our community.

2 It also facilitates the healthy three-way  
3 collaboration among the community board, the elected  
4 official and DPR. Accordingly, we strongly urge that  
5 these bills be amended to require that the affected  
6 community board or boards receive the same notice at  
7 the same time, as the Council Member. It's actually  
8 just add another recipient and--and click send, and  
9 there we all are, and I would just add that if for  
10 instance a different type of elected official such as  
11 the borough president has allocated funds and that's  
12 been true for numerous projects in our districts that  
13 in that situation that other elected official should  
14 also receive notice. So thank you for having me here  
15 today.

16 CHAIRPERSON LEVINE: Well, thank you Mrs.  
17 Neuwelt--Ms. Neuwelt. I must say, if every community  
18 board had a Parks Chair like, this would be a much  
19 better city.

20 KLARI NEUWELT: Well, thank you.

21 CHAIRPERSON LEVINE: Thank you for your  
22 service,

23 KLARI NEUWELT: [interposing] You know,  
24 we've got a couple going--we have several going with  
25 you in our district, the skate park and some others.

2 CHAIRPERSON LEVINE: Indeed. Proud-proud  
3 to partner with you.

4 KLARI NEUWELT: Thank you.

5 CHAIRPERSON LEVINE: Thank you to the  
6 panel. Appreciate it. We're going to call up next-  
7 this is exciting. This is the-the debut testimony of  
8 Lynn Kelly, the newly minted Executive Director of  
9 New Yorkers for Parks. I'm not sure that Fay Hill is  
10 still with us. If Mrs. Hill-okay. So, you get this  
11 panel to yourself, Lynn.

12 LYNN KELLY: [off mic] Whoo-hoo.

13 CHAIRPERSON LEVINE: Alright. Thank you  
14 very much. [pause] [background comment]

15 LYNN KELLY: Alright. Thank you to the  
16 Council and the committee for having me today. Yes,  
17 I am the new Director of New Yorkers for Parks. Very  
18 proud and excited to be here. I'm not going to read  
19 my testimony. That would be dull. Instead, I'm going  
20 to speak from my experience. I am very familiar with  
21 the capital projects, and-and the process. I worked  
22 at EDC for ten years, and led many capital projects  
23 directly with Parks in Coney Island. I was a client.  
24 I was running an 83-acre park in Staten Island, Snug  
25 Harbor Cultural Center where I had to raise capital

2 funding, and begin a capital process, and don't hold  
3 it against me, but I did work for the Art Commission  
4 many years ago as well. [laughs] So I come at this  
5 with a unique perspective. Respectfully come today as  
6 an advocacy, but I have to say for me a big piece of  
7 advocacy is also being a problem solver, and trying  
8 to be a help in the situation, and after listening to  
9 the testimony today or reading through some of the  
10 documents, what I have to say I want to make a few  
11 fine points on things. The legislation that I read  
12 to me speaks to two things, Council Member. It  
13 speaks to frustration and transparency and a  
14 frustration with the transparency, and I think we all  
15 on some level share that from various different  
16 points of view. But there are a few things that I  
17 think I heard today that I would like to put a fine  
18 point on. There was a Council Member that mentioned  
19 that he felt capital projects at Parks were perhaps  
20 less challenging than other agencies. I disagree  
21 with that actually. I think they're challenging, but  
22 in a very different way, and I'll give you a concrete  
23 example and I've seen this first hand. When DEP does  
24 a capital project and issues the scope let's say for  
25 a sewer outfall, there's two things that will happen

2 as a part of that—as-as that. One, hardly anyone  
3 turns out to the scoping session in the community,  
4 quite honestly, and two, it doesn't have a lot of the  
5 same public review because it's underneath the ground  
6 is it won't be let's say reviewed by the Public  
7 Design Commission for example. Well, when you issue  
8 a scope of work for a community meeting for something  
9 in an park, people turn out, and it's because people  
10 care about parks, and that's a good thing. So the  
11 level of complexity on the public review and the  
12 public input side is in some cases much higher. Than  
13 other agencies who perhaps have larger budgets,  
14 larger projects to deal with. I want to commend the  
15 Parks Department for the capital tool that they  
16 created, the Capital Tracker. It's a step in the  
17 right direction. Please put it on your home page.  
18 It's not actually on the home page of the Parks  
19 Department website. So it's hard to find, and I  
20 think that's a simple improvement that could be made.  
21 Speaking from experience having led capital projects  
22 with Parks, some of the most successful ones that we  
23 did in Coney Island were successful because there was  
24 interagency collaboration and accountability from the  
25 onset. It wasn't that one agency was driving the

2 process, and then others came along throughout the  
3 duration of the project. The tone was set from the  
4 get-go that there was a lead agency or a co-partner  
5 agency, and there were bi-weekly meetings from the  
6 point at which money was assigned by the Council or  
7 in the budget to form completion of the project. I  
8 totally agree with the Council that there is a  
9 disconnect. There's an unfortunate disconnect  
10 between the point at which money is appointed and  
11 made public in the budget, and which projects begin.  
12 And so, what we did in my experience, what I've done  
13 in Snug Harbor as well in Coney Island is we used in  
14 two different cases almost like third-party advocates  
15 or third-party spokespeople to help bridge that gap.  
16 What do I mean by that? In the case of Coney Island  
17 in that case it was billions with a B, money  
18 allocated for various kinds of projects, everything  
19 from fixing the boardwalk, restoring a carousel to  
20 huge underground sewer outfalls and infrastructure  
21 projects. What did we do? We had someone at the  
22 agency. Sometimes it was the project manager.  
23 Sometimes I fielded the call. Sometimes it was a  
24 Government and Community Relations Office regularly  
25 checking in with the Community Board or the Council

2 member's office to say this is where we are in the  
3 process. I think that helps to be on the front line  
4 of having communications. I'll say that in New  
5 Yorkers for Parks role if there's anything we can do  
6 from an education standpoint when we meet with parks  
7 advocates and people in the boroughs to say, just  
8 because you might not see action within your park  
9 doesn't mean things aren't going on. We are happy to  
10 play that role, and work hand in hand with the  
11 Council and the Parks Department to have a more  
12 transparent process knowing that there is that  
13 education process. The last thing I'll leave you  
14 with is that I think Parks, and I can say this now  
15 because I'm not part of the Administration any more,  
16 is being kind in terms of how it is talking about the  
17 internal reviews that it has to go through. And  
18 I'll—I'll give you another example from my own  
19 personal experience. When you have to have contract  
20 review, whether it's part of the procurement process  
21 or even a change order on a contract, you have to  
22 have review within your own internal agency, and then  
23 often, if not all the time, you have to have review  
24 with the Law Department. Some—certain parts of that  
25 process do not have clocks on them. It's not like



2 the ULURP where every 30 days something happens,  
3 every 60 days. So internally within other  
4 organizations under the Administration's umbrella  
5 there are some departments that work faster than  
6 others. So you are literally as the project manager  
7 the tug boat pushing the ocean liner to try to get  
8 your project moved along. I think the Council could  
9 play an enormous role in working directly with the  
10 Administration to figure out how to tighten that  
11 process. OMB is, in fact, another one of those  
12 sometimes difficulties and the cog in the wheel and  
13 slowing up the process. And if not intentional, it's  
14 just that some departments or some units within OMB  
15 work faster than others.

16 CHAIRPERSON LEVINE: So what--what--what  
17 about that question or the suggestion that I believe  
18 Council Member Cohen and Vacca both made today that  
19 we just create a Parks Construction Authority so that  
20 you--you are exempt from these myriad constraints?

21 LYNN KELLY: So, it's a complicated  
22 question because if you look at the School  
23 Construction Authority, which seems to have come up  
24 in discussion a number of times, I--I do think it's an  
25 apples-to-oranges comparison. Maybe a closer

2 comparison might be the way EDC does business where  
3 you're still—you're not quasi—you're not fully state,  
4 you're not fully city, you're quasi-governmental, and  
5 there are certain things in a procurement process  
6 that you are empowered to do as an agency without all  
7 the levels of procurement particular procurement  
8 oversight.

9 CHAIRPERSON LEVINE: So EDC as an  
10 independent corporate entity is created by the city I  
11 believe, not the state--

12 LYNN KELLY: Correct.

13 CHAIRPERSON LEVINE: --is exempt from  
14 some of the constraints that the city department is  
15 under?

16 LYNN KELLY: It follows many of the  
17 procurement rules, and is required to or in some  
18 cases where it isn't, it voluntarily follows. But I  
19 will say that there is a level of empowerment and a  
20 level of accountability on a staff level that for  
21 example in the Capital Department, and I haven't been  
22 in EDC for a while, but in the Capital Department, if  
23 as the project manager on a project, I could turn to  
24 my capital team and say, there's a problem that we  
25 encountered in the field on construction. You know,

2 we don't want to have to re-bid or go back because  
3 it's going to take time. How are we going to solve  
4 that? And I would trust that the engineers that are—  
5 are in my capital department would advise me on the  
6 right path to take, and I would take that path  
7 accordingly, and report up to my commissioner about  
8 the direction that we chose. So there was  
9 accountability, right? So there was accountability  
10 for me to overseeing the capital project managers,  
11 and then I had to be accountable to the president to  
12 EDC if my method or my—whatever I advised worked or  
13 didn't work. My understanding is that in parks  
14 there's more layers, and not—staff isn't always as  
15 empowered just because of how they're structured.  
16 Not necessarily because they don't want to be. So, I  
17 think there's more of a larger sort of city  
18 procurement question before. It's almost as if in—in  
19 my thoughts to go to an authority, and that model and  
20 that structure is almost like it's missing the bigger  
21 picture that there is talent in these agencies to get  
22 those projects done expeditiously, but there's this  
23 overbearing structure that is creating a slow-up.  
24 And I think that there is probably a useful exercise  
25 to before you go or consider the authority model, sit

2 down with people like DEP that totally has empowered  
3 engineers on their team. Sit down with folks at EDC,  
4 and understand how their models work first within the  
5 City government before something brand new is  
6 invented.

7 CHAIRPERSON LEVINE: Alright, well, it's  
8 so wonderful to have your perspective now so  
9 intricately part of our conversation. You're going  
10 to be a—a great resource for everyone who cares about  
11 parks in New York City. So thank you very much.

12 LYNN KELLY: Thank you. I hope to.

13 CHAIRPERSON LEVINE: Alright. Okay, our  
14 next panel—is that it?

15 SERGEANT-AT-ARMS: [off mic] Yes.

16 CHAIRPERSON LEVINE: We're done.  
17 Alright, ladies and gentlemen, that's going to  
18 conclude our hearing. Thank you all so much.

19 [gavel]

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1 COMMITTEE ON PARKS AND RECREATION

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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 January 23, 2017