

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON TRANSPORTATION

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September 18, 2017

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HELD AT: Council Chambers - City Hall

B E F O R E: YDANIS A. RODRIGUEZ  
Chairperson

COUNCIL MEMBERS: Daniel R. Garodnick  
James Vacca  
Margaret S. Chin  
Stephen T. Levin  
Deborah L. Rose  
James G. Van Bramer  
David G. Greenfield  
Costa G. Constantinides  
Carlos Menchaca  
I. Daneek Miller  
Antonio Reynoso  
Donovan J. Richards

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

Margaret Forgione, Commissioner  
Chief Operations Officer  
NYC Department of Transportation, DOT

Galileo Orlando, Deputy Commissioner  
Roadway Repair and Maintenance  
NYC Department of Transportation, DOT

Leon Heyward, Deputy Commissioner  
Sidewalk and Inspection Management  
NYC Department of Transportation, DOT

Saurin Parikh, Chief of Operations  
Queens and the Bronx  
Department of Environmental Protection, DEP

Fiona Watt, Senior Advisor to the  
Assistant Commissioner for Forestry,  
Horticulture, and Natural Resources  
NYC Parks Department



2 [sound check, pause] [gavel]

3 CHAIRPERSON RODRIGUEZ: Good morning and  
4 welcome to today's hearing of the City Council's  
5 Transportation Committee. I'm Ydanis Rodriguez, the  
6 Chair of this committee. First, let me recognize my  
7 colleagues who are here today, Council Member Chin,  
8 Richards, and Reynoso. Before I begin, I would like  
9 to first of all work welcome Stephanie Miliano.  
10 Event though many of you know her, but since Rosa  
11 Murphy, a person that had been with me for many years  
12 is starting a new job in the private sector. So  
13 Stephanie will be expanding her role here at 250  
14 Broadway. The other thing is that very early this  
15 morning, there was a tragic crash on Main Street and  
16 Northern Boulevard in Queens. The details are still  
17 not clear. I would like to ask for a moment of  
18 silence to remember the lives of those three New  
19 Yorkers who lost their lives in this crash. [moment  
20 of silence] Thank you. I wish—I wish a speedy  
21 recovery to those injured. Our thoughts and prayers  
22 are with the families affected. In the following  
23 days, I will be taking a closer look at these  
24 intersections with Council Member Koo and other  
25 elected officials from Queens and the Administration

2 to understand the causes of this crash, and prevent  
3 this from happening in Queens and other boroughs.  
4 Today we are considering five important pieces of  
5 legislation that seeks to address common complaints  
6 and issues, which arise regarding our streets and  
7 sidewalks. As elected official we know that one of  
8 the most common complaints we hear from our  
9 constituency has to do with the condition of our—of  
10 our roadways, and the complicated relationship  
11 between the city and the individual property owners  
12 when it comes to maintaining our streets and  
13 sidewalks, and sometimes the best ideas for  
14 legislation designed to fix a common problem comes  
15 from very—from this very interactions with our  
16 constituencies. These bills are great examples of  
17 that.

18 Intro 231 introduced by Council Member  
19 Vacca, seeks to solve the common problems of lack of  
20 communication between city agencies when it comes to  
21 the timing of the street—street tree planting and how  
22 that affects homeowners' responsibility to fixing and  
23 repairing the sidewalks adjacent to their property.

24 Intro 623 introduced by Council Member  
25 Gentile, seeks to eliminate uncertainty among drivers

2 and make it clear exactly where parking is provided—  
3 prohibited at fire hydrants and bus stops by  
4 requiring that curbs of those locations be painted  
5 red.

6 Intro 955 introduced by Council Member  
7 Garodnick, will raise the fines associated with  
8 shoddy work on the part of the contractors who open  
9 our city streets too often sloppy—sloppy work leaves  
10 the road we are rely—we all rely on in acceptable  
11 condition and contractors need to be held responsible  
12 in order to make sure the job is done right.

13 Intro 1251, by Council Member Maisel,  
14 will require DOT to address ponding on the streets,  
15 which can be a public health hazard.

16 Lastly, Intro 1457 introduced by Council  
17 Member Lancman, seeks to require DOT to maintain curb  
18 height following the street construction in order to  
19 prevent water from collecting on homeowners'  
20 property. While these bills address different  
21 issues, they all seek to advance the principles that  
22 the city needs to hold both itself and contractors  
23 who perform work on our roadways to the same high  
24 standards expected of property owners or a property  
25 owner. The city does not hesitate to take

2 enforcement action against homeowners if for example  
3 the sidewalk in front of their house has a defect or  
4 if there is standing water in their property.

5 Therefore, it is only fair that the City makes sure  
6 that its own action does not end up undoing—undoing  
7 costly sidewalk repairs or result in water conditions  
8 on homeowner's property. Furthermore, the city needs  
9 to make sure that drivers have a clear understanding  
10 of where they can park and the roads are not left in  
11 poor condition especially after contractors complete  
12 street work. Fairness is the bottom line, and I look  
13 forward to working together with the Administration  
14 and the sponsors of these legislations to see how  
15 that ultimate goal can be achieved in all of these  
16 various cases.

17 I also would like to recognize Council  
18 Member Carlos Menchaca who is also with us today and  
19 Council Member Van Bramer who also was here. When  
20 the sponsor of the bill passed by then we had  
21 opportunity to say a few words, but now I would like  
22 to thank those members of the Administration who are  
23 here with us today for being here to provide their  
24 input on these bills. I now ask the committee

2 counsel to administer the affirmation, and then  
3 invite you to deliver your testimony.

4           LEGAL COUNSEL: Please raise your right  
5 hand. Do you affirm to tell the truth, whole truth,  
6 and nothing but the truth in your testimony before  
7 this committee and to respond honestly to Council  
8 Member questions?

9           COMMISSIONER FORGIONE: [off mic] Yes.

10           LEGAL COUNSEL: Thank you. You may  
11 proceed.

12           COMMISSIONER FORGIONE: MARGARET  
13 FORGIONE: Good morning. Good morning Chairman  
14 Rodriguez and members of the Transportation  
15 Committee. I am Margaret Forgione, Chief Operations  
16 Officer at DOT. I am joined today by Galileo  
17 Orlando, Deputy Commissioner for Roadway Repair and  
18 Maintenance, and Leon Heyward, Deputy Commissioner  
19 for Sidewalk and Inspection Management. Thank you for  
20 inviting us here today on behalf of Commissioner  
21 Trottenberg and Mayor de Blasio to discuss this set  
22 of bills dealing with a variety of issues related to  
23 the construction and maintenance of our streets. I  
24 am also joined by Saurin Parikh, DEP Chief of  
25 Operations for Queens and the Bronx, and Fiona Watt,



2 Senior Advisor to the Assistant Commissioner for  
3 Forestry, Horticulture, and Natural Resources at the  
4 Parks Department. There are nearly 6,000 miles of  
5 streets in New York City. City Streets facilitate  
6 the movement of pedestrians, transit riders,  
7 motorists and cyclists as well as the delivery of  
8 goods and services throughout the city. Under the  
9 surface these same streets support the city's water,  
10 sewer, power and telecommunications infrastructure,  
11 as well as its subway tunnels and building vaults.  
12 The streets themselves also serve as public spaces  
13 fostering social, economic and recreational  
14 activities. Our streets are three-dimension-three  
15 dimensional structures. They include both the  
16 underground infrastructure and the sub-base of the  
17 street, or in other cases bridge structures or  
18 elevated highways, and the surface of the roadway  
19 curb and sidewalk as well as features such as  
20 pedestrian ramps, driveways, tree pits and catch  
21 basins. The width and shape as well as the elevation  
22 and contour or pitch of the different components must  
23 all be thought of in relationship to each other. For  
24 example, curbs are typically up to 18 inches in total  
25 height, but we just see the amount that is exposed

2 above the surface. The relationship between  
3 elevation and pitch of the road and the height of the  
4 curb produces the amount of effective curb height,  
5 also called curb reveal, the subject of Intro 1251.  
6 From cobblestones to brand new asphalt, concrete sub-  
7 base and sidewalks and curbs of various types and  
8 conditions, our street network varies greatly. Our  
9 streets, as they exist today are the sum of a long  
10 and varied history of construction, acquisition and  
11 maintenance. Once a street is built, it continues to  
12 change. Excavations are made and then restored,  
13 streets are milled and paved. Elements such as curbs  
14 or sidewalks can be damaged or subside and may be  
15 replaced. Wear and tear occurs, and eventually even  
16 with maintenance streets can reach the end of their  
17 useful life and need costly and disruptive  
18 reconstruction that includes the road base as well as  
19 curbs and sidewalks. Under this administration, DOT  
20 has made record investment in our streets and  
21 dramatically increased both our resurfacing and  
22 reconstruction work. We resurfaced 1,325 lane miles  
23 in Fiscal 17 and we plan to continue that pace by  
24 paving another 1,300 lane miles in Fiscal 18. Under  
25 Mayor de Blasio's leadership from Fiscal 16 to 19 we

1 will pave more than 25% of all city streets. I am  
2 happy to report that all these newly paved streets  
3 contributed to a dramatic decrease in the number of  
4 potholes that DOT has had to fill. Year to date, DOT  
5 has had to fill 54% fewer potholes compared to 2014.  
6 And under Mayor de Blasio we have nearly doubled our  
7 investment in street reconstruction taking the amount  
8 from \$1.7 billion in the last 10-year Capital Plan in  
9 the prior administration to \$3.3 billion in the  
10 current 10-year plan. As a result, DOT is rebuilding  
11 major corridors better and safer than before such as  
12 the Grand Concourse, Queens Boulevard, and Atlantic  
13 Avenue delivering new great streets for New Yorkers.  
14 As part of its mission, DOT works with many  
15 stakeholders. DEP is a major excavator in order to  
16 access and maintain their infrastructure. Similarly,  
17 the utility companies are responsible for a  
18 significant portion of street excavations and  
19 restorations by necessity in order to install and  
20 maintain their infrastructure. Adjoining property  
21 owners also have certain responsibilities and play a  
22 significant role. Our capital construction projects  
23 are executed by DDC and DEP is responsible for the  
24 location, construction and maintenance of catch  
25

2 basins and storm sewers, a crucial component for  
3 drainage of our streets, and when it comes to parking  
4 regulations and traffic rules, NYPD is responsible  
5 for enforcement. Now, with that background in mind,  
6 I would like to comment specifically on each of the  
7 bills before the committee today.

8 Intro 231 would require the Parks  
9 Department to notify DOT of the locations of upcoming  
10 tree plantings. Likewise, DOT would be required to  
11 inform applicants for sidewalk construction permits  
12 at those locations of scheduled tree plantings to the  
13 extent that we have received such information. On  
14 behalf of my Parks Department colleagues, I'm happy  
15 to report that pursuant to Local Law 65 of 2017,  
16 championed by Council Members Matteo, Levine and  
17 others, the Parks Department will begin to make  
18 information on all of their scheduled tree pruning,  
19 tree stump removal and tree planting work available  
20 to the public online. Parks Forestry Work Tracker is  
21 expected—expected to launch on October 23<sup>rd</sup>. DOT  
22 would be happy to explore including a notice to all  
23 sidewalk construction applicants as part of our  
24 application process advising them to consult Parks  
25 Forestry Tracker website prior to scheduling their

2 own sidewalk construction work or pulling permits.  
3 Thanks to the availability of the Parks new tracker,  
4 we believe this will be the simplest and most  
5 effective way to accomplish the goals of the proposed  
6 legislation. By making all sidewalk construction  
7 permit applicants aware of the tracker, it will allow  
8 them to see for themselves, all of the information  
9 available from the Parks Department that might apply  
10 to their location, check back for updates and plan  
11 accordingly.

12 Intro 623: Intro 623 would require DOT  
13 to paint curbs red and all bus stops and the distance  
14 on either side of a fire hydrant from which parking,  
15 standing or stopping is prohibited, which is 15 feet.  
16 Maintaining hydrant access for FDNY and facilitating  
17 the efficient movement of buses for our city's many  
18 bus riders respectively are both very high priorities  
19 on our streets. Hence the importance of both of  
20 these regulations. DOT understand that the intent of  
21 the bill is to make life easier for drivers trying to  
22 figure out where they may or may not park. However,  
23 DOT strongly opposes curb painting as a solution. We  
24 believe that the focus of our street marking efforts  
25 should be on the safety and operability of the

2 street, and that for many reasons parking regulation  
3 of the curb is best indicated with the use of only  
4 signage and rules. With millions of feet of curb to  
5 regulate, a combination of signage and rules is the  
6 most accurate, effective and cost efficient method to  
7 inform drivers where they are allowed to park. Use  
8 of painted curbs is easily susceptible to  
9 unauthorized tampering by property owners with their  
10 own agenda. Bus stops are also relocated due to  
11 construction and service changes. In these cases,  
12 signs are easier to move than stripping curbs of  
13 paint. Finally, plowed snow can interfere with the  
14 visibility of our curb markings, which is certainly a  
15 consideration in a city such as ours. For these  
16 reasons, and others, DOT currently does not paint  
17 curbs for any purpose, and doing so would require a  
18 new operational unit and an entirely new set of  
19 standards. Complying with the requirements of the  
20 bill would have a cost of several million-million  
21 dollars for installation and reoccurring maintenance  
22 costs over \$1 million annually. There are  
23 approximately 110 hydrants citywide. At 15 feet on  
24 each side, DOT would be required to paint nearly 3.3  
25 million linear feet of curb, and there are

2 approximately 16,000 bus stop citywide. At an average  
3 length of 100 feet, DOT would be required to paint a  
4 total of \$1.6 million linear feet. All tolled, this  
5 constitutes over 900 miles of curb. In other  
6 words, about the distance from here to Cleveland and  
7 back. This considerable diversion of resources for  
8 street painting operations would detract from our two  
9 vital Vision Zero priorities creating new markings  
10 for safety projects and redesigns and refreshing our  
11 existing markings. This could impair our ability to  
12 make progress on eliminating traffic deaths and  
13 serious injuries. For all of these reasons, DOT  
14 opposes Intro 623.

15 Intro 955: Intro 955 would raise the  
16 maximum amounts in DOT's penalty schedule. The bill  
17 itself would not increase the amounts of any of DOT's  
18 fines, but rather the range within which DOT is  
19 permitted by law to set fines for specific violations  
20 by rule. DOT's goal when it comes to regulating and  
21 enforcing various uses of our streets is to achieve  
22 the greatest compliance levels possible and to  
23 protect the city's investment in our vital  
24 infrastructure while ensuring safety and minimizing  
25 the disruption, congestion, and quality of life

2 effects of street work. In the case of excavations  
3 and restorations in addition to potential fines,  
4 permittees face the prospect of required correction  
5 actions or costly re-digs of defective restorations.  
6 So, they have a strong incentive to do the job right  
7 the first time. DOT carefully chooses fine amounts  
8 in order to provide a deterrent, but also does not  
9 want fines to exorbitant or potentially simply go  
10 unpaid. Currently, all of DOT's fines are below the  
11 maximum permitted amount, and we are not currently  
12 seeing a need for any fine amount in excess of these  
13 amounts. However, higher caps would provide greater  
14 flexibility, and could facilitate the use of a  
15 greater range of amounts with higher fines for  
16 chronic offenders. DOT seeks to foster coordination  
17 and cooperation with the stakeholders who excavate  
18 and perform restorations in our streets. Fines an  
19 adjustments to the amount of fines are also a  
20 component of our tool box. Therefore, DOT supports  
21 the bill in principle to provide greater flexibility.

22 Intro 1251: Now, turning to Intro 1251,  
23 which requires DOT to verify a ponding problem within  
24 14 day and repair the condition within 60 days of  
25 verification. When DOT receives a complaint or



2 becomes aware of a possible ponding issue, our  
3 Roadways Division will conduct an assessment. The  
4 first step is to verify the ponding condition, which  
5 is done by conducting observation 48 hours after a  
6 significant rain event. Therefore, a requirement of  
7 two-week verification period of a ponding issue would  
8 be unworkable because verification is weather  
9 dependent and inspection resources are finite. Once  
10 a condition is verified, we assess whether the  
11 defects can be addressed operationally with milling  
12 and paving using topographical analysis in some  
13 cases. If the condition can be solved with  
14 operational measures, then the location is  
15 prioritized and repairs are conducted as resources  
16 permit. However, rectifying many of our ponding  
17 conditions requires more complicated work that  
18 entails a capital construction project. Such  
19 projects include the reconfiguration of street and  
20 sewer infrastructure. These locations are added to  
21 our priorities for inclusion in capital projects.  
22 Bergen Avenue between Avenues T and U in the bill  
23 sponsor's district is an example of a location with  
24 ponding issues, which requires capital work to  
25 repair. As announced last fall, we hope to address

2 this condition through inclusion in our Bergen Avenue  
3 Area Capital Project, thanks to funding by Mayor de  
4 Blasio, and are looking to begin bidding the work out  
5 for construction soon. A requirement to repair a  
6 ponding condition with 60 days is unworkable. For  
7 ponding issues that can be addressed operationally,  
8 once assessment and analysis have been completed, our  
9 milling and paving operations are deployed on a  
10 scheduled and prioritized basis, and may not be  
11 immediately available. Milling and paving operations  
12 are also dependent on weather and season. For  
13 ponding issues in need of a capital project, scoping  
14 and project delivery for this type of street  
15 reconstruction project would greatly exceed the 60-  
16 day requirement because of the study, design and  
17 construction demands involved. For these reasons,  
18 DOT opposes Intro 1251.

19 Finally, Intro 1457 relates to  
20 maintaining appropriate curb height or reveal. Good  
21 curb reveal is important both to ensure proper street  
22 drainage and to deter vehicles from mounting the  
23 sidewalks. At least three to four inches is usually  
24 preferred, and our standard for new construction is  
25 seven inches. In addition, the curb should be flush

2 with sidewalk to prevent a tripping hazards.

3 Conversely, on passenger ramps and driveways, the  
4 goal is to maintain zero curb reveal. This is  
5 particularly important at pedestrian ramps for  
6 accessibility purposes. Whenever we reconstruct  
7 streets, in which we typically rebuild the road bed  
8 as well as the surface of the road, the curbs, the  
9 sidewalks, and all the features of the street, we  
10 build a curb reveal that meets our standards. We  
11 also require privately built streets that we will one  
12 day take into our ownership to be built to our  
13 standards as well. When it comes to street  
14 resurfacing, our crews aim to match the current  
15 elevation and contours of the roadway as close as  
16 possible. Our goal is to meet the existing  
17 pedestrian ramps and driveways, stay flush with  
18 existing utility manhole covers and maintain good  
19 drainage based upon the location and elevation of  
20 existing catch basins while preserving existing curb  
21 reveal. And on some streets, curb heights and  
22 construction can vary within a single block from  
23 property to property. We must balance all of these  
24 factors. For example, if we change the pitch of the  
25 road to increase curb reveal, we risk creating a

2 depressing that is not drained by existing catch  
3 basins. As you know, DOT has been ambitiously  
4 resurfacing record level—record levels of lane miles,  
5 but our crews must work the other elements of the  
6 street as they exist and resurfacing is not able to  
7 address every underlying defect or condition a street  
8 may have. This bill would potentially require DOT to  
9 conduct curb repair or replacement work in  
10 conjunction with our resurfacing work on any streets  
11 where the curb or small section of the curb may be  
12 deficient, and raising a curb can require work on the  
13 adjacent sidewalk possibly including conditions that  
14 property owners may be required to correct, which in  
15 turn could mean a violation and cost to the property  
16 owner. Funding for curb repair usually done through  
17 contracts is limited. Coordinating contract  
18 schedules with our own crew schedules could be very  
19 challenging and the concrete work involved in curb  
20 repair is a different process when resurfacing. The  
21 requirement to conduct curb work in conjunction with  
22 our resurfacing work would cripple the ambitious pace  
23 of resurfacing that DOT has been maintaining and  
24 leave some streets unresurfaced as a result. More  
25 ever—moreover, as drafted, this bill would require

2 DOT to fix insufficient curb reveal when doing repair  
3 of any kind to any part of the roadway or to the  
4 sidewalk on a street, whether it touched the curb at  
5 all, further hampering our operations. For these  
6 reasons, DOT opposes Intro 1457.

7           Once again, thank you for the opportunity  
8 to address the committee on these bills before you  
9 today. The ongoing management of our vital street  
10 network is a major task for New York City, and one in  
11 which we know the public and many elected officials  
12 have a great deal of interest. DOT is always  
13 striving to provide New Yorkers the best quality  
14 streets possible and we look forward to continuing to  
15 work collaboratively with the Council to achieve that  
16 goal. We are now happy to answer any question you  
17 might have.

18           CHAIRPERSON RODRIGUEZ: Thank you,  
19 Commissioner. Before I ask questions, I'd like to  
20 recognize Council Members Maisel and Vacca, and they  
21 also have some of those bills that we are discussing  
22 and I'd like to ask them for—to give them the  
23 opportunity. Council Member Maisel.

24           COUNCIL MEMBER MAISEL: Good afternoon.  
25 Thank you for your testimony. One of the biggest

2 problems, though, in terms of quality of life issues  
3 that members of the Council have to deal with. In  
4 addition, when I was in the Assembly, we had the same  
5 problems. Districts are not, you know, altogether  
6 the same is ponding. Ponding, of course, is a  
7 vexatious issue if you happen to live in a house  
8 where there's water accumulating for-ever time it  
9 rains through the winter. It's--sometimes the water  
10 becomes feted, and there is ice that's created in the  
11 winter. It's just people can't sell their homes  
12 because they have serious ponding problems, and the  
13 purpose of this bill basically is to push the DOT in  
14 the direction of getting these things done. Now, I-I  
15 recognize that some of the problems are complicated.  
16 Sometimes you have to do entire street  
17 reconstructions, but more often than not, all the  
18 city needs to do is come in with a little asphalt and  
19 even things out. For example, you mentioned Bergen  
20 and Avenue T. I've been there ten times already with  
21 members of the Brooklyn Commissioner's Office. A  
22 layer of asphalt, that's all you need. A man who  
23 happens to live in the house on the corner has been  
24 this-with this for ten years. It's not reasonable,  
25 and at the same time, the city in the guise of the

2 Department of Health will give violations to  
3 homeowners who may have some water in their swimming  
4 pool, maybe the cover of their swimming pool is  
5 covered with water. I've had a constituents get a  
6 fine for \$1,000 because there was a small layer of  
7 water, and yet, thousands of streets throughout the  
8 city are covered with water. It's not fair. It's  
9 not reasonable. The DOT needs to do more to address  
10 these problems without reconstructing the entire road  
11 work, and the purpose of this bill basically is to  
12 put the city on notice that you have to do better,  
13 and this probably everyone of my colleagues could  
14 probably say that they have these kinds of situations  
15 in their districts. You don't have to reconstruct the  
16 entire city. All you need to do is put more effort  
17 into trying to solve some of these problems on a  
18 limited basis, and we could discuss, if we get  
19 further in this process. Hopefully we will. There's  
20 certainly more that can be done in terms of the—where  
21 you have to reconstruct an entire street, but most  
22 streets don't have to be reconstructed. And I'll  
23 just say one more thing. When streets are milled—I  
24 understand when you're—you're—you're taking old  
25 asphalt out, you put the new asphalt in. Sometimes

2 the city and its contractors make things even worse.  
3 It's not fair. It's not reasonable. I actually was  
4 thinking about doing a bill that would put a  
5 moratorium on all fines for people who have water  
6 accumulated in their owner property until the city  
7 gets its act together. No reason why someone should  
8 get a fine for something on their property, but the  
9 city doesn't take care of the streets. So, I'm happy  
10 that we have this--this hearing. Thank you, Mr.  
11 Chairman and your staff for putting this on the  
12 agenda, and I'm looking forward to seeing how this  
13 progresses.

14 CHAIRPERSON RODRIGUEZ: Thank you. I  
15 also thank you, and--and we will be working together.  
16 I would also recognize Council Member Rose who is  
17 here.

18 COUNCIL MEMBER ROSE: Thank you and  
19 Council Member Vacca too. That situation that  
20 Council Member Maisel is addressing, Commissioner,  
21 it's like something that is not only affecting a  
22 particular area, as he said, I can tell you that yes  
23 in front of my building at 100 Adams Street it is at  
24 that corner that's one--that's one of those corners we  
25 get a little bit of rain, the water always it stays



2 there. I have brought to the attention of DOT in  
3 that situation, and recently like two months ago,  
4 there was repaving of that particular street. I even  
5 brought to the supervisor who was working that night  
6 saying are you looking at this situation, that on  
7 that particular corner, you know how many photos have  
8 been taken for months in that particular location.  
9 Are you looking to do the repaving in a way that the  
10 water would not would stay there, accumulated? The  
11 answer was yes. I walked by, repaving done, similar  
12 situation. So, it look, though, that Council Member  
13 Maisel is bringing to the attention and myself, you  
14 know, that have brought that attention to the agency  
15 that live close in the building, a residential  
16 building where I live, living in that situation.  
17 He's dealing with that. You know, this is about  
18 water that turns into ice. Senior citizens crossing  
19 in that intersection, children that they cross by and  
20 they're going to be more scared of coming to that  
21 area because water stays there. And if that happens  
22 again in the location that I identified, I'm pretty  
23 that if we put it in Twitter, asking New Yorkers do  
24 you have any particular areas ore sidewalk where the  
25 water stays there after the rain happen, we will hear

2 thousands of cases. So, what are we doing? How much  
3 are paying attention to that situation.

4 COMMISSIONER FORGIONE: Okay, thank you,  
5 Council Member. First and foremost I want to say  
6 that we do take these ponding conditions very  
7 seriously. We investigate each and every one of them  
8 that we do receive. We wish as Council Member Maisel  
9 mentioned that they could be addressed more commonly  
10 with our in-house Milling and Paving Operations. We  
11 estimate that only about 20% can actually be fixed or  
12 addressed by doing some milling and regrading. In  
13 his case he mentioned adding additional asphalt.  
14 Often they cannot be because in the process of doing  
15 so, you're going to create another new situation. So,  
16 you may not need existing hardware on the street.  
17 Okay, that could be a catch basin. That could be  
18 utility cover. It could be any number of objects on  
19 the street. They're actually a lot more complex than  
20 sort of a typical person might understand when first  
21 looking at them. So, in terms of your specific  
22 location, we're happy to look at that again. We do  
23 have—when we do mill and pave, we very carefully take  
24 measurements of the existing roadway. We generally  
25 seek to meet that existing roadway if we're aware of

2 an issue. We also try to correct it, but it's not as  
3 precise a science and easily correctable as it may  
4 appear, and I'd like to ask Galileo Orlando to add to  
5 my comments to kind of further elaborate on that.

6 CHAIRPERSON RODRIGUEZ: But, you know, to  
7 be able to see a plan on how we, you know, have  
8 something in place of how many areas, and many  
9 intersections or sidewalks we are dealing with this  
10 situation and what is the plan to bring it zero, you  
11 know, the areas in the city that, you know after a  
12 rainy day water it say there, and it turn into ice  
13 during the winter time or it attract mosquitoes  
14 because it doesn't move from there. I have a  
15 question on-on-related to the painting that you have  
16 to have to paint, you know, the area close-close to  
17 the fire hydrants. How much parking tickets were  
18 issued in 2016 for parking with 15 feet of a fire  
19 hydrant? [background comments]

20 COMMISSIONER FORGIONE: One moment. We  
21 have that information. Thanks. Okay, so NYPD issued  
22 470,000 violations for parking at a hydrant in  
23 calendar year 2016.

24 CHAIRPERSON RODRIGUEZ: 470?

25 COMMISSIONER FORGIONE: 470,000.

2 CHAIRPERSON RODRIGUEZ: Thousand?

3 COMMISSIONER FORGIONE: Yes, and if-while  
4 we're at it, bus stop violations, which is also part  
5 of the bill is 281,000.

6 CHAIRPERSON RODRIGUEZ: On the buses how  
7 many?

8 COMMISSIONER FORGIONE: 281,000 in  
9 calendar year 2016.

10 CHAIRPERSON RODRIGUEZ: How much revenue  
11 did it generate?

12 COMMISSIONER FORGIONE: I don't have  
13 those figures with me. We'd have to get to you.

14 CHAIRPERSON RODRIGUEZ: [interposing] Can  
15 anyone from your team get that information?

16 COMMISSIONER FORGIONE: I'm sure that  
17 we'll be able to get it during the hearing, but if  
18 not, we'll get it to you later.

19 CHAIRPERSON RODRIGUEZ: Okay. How would  
20 a driver know the distance for him or she to park?

21 COMMISSIONER FORGIONE: Right. So,  
22 generally the rule of thumb that drivers use is that  
23 each sidewalk flag or square is five feet long. So  
24 generally, the rule of thumb is that three sidewalk  
25 squares on either side of the hydrant encompass the

2 30-foot area in which you cannot park. Now, that  
3 being said, there can be sidewalks that are  
4 distinctive. They have different size sidewalk flags  
5 or some special materials with that role. Although  
6 it applies in the vast majority of cases, it does not  
7 apply in every case. Now, the rule of thumb drivers  
8 go by is the—the length of a car. About 15 feet is  
9 the length of a car, but what we find is that drivers  
10 do understand the 15 feet. In the course of, you  
11 know, getting your driver's license and learning  
12 distances between you and other cars, people develop  
13 this judgment in order to be able to comply with the  
14 15-foot rule.

15 CHAIRPERSON RODRIGUEZ: Would that  
16 painting be considered the resource, the funding for  
17 it if we decided to move this bill and paint the  
18 distance? Would that be capital expense?

19 COMMISSIONER FORGIONE: I believe that  
20 would be expense.

21 CHAIRPERSON RODRIGUEZ: Expense. I  
22 think—I think that we are failing to working class  
23 New Yorkers. I think that this is about safety.  
24 This is about revenue like look, I—we are in the  
25 business to raise revenue, to able that we—to run the

2 daycares, to be able to provide all the services.  
3 But this is not a way of how we should do it. Like I  
4 can tell you I have a bill that is-will establish-  
5 will allow drivers to park the Sanitation truck  
6 actually to park there to clean streets, and I had  
7 like 40 sponsors. I had to move that bill. I had to  
8 push on this bill, but not because I don't understand  
9 that this is not being fair, the rationale of why we  
10 are holding on that one. In this particular one, not  
11 at all. We cannot live in the city. I can tell you  
12 the senior centers at Tenth Avenue and 201<sup>st</sup> Street  
13 working with DOT and when you work in Manhattan, and  
14 MTA, we were able to bring a new M-100 bus going in  
15 that direction. The bus stop being installed in that  
16 area in front of the senior center at Hammer (sic)  
17 Houses a lot of confusion, and they-they have the  
18 distance for drivers to park. Dozens of drivers  
19 getting tickets because it is not clear the area for  
20 there to park. So, that's not a way how we should be  
21 conducting business here. We should not. Give me  
22 something, put a mark. Is it too expensive? Let's  
23 find a way of how-what is it they mark that we should  
24 be there? But I'm pretty sure that if we did a  
25 survey, if we asked New Yorkers working class and

2 middle class should we live in a city that you don't  
3 know the distance, and we come with the argument and  
4 we know that this is pure about raising revenue.  
5 This we should—we should be able to work. We should  
6 be able to say if it's not painting what is the—what  
7 is it that we will do for drivers to know when and  
8 where they should be allowed to park when they are  
9 close to a bus stop, when they are close to a fire  
10 hydrant. With that [off mic] I would like to now  
11 call and recognize Council Member Gentile, and I will  
12 now call on Council Member Gentile to talk about his  
13 bill, to speak about his bill. The Council Member  
14 will now speak on that. (sic)

15 COUNCIL MEMBER GENTILE: Great, well  
16 thank you, Mr. Chairman and you—I think you said most  
17 of it, but let me indicate that along with Council  
18 Member David Greenfield we have proposed Intro 623,  
19 which you've already spoken about that requires the  
20 Department of Transportation to paint curbs adjacent  
21 to fire hydrants, and bus stops. An it really, as I  
22 think Chairman Rodriguez said is a—is really a common  
23 sense piece of legislation that really addresses the  
24 everyday issues of New York City drivers that they  
25 experience. Targeting a motorist by traffic

2 enforcement agents and police officers who are  
3 ticketing cars parked within 15 feet of a fire  
4 hydrant is an everyday occurrence. Unless they know  
5 the flags that you refer to or carry tape measure,  
6 neither the driver nor law enforcement know what  
7 exactly 15 feet is because they curbs are not  
8 painted. Fifteen feet to one person or a flag or two  
9 flags or three flags or flags that are irregular  
10 arbitrarily enforce parking violations and it's  
11 guesstimate. It's a guesstimate, it's an unfair policy  
12 and although DOT doesn't do enforcement in this area,  
13 you must recognize the situation that drivers are in.  
14 You cannot have a blind eye to the situation of what  
15 drivers face every single day, and just by the fact  
16 of the number of tickets that have been issued is a—  
17 is a realization that this an everyday frustration  
18 for people, and it is revenue generator. This bill  
19 will alleviate the burden that even fire—fire trucks  
20 or bus drivers have to deal with when a car obstructs  
21 their designated way, and people don't maliciously  
22 park there, but they're just unsure of what is  
23 exactly 15 feet from a fire hydrant or 100 feet when  
24 it comes to a bus stop. The simple job of just  
25 painting the curb will not—really is—is the answer



2 here. For example at a fire hydrant opposite 100-152  
3 Forsythe Street in Manhattan, 84 cars were unfairly  
4 ticketed for August 15th through December 31<sup>st</sup> of  
5 2014. That accumulated to over \$9,600 or more than  
6 \$25,000 a year in fines. Discrepancies in the law  
7 between drivers and law enforcement and what is a  
8 legal spot is what's led to this frustrating  
9 incident. So, painting the curbs on fire hydrants  
10 and these bus stops easily solves the problem, does  
11 not frustrate New Yorkers and keeps the area clear.  
12 A gallon of red paint in a hardware store is \$37.  
13 Despite thousands of hydrants and bus stops as you  
14 testified to in New York City, I'm sure that in the  
15 DOT Budget of \$900 million in Operating Budget or the  
16 \$10.1 Billion Five-Year Capital Budget, there is  
17 enough to pay for this simple yet effective solution.  
18 There is a lot with Vision Zero and traffic and  
19 pedestrians. This is Vision Zero. This is about  
20 parking, not about traveling. However, there is zero  
21 vision on the city's part when it comes to this  
22 frustration that people face every single day near a  
23 fire hydrant or bus stop. So, 623 is a common sense  
24 solution to this problem throughout the city.  
25 Municipal government in New York City is about

2 setting national precedence but we can't do it  
3 without addressing the everyday New Yorker issues.  
4 It's a simple practical, feasible common sense  
5 solution. Paint the curb, understand the problem,  
6 acknowledge the problem. Paint the curb. Thank you.

7 COUNCIL MEMBER GARODNICK: Thank you very  
8 much, Mr. Chairman and thank you to DOT. I  
9 appreciate you holding a hearing today on this  
10 package of bills particularly Intro 955, which would  
11 raise the fines for companies that fail to repave and  
12 repair streets properly after the dig them up. Big  
13 companies like Verizon, Con Ed, Time Warner often dig  
14 up our streets to lay wires, fix cables and check on  
15 pipes. When they do, it is their responsibility to  
16 repair them according to standards and specifications  
17 set by the Department of Transportation. These  
18 standards exist to ensure that the safety of the  
19 public is protected. When companies fail to meet the  
20 standards they must be held accountable. After all,  
21 drivers, bikers, pedestrians can't send these big  
22 businesses the bill when they are harmed by a divot  
23 or a bump or crevice caused by their shoddy work. We  
24 need to send a message to these companies that  
25 cutting streets does not include cutting corners.

2 Private use of public streets is a privilege not a  
3 right, and it should be treated that way. If you  
4 tear up our streets and fail to repair them you're  
5 going to pay the price. So, I think it's time to  
6 raise the fines here that companies are already  
7 considering the cost of doing business especially  
8 since some of them haven't been raised since 1993,  
9 the year Metro Cards were first tested. The bill  
10 doubles fines on certain violations raising them from  
11 \$5,000 to \$10,000 for things like digging up a street  
12 without a permit, repaving a street improperly or  
13 blocking a fire hydrant or a bus stop. Other fins  
14 would jump from \$1,000 to \$5,000 for improperly  
15 installing curbs, failing to remove debris, and  
16 similar violations. So, I want to thank DOT. I-I've  
17 heard the testimony. So, thank you for your support,  
18 and also we'll be interested in-in understanding from  
19 you all if you believe the fines have been effective,  
20 in a way to ensure compliance with DOT's rules and  
21 whether there are additional suggestions that you may  
22 have to ensure that people who are digging up the  
23 streets or perhaps even digging up the streets  
24 without permission could be better in compliance with  
25 doing so. So, with that, I thank you, Mr. Chairman,

2 for the opportunity to say a few words and I  
3 apologize, but I was in a meeting that required that  
4 I be a coupled minutes late today. So, thank you.;

5 CHAIRPERSON RODRIGUEZ: Thank you. We  
6 don't have you on that bill? Okay. So, now we get-my  
7 colleagues the colleague who is speaking on this  
8 [pause] Gentile is the first one the opportunity to  
9 ask questions.

10 COUNCIL MEMBER GENTILE: Thank you.  
11 I'll-I'll be brief because I've-I've said most of  
12 what I wanted to say, but I-I assume you understand  
13 the problem that motorists face. Am I correct?

14 COMMISSIONER FORGIONE: We-we understand  
15 the problems they present to you, yes.

16 COUNCIL MEMBER GENTILE: Okay. When was  
17 the last time the Department of Transportation  
18 painted the curbs?

19 COMMISSIONER FORGIONE: Okay, it is  
20 actually illegal to paint curbs.

21 COUNCIL MEMBER GENTILE: The curbs have  
22 been painted in the past by DOT or someone in the  
23 city painted the curbs by bus stops and-and-and  
24 hydrants.

2           COMMISSIONER FORGIONE: Right. So, there  
3 are times that we're aware that local fire houses  
4 will go out and paint critical curbs around hydrants  
5 in their neighborhood. We are aware of that. So, we  
6 know that sometimes the Fire Department does so, but  
7 DOT does not.

8           COUNCIL MEMBER GENTILE: So, in-in years  
9 past when bus stops were-were painted yellow, you're  
10 saying that DOT did not paint those bus stops?

11           COMMISSIONER FORGIONE: Correct.

12           COUNCIL MEMBER GENTILE: Did not?

13           COMMISSIONER FORGIONE: Correct. We did  
14 not.

15           COUNCIL MEMBER GENTILE: Even though it  
16 was done citywide five boroughs?

17           COMMISSIONER FORGIONE: We have not  
18 painted curbs, correct.

19           COUNCIL MEMBER GENTILE: Ever? Ever?

20           COMMISSIONER FORGIONE: And I've been at  
21 DOT 20 plus years. I'm not aware of any time that we  
22 have ever painted curbs.

23           COUNCIL MEMBER GENTILE: Okay, did you  
24 grow up in this city? Did you see painted curbs?

2                   COMMISSIONER FORGIONE: I-I'm not. It's  
3 not ringing a bell to be honest, the painted curbs  
4 that you're mentioning.

5                   COUNCIL MEMBER GENTILE: Okay, and I  
6 think my colleagues will remember painted curbs,  
7 right, around the hydrants and-and bus stops. So, it-  
8 it is a fact of those who grew up in the city knowing  
9 that that's the case. You know, you prefer-you-you  
10 talk about doing-preferring street markings and-and  
11 signage on-on streets themselves with-with painted  
12 lanes, painted arrows, so on and so forth. It seems  
13 to me that that is more expensive than doing what we  
14 suggested and paint-and requiring these curbs to be  
15 painted because those streets and those street  
16 markings tend to wear out, tend to be torn up when  
17 the street is torn up, tend to be paved over when the  
18 street is paved over, and you're back doing that same  
19 marking over and over and over and over again as  
20 opposed to a curb, which normally is not going to be  
21 torn up, is not going to be run over. It seems to me  
22 that when you talk about cost here, you-you're doing  
23 a far-it's a far-a higher cost to do the kind of  
24 street paved-the street markings that you do on the  
25 pavement than on the curb.

2                   COMMISSIONER FORGIONE: Okay, the  
3 markings that you're referring to are roadway  
4 markings that provide direction for both motorists,  
5 pedestrians, cyclists safely navigating roadways. So,  
6 those are safety markings that are necessary, and  
7 yes, they do require maintenance and refurbishment,  
8 but they're very critical and--and we've seen in the  
9 last few years with Vision Zero within an increase  
10 actually in guidance markings great improvements in  
11 safety. So, those marking are critical. We would  
12 not want to compromise them in any fashion. Where  
13 the markings that you're suggesting you pointed out  
14 when--when you first spoke that it's pretty easy to  
15 get a gallon paint. That's one of the critical  
16 things we're worried about here that a homeowner who  
17 may find it very irritating that their neighbors park  
18 right up to their driveway, and it's hard for them to  
19 get in and out. May take it upon themselves to get  
20 that gallon of paint and paint some--paint three feet  
21 on either side of--of their driveway. It's the kind  
22 of thing we--

23                   COUNCIL MEMBER GENTILE: [interposing]

24 So, for the sake of--

2 COMMISSIONER FORGIONE: --believe will  
3 lend itself to abuse around the city and further--

4 COUNCIL MEMBER GENTILE: [interposing]  
5 Well, so for the sake of those misdirected homeowners  
6 who might paint their curb illegally, you will not  
7 paint any curb throughout the five boroughs of the  
8 City of New York just because of those--

9 COMMISSIONER FORGIONE: Well.

10 COUNCIL MEMBER GENTILE: --those few  
11 number of homeowners that you think might be the  
12 miscreants and go out and paint their own curb, which  
13 you can fine them for.

14 COMMISSIONER FORGIONE: Well, it's  
15 actually not just that reason. We also move bus  
16 stops probably more often than people may be aware  
17 for one reason or the other. It might be  
18 construction. The bus stop may be shifted on the  
19 roadway. We would have to figure out how to get off  
20 the old markings in order to remark. We have  
21 bluestone curbing that people are very protective of  
22 that we wouldn't want to mark up. There are multiple  
23 reasons that we believe that it's not the most cost-  
24 the most effective way to--



2 COUNCIL MEMBER GENTILE: [interposing]

3 But it sounded possible to do. You—you make it sound  
4 as if it's impossible to change a marking, to remove  
5 a marking. It's not impossible to do. It's just a  
6 matter of—of doing it and—and the benefit in doing it  
7 is far greater than the obstacles and the bumps in  
8 the road so to speak that you bring up.

9 COMMISSIONER FORGIONE: Uh-hm, well we  
10 believe there are better ways to designate--

11 COUNCIL MEMBER GENTILE: [interposing]

12 Better ways?

13 COMMISSIONER FORGIONE: --and it would  
14 actually be—and I wanted to offer to the Councilman  
15 you talked about your location. You as well, if  
16 there's a way we can help get out better information  
17 to the public on the 15-foot Rule--

18 COUNCIL MEMBER GENTILE: [interposing]

19 Count flags?

20 COMMISSIONER FORGIONE: -as well—as well  
21 as--

22 COUNCIL MEMBER GENTILE: I want senior  
23 citizens to get out of the car and count flags?

24

25

2 COMMISSIONER FORGIONE: Well, it's [bell]  
3 if you can see a sign from—as a driver I think you  
4 can also see that.

5 COUNCIL MEMBER GENTILE: [interposing]  
6 It's a guesstimate. It's still a guesstimate.

7 COMMISSIONER FORGIONE: We also explain  
8 some better guidance on bus stops.

9 COUNCIL MEMBER GENTILE: [interposing]  
10 It's in--

11 COMMISSIONER FORGIONE: We'd be happy to  
12 do that if that--

13 COUNCIL MEMBER GENTILE: [interposing]  
14 It's a very expensive guesstimate that need not be.  
15 We shouldn't be as the Chairman said raising revenue  
16 based on guesstimates. Thank you, Mr. Chair.

17 CHAIRPERSON RODRIGUEZ: Look,  
18 Commissioner, I think that this is one of those  
19 battles that again, like a lot of years working with  
20 you and the previous and the current administration,  
21 but one thing is you realize it—the three  
22 commissioners are the ones it's about, you know, your  
23 experiencing, and you know, always trying to be  
24 accessible and working with the different  
25 communities. This is a battle that you will not win,

2 that many sense you will not win this. Like many  
3 times this is what I do when I park my car. I go  
4 out, I got to count the feet that I know that I can  
5 allow to park, and that's what many drivers they're  
6 doing everyday, yes, because we don't know the best  
7 things on how close we can park to a hydrant. So,  
8 this is not—again, like what is the common sense?  
9 This Vision Zero. This is about the good drivers.  
10 This is not about someone that because he or she has  
11 placard they park in front of the other car. This is  
12 about someone who is looking to park in the area that  
13 we by law are allowed to park, and what we are saying  
14 is people should know the distance. Give something  
15 with a mark, give something there more than saying we  
16 cannot do it like, you know, how much it will take?  
17 Let's raise the money. They put the money. This  
18 about raising revenue, Commissioner. This is not  
19 about anything else. About more of raising the  
20 revenue, and again we will be negotiating budget. We  
21 need that money for the school, for parking, for  
22 other things. We should be able to raise the money  
23 in another way more than saying that bus stop grossed  
24 10% (sic) today at 201<sup>st</sup> and Tenth Avenue. That has  
25 been there for months. DOT, MTA they know for months

2 that when the new stop was there, there is not a  
3 clear area where people should know where they should  
4 park. Hundreds of—hundreds of people they don't  
5 know. They have to come out from the car and count  
6 and they're freezing so that they can avoid and  
7 respect the law. All we are saying is let's keep the  
8 clarity because there is no clarity today. Good  
9 drivers they don't know. Not the bad ones because  
10 they use their authority to park a car in front of  
11 the hydrant. We talk about hard working people that  
12 when they come home from work, they would like to  
13 find a way can we park here, and there's not any  
14 areas painted or clear this is how close you can park  
15 hydrant, and when did you change it? This is—this is  
16 —this is what we should do as a city.

17 COMMISSIONER FORGIONE: Chairman, I'd  
18 just like to reiterate that this would be extremely  
19 burdensome from—for the city. We strongly disagree  
20 with this bill. It would cost millions of dollars to  
21 implement, and then millions going forward to keep it  
22 up. It would present a great new burden on—the  
23 department.

24 CHAIRPERSON RODRIGUEZ: A lot—a lot of  
25 council members they would be more than happy. I can

2 tell you that, if we can work the labor piece, and  
3 you ask community board can you do a day of painting,  
4 people will be more than happy to go out and paint  
5 it. Volunteer, and local small business they will be  
6 down to put the money. If we can work with DOT put  
7 like a team of people volunteers to go out and paint  
8 it, I can tell you my community board I would do it  
9 in one week. [off mic] Council Member Chin.

10 COUNCIL MEMBER CHIN: Thank you, Chair.

11 I wanted to ask a question about ponding. In my  
12 district I know that, you know, we have a lot of  
13 ponding especially where the curb cuts are. So, I  
14 wanted to ask to see how closely does DOT and DEP  
15 work together to sort of resolve these issues because  
16 there's some streets where there is no catch basin  
17 and the catch basin is around the corner. So, the-  
18 the water doesn't flow, and I know one incident in my  
19 district on Canal Street there was like a huge  
20 ponding and DOT working with DEP and-and the local  
21 Business Improvement District finally got that  
22 improved. So, if you can talk about how to deal with  
23 that issue especially on the curb cuts, then you  
24 have, you know, seniors have to navigate puddles of  
25 water that you could turn into ice in the winter, and

2 people with baby carriages and wheelchairs they all  
3 have to push through the water, and it seems like  
4 there's a lot of ponding right at the curb cuts.

5 DEPUTY COMMISSIONER ORLANDO: As-as you  
6 know, ponding is-is a complicated situation that has  
7 many components. Usually a challenge is balancing  
8 moving the water, but also meeting the-the edges of  
9 the curb cuts so we don't introduce trip hazards or  
10 other hazards, and that's a challenge that-that we  
11 deal with every day. We do work closely with DEP and  
12 we joint site inspections. Often ponding is  
13 addressed through a triaging where if it's easy it's  
14 just dealing with asphalt, it will be. If it's not,  
15 we will do a joint inspection with DEP and we'll look  
16 at what needs need to be for each individual case,  
17 but often it will involve some capital investment,  
18 and that takes time, effort and funds. And that's  
19 why sometimes it seems like a long time. I believe  
20 the one on Canal Street was addressed when there was  
21 a construction of resurfacing going on. If-if I  
22 recall on that one it was finally addressed through a  
23 capital construction project.

24 COUNCIL MEMBER CHIN: So, when that  
25 happens on the corner where the curb cuts are, I mean

2 do you have any plans in term of how to deal with  
3 those situations because we have a lot of those in  
4 Lower Manhattan especially down Water Street?

5 DEPUTY COMMISSIONER ORLANDO: Again, we-  
6 we tend to look at them in a case-by-case because  
7 they are complicated individual assessments, and we  
8 do work with our sister agency DEP to see what could  
9 be done through their capital program. That's  
10 whatever those locations may need.

11 COMMISSIONER FORGIONE: But Council  
12 Member, if you-if you have those locations, please do  
13 give them to us and we will follow up with on them.

14 COUNCIL MEMBER CHIN: Yeah, because often  
15 times it's-it's manually, you know, done by-it's  
16 lucky we have a Business Improvement District and  
17 they'll send people down to push the water around the  
18 corner to the catch basin, but I think that we really  
19 need to look at long term. You know, you might have  
20 to add more catch basins next to it or some ways of  
21 pushing the water to where they could flow away  
22 instead of-- Because the curb cuts are supposedly  
23 there to help people cross the street and-and  
24 navigate a street, the people who really need extra  
25 help, and meanwhile they're met by puddles and in the

2 wintertime it turns into ice, and it's very  
3 dangerous. So, I hope that we can, you know, work  
4 together and really come up with, you know, a  
5 strategy of how to really fix this and also work  
6 together with local organizations. I mean downtown,  
7 we have downlines, and—but we need to work together  
8 with the city agencies to really resolve this—this  
9 big issue.

10 DEPUTY COMMISSIONER ORLANDO: We look  
11 forward to working together with you.

12 COUNCIL MEMBER CHIN: Thank you. Thank  
13 you, Chair.

14 CHAIRPERSON RODRIGUEZ: Council Member  
15 Richards.

16 COUNCIL MEMBER RICHARDS: Thank you, Mr.  
17 Chair. How many pending complaints did you receive  
18 last year? [pause]

19 DEPUTY COMMISSIONER ORLANDO: Well,  
20 standing water complaints go first to the Department  
21 of Health--

22 COUNCIL MEMBER RICHARDS: Okay.

23 DEPUTY COMMISSIONER ORLANDO: --who then  
24 makes an assessment that if it's a DOT issue and  
25 refers it to us.



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2 COUNCIL MEMBER RICHARDS: So, do you have  
3 the number of how many?

4 CHAIRPERSON RODRIGUEZ: Sorry, can you  
5 please identify yourself.

6 DEPUTY COMMISSIONER ORLANDO: I'm Galileo  
7 Orlando, Deputy Commissioner for Roadway Repair at  
8 New York City Department of Transportation.

9 COUNCIL MEMBER RICHARDS: So, can you go  
10 through how many complaints at the Department of  
11 Health?

12 DEPUTY COMMISSIONER ORLANDO: So, so last  
13 year the Department of Health I believe received over  
14 2,500 standing water complaints, and roughly about  
15 10% were determined to be DOT.

16 COUNCIL MEMBER RICHARDS: The rest were  
17 DEP, you're saying is?

18 DEPUTY COMMISSIONER ORLANDO: The rest  
19 is-is-is I-I can't speak to the rest because--

20 COUNCIL MEMBER RICHARDS: [interposing]

21 So, hold on. So, the only two agencies who would  
22 address a ponding issue to a great degree, right?

23 So, I mean all three. Let's go through DDC, DEP,  
24 DOT. I used to chair the Environmental Protection

25 Committee. So I'm well aware of the-the procedure of

2 how this is supposed to be addressed. So, can you  
3 speak to—if you said 10% if there were found to be  
4 DOT, then where—who is responsible for the other 90%.

5 COMMISSIONER FORGIONE: Just to  
6 interject, many of them can be on private property as  
7 well.

8 COUNCIL MEMBER RICHARDS: Okay, so--

9 COMMISSIONER FORGIONE: Okay.

10 COUNCIL MEMBER RICHARDS: --can you  
11 disseminate information on how many were private  
12 verse public? Do we have that information?

13 COMMISSIONER FORGIONE: So we don't—we  
14 don't have the whole breakdown from DOH but we—we  
15 know that--

16 COUNCIL MEMBER RICHARDS: [interposing]  
17 So, I'd really suggest we not use generalities  
18 because you if you don't have that breakdown to say.  
19 So would you say--

20 COMMISSIONER FORGIONE: [interposing] But  
21 we--

22 COUNCIL MEMBER RICHARDS: --half of these  
23 are private or do you have a number?

24 COMMISSIONER FORGIONE: Well we—what we  
25 do know is that about 200 of them a year referred to

2 DOT. So we don't have a breakdown on the rest, but  
3 we can tell you that about 200 a year come to us.

4 COUNCIL MEMBER RICHARDS: [interposing]  
5 So out of 2,000 you only know how much—you only know  
6 generally were 200 of them?

7 COMMISSIONER FORGIONE: Correct.

8 COUNCIL MEMBER RICHARDS: Okay. So, I—I  
9 guess that's why we have this bill out here because  
10 there are definitely issues around it. So, I  
11 represent Southeast Queens. So this issue is an  
12 issue we live with everyday. Are you familiar with  
13 the Mayor's \$1.7 billion commitment to Southeast  
14 Queens?

15 COMMISSIONER FORGIONE: Yes.

16 COUNCIL MEMBER RICHARDS: And—and—and I—  
17 I'm interested in knowing how are your agencies  
18 coordinating together? So, can you speak to how the  
19 Department of Health, DEP, DDC and DOT how do you  
20 coordinate together? Do you meet monthly or do you  
21 meet yearly?

22 COMMISSIONER FORGIONE: So, when we have  
23 a ponding condition we go out and take a look. What  
24 we do is we go out within a few days of a rainfall.

2 COUNCIL MEMBER RICHARDS: What's a few  
3 days?

4 COMMISSIONER FORGIONE: It's 48 hours of  
5 rainfall. So, what we do is we don't go out three  
6 hours after the rain has stopped. We go out a little  
7 bit later to see if the rain has remained in a--in a  
8 empty (sic) relation.

9 COUNCIL MEMBER RICHARDS: [interposing]  
10 Are you positive you go out in 48 hours?

11 COMMISSIONER FORGIONE: Excuse me?

12 COUNCIL MEMBER RICHARDS: Are you  
13 positive you go out in 48 hours?

14 COMMISSIONER FORGIONE: We do go out  
15 within 48 hours. So--

16 COUNCIL MEMBER RICHARDS: [interposing]  
17 How many inspectors?

18 COMMISSIONER FORGIONE: Our--our crews  
19 this is worked in with the--our Milling and Paving  
20 Operation. So, we have supervisors. We have workers  
21 that inspect all sorts of things prior to milling and  
22 paving. They inspect all kinds of asphalt and  
23 pothole conditions. So, it's not a dedicated number  
24 of crews per project.

2 COUNCIL MEMBER RICHARDS: Alright, so how  
3 many people within this segment of your--within your  
4 agency.

5 COMMISSIONER FORGIONE: We--

6 COUNCIL MEMBER RICHARDS: [interposing]  
7 How many workers address these specific issues?

8 COMMISSIONER FORGIONE: We have--things  
9 are interchangeable. So, probably in each borough  
10 there could be five or six people who--who survey  
11 different--

12 COUNCIL MEMBER RICHARDS: [interposing]  
13 Okay, do we have a number, a number?

14 COMMISSIONER FORGIONE: They're not--  
15 again, they're not dedicated. That's why I can't  
16 give you a precise number.

17 COUNCIL MEMBER RICHARDS: [interposing]  
18 So--

19 COMMISSIONER FORGIONE: We do different  
20 things everyday.

21 COUNCIL MEMBER RICHARDS: Alright. So,  
22 there's no specific division that just works on this  
23 issue you're saying?

24

25

2 COMMISSIONER FORGIONE: Our Roadway  
3 Repair Division included in their tasks is to look at  
4 ponding, okay.

5 COUNCIL MEMBER RICHARDS: Okay, so I-I--

6 COMMISSIONER FORGIONE: [interposing] So  
7 that's--

8 COUNCIL MEMBER RICHARDS: --find it hard  
9 to believe 48 hours that you get there because we  
10 have locations that take months to get checked for us  
11 to get information about it.

12 COMMISSIONER FORGIONE: Okay well let me  
13 explain, let me explain in better detail then. We  
14 don't see each every one within the first--first 48  
15 hours of a rainfall.

16 COUNCIL MEMBER RICHARDS: [interposing]  
17 But you just said that you did.

18 COMMISSIONER FORGIONE: Upon receiving  
19 that--

20 COUNCIL MEMBER RICHARDS: Okay.

21 COMMISSIONER FORGIONE: --when we can  
22 inspect it, we can't inspect everything immediately.  
23 That's why this 14-day period is not feasible. We  
24 get complaints. We schedule them for inspection, but  
25 it must be done in conjunction with when there is

2 rain. Okay. So, if you send me something on a  
3 Monday and it rains on a Tuesday, I may not get out  
4 there Thursday. I might need to wait a few more  
5 weeks or even 30 days until I have an inspector  
6 available to go look at that. Once we receive the  
7 ponding condition and look at it, we determine  
8 whether it's something we can address in-house  
9 through our Milling and Paving operation. We—we  
10 estimate, you know, something like 20% can be—can be  
11 addressed or improved or even, you know, fixed  
12 through our Milling and Paving operation. [bell]

13 COUNCIL MEMBER RICHARDS: So, I'm going  
14 to end my comments, but I—I don't see any real  
15 coordination going on this agency--

16 COMMISSIONER FORGIONE: [interposing]  
17 Well, I was going to get to that.

18 COUNCIL MEMBER RICHARDS: --and--and I've  
19 been here 15 years, I've been elected four and as  
20 someone who did constituent services, I can tell you  
21 it's been a—we have to beat the drum steadily,  
22 steadily to get your agencies out there to really  
23 address these issues, and I also just point out, you  
24 know, a lot of times we get, you know, a response  
25 from the agencies that says well we have to look at

2 larger capital issues—larger capital projects, which  
3 I understand, but three needs to be more  
4 responsiveness in addressing some of the, you know,  
5 pending issues that—that are not being addressed for  
6 the short term, and I'm happy to say today there is a  
7 short-term project happening in my districts. I'm  
8 very happy about it, but that we need to see more  
9 action in this area, and I—I would just, Mr. Chairman  
10 say I think this bill is good, and you know, and  
11 we're not seeing the response times within 48 hours  
12 or nevertheless not even or furthermore not even a  
13 month. So, we need to see more activity and more  
14 coordination amongst the agencies. Thank you, Mr.  
15 Chairman.

16 CHAIRPERSON RODRIGUEZ: Thank you,  
17 Council Member. I'd like to acknowledge that also  
18 we've been joined by Council Member Greenfield and  
19 Lancman. We have Council Member Menchaca.

20 COUNCIL MEMBER MENCHACA: Thank you,  
21 Chair. Intro 231, your testimony spoke to the  
22 recently passed Local Law 65 Matteo, Levine and  
23 others that will begin online information. It's  
24 unclear from your testimony whether or not you  
25



2 support his particular bill. Can you—can you just  
3 tell us whether or not you support 231?

4 DEPUTY COMMISSIONER ORLANDO: So,  
5 presently, the Parks Department has a—has a system  
6 that will be coming online shortly where people will  
7 be able to track upcoming tree planting. And so, one  
8 of the things that we feel as—as well as Parks feels  
9 that that can be addressed with what they have coming  
10 down he pipe.

11 COUNCIL MEMBER MENCHACA: Tell me how  
12 that will be addressed with the intentions of this  
13 bill?

14 FIONA WATT: My name is Fiona Watt. I'm  
15 the Senior Advisor to the Assistant Commissioner for  
16 Forestry, Horticulture and Natural Resources for the  
17 New York City Parks Department.

18 COUNCIL MEMBER MENCHACA: You have a  
19 really cool job.

20 FIONA WATT: [laughs] Thank you for the  
21 opportunity to be here today. We're actually excited  
22 about Local Law 65 because it gives us the  
23 opportunity to inform the public about the status of  
24 four our really key programs: Tree planting, black  
25 tree pruning, sidewalk repair around trees and stump

2 removal, and through Local Law 65 on October 23<sup>rd</sup> we  
3 will be providing an online portal with all the  
4 information both what we've done and what we plan to  
5 do, and that information will be updated quarterly.

6 COUNCIL MEMBER MENCHACA: So, forgive me  
7 if I'm—I'm pausing you. So, I think we're all aware  
8 of that, and we're really excited about that. This  
9 is a different piece of legislation. So, 231 is  
10 asking for there to be a Local Law for direct  
11 information of anyone that's pulling permits for  
12 construction within a season for—to alert homeowners  
13 who are about to spend dollars on the sidewalk before  
14 they're going get a new tree. How does what you just  
15 said solve that problem?

16 FIONA WATT: Because instead of having to  
17 go to another agency to find out the information, the  
18 public can actually find out the information at any  
19 time whenever they want.

20 COUNCIL MEMBER MENCHACA: So, we're  
21 putting the onus the public to do the research, which  
22 is fine, right, I mean that's like--

23 FIONA WATT: [interposing] Yeah, I think  
24 right.

2 COUNCIL MEMBER MENCHACA: --that's-it's  
3 like we have—we have buckets of information. People  
4 should just go find out whether or not they're going  
5 to do it. I think what we're trying to do here in  
6 the spirit of this—of this legislation, which they  
7 might want to have a conversation with is to—is to  
8 alert folks that we know are going to have some kind  
9 of investment. These are our homeowners, middle-  
10 class New Yorkers that are trying to do their job to  
11 repair their sidewalks, and they may or may not know  
12 about this law. And so this would trigger an  
13 automatic alert to the construction that will be  
14 going out there. And so, I—I guess in—I—I'm trying  
15 to figure out from you whether or not this would be  
16 that added step for full compliance to make a lot of  
17 homeowners happy right now, which is good, and allow  
18 for the tree to come in and then—and then bring in  
19 the repairs post.

20 FIONA WATT: And we are very happy to  
21 discuss with DOT the logistics of having  
22 environmental interaction.

23 COUNCIL MEMBER MENCHACA: Since this law—  
24 and I'm glad you're here—since this law or this local  
25 law was introduced, we've had some conversations with

2 some homeowners, and it brought up another, maybe  
3 another LS request later, but there were time where  
4 trees were planted in the wrong place right next to  
5 another tree for example. The first example that I  
6 want to talk to you about on 17<sup>th</sup> Street between  
7 Fourth and Fifth Avenue on the south side, and  
8 nothing was kind of done. So, I want to talk to you  
9 about—so there's—there's a connecting that can happen  
10 with the tree implementation piece and the homeowner  
11 to ensure that everyone is kind of happy and that—  
12 that the work happens. I'll follow up with you after  
13 right after—after this. So, again, it just sounds  
14 like we don't want to do the extra step. You're not  
15 in support of this, and—and we'll just keep—keep  
16 moving on that.

17 COMMISSIONER FORGIONE: [interposing]  
18 Council Member, maybe just to clarify very quickly.  
19 What we know at DOT we can do is include a  
20 stipulation in everybody's permit suggesting that  
21 they go to this website at the Parks Department to  
22 see if there is any work coming up at the same site.  
23 We know we can do that. If it was going to go a step  
24 further with us identifying sort of linking Parks

2 website to applicants to figure out in front of any  
3 specific property if there's sort of a match--

4 COUNCIL MEMBER MENCHACA: [interposing] I  
5 understand, and could I have.

6 COMMISSIONER FORGIONE: That's the  
7 difficulty that we would need to really look from an  
8 IT perspective on whether or not we can make that  
9 happen.

10 COUNCIL MEMBER MENCHACA: What's the  
11 resistance? Is it just staff time [bell] is it  
12 funding? Like what's--

13 COMMISSIONER FORGIONE: [interposing] No,  
14 it's not resistance. It's a technical--it's really a  
15 technical or technology issue, but we would need--

16 COUNCIL MEMBER MENCHACA: [interposing]  
17 It's a technology issue.

18 COMMISSIONER FORGIONE: but we need to  
19 explore further. So, we know we can--we can put the  
20 stipulation in it and encourage people to go to Parks  
21 website, but taking it a step further is--is going to  
22 be a challenge.

23 COUNCIL MEMBER MENCHACA: Okay. Let's  
24 keep talking about that because--

2 COMMISSIONER FORGIONE: [interposing]

3 Sure.

4 COUNCIL MEMBER MENCHACA: --I'm not going  
5 to be able to say it's a big enough issue to not more  
6 forward. Thank you, Chair.

7 CHAIRPERSON RODRIGUEZ: And Rose.

8 COUNCIL MEMBER ROSE: Thank you, Chair.  
9 I guess I'm going to have to join the--the crowd and  
10 beat this dead horse around ponding. You know, you  
11 addressed the fact that ponding is an issue that  
12 often constitutes the--I guess the remedy to it  
13 constitutes a capital project, and collaboration with  
14 other city agencies, but I didn't hear you address  
15 the fact that in many situations ponding has been  
16 created as result of inappropriate or not--incorrect  
17 repaving. I have several situations in my district  
18 where a ponding situation didn't exist prior to the  
19 repaving, and--and I--I--I don't understand why  
20 something like that can't be remediated. And I  
21 wanted to know how do you determine what the criteria  
22 is or--or what requirement has to be met in order to  
23 correct a situation like that, and there has to be  
24 some sort of low term, low cost solution for DOT and  
25 the other agencies, you know, that could implement

2 and improve drainage on the streets that are  
3 experiencing ponding.

4 COMMISSIONER FORGIONE: So, first, I  
5 would like to thank you for coming by this morning to  
6 support our Lower Level Boarding Initiative. We  
7 really appreciate your presence.

8 COUNCIL MEMBER ROSE: You're welcome.

9 COMMISSIONER FORGIONE: And then I'll  
10 sort of address the first--

11 COUNCIL MEMBER ROSE: [interposing] And I  
12 want to say thank you. It's about time, and--and my  
13 constituents really appreciate it.

14 COMMISSIONER FORGIONE: Excellent. I'm  
15 so glad. I'd like to ask Galileo to talk a little  
16 bit more about the technical aspects, the second part  
17 of your question. But the question that you had  
18 where you saw resurfacing that actually created  
19 issues that hadn't been there or maybe hadn't there  
20 as badly before, if--if you can provide us with any of  
21 those locations we definitely want to look into it.  
22 That can happen once in a while. It doesn't happen  
23 very often, but it's something we would certainly  
24 want to address and follow up with you, but in terms

2 of technically how we can ensure we're—we're meeting  
3 the right grade definitely.

4 COUNCIL MEMBER ROSE: And—and I just want  
5 to add before you start, Galileo, that you've heard  
6 many of my colleagues talk about there are just some—  
7 some corners that are really important, and despite—  
8 the—the costs should be addressed, and they are  
9 corners where there are school children that have to  
10 cross, and—and seniors. So, could you address--

11 DEPUTY COMMISSIONER ORLANDO: Sure.

12 COUNCIL MEMBER ROSE: --how you will do  
13 that?

14 DEPUTY COMMISSIONER ORLANDO: Sure, well  
15 sometimes after resurfacing the water moves better  
16 and it will actually collect somewhere instead of  
17 being spread out when the road is deteriorated and  
18 sometimes you'll see more collection of water. Part  
19 of that is the intent, but also it—it shouldn't be  
20 just collecting and forming, but you will see this  
21 aggregation of water in some cases. In other cases  
22 again it's a balance between meeting all the curb  
23 cuts, the driveways, the peg ramps, and making those—  
24 striking that balance between those elevations and



2 moving the water, and it is a delicate balance to  
3 have.

4 COUNCIL MEMBER ROSE: So, previously that  
5 was not an issue, and so you're saying that--

6 DEPUTY COMMISSIONER ORLANDO:  
7 [interposing] We're going to.

8 COUNCIL MEMBER ROSE: --the repaving  
9 process is to sort of no longer spread it out, but to  
10 have it collect in--in a mass--

11 DEPUTY COMMISSIONER ORLANDO: No.

12 COUNCIL MEMBER ROSE: --at one location?

13 DEPUTY COMMISSIONER ORLANDO: Well,  
14 previously there may have been some other issues  
15 about, you know, having a little bit of a lip or a  
16 trip hazard at a peg ramp at a driveway apron or some  
17 of those crossings. So, sometimes it's a delicate  
18 balance, but we address ponding normally through a  
19 triage and certainly--certainly the last case is  
20 sometimes things doesn't come out perfect. In those  
21 cases they could be quickly remedied, and I believe  
22 we do come out after a resurfacing where we get any  
23 complaint. If there's a quick fix, we certainly will  
24 take it. We-we are not going to try to not try to  
25 take the opportunity without doing anything?

2 COUNCIL MEMBER ROSE: [interposing] You  
3 would repave?

4 DEPUTY COMMISSIONER ORLANDO: Well, we  
5 would-

6 COUNCIL MEMBER ROSE: You would repave?

7 DEPUTY COMMISSIONER ORLANDO: Well, we  
8 would—we would repave. We adjust the grade, whatever  
9 we could do, we will do, but often it's not the quick  
10 fix that's—that's that simple. Often it's a system  
11 of different components, and—and that's when we have  
12 to partner with our sister agency and start looking  
13 at them more comprehensive. Certainly, when water is  
14 collecting at the corner, we have to figure out how  
15 to get rid of that water.

16 COUNCIL MEMBER ROSE: And—and the  
17 grading. So, it's—it's about grading, and when you  
18 repave, you're—are you building that level up so that  
19 now it—it creates a situation where it—it formerly  
20 did not? Because now where it's not only graded  
21 differently, but we have a higher level--

22 DEPUTY COMMISSIONER ORLANDO:

23 [interposing] It's—it's—

24 COUNCIL MEMBER ROSE: And—and the curb  
25 actually--

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2 DEPUTY COMMISSIONER ORLANDO: --in-in  
3 some cases.

4 COUNCIL MEMBER ROSE: --plays into that?

5 DEPUTY COMMISSIONER ORLANDO: In some  
6 cases, but if the water is collecting at the corner,  
7 the next question is getting rid of that water,  
8 actually draining that water. The-the roadway is  
9 designed to collect water at-at corners to bring it  
10 down to the end of the street, and to drain it, and  
11 that's were we work collaboratively with-with DEP to  
12 try to see how we could actually drain that water  
13 after it's collected.

14 COUNCIL MEMBER ROSE: My time is up, but  
15 I'm going to talk to you afterwards.

16 DEPUTY COMMISSIONER ORLANDO: Sure, sure.

17 COUNCIL MEMBER ROSE: Thank you.

18 CHAIRPERSON RODRIGUEZ: Council Member  
19 Garodnick.

20 COUNCIL MEMBER GARODNICK: Thank you very  
21 much, MR. Chairman and thank you for your support of  
22 955. I should probably leave well enough alone, but  
23 I have a couple of follow-up questions, if you don't  
24 mind. The first is there rare people who have  
25 permission to dig up city streets and do repairs all

2 the time. It happens every single day of the year.  
3 What is their obligation in terms of condition to  
4 which it must be restored at the end? Is it restored  
5 roughly to the condition which it is in today? Is it  
6 restored to the condition, which it is supposed to be  
7 under the city's optimal standards? What is the  
8 standard in which you're supposed to restore the  
9 street after the work is done?

10 DEPUTY COMMISSIONER HEYWARD: After  
11 someone excavates, repairs the infrastructure, that  
12 has—needs to be repaired, they're responsible for  
13 restoring the roadway to its previous condition, and  
14 obviously that cut separates it from the rest of the  
15 roadway, but the whole purpose for the restoration is  
16 that they restore it in kind to its previous  
17 condition as best they can.

18 COUNCIL MEMBER GARODNICK: And does that  
19 include any paintings, markings, anything else that  
20 DOT might have already put into the road?

21 DEPUTY COMMISSIONER HEYWARD: Yes, it  
22 does.

23 COUNCIL MEMBER GARODNICK: And how many  
24 fines are issued annually for failure to repave or  
25 repair streets after work is being done?

2 DEPUTY COMMISSIONER HEYWARD: I don't  
3 have that specific information in front of me.

4 COUNCIL MEMBER GARODNICK: Okay, how  
5 about the information about fines for those who open  
6 the streets without a permit from DOT? Do you have  
7 those numbers?

8 DEPUTY COMMISSIONER HEYWARD: Hold on a  
9 second.

10 COMMISSIONER FORGIONE: Maybe—and while  
11 Leon is looking for that if I can mention one other  
12 thing we did last year, we made more stringent  
13 requirements for street repair by utility contractors  
14 and others. So, what we did we had three items that  
15 we moved forward. One is a concrete based  
16 restoration where previously we would have people  
17 open a street, and rather than replace the concrete,  
18 the sub base we call it, with concrete, they could  
19 use asphalt. We're no longer allowing that because  
20 it's—it's a lesser product obviously and it holds up—  
21 it doesn't hold up as long. So, now people are  
22 required for concrete base restoration. We also now  
23 have all straight cuts where previously at times you  
24 would see street cuts perhaps in odd shapes, at odd  
25 angles, we no longer allow that because where those

2 angles meet, you're more likely to have deterioration  
3 of the roadway. So, now we have all straight angles,  
4 and the last thing we did is larger cutbacks where  
5 we now have people actually open and then close and  
6 restore a larger area in order to minimize the  
7 smaller cuts that are more prone to deterioration.

8 COUNCIL MEMBER GARODNICK: Do the—does  
9 the existing fine schedule address the new rules that  
10 you put in place about concrete based restoration and  
11 straight cuts and size of excavation?

12 COMMISSIONER FORGIONE: Ye.

13 COUNCIL MEMBER GARODNICK: So, those  
14 would fall—so if somebody does not do a straight cut,  
15 there's already a provision that would allow DOT to  
16 fine for lack of compliance with that?

17 COMMISSIONER FORGIONE: Yes.

18 COUNCIL MEMBER GARODNICK: Okay did you  
19 find the answer?

20 DEPUTY COMMISSIONER HEYWARD: No, I—I  
21 can't find the specific.

22 COUNCIL MEMBER GARODNICK: Okay. Will  
23 you come back to us on that?

24 DEPUTY COMMISSIONER HEYWARD: Absolutely.

2 COUNCIL MEMBER GARODNICK: Okay, good.  
3 On—on the point about [coughs] DOT feeling like  
4 you're hitting the mark on the proper level of fines  
5 today. From what I—what I understand from your  
6 testimony, is that you are—appreciate—you appreciate  
7 the possibility of having a higher fine although you  
8 don't intend to use it necessarily because you  
9 believe that today you are hitting the mark on what  
10 the proper level of fines should be for people who  
11 either work without a permit or do shoddy  
12 workmanship. Is that—is that a fair? That's my  
13 understanding of your—your testimony. Is that far  
14 comment?

15 COMMISSIONER FORGIONE: [interposing]  
16 That's—that's fair and what we want to do prior to  
17 evaluating any changes in fines is sort of, you know,  
18 to talk to our stakeholders. We want—we want to be  
19 very careful. We want to make sure there is not so  
20 high that there's incentive to just go and try to do  
21 the work without a permit so people aren't on our  
22 radar. It's sort of a delicate balance that we  
23 really want to be very thoughtful as we go ahead and  
24 change fines.

2 COUNCIL MEMBER GARODNICK: Okay, without  
3 knowing how many fines DOT issues in a year, which at  
4 this moment--

5 COMMISSIONER FORGIONE: [interposing] Uh-  
6 hm, without that.

7 COUNCIL MEMBER GARODNICK: --without this  
8 information could be. Maybe it's being gleaned but  
9 it could be, you know, it could be very few or it  
10 could be a lot as far as I can tell. It's hard for  
11 us to assess whether or not--

12 COMMISSIONER FORGIONE: Uh-hm

13 COUNCIL MEMBER GARODNICK: --DOT is-is  
14 hitting the right mark. We are going to give you  
15 permission to go higher, but I can't say that as I  
16 sit here I have a better understanding as to whether  
17 DOT is fining sufficiently for shoddy work or whether  
18 you're actually catching people in the act of not  
19 doing--

20 COMMISSIONER FORGIONE: [interposing] So,  
21 I think we have some numbers for you.

22 COUNCIL MEMBER GARODNICK: Great.

23 DEPUTY COMMISSIONER HEYWARD: So, we're--  
24 what we have are the--the top [bell] permits that  
25 we've issued for work that's done. So the--the top--



2 the top fine that we issue out is for failure to  
3 permanently restore a cut within the required time.  
4 So, it's more of a time thing, and that's the--the  
5 most we issue summonses for. The next one is open--

6 COUNCIL MEMBER GARODNICK: [interposing]  
7 How many? How many?

8 DEPUTY COMMISSIONER HEYWARD: That's  
9 6,450 summonses for that category.

10 COMMISSIONER FORGIONE: In a year.

11 DEPUTY COMMISSIONER HEYWARD: I the last  
12 fiscal year, and then the next one is we issued 4,270  
13 summonses for opening a street without a permit, and  
14 then the nest one is failure to comply with the terms  
15 and conditions of DOT permits and that's failure to--  
16 to comply with our stipulations. That's 4,207  
17 summonses issued. So, those are the top three that  
18 we issue.

19 COUNCIL MEMBER GARODNICK: Okay, and I'll  
20 just say I'm--I'm out of time, but the last question  
21 that I have for you all is the profile of the--the  
22 entities that are most likely to be not complying in  
23 time, and the ones that are most likely to be working  
24 without a permit. Who are we talking about here? I  
25 mean I know you noted that there were utilities and

2 other contractors. So, who are the prime violators  
3 here?

4 DEPUTY COMMISSIONER HEYWARD: So,  
5 specifically parsing out those specific ones I can't  
6 tell you from here, but the majority of our—our  
7 summonses go to the utility companies. That's where  
8 the majority of our summonses go to, and I don't have  
9 that parsed out in these—in these two tabs in front  
10 of me.

11 COUNCIL MEMBER GARODNICK: Thank you, Mr.  
12 Chairman.

13 CHAIRPERSON RODRIGUEZ: Council Member  
14 Lancman and as a sponsor also of one the bills. You  
15 can have additional time, too, also.

16 COUNCIL MEMBER LANCMAN: Great. Thank  
17 you very much. Good morning. I want to ask you  
18 about 1457, my bill, which would require DOT to when  
19 it does resurfacing to do whatever work is necessary  
20 on the curb to maintain the—the curb height, and I  
21 don't fully understand or maybe I understand, I just  
22 don't accept the administration's opposition to the  
23 bill. We have curbs for a reason. I had parts that  
24 prevent water in the street from coming onto people's  
25 properties, and whatever other reasons there are that

2 we have curbs, we've got them. So, if DOT does the  
3 resurfacing of the street and as a result the curb  
4 either doesn't exist any more because now the-the-the  
5 street resurfacing that you've done is level with the  
6 curb or-or the curb height is-is reduced to the point  
7 that it's not accomplishing whatever it s a curb is  
8 supposed to accomplish. I don't understand how you  
9 could take the position that the thing you've done,  
10 which has caused a problem shouldn't be solved by  
11 you, and-and in your testimony, which I-I missed your  
12 reading of it, but I-but here-it's here in writing to  
13 the effect that if you had to do this work, it would  
14 slow down your resurfacing throughout the city. I-I  
15 don't think that that's a-a tenable position. I  
16 think that my bill simply says if you-if you cause a  
17 problem, you should fix the problem, which is  
18 imminently reasonable. What am I missing?

19 COMMISSIONER FORGIONE: Well, let me  
20 start by saying and Galileo can help me out here.  
21 Every time we mill and pave, we-we do the right  
22 thing, okay. We wont simply add inches of asphalt to  
23 a road without taking it down by milling. So, we  
24 will never come along and just raise the height of a  
25 road to an incorrect height, okay, and walk away.

2 COUNCIL MEMBER LANCMAN: Incorrect vis-à-  
3 vis the curb?

4 COMMISSIONER FORGIONE: Exactly. So we  
5 won't have two little curb reveal because of our  
6 milling and paving operation. We will always mill  
7 and we—and pretty much need to in—in every case now.  
8 Years ago, we were able to just sort of add asphalt  
9 to roadways but it got too high and now we mill every  
10 time we pave. So, we will always do that and that's  
11 the right thing to do, and you're totally correct in  
12 requesting that. Where it becomes more complicated  
13 is when we have a curb a or a sidewalk problem. So  
14 curbs may sink. Sidewalks may be in disrepair, which  
15 is the homeowner's responsibility. S o, when we go  
16 out there to—to mill and pave, for us to try to  
17 address a concrete condition, which is not—it's a  
18 totally different operation. Much of it is done by  
19 contract. Much of it is done by homeowners. You  
20 know, it's sort of mixing two things that we can't  
21 address together on the spot.

22 COUNCIL MEMBER LANCMAN: Well, I want to  
23 understand something because I have this in my  
24 district. I—I didn't just make this up where there  
25 was a street repaving and Jamaica Estates. It

2 happened to be, but it's in other place, and after  
3 the repaving and whatever milling you do and all of  
4 the, the distance or height of the curb relative to  
5 the street was--was much less to the point of it  
6 almost not even being a curb for all practical  
7 purposes than beforehand. So, maybe that is an  
8 example although there are others where your stated  
9 process or procedure where--where you would not leave  
10 a curb smaller than it was before you started--

11 COMMISSIONER FORGIONE: [interposing]

12 Right.

13 COUNCIL MEMBER LANCMAN: --broke down,  
14 but--but I don't even understand like in what scenario  
15 because you're saying there's a--there's--there's--there  
16 are scenarios where even after you repave and remill  
17 and do all that you're going to do, the curb is going  
18 to--in relationship to the roadway, road surface is  
19 going to be--be smaller than it was before you work.

20 COMMISSIONER FORGIONE: So, that--

21 COUNCIL MEMBER LANCMAN: [interposing]

22 What are those, what are those circumstances?

23 COMMISSIONER FORGIONE: Yeah, that road  
24 Eton Street, if I'm referencing it right?

2 COUNCIL MEMBER LANCMAN: Yeah, I think  
3 that sounds like it.

4 COMMISSIONER FORGIONE: Okay. So, we  
5 looked into that very carefully because we knew you  
6 were concerned about that location. That—that's a  
7 tricky location in that the curb there is a non-  
8 standard curb. There—there's cobblestone, that  
9 decorative cobblestone that was placed in place of a  
10 curb that would go down 18 inches. So, it's very  
11 easy to think that over time that curb may have  
12 shifted or moved. We—we looked—prior to this hearing  
13 we looked very carefully at the before and after  
14 pictures and we—we think the resurfacing was done  
15 correctly, and we're happy to talk with you more  
16 about that and meet—meet with the property owner or  
17 whatever you would like, but I think due to that non-  
18 standard curb, we—we don't have a tight curb street  
19 scenario going on there. The second part of your  
20 question the conditions that might not be able to be  
21 met, if—if you're—if you're talking about changing  
22 the height of the roadway to—to a great degree, you  
23 might introduce new problems. So, if you—if you have  
24 to mill down on making it at five inches, all of a  
25 sudden you're going to have to have utility covers

2 that are going to be sticking up. You might choose  
3 to ramp them, but you're going to have a very poor  
4 quality street. You might not be able to get water  
5 to a catch basin. So really dramatic changes of  
6 roadway depth during paving will lead to other  
7 problems.

8 COUNCIL MEMBER LANCMAN: So, so let's  
9 look at both of those. In-in the second scenario  
10 where if you had to mill down- Is that the right  
11 term, mill?

12 COMMISSIONER FORGIONE: Yes.

13 COUNCIL MEMBER LANCMAN: Okay, if you had  
14 to mill down enough to maintain the street height,  
15 but the curb height it would cause other problems.  
16 Somebody has to deal with, and pay for the-fixing  
17 that curb or raising that curb so that it's a real  
18 curb, and if it's-it's either going to be the city,  
19 it's going to be DOT that's going to have to raise  
20 that curb because -it can't lower the-the surface any  
21 more because of these other issues, or it's going to  
22 be the homeowner whose got to deal with that or-or  
23 suffer the consequences of having a non-existent  
24 curb. So, if the city is doing the repaving and-and-  
25 and causing the problem, you know, for a well

2 intended purpose, we want our streets repaired. If  
3 the city is the one that's causing the problem where  
4 the curb is-is too low relative to the-to the-to the  
5 street surface, it seems to me obvious that the city  
6 should be the one to-to address the curb height and,  
7 you know, whatever that means in terms of expense or-  
8 or delay and, you know, the number of miles you can  
9 repave in a year, you just have to do what you have  
10 to do. If you cause a problem, you-you have to fix  
11 the problem.

12           COMMISSIONER FORGIONE: I think we would  
13 strongly state that we don't believe we're causing a  
14 problem from milling and paving. We're generally  
15 putting the roadway back the way it was, and it may  
16 not be a perfect roadway, but we're not exacerbating  
17 the problem and-and addressing some of these bigger  
18 issues would really require a greater project, and  
19 once we involve homeowners, homeowners are  
20 responsible by law for maintaining their sidewalks.  
21 As you know, then it sort of sucks them into the  
22 problem in terms of cost and everything else, and  
23 kind of becomes a much more complicated endeavor.

24           COUNCIL MEMBER LANCMAN: But could we-  
25 could we-could we agree that if the DOT is creating a



2 problem by performing a project that results in a-a-a  
3 curb that is no longer really a curb that it should  
4 be DOT and not the homeowner who should have to-to  
5 fix that and deal with that?

6 DEPUTY COMMISSIONER ORLANDO: So, so, to-  
7 just to reiterate, you know, our intention is sort of  
8 recreate what's already existing there, but by going  
9 in and-and adjusting the curb could have a domino  
10 effect where the sidewalk now needs to be lifted, and  
11 that could also now impact on the property owner in  
12 terms of their stoop, their steps, their driveway,  
13 and it has this unintended domino effect, but look--

14 COUNCIL MEMBER LANCMAN: [interposing] But  
15 the--

16 DEPUTY COMMISSIONER ORLANDO: --hold on,  
17 hold on.

18 COUNCIL MEMBER LANCMAN: --but the  
19 homeowner has to

20 DEPUTY COMMISSIONER ORLANDO: --the lot  
21 could--

22 COUNCIL MEMBER LANCMAN: [interposing] I  
23 get it, but the homeowner has to deal with that  
24 regardless. Like they're there with-with-with a curb  
25 that ain't a curb any more, all those things have to

2 get dealt with anybody. So, who's going to—who's the  
3 one who is going to have to eat that? It should be  
4 the city is the one that—that's done the resurfacing.

5 DEPUTY COMMISSIONER ORLANDO: If—if the  
6 situation arises where it's so severe, then it has to  
7 be addressed, but to go back to your initial comments  
8 about how you—how it may not—to fully understand the  
9 impact on the resurfacing program is that ultimately  
10 if this domino effect extends out, and—and curbs and  
11 all sidewalks now have to be done on all resurfacing  
12 projects, it ultimately really hinders the pace of  
13 the resurfacing program.

14 COUNCIL MEMBER LANCMAN: Right, and what  
15 I'm telling you from one council member's perspective  
16 is I am willing to accept in my district at least a  
17 slower pace of resurfacing if that does not result in  
18 X number of homeowners having this terrible headache  
19 that they now have to deal with both in terms of time  
20 and their own resources. Can—can I just ask one  
21 question and—and this is of particular interest to a  
22 colleague of mine, Council Member Daneek Miller. What  
23 is DOT's responsibility as it relates to missing or  
24 inadequate curbs generally, particularly in—in  
25 Southeast Queens that causes ponding?

2 COMMISSIONER FORGIONE: Okay, the city is  
3 responsible for curbs, installing curbs and that  
4 really relates greatly to the profile of the streets.  
5 Parts of Queens where we don't have curbs we  
6 generally have streets completely not building to  
7 city standards that need to be reconstructed, and  
8 need to be rebuilt entirely.

9 COUNCIL MEMBER LANCMAN: Any plans for  
10 that?

11 COMMISSIONER FORGIONE: We--we have plans  
12 for that. There's a lot more work than we're going  
13 to be able to address in a--in a quick fashion but  
14 yes. [background comments].

15 COUNCIL MEMBER LANCMAN: Well, Council  
16 Member Miller in particular might want to follow up  
17 with you on that.

18 COMMISSIONER FORGIONE: Okay.

19 COUNCIL MEMBER LANCMAN: But thank you  
20 very much. Mr. Chair, thank you very much.

21 CHAIRPERSON RODRIGUEZ: [off mic] [on  
22 mic] Looks like we don't have any additional  
23 questions. [off mic] [on mic] [coughs] I would like  
24 for you to take it back to your team, the Mayor and  
25 the rest of the DOT team that you work with that I'm

2 going to be strongly working on the Intro 623. As I  
3 said before, this bill that will require DOT to paint  
4 curbs in red and all bus stops and the additionally  
5 the side of a fire hydrant from which parking  
6 standing or stopping is prohibited, which is 15 feet.  
7 This is something that it's common sense. This is  
8 about Vision Zero. This is about allowing good  
9 drivers to know the distance that they should use to  
10 park a car and bus in those particular areas, and I  
11 would like to have conversation with DOT to see if we  
12 can do some pilot projects especially through some—a  
13 community board, but I know there's a lot of people  
14 very interested to be part of this partnership. This  
15 for me is about revenue. This is about safety and I  
16 think it is time for us to, you know, update this  
17 latest legislation of this policy that we have in  
18 place that they are not profiting (sic) from those  
19 hundreds of thousands of tickets that we give. But  
20 at the end of the day, benefitting, too, as a council  
21 member because it is with that money that also would  
22 balance the budget back. I wanted to say that, and  
23 hoping that we will continue the conversation not  
24 only with this bill, but with other bills that are

1 COMMITTEE ON TRANSPORTATION

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2 important for all of us. With that, this hearing is

3 adjourned. [gavel]

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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 September 26, 2017