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# **NEW YORK STATE AND NEW YORK CITY MUST TAKE DRASTIC MEASURES TO INCREASE ALL NEW YORKERS' ACCESS TO QUALITY GREENSPACES**

BEN HANDY

## INTRODUCTION

Imagine you are a newly elected New York City council member in a lower-income district. Your district does not have a landmark city park, such as a Prospect Park or Central Park. Instead, your district has one medium-sized park and two small parks. In other words, your parks are for the local community and not for tourists. You discussed the local parks in your campaign for council and how they need to be improved, but it was not the centerpiece of the campaign. Overall, you are very excited about the opportunity to bring change to your district because it is much needed.

You are also excited to bring about change in the district because you have lived your entire life there. This community, particularly these local parks, was crucial in developing you into the person you are today. These local parks are where you bonded with friends, spent quality time with your brothers and sisters, and got out your anxious energy after school. The parks, however, have changed since you were a kid. Not the geographical location. Instead, the quality of the parks.

The parks have become a blight to the community—an eyesore. One park has a basketball court with massive cracks and a missing basketball hoop, making it almost impossible to use. Furthermore, the medium-sized park's once pristine grassy lawn is now a mud pit—a place to be avoided. The trees and bushes that once grew green now consistently look dead, even in the spring. The playground is rusting and has many sharp objects protruding due

to lack of repairs. Moreover, the parks are best to be avoided at night because of suspected criminal activity. Overall, the parks have become a community liability, not a community asset.

The current state of the parks, though, is not as bad as the current state of the education funding in your district. Furthermore, your district has a problem with accessible transportation and your constituents have voiced a need for more bus lines, more covered bus shelters, and wheelchair accessibility to the subway.

On your first day, you learn the hard truth—there is likely room for semi-adequate funding for only two of these three issues. Thus, you have a decision to make: expend limited political capital to piece together adequate funding for all three issues, maybe giving up future funding in a deal with a fellow council member, or choose two issues and promise to revisit the third in the coming year.

The decision is made. You decide to advocate strongly for your district to receive increased education and transportation funding. For now, funding for the parks will have to wait until next year.

Now imagine that you are a child in the council member's district. You love going to the local parks and spending time with your friends. However, you have been hurt multiple times while playing at your local park. Like the time you chipped your tooth from tripping on a massive crack in the basketball court and falling face first. Or the time you broke your arm while playing on a busted ladder in the playground. Now your mother does not want you to play at the local parks because of the risks. Thus, you must travel thirty-plus minutes to go to a park that is in a wealthier neighborhood and approved by your mother.

The park where you now play is nice and new. Yet, it has many negatives. The park is not in your community, and the community members do not look like you. Additionally, none of your friends go to this park. Furthermore, you rarely are able to make it to the park after school because it is so far away. After a while, you stop going to the park.

This hypothetical is not an anomaly. Consistently, elected and appointed city government officials around the United States, despite recognizing how important parks are to cities, have expressed that they would cut park funding before other essential

services when a city's budget is limited.<sup>1</sup> For example, New York City's Department of Parks and Recreation ("Parks Department" or "Department") has seen extreme budget limits.<sup>2</sup> The Parks Department's limited budget means that most communities do not receive the financial support needed to maintain their local parks.<sup>3</sup> Historically, this has impacted lower-income areas more severely because these areas generally receive less public and private funding for parks, leading to less access to greenspaces.<sup>4</sup> This lack of access to greenspaces—especially in low-income areas—is an important issue because there are many environmental, psychological, social, economic, and physical benefits associated with a community's access to greenspaces.<sup>5</sup> Furthermore, even when funding is received by a community, it is piecemeal and not enough to address the community's pressing need for greenspaces and parks.<sup>6</sup> Both the overall lack of funding and the piecemeal approach to limited funding create large discrepancies in access to greenspaces based on a community's socioeconomic status.

To increase all New Yorkers' access to quality greenspaces, this Note proposes a two-prong solution. First, New York City must take proactive measures that will allow the Parks Department to increase its budget and its level of control over that budget. These measures include restructuring how the Parks Department's top officials are chosen, as well as changing current legislation that dictates where and how certain Parks Department revenues are

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<sup>1</sup> See NAT'L RECREATION & PARK ASS'N, *Local Government Officials' Perception of Parks and Recreation* 11 (2017), [https://www.nrpa.org/content-assets/7761bd47adb142aaa62b19d00500fea3/local-officials-report.pdf](https://www.nrpa.org/contentassets/7761bd47adb142aaa62b19d00500fea3/local-officials-report.pdf) (explaining that a majority of local government officials surveyed place a high priority on funding local parks, but those same officials, when presented with a theoretical decrease in the local government's budget, would cut the park and recreation budget by the greatest percentage).

<sup>2</sup> See John Surico, *A New Leaf: Revitalizing New York City's Aging Parks Infrastructure*, CTR. URB. FUTURE 7 (June 2018), [https://nycfuture.org/pdf/CUF\\_A\\_New\\_Leaf\\_.pdf](https://nycfuture.org/pdf/CUF_A_New_Leaf_.pdf). The Parks Department's expense budget for 2018 was "0.6[%] of the city's overall budget . . ." *Id.* Conversely, the Parks Department's expense budget used to be "1.32[%] in 1976." *Id.*

<sup>3</sup> See *id.* at 27. New York City parks rely on community board requests for repairs and capital work funding. See *id.* In 2017, there were 245 requests for expense funding in parks; only seven percent of those requests were funded. See *id.* Additionally, there were "491 requests for capital funding[] [and] only [nineteen] percent received funding." *Id.* These acceptance rates are among the lowest for any category of public spending. *Id.*

<sup>4</sup> See *id.* at 8.

<sup>5</sup> See *infra* Part I.

<sup>6</sup> See Surico, *supra* note 2, at 32. The Parks Department's "reliance on discretionary spending for capital projects makes systematic planning impossible, and creates an uneven system for funding state of good repair needs." *Id.*

allocated. Second, New York City must create a citywide plan that guarantees the equitable distribution of both Parks Department resources and private donations, both of which are crucial in maintaining and creating greenspaces throughout New York City.

This Note focuses on improving the Parks Department because it is a significant facilitator of greenspaces in New York City.<sup>7</sup> Improving the Parks Department's budget and institutional efficiency will lead to higher quality and quantity of greenspaces, which will increase access to high quality greenspaces for all New Yorkers. This Note's proposals center on the idea that equal access to quality greenspaces start with equal access to funding.

Part I of this Note explains the environmental, psychological, social, economic, and physical benefits that occur when greenspaces are introduced to a community. Part II discusses the Parks Department's current financial problems and the causes of those problems. Part III describes the City's current practices for dealing with the Parks Department's financial woes. Moreover, Part III explains how the City's current practices exacerbate the unequal distribution of both public and private funds, which leads to unequal access to greenspaces. Furthermore, Part IV suggests a comprehensive approach that New York City should take to improve the Parks Department's budget and control over the allocation of its budget. Finally, Part V proposes ways New York City can improve all New Yorkers' access to quality greenspaces, regardless of socioeconomic class.

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<sup>7</sup> See *About the New York City Department of Parks & Recreation*, N.Y.C. PARKS, <https://www.nycgovparks.org/about> (last visited Oct. 4, 2021). "[The Parks Department] is the steward of more than 30,000 acres of land – [fourteen] percent of New York City – including more than 5,000 individual properties . . . [The Parks Department] operates more than 800 athletic fields and nearly 1,000 playground, 1,800 basketball courts, 550 tennis courts, [sixty-five] public pools, [fifty-one] recreational facilities, [fifteen] nature centers, [fourteen] golf courses, and [fourteen] miles of beaches . . . We are New York City's principal providers of recreational and athletic facilities and programs." *Id.*

## I. BENEFITS OF GREENSPACES

The term “greenspace” is relatively modern<sup>8</sup> and does not have a uniform definition.<sup>9</sup> There are many interpretations and examples of what is and what is not a greenspace.<sup>10</sup> For the purposes of this Note, greenspace means “urban vegetation, including parks, gardens, yards, urban forests and, urban farms – usually relating to a vegetated variant of open space.”<sup>11</sup> This Note emphasizes greenspaces that have high-quality vegetation and/or a high quantity of vegetation. These types of greenspaces provide important environmental, psychological, economic, and physical benefits to humans and the cities in which they live. Nevertheless, as discussed below, a community’s proximity to a greenspace is crucial for it to fully enjoy that greenspace’s benefits. This importance of proximity is why improving all New Yorkers’ access to greenspaces—regardless of their socioeconomic class—is critical.

### A. *Environmental Benefits*

Greenspaces provide important ecological services<sup>12</sup> that benefit New York City and all New Yorkers. For instance, New York City produces massive amounts of air pollution.<sup>13</sup> New York City is well known for its tall buildings, industry, and busy streets filled with

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<sup>8</sup> See Lucy Taylor & Dieter F. Hochuli, *Defining Greenspace: Multiple Uses Across Multiple Disciplines*, 158 LANDSCAPE & URB. PLAN. 25, 26–27 (2017). Three hundred and sixty-seven articles discussing “greenspaces” were published between 1975 and 2014. *See id.* The majority of those publications have come after the year 2000, with 125 published journal papers between 2009 and 2014. *See id.*

<sup>9</sup> *See id.* at 25. “In a review of journal articles about greenspace, [the authors] found that less than half of the 125 journal articles reviewed defined what greenspace was in their study; although many articles implied a definition . . . [T]his suggests that researchers do not have the same understanding of greenspace . . .” *Id.*

<sup>10</sup> *See id.* at 32.

<sup>11</sup> *Id.* at 29.

<sup>12</sup> Ecological services are beneficial services provided to humans by natural systems, such as purification of air and water. *See* GRETCHEN C. DAILY, NATURE’S SERVICES: SOCIETAL DEPENDENCE ON NATURAL ECOSYSTEMS 3 (Island Press, 1997).

<sup>13</sup> *See* Shah Md. Atiqul Haq, *Urban Green Spaces and an Integrative Approach to Sustainable Environment*, 2 J. ENV’T PROT. 601, 602 (Jan. 2011) (describing how urban areas produce air pollution from sources such as factories and motor vehicles).

automobiles and pedestrians.<sup>14</sup> Motor vehicles and factories emit carbon dioxide, carbon monoxide, sulfur dioxide, and nitrogen oxide, all of which are toxic to humans and the environment.<sup>15</sup> Conversely, vegetation—in the form of trees, grass, shrubs, and flowers—reduces air pollution by naturally filtering the air of toxic pollutant particles.<sup>16</sup> For example, a recent study in Barcelona—a similarly large metropolitan area—found that “urban forests remove over 300 tons of air pollutants every year and prevent 5,000 tons of CO<sub>2</sub> emissions from being released into the atmosphere.”<sup>17</sup> A community’s proximity to a greenspace is important, though, because “[r]esearch has shown that in average, [eighty-five percent] of air pollution in a park can be filtered.”<sup>18</sup> Thus, equitably increasing the amount of vegetation throughout New York City will naturally reduce air pollution through inexpensive means.

Increasing New York City’s vegetation will also lower the City’s overall temperature because vegetation provides shade, air circulation, and evapotranspiration.<sup>19</sup> New York City, as well as other major metropolitan areas throughout the world, suffers from the “urban heat island” effect.<sup>20</sup> This term describes how urban areas

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<sup>14</sup> See Emily Badger, *What Happens When New York City Streets Become Too Crowded Even for New Yorkers*, WASH. POST (July 24, 2015), [https://www.washingtonpost.com/news/wonk/wp/2015/07/24/new-york-citys-insanely-busy-streets-are-an-omen-of-the-toxic-politics-to-come/?utm\\_term=.b6cc346ccd82](https://www.washingtonpost.com/news/wonk/wp/2015/07/24/new-york-citys-insanely-busy-streets-are-an-omen-of-the-toxic-politics-to-come/?utm_term=.b6cc346ccd82) (describing the New York environment).

<sup>15</sup> See Haq, *supra* note 13, at 602. Children, the elderly, and individuals with respiratory problems are most affected by these types of toxic pollutants. See *id.*

<sup>16</sup> See *id.* (explaining that air pollution consists of many fine particles, which instead of going into human lungs, get trapped by vegetation and filtered out of the air through each plant’s natural process).

<sup>17</sup> Isabelle Anguelovski et al., *Assessing Green Gentrification in Historically Disenfranchised Neighborhoods: A Longitudinal and Spatial Analysis of Barcelona*, 39 URB. GEOGRAPHY 458, 459 (2018). See W.C. Ranasinghe & G.P.T.S. Hemakumara, *Spatial Modelling of the Householders’ Perception and Assessment of the Potentiality to Improve the Urban Green Coverage in Residential Areas: A Case Study from Issadeen Town Matara, Sri Lanka*, 9 RUHUNA J. SCI. 44, 45 (2018) (“Urban forestry is a specialized branch of forestry that has as its objectives, the cultivation and management of trees within the urban environment for the physical, social and economic well-being of urban society, both for now and the future. The contribution made by trees includes their over-all ameliorating effect on the environment, as well as their recreational and general amenity value.”).

<sup>18</sup> Haq, *supra* note 13, at 602.

<sup>19</sup> See *id.* at 602. Vegetation “provides a cooling effect [that] help[s] to lower air temperature.” *Id.* See also *Evapotranspiration*, LEXICO, <https://en.oxforddictionaries.com/definition/us/evapotranspiration> (last visited Sept. 3, 2021) (defining evapotranspiration as “[t]he process by which water is transferred from the land to the atmosphere by evaporation from the soil and other surfaces and by transpiration from plants.”).

<sup>20</sup> See Talmor Meir et al., *Forecasting the New York City Urban Heat Island and Sea Breeze During Extreme Heat Events*, 28 WEATHER & FORECASTING 1460, 1461 (2013). “[New York City’s] [Urban Heat Island] was found to have an average magnitude of [three] degrees

are generally hotter than the surrounding rural areas.<sup>21</sup> The heating effect occurs because pavement and manmade structures that accompany cities absorb more heat than the vegetation they replace.<sup>22</sup> For example, one study found that New York City is 5.4 degrees Fahrenheit hotter than its surrounding areas in the winter and spring, and 7.2 degrees Fahrenheit hotter in the summer and autumn.<sup>23</sup> This increase in temperature can cause “complex air quality problems such as the formation of ground-level ozone (smog), fine particulate matter, and acid rain.”<sup>24</sup>

The urban heat island effect can be countered by increasing vegetation and greenspaces in a city.<sup>25</sup> But, the location of the vegetation or greenspace is important because “[a] park of 1.2 [kilometers] by 1.0 [kilometers] can produce an air temperature between the park and the surrounding city that is detectable up to [four kilometers] away.”<sup>26</sup> Thus, equitable distribution of high-quality greenspaces around New York City can counter the urban heat island effect.

Furthermore, greenspaces with high quality and quantity of vegetation promote healthy water and soil by naturally filtering water pollution.<sup>27</sup> The natural filtration also helps mitigate stormwater runoff and flooding during rainy periods.<sup>28</sup> This ecological service is especially important in New York City because it has a

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Celsius in the winter and spring and [four] degrees Celsius in the summer and autumn.”  
*Id.*

<sup>21</sup> See *Heat Island Effect*, EPA, <https://www.epa.gov/heat-islands> (last updated Aug. 10, 2021).

<sup>22</sup> See Haq, *supra* note 13, at 602.

<sup>23</sup> See Meir, *supra* note 20, at 1461.

<sup>24</sup> *Heat Island Impacts*, EPA, <https://www.epa.gov/heatislands/heat-island-impacts> (last updated Sept. 15, 2021).

<sup>25</sup> See Haq, *supra* note 13, at 602.

<sup>26</sup> *Id.*

<sup>27</sup> See Heather E. Wright Wendel et al., *Assessing Equitable Access to Urban Green Space: The Role of Engineered Water Infrastructure*, ENVTL. SCI. & TECH. 6728, 6728 (2011). Impermeable manmade surfaces, such as roads, sidewalks, and buildings, prevent the ground from being able to absorb rainwater. See *Sources and Solutions: Stormwater*, EPA, <https://www.epa.gov/nutrientpollution/sources-and-solutions-stormwater> (last updated Mar. 1, 2021). Thus, this rainwater accumulates manmade pollution and collects in storm drains and sometimes flows directly into nearby streams and rivers. See *id.* However, greenspaces create an area where the rainwater gets trapped by plants and the pollutants get filtered as the rainwater slowly infiltrates into the permeable ground. See *id.*

<sup>28</sup> Wendel, *supra* note 27, at 6728. “[Greenspaces] facilitate hydrological processes in areas where urban development interferes with the movement [and] distribution . . . [of] water. They also provide . . . increased control of stormwater runoff and flooding, reduced loading on stormwater systems, [and] improved groundwater recharge . . .” *Id.*

high number of insufficient drainage and wastewater systems.<sup>29</sup> One study found that most New York City parks could not manage the slightest amount of rain, and more than half of the parks had drainage issues “two days after the last rain[,] including submerged pathways and flooded areas.”<sup>30</sup>

Thus, greenspaces provide a natural and low-cost way of reducing New York City’s air pollution, reducing the city’s urban heat island effect, improving its water and soil quality, and allowing more accessibility to parks by mitigating flooding. The environmental impacts, though, comprise only one aspect of the benefits provided by greenspaces.

### B. Psychological Benefits

Modern studies consistently reveal that greenspaces have a positive effect on a person’s psychological well-being.<sup>31</sup> Living in a city, especially one the size of New York, often requires a faster-paced lifestyle and intensive information-processing demands, which cause “mental fatigue, a state characterized by inattentiveness, irritability, and impulsivity.”<sup>32</sup> Conversely, empirical evidence demonstrates that nature and greenspaces have a positive, attentionally restorative effect that helps counter mental fatigue.<sup>33</sup>

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<sup>29</sup> See Surico, *supra* note 2, at 4. Many parks use outdated drainage systems, such as clay pipes from the mid-twentieth century. *See id.* at 4–5. Additionally, many parks have cracked and blocked drainage systems that do not get fixed. *See id.* at 5. Thus, over fifty percent of sixty-five parks surveyed citywide had major drainage problems. *See id.* at 14.

<sup>30</sup> *Id.* at 5.

<sup>31</sup> See Frances E. Kuo & William C. Sullivan, *Aggression and Violence in the Inner City: Effects of Environment via Mental Fatigue*, 33 ENV’T. & BEHAV. 543, 549 (2001). Researchers studied the aggression levels of individuals living in a Chicago housing project. *See id.* at 543. Each building was identical, except that some housing project buildings were greener than others, meaning more vegetation was present. *See id.* In conclusion, the researchers found that the individuals in the greener housing project buildings had “significantly less overall aggression against their partners . . .” *Id.* at 554. Researchers also found that “people in highly urban areas tend to have more symptoms and a higher risk of mental illness.” Sjerp de Vries et al., *Natural Environments—Healthy Environments? An Exploratory Analysis of the Relationship Between Greenspace and Health*, 35 ENV’T & PLAN. 1717, 1721 (2003).

<sup>32</sup> Kuo & Sullivan, *supra* note 31, at 545.

<sup>33</sup> *See id.* The information-processing demands of daily life cause mental fatigue due to a consistent number of competing demands for a person’s attention. *See id.* Conversely, natural settings—be it wilderness or a community park—allow for a person to relax and engage with the scenery while in a less demanding or draining manner. *See id.*

Studies also show that greenspaces may help reduce depression<sup>34</sup> and possibly decrease feelings of anger, frustration, and aggression.<sup>35</sup> Furthermore, people living in environments with more natural vegetation “report fewer negative health symptoms and have better perceived general health.”<sup>36</sup> In fact, a study found that ten percent more “greenspace in the living environment leads to a decrease in the number of symptoms that is comparable with a decrease in age by [five] years.”<sup>37</sup>

Indeed, modern science now allows researchers to quantify and qualify the benefits greenspaces provide to a person’s psychological well-being. Using these same types of research techniques, researchers have also focused on the social benefits that arise from the presence and use of greenspaces.

### C. Social Benefits

Recent studies have found that greenspaces, especially those with high quality and/or quantity of vegetation, help promote social cohesion in communities by facilitating formal and informal interactions between individuals.<sup>38</sup> Also, greenspaces facilitate the transfer of information, political discourse, and cultural expression.<sup>39</sup> Furthermore, greenspaces “contribute to social justice by creating opportunities for all people to participate in close

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<sup>34</sup> See Matthias Braubach et al., *Effects of Urban Green Space on Environmental Health, Equity and Resilience*, NATURE-BASED SOLUTIONS TO CLIMATE CHANGE ADAPTION IN URBAN AREAS: LINKAGES BETWEEN SCIENCE, POLICY AND PRACTICE 187, 188 (Nadja Kabisch et al. eds., 2017). “Nature-based solutions can also improve the health and well-being of urban residents . . . . Many epidemiological studies have demonstrated various positive health effects of urban green spaces, including reduced depression and improved mental health . . . .” *Id.*

<sup>35</sup> See Kuo & Sullivan, *supra* note 31, at 558.

<sup>36</sup> de Vries, *supra* note 31, at 1726.

<sup>37</sup> *Id.*

<sup>38</sup> See Mehdi Rakhshandehroo et al., *The Social Benefits of Urban Open Green Spaces: A Literature Review*, 7 MGMT. RES. & PRAC. 60, 61 (2015). Attractive greenspaces in a neighborhood promote social cohesion by serving as forums for social activities. *See id.*

<sup>39</sup> *Id.* In recent history, many homogenous societies have become more multi-cultural. *See id.* Thus, greenspaces have become important areas— when there is easy access— where people from different cultures can interact. *See id.* at 61–62. “Attractive green areas in [a] neighborhood may serve as a focal point of tacit coordination for positive informal social interaction, strengthening social ties and thereby social cohesion.” Peter P. Groenewegen et al., *Vitamin G: Effects of Green Space on Health, Well-Being, and Social Safety*, 6 BMC PUB. HEALTH 1, 3 (2006).

interactions between social layers of diverse ethnic and racial backgrounds.”<sup>40</sup> Finally, greenspaces with high quality and/or quantity of vegetation may benefit a community by helping with the cognitive and social development of children—by promoting play, creative play, and access to adults.<sup>41</sup>

As important as the social benefits are, the social aspect is normally not the centerpiece of a city’s argument for building and maintaining greenspaces. Instead, economic benefits are the major drivers for the introduction and revitalization of greenspaces.

#### *D. Economic Benefits*

Public and private officials around the globe justify the introduction and/or revitalization of greenspaces by highlighting the economic benefits produced by such projects.<sup>42</sup> These economic benefits include increases in property value because land’s value tends to increase the closer it is to green amenities.<sup>43</sup> Increases in land value generally result in increased wealth for landowners. Additionally, increased land value is beneficial for New York City because higher land value means higher taxes paid on those properties, which means increased revenue for the city.<sup>44</sup> Furthermore, New York City’s tax base, an important source of revenue for the city, is positively affected by the introduction and/or revitalization

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<sup>40</sup> Rakhshandehroo et al., *supra* note 38, at 62.

<sup>41</sup> See Andrea Faber Taylor et al., *Growing Up in the Inner City: Green Spaces as Places to Grow*, 30 ENV’T & BEHAV. 3, 22–23 (1998). Researchers have identified two everyday activities that are crucial to a child’s development, play and access to adults. *See id.* at 4. Additionally, researchers found that higher levels of vegetation in community courtyards lead to more creative play and more access to adults. *See id.* at 22.

<sup>42</sup> “Though other cities were early adopters, Dallas and surrounding cities have been slow to embrace the concept. When [a local park] opened in 2012, so did many developers’ eyes about the value of parks and green spaces on private developments.” Julia Bunch, *Justifying Green Space from a Developer’s Perspective*, BISNOW (Aug. 23, 2017), <https://www.bisnow.com/dallas-ft-worth/news/construction-development/justifying-green-space-from-a-developers-perspective-78085>.

<sup>43</sup> Adam Eckerd, *Cleaning Up Without Clearing Out? A Spatial Assessment of Environmental Gentrification*, 47 URB. AFF. REV. 31, 33 (2011); see John L. Crompton, *The Impact of Parks on Property Values: Empirical Evidence from the Past Two Decades in the United States*, 10 MANAGING LEISURE 203, 216 (2005) (explaining the positive impact parks have on property values).

<sup>44</sup> See Crompton, *supra* note 43, at 217 (explaining that although increased property value has its positives, it also has its negatives because it increases property taxes).

of greenspaces because high-quality and quantity greenspaces attract new businesses, new residents, and tourists to an area.<sup>45</sup>

Moreover, greenspaces provide indirect economic benefits to New York City communities. As discussed above, the urban heat island effect causes New York City to be hotter than its surrounding areas, which increases summertime peak energy demand and air conditioning costs.<sup>46</sup> But vegetation in a city reduces the energy costs required to cool buildings because vegetation provides “air circulation, [ ] shade[,] and [ ] evapotranspir[ation].”<sup>47</sup> In fact, “[a] study in Chicago has shown that increasing tree cover in the city by [ten percent] may reduce the total energy for heating and cooling by [five to ten percent].”<sup>48</sup> Thus, by lowering New York City’s temperature, greenspaces also lower the cooling costs required by residents in the warmer summer months.

### *E. Physical Benefits*

Greenspaces provide physical health benefits to city-dwelling people on both a micro- and a macro-level. On the micro-level, studies show that amplified exposure to greenspaces can increase opportunities for physical activity and reduce rates of obesity, reduce rates of diabetes, and improve pregnancy outcomes in a community.<sup>49</sup> However, the proximity of a greenspace plays a large role in the frequency with which someone uses the space because “[p]eople in close proximity to a green space use it more frequently.”<sup>50</sup> Thus, a community’s ease of access to a high-quality greenspace is important for the community to reap the physical benefits from that space.

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<sup>45</sup> See *id.* (describing a park’s role in attracting visitors, new residents, and businesses to a neighborhood as a secondary public benefit).

<sup>46</sup> See *Heat Island Impacts*, *supra* note 24.

<sup>47</sup> Haq, *supra* note 13, at 602.

<sup>48</sup> *Id.*

<sup>49</sup> Braubach, *supra* note 34, at 188 (“Many epidemiological studies have demonstrated various positive health effects of urban green spaces, including reduced depression and improved mental health, reduced cardiovascular morbidity and mortality, improved pregnancy outcomes and reduced rates of obesity and diabetes.”).

<sup>50</sup> Haq, *supra* note 13, at 604. “Distance or walking time from home has appeared to be the single most important precondition for use of green spaces.” *Id.*

Additionally, on a macro-level, greenspaces can benefit the health of New Yorkers by reducing the urban heat island effect. This effect can compromise human health by contributing to “respiratory difficulties, heat cramps, heat exhaustion, [] non-fatal heat stroke[,]” and heat-related mortality.<sup>51</sup> The Centers for Disease Control and Prevention estimates that “more than 600 people in the United States are killed by extreme heat every year.”<sup>52</sup> To complicate the issue, as temperatures rise more drastically in cities than in surrounding areas, the effects of extreme heat are not felt equally by a city’s population.<sup>53</sup> Instead, a recent study shows that “low-income neighborhoods are more likely to be hotter than their wealthier counterparts . . . .”<sup>54</sup> These temperature increases in low-income areas seem to directly impact residents’ physical health. For example, one study found that during extreme heat events in Baltimore, more low-income patients visited local hospitals and emergency rooms for heat-related conditions or conditions exasperated by the heat.<sup>55</sup> This study was not limited to Baltimore; it analyzed ninety-seven of the most populous cities in the United States and found that lower-income areas generally have less green cover than do the affluent areas.<sup>56</sup> Therefore, increasing greenspaces equitably throughout New York City can provide opportunities for individuals to improve their physical health, reduce the city’s overall temperature, and protect the city’s most vulnerable populations.

High quality and quantity of greenspaces provide many benefits to New York City and all New Yorkers. However, currently, these benefits are not distributed equally. Thus, guaranteeing equitable access to greenspaces should be an important policy goal for all New Yorkers and their publicly elected officials.

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<sup>51</sup> *Heat Island Impacts*, *supra* note 24.

<sup>52</sup> *Natural Disasters and Severe Weather: Extreme Heat*, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/disasters/extremeheat/index.html> (last updated June 30, 2021).

<sup>53</sup> See Meg Anderson & Sean McMinn, *As Rising Heat Bakes U.S. Cities, The Poor Often Feel It Most*, NAT’L PUB RADIO (Sept. 3, 2019, 5:00 AM), <https://www.npr.org/2019/09/03/754044732/as-rising-heat-bakes-u-s-cities-the-poor-often-feel-it-most>.

<sup>54</sup> *Id.*

<sup>55</sup> *See id.*

<sup>56</sup> *See id.*

## II. THE PARKS DEPARTMENT'S PAST AND CURRENT FINANCIAL PROBLEMS

Though there are many documented benefits of greenspaces, maintaining existing greenspaces and creating new greenspaces in New York City has been difficult due to the Parks Department's persistent financial problems.<sup>57</sup> The Parks Department is allocated funds through an expense budget and a capital budget.<sup>58</sup> The Parks Department's expense budget covers the costs of operating the day-to-day of the Department, such as paying maintenance workers and utility bills.<sup>59</sup> Conversely, the Parks Department's capital budget is dedicated to new construction projects and major repairs.<sup>60</sup> Both the Parks Department's expense budget and capital budget have been severely underfunded.<sup>61</sup> For instance, in 2018, the Parks Department's budget was less than one percent of the entire New York City budget, even though it manages fourteen percent of the city's land.<sup>62</sup>

The Parks Department's current financial condition can be traced back to the 1960s. Throughout that decade, the Parks Department's annual budget was consistently reduced.<sup>63</sup> By the

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<sup>57</sup> See Ethan Carr, *Rediscovery and Restoration (1965–1987)*, N.Y.C. PARKS, <https://www.nycgovparks.org/about/history/timeline/rediscovery-restoration> (last visited Sept. 5, 2021). See also PARKS & OPEN SPACE PARTNERS – N.Y.C., *Report on COVID-19 Impact on Public Spaces* 11–12 (May 1, 2020), [https://riversideparknyc.org/wp-content/uploads/2020/05/Parks\\_and\\_Open\\_Space\\_Partners\\_NYC-Report\\_2020.pdf](https://riversideparknyc.org/wp-content/uploads/2020/05/Parks_and_Open_Space_Partners_NYC-Report_2020.pdf) (“The NYC Parks Department is already facing budget cuts in [fiscal year] [20]21 . . . . All parks and public spaces – in particular those in under-resourced communities without the benefit of privately-funded conservancies – will be especially vulnerable to these cuts.”).

<sup>58</sup> See *The City Budget*, N.Y.C. COUNCIL, <https://council.nyc.gov/budget/> (last visited Sept. 12, 2021).

<sup>59</sup> See *id.*

<sup>60</sup> See *id.*

<sup>61</sup> The Parks Department's capital budget is approximately 4.1 percent of the entire City's capital budget. See COUNCIL OF CITY N.Y., *Report of the Finance Division on the Fiscal 2019 Preliminary Budget and the Fiscal 2018 Preliminary Mayor's Management Report for the Department of Parks and Recreation* 21 (Mar. 27, 2018), <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2018/05/FY19-Department-of-Parks-and-Recreation.pdf>. See also COUNCIL OF CITY N.Y., *Report to the Committee on Finance and the Committee on Parks and Recreation on the Fiscal 2018 Executive Budget for Department of Parks and Recreation* 2 (May 18, 2017), <http://council.nyc.gov/budget/wp-content/uploads/sites/54/2017/03/846-DPR-exec.pdf>.

<sup>62</sup> See COUNCIL OF CITY N.Y., *Report of the Finance Division on the Fiscal 2018 Preliminary Budget and the Fiscal 2017 Preliminary Mayor's Management Report for the Department of Parks and Recreation* 1 (Mar. 21, 2017) [hereinafter *Report of the Finance Division*], <http://council.nyc.gov/budget/wp-content/uploads/sites/54/2017/03/846-DPR.pdf>.

<sup>63</sup> See Carr, *supra* note 57. “The [Parks Department] itself, though, suffered annual

1970s, these budget cuts led to a serious staff shortage at the Parks Department.<sup>64</sup> From 1965 to 1980, the Parks Department's staff went from 5,200 employees to under 2,500.<sup>65</sup> To exacerbate the staffing problem, the City created many new parks in the 1960s.<sup>66</sup> Furthermore, New York City had a serious fiscal crisis in the 1970s, which placed an even greater strain on the Parks Department's limited resources.<sup>67</sup>

In 2018, the Parks Department's expense budget increased under Mayor Bill de Blasio's Administration.<sup>68</sup> But even with this increased budget, the Parks Department continues to struggle to repair, maintain, and create new parks; the city estimates that it will cost \$589 million for the next three years to properly repair the existing park infrastructure.<sup>69</sup> However, one intensive study estimates that it will cost \$5.8 billion over the next decade (\$580 million per year for ten years) to repair and upgrade existing park infrastructure.<sup>70</sup>

The de Blasio Administration's increase of the Parks Department's budget is a positive; however, increasing the Parks Department's budget without structurally changing how the Department allocates that budget is not enough because the distribution of the budget is systematically flawed.

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budget cuts and staff reductions throughout [the 1960s]. By the early 1970s attrition had caused a serious staff shortage." *Id.*

<sup>64</sup> *See id.*

<sup>65</sup> *See id.*

<sup>66</sup> *See id.*

<sup>67</sup> *See id.* "The city fiscal crisis seriously aggravated the problems of an already strained parks system. In the early 1970s, the Parks Department had begun to plan capital restoration projects for the parks, such as the 1973 [master plan] for Central Park. Such initiatives were delayed by the fiscal crisis. Already minimal staffing levels were further cut, particularly for recreation programs." *Id.*

<sup>68</sup> *See* Surico, *supra* note 2, at 10. From 2014–2016, the de Blasio Administration increased the Parks Department's expense budget by 16.4%. *See id.*

<sup>69</sup> *See id.* at 10.

<sup>70</sup> *See id.* at 3. "We estimate that the city will have to invest at least \$5.8 billion over the coming decade to address the system's infrastructure problems. This total only includes the known repair or replacement costs of existing infrastructure, not new structures or additions to parks." *Id.*

### III. NEW YORK CITY'S UNEQUAL DISTRIBUTION OF THE PARKS DEPARTMENT'S LIMITED BUDGET

In addition to the Parks Department's limited budget and increasing maintenance costs, its limited financial resources are not equally distributed to all New Yorkers due to many structural flaws. First, almost all of the Parks Department's budget relies on discretionary funding, which is "allocated by [fifty-one] city council members, five borough presidents, and the mayor."<sup>71</sup> As a result, necessary greenspace repairs and funding must compete with other essential community needs for funding, and council members in lower-income neighborhoods may not prioritize greenspace funding because their community may have many other pressing needs.<sup>72</sup>

A study of New York City spending from 1996 to 2016 found that "the Parks Department completed an average of [ninety-one] district-specific projects and invested an average of \$41 million in each of the [fifty-one] Council districts."<sup>73</sup> However, this discretionary funding was not equally distributed throughout each borough or district, especially when comparing more affluent districts to non-affluent districts.<sup>74</sup> For example, Brooklyn's District 45, which consists of Midwood and Flatbush, has seen thirty-six "district-specific projects, totaling \$11 million . . ."<sup>75</sup> Additionally, "[a]cross four Queens council districts—covering Elmhurst, Jackson Heights, and Jamaica—parks have seen less than \$50 million in capital work . . ."<sup>76</sup> Conversely, over the same time period, "District 33, which includes Williamsburg and Dumbo, has

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<sup>71</sup> *Id.* at 8.

<sup>72</sup> *See id.* at 33. "In the lowest-income neighborhoods, you usually have the biggest problems,' says Tupper Thomas. 'Because there are so many needs in that neighborhood, the council member doesn't always pick parks as something they're going to work on.'" *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> *See id.*

<sup>75</sup> *Id.* In 2019, Midwood and Flatbush ranked thirty-fourth out of fifty-nine New York Community Districts in median household income. *See Median Incomes*, CITIZENS' COMM. FOR CHILD. N.Y., INC., <https://data.cccnewyork.org/data/map/66/median-incomes#66/39/3/107/62/a/a> (last visited Sept. 5, 2021).

<sup>76</sup> Surico, *supra* note 2, at 33. Elmhurst/Corona, Jackson Heights, and Jamaica/St. Albans ranked thirtieth, twenty-ninth, and thirty-third, respectively, in median household income out of fifty-nine New York City Community Districts. *See Median Incomes*, *supra* note 75.

benefited from 103 projects . . . totaling \$118 million.”<sup>77</sup> Furthermore, there has been \$125 million in capital work done in Manhattan’s District 2, which includes the neighborhoods of Gramercy Park and Kips Bay.<sup>78</sup> Thus, lower-income communities do not have convenient access to quality greenspaces because funding needed to create or maintain such areas is non-existent or lacking.

Moreover, New York City has tried to supplement its limited Parks Department budget by relying on the public-private partnership model, and in doing so, has exacerbated the unequal facilitation of and access to greenspaces.<sup>79</sup> The public-private partnership model has been a part of New York City policy since the late 1970s when the mayor “initiated ‘load-shedding’ management policies”<sup>80</sup> that transferred many park features into private ownership and management.<sup>81</sup> This legacy continues to live on today. In order to maintain and repair city parks, the Parks Department continues to partner with local nature conservancies.<sup>82</sup> To be able to create new greenspaces, New York City also partners with private organizations that help with the vision and funding.<sup>83</sup> Both

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<sup>77</sup> Surico, *supra* note 2, at 33. Williamsburg/Greenpoint and Fort Green/Brooklyn Heights—where the Dumbo neighborhood is located—ranked eleventh and ninth, respectively, out of fifty-nine New York City Community Districts. *See Median Incomes, supra* note 75.

<sup>78</sup> *See* Surico, *supra* note 2, at 33. Gramercy Park and Kips Bay are part of the Murray Hill/Stuyvesant Community District, which ranked fourth out of fifty-nine New York City Community Districts. *See Median Incomes, supra* note 75.

<sup>79</sup> *See* Ted Smalley Bowen & Adam Stepan, *Public - Private Partnerships for Green Space in NYC*, CASE CONSORTIUM COLUM. U. 1 (2014), [http://ccnmtl.columbia.edu/projects/caseconsortium/casestudies/128/casestudy/www/layout/case\\_id\\_128\\_id\\_899.html](http://ccnmtl.columbia.edu/projects/caseconsortium/casestudies/128/casestudy/www/layout/case_id_128_id_899.html). “Since the 1980 creation in New York City of the groundbreaking Central Park Conservancy . . . New York [has been] one of the most avid users of [public-private partnerships] to restore and maintain green space.” *Id.*

<sup>80</sup> Carr, *supra* note 57. Load-shedding management policies slimmed down the type of activities the Parks Department had authority over. *See id.* These policies were meant to improve park management and release financial and personnel burdens. *See id.*

<sup>81</sup> *See id.* “Many park facilities, such as ice skating rinks and golf courses, were turned over to private concessionaires who operate and maintain them by permit. Arrangements were made to transfer the operations of the three city zoos to the New York Zoological Society. Roving park maintenance crews were started to make up for the absence of fixed-post workers in neighborhood playgrounds. The City Council also transferred maintenance responsibilities for parkways to the Bureau of Highways for roadbed maintenance and to the Department of Sanitation for litter and snow removal.” *Id.*

<sup>82</sup> *See id.* Nature conservancies, including the Central Park Conservancy, are private nonprofit organizations that partner with New York City and help with the management and maintenance of a New York City park. *See* Douglas Martin, *City Offers Private Group Contract to Maintain Central Park*, N.Y. TIMES (Sept. 6, 1997), <https://www.nytimes.com/1997/09/06/nyregion/city-offers-private-group-contract-to-maintain-central-park.html>.

<sup>83</sup> *See* Laura Bliss, *The High Line’s Next Balancing Act*, BLOOMBERG: CITYLAB

of these solutions are forms of public-private partnerships. These partnerships are generally heavily funded and driven by the private side of the partnership.<sup>84</sup>

Some of New York City's most high-profile parks—Prospect Park, Central Park, Bryant Park, and the High Line—are managed and operated by nature conservancies.<sup>85</sup> The non-profit Prospect Park Alliance was created in 1987 with the goal of restoring Prospect Park.<sup>86</sup> Now, the Prospect Park Alliance supplies a majority of Prospect Park's staff and operating budget.<sup>87</sup> The Central Park Conservancy ("CPC") was formed over forty years ago and "was born of community activism . . ."<sup>88</sup> Now, the CPC raises almost all of Central Park's \$75 million annual operating budget and performs most of the maintenance work.<sup>89</sup> Throughout the CPC's history, it has invested more than \$1 billion into Central Park.<sup>90</sup> Additionally, the Bryant Park Corporation ("BPC") was founded in 1980 to renovate and operate Bryant Park.<sup>91</sup> "BPC is privately funded, and operates Bryant Park with private sector techniques and management methods."<sup>92</sup> Only four years after the transfer of management from the Parks Department to BPC, Bryant Park's budget was six times higher than its budget under New York City's management.<sup>93</sup> Lastly, Friends of the High Line, a nonprofit

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(Feb. 7, 2017, 8:27 AM EST), <https://www.bloomberg.com/news/articles/2017-02-07/the-high-line-and-equity-in-adaptive-reuse> ("[C]ity governments rarely have room in their budgets, or even imaginations, to redevelop [or create new greenspaces] on their own. It's largely up to private funders to bankroll these projects—and it's mostly private individuals who dream them up.").

<sup>84</sup> See *id.*

<sup>85</sup> See PROSPECT PARK ALL., *Prospect Park Alliance: Strategic Plan* 1, 4, [https://www.prospectpark.org/media/filer\\_public/e2/36/e236b15f-4230-4f70-974e-28a74a1c56cb/ppa\\_stratgic\\_plan\\_overview.pdf](https://www.prospectpark.org/media/filer_public/e2/36/e236b15f-4230-4f70-974e-28a74a1c56cb/ppa_stratgic_plan_overview.pdf) (last visited Aug. 20, 2021); *About Us*, CENT. PARK CONSERVANCY, <http://www.centralparknyc.org/about/> [hereinafter *About Us CPC*] (last visited Sept. 3, 2021); *About Us: Management + Board*, BRYANT PARK CORP., <http://bryantpark.org/about-us> [hereinafter *About Us BPC*] (last visited Sept. 3, 2021); *About: Overview*, FRIENDS HIGH LINE, <https://www.thehighline.org/about/> [hereinafter *Overview Friends High Line*] (last visited Sept. 3, 2021).

<sup>86</sup> See PROSPECT PARK ALL., *supra* note 85, at 1.

<sup>87</sup> See *id.* ("The Park thrives due to a strong public-private partnership between the Alliance and the City of New York, which has evolved to the point where the Alliance provides a majority of the Park's staff and operating budget.").

<sup>88</sup> *About Us CPC*, *supra* note 85 ("The Central Park Conservancy . . . continue[s] to partner with the public and rely on our community . . .").

<sup>89</sup> See *id.*

<sup>90</sup> See *id.*

<sup>91</sup> See *About Us BPC*, *supra* note 85.

<sup>92</sup> *Id.*

<sup>93</sup> See *id.*

organization, raises nearly all of the High Line's annual budget.<sup>94</sup> The High Line is owned by New York City, but completely maintained and operated by Friends of the High Line.<sup>95</sup>

The High Line is probably the most well-known park that exemplifies the City's use of private-public partnerships to finance the creation of new parks. The High Line is a greenspace elevated on top of an old railroad system in West Chelsea, Manhattan.<sup>96</sup> The original railroad system was built to facilitate the transfer of goods to and from West Chelsea, which was an industrial and manufacturing hub at the time.<sup>97</sup> However, the railroad system became less functional throughout the 1960s, and completely unfunctional by the 1980s because of the increased use of trucks to transport goods to and from the city.<sup>98</sup> The rails sat in disrepair for the next twenty years.<sup>99</sup> There was a lively discussion about whether it should be torn down or turned into something else.<sup>100</sup> Then, in 1999, Friends of the High Line was created and started advocating for the preservation and reuse of the High Line as a public space.<sup>101</sup> It took many years and creative campaigns for Friends of the High Line to garner support for its mission to turn the railroad tracks into an elevated public greenspace.<sup>102</sup>

Then, as the Friends of the High Line's website explains, "[w]ith strong support from then-Mayor Bloomberg and the City Council, a special zoning area was proposed: The West Chelsea Special District."<sup>103</sup> In 2005, the City Council approved zoning changes that

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<sup>94</sup> See *Overview Friends High Line*, *supra* note 85.

<sup>95</sup> See *id.*

<sup>96</sup> See *About: History*, FRIENDS HIGH LINE, <https://www.thehighline.org/history/> (last visited Sept. 3, 2021).

<sup>97</sup> See *id.* (noting that in 1934 the "West Side Elevated Line" was fully operational, which allowed the transportation of "millions of tons of meat, dairy, and produce," and easy access to factories).

<sup>98</sup> See *id.* (noting that the use of trains decreased as a result of the increase in trucking, which led to the demolishing of the southernmost section of the High Line in the 1960s followed by its total abandonment by the 1980s).

<sup>99</sup> See *id.* (noting that the High Line was not being used in the 1980s, and in 1999 the owners of the High Line, CSX Transportation, began accepting "proposals for the structure's reuse.").

<sup>100</sup> See *id.* (noting that Mayor Giuliani signed a demotion order for the High Line while others, like the founders of Friends of the High Line, advocated for its preservation and use as a public space).

<sup>101</sup> See *id.*

<sup>102</sup> See *id.* In 2003, Friends of the High Line hosted an "ideas competition" and received 720 responses from all over the world on how to use the park, gaining support from then-Mayor Bloomberg and City Council. See *id.*

<sup>103</sup> *Id.*

affected the West Chelsea area in Community District 4 Manhattan by approving and creating the Special West Chelsea District.<sup>104</sup> The District “comprises ten sub-areas with special bulk regulations that respond to the unique conditions along the High Line and surrounding streets. The special district supersedes the controls of the underlying zoning districts.”<sup>105</sup>

The City’s main purpose in creating the Special West Chelsea District was to establish a “zoning mechanism” to facilitate the creation of the High Line.<sup>106</sup> In addition to the political capital expended to pave the way for the High Line, considerable private and public funds have gone towards the High Line.<sup>107</sup> The first two sections of the High Line cost a combined \$152 million.<sup>108</sup>

The third section of the High Line cost \$35 million.<sup>109</sup> Friends of the High Line provided \$44 million in funding, while the federal government provided \$20.3 million and New York City financed \$112.2 million of the project.<sup>110</sup> The High Line received significant financial support from famous and influential individuals.<sup>111</sup>

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<sup>104</sup> See N.Y.C. DEP’T. CITY PLAN., *Study for the Potential Expansion of the Special West Chelsea District 3* (June 28, 2013) [hereinafter *Potential Expansion of Special West Chelsea District*], [https://www1.nyc.gov/assets/planning/download/pdf/plans-studies/special-west-chelsea/special\\_west\\_chelsea\\_district\\_report.pdf](https://www1.nyc.gov/assets/planning/download/pdf/plans-studies/special-west-chelsea/special_west_chelsea_district_report.pdf); *West Chelsea Zoning Proposal – Approved!*, N.Y.C. DEP’T. CITY PLAN., <https://www1.nyc.gov/assets/planning/download/pdf/plans/special-west-chelsea/westchelsea.pdf> (last visited Sept. 2, 2021) (“The [Special West Chelsea District] is bounded generally by Tenth and Eleventh Avenues from West 30th Street south to West 16th Street.”).

<sup>105</sup> *Potential Expansion of Special West Chelsea District*, *supra* note 104, at 4.

<sup>106</sup> *Id.* at 17.

<sup>107</sup> See *The High Line: High Line History*, N.Y.C. ECON. DEV. CORP., <https://www.nycedc.com/project/high-line> (last visited Aug. 22, 2021) (noting the Bloomberg administration and the City of New York backed up the creation of the High Line plan and sought out authorization for its construction, as well as received donations from CSX Transportation, Inc., for the structure of the High Line south of 30th street).

<sup>108</sup> See Robin Pogrebin, *Renovated High Line Now Open for Strolling*, N.Y. TIMES (June 8, 2009), <https://www.nytimes.com/2009/06/09/arts/design/09highline-RO.html#:~:text=Standing%20on%20a%20newly%20renovated,transformation%20happen%20%E2%80%94%20Mayor%20Michael%20R> (“The first two sections of the High Line cost \$152 million, Mr. Bloomberg said . . .”).

<sup>109</sup> See Michael Kimmelman, *The Climax in a Tale of Green and Gritty*, N.Y. TIMES (Sept. 19, 2014), <https://www.nytimes.com/2014/09/20/arts/design/the-high-line-opens-its-third-and-final-phase.html>.

<sup>110</sup> See *The High Line: First Section of High Line Park Opens to the Public*, N.Y.C. DEP’T. PARKS & RECREATION (June 11, 2009), <https://www.nycgovparks.org/parks/the-high-line/dailyplant/21962> (“Funding for the project includes \$112.2 million from [ ] [New York] City [ ] [and] \$20.3 million from the federal government . . . [F]riends of the High Line [ ] raised \$44 million in their capital campaign for the High Line.”).

<sup>111</sup> See Pogrebin, note 108. One famous and influential couple donated upwards of \$35 million to the High Line, with one single donation of \$20 million being the largest donation ever made to a New York City park. See Lisa W. Foderaro, *Record \$20 Million Gift to Help Finish the High Line Park*, N.Y. TIMES (Oct. 26, 2011),

Thus, the High Line is a public park that was only made possible by private money and a private vision.<sup>112</sup>

The Parks Department relies on the private sector for the maintenance of existing parks and funding for the creation of new parks because of budgetary problems. But private-sector money mostly goes to maintaining and creating parks in wealthier areas,<sup>113</sup> leaving lower-socioeconomic areas at a disadvantage. Those same lower-income communities must then compete with wealthier areas for limited public funding, which is a battle proven hard to win.

#### IV. PROPOSED SOLUTIONS

All New Yorkers should have equal access to quality greenspaces. As described in great detail in Part II, greenspaces provide users and surrounding communities with a great number of benefits, which can increase someone's longevity and prosperity. In order to increase all New Yorkers' access to quality greenspaces and enhance the quality of life in New York City, New York State, and New York City government officials must get creative and rethink the usual *modus operandi* because it is not working. Measures must be taken to increase the Parks Department's accountability, the Parks Department's budget, and the equitable distribution of public and private funds to all New York City neighborhoods.

First, the Parks Department's current structure must be changed, and its top officials must be publicly elected by New Yorkers. This will allow the Parks Department to be more accountable to New Yorkers and promote more effective and efficient long-term resource management. Second, the Parks Department's budget must be increased to allow the allocation of more financial resources towards City parks' ever-increasing maintenance and

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<https://www.nytimes.com/2011/10/27/nyregion/20-million-gift-to-high-line-park.html>.

<sup>112</sup> See Katharine Jose, *Playground for Plutocrats: Who Pays for Parks*, POLITICO (Dec. 24, 2010, 9:48 AM), <https://www.politico.com/states/new-york/albany/story/2016/05/playgrounds-for-plutocrats-who-pays-for-parks-051105>.

<sup>113</sup> See Matt Eldridge et al., *Investing in Equitable Urban Park Systems*, URB. INST. 22 (2019), [https://www.urban.org/sites/default/files/publication/100520/investing\\_in\\_equitable\\_urban\\_park\\_systems\\_1.pdf](https://www.urban.org/sites/default/files/publication/100520/investing_in_equitable_urban_park_systems_1.pdf) (explaining that privately owned and managed public spaces generally only exist in pockets of wealth—such as Midtown Manhattan).

repair costs. This can be achieved by altering the current discretionary funding process and by adding language to the New York City Charter that exempts revenues generated from the Parks Department's concessions from the statutory grasp of section 109 of the Charter. Lastly, measures must be taken to ensure equitable distribution of public and private funds to all New York City neighborhoods. To ensure equitable distribution of public funds, the Parks Department should adopt equity criteria to guarantee that the most vulnerable communities in New York City receive adequate Parks Department resources. Additionally, to ensure the equitable distribution of private funds, New York City must also regulate the distribution of private funds that are only being funneled towards well-endowed parks in wealthier areas in the City. By increasing the Parks Department's efficiency and budget, and equally distributing public and private resources to underfunded communities, these measures will increase all New Yorkers' access to quality greenspaces.

*A. The Parks Department Board Must Be Publicly Elected to Improve the Department's Decision-Making, Long-Term Resource Management, and Accountability*

First, New York City must alter the current method of selecting Parks Department board members. Instead of being appointed, the highest-ranking Parks Department officials should be publicly elected. Having publicly elected Parks Department board positions will increase the Department's efficiency, accountability, and ability to plan long-term capital investment programs. Thus, changing the current nomination process of the Parks Department board members will help resolve the Department's many shortcomings.

Currently, the Parks Department is a mayoral agency.<sup>114</sup> The commissioner of the Parks Department is appointed by the mayor.<sup>115</sup> The commissioner then appoints three deputies to

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<sup>114</sup> See *Frequently Asked Questions: About Parks*, N.Y.C. PARKS, <https://www.nyc.gov/parks/about/faq> (last visited Sep. 5, 2021).

<sup>115</sup> See *id.*

advise her.<sup>116</sup> Additionally, the commissioner appoints five borough commissioners to locally manage agency operations.<sup>117</sup> Thus, the Parks Department's top nine positions are appointed positions. Even though these positions are not publicly elected, New York City Council Members—who *are* publicly elected—do have oversight of the Parks Department because “[t]he Committee on Parks and Recreation has jurisdiction over New York City’s Department of Parks and Recreation.”<sup>118</sup> Even so, there is limited accountability when park funding fails because funding for the Parks Department is disbursed among many government officials.<sup>119</sup> For instance, “the [Parks] [D]epartment’s capital budget is largely cobbled together through discretionary funding, allocated by [fifty-one] City Council members, five borough presidents, and the mayor.”<sup>120</sup> This model is inefficient because “what [Parks] [D]epartment officials need and elected officials want for a park does not always align.”<sup>121</sup> Furthermore, the current system usually requires multiple elected officials to collaborate to get expensive capital projects funded, which can be difficult or impossible to do.<sup>122</sup> Thus, the current Parks Department structure does not allow New York City to properly plan out Parks Department needs in a methodical manner.<sup>123</sup>

To change the negative trajectory of the Parks Department, New York City must alter the Department’s hierarchical structure. First, the City must make the Parks Department commissioner and her deputies elected officials. Additionally, New York City should add another deputy position, which would expand the Parks Department’s board to five members. Each board member would represent an individual borough; thus every borough would vote for and have a single member on the Parks Department board. These elections would occur every four years, in unison

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<sup>116</sup> See N.Y.C. Charter ch. 21§ 532 (as amended through July 2004).

<sup>117</sup> See Carr, *supra* note 57.

<sup>118</sup> *Committee on Parks and Recreation*, N.Y.C. COUNCIL, <https://council.nyc.gov/committees/parks-and-recreation/> (last visited Sept. 5, 2021).

<sup>119</sup> See Surico, *supra* note 2, at 8.

<sup>120</sup> *Id.*

<sup>121</sup> *Id.* at 32.

<sup>122</sup> See *id.* at 36.

<sup>123</sup> See *id.* at 34. “The result [of the current Parks Department funding system] is an inefficient—and insufficient—system, which does not afford the Parks Department the opportunity to direct resources where park experts believe they are needed most.” *Id.* at 32.

with the election of the mayor. Then, the five newly elected members would vote among themselves and elect a commissioner. The other four board members would then become the deputies. Because these new Parks Department positions would be elected directly by the people, the New York City Charter would require a referendum.<sup>124</sup> As such, these changes require more than just the mayor issuing an executive order or the legislative body passing a new law, but they are nonetheless possible and necessary.

Having a publicly elected Parks Department board will benefit New York City because it will allow the public to hold the Parks Department accountable, allow the Parks Department to effectively plan long-term capital projects, and provide a more invested and effective advocate for New York City greenspaces.

This new Parks Department structure would allow the public to hold the Parks Department accountable if promises are not kept. If the public becomes dissatisfied, they can vote the current board members out of office. Currently, it is difficult to hold elected officials accountable because funding and responsibility for the Parks Department are dispersed among too many elected officials.<sup>125</sup> Furthermore, the public can only indirectly remove from office the Parks Department's top official, the commissioner, by putting pressure on the mayor to remove her. Instead, the public needs a more direct avenue for holding the Parks Department accountable for its management of New York City's greenspaces.

Additionally, this new structure will allow the Parks Department to properly plan for the future and strategically allocate funds to much-needed areas. Currently, there is too much input from too many individuals. A publicly elected Parks Department board will allow for fewer individuals making decisions, which should lead to funding for more deliberate and impactful projects. Furthermore, these publicly elected Parks Department officials will be the voice for New York City's parks system. Currently, New York City's parks system's advocates are generally other elected officials, who, as described earlier in this Note, may prioritize the City's parks and recreation needs lower on their political

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<sup>124</sup> See N.Y.C. Charter, ch. 2 § 38 (as amended through July 2004). "A local law shall be submitted for the approval of the electors at the next general election . . . [and only approved] by the affirmative vote of a majority of the qualified electors of the city voting upon the proposition, if it: . . . [c]reates a new elective office." *Id.*

<sup>125</sup> See Surico, *supra* note 2, at 8.

agenda. Conversely, the publicly elected Parks Department positions will have one job: to advocate for and improve the Parks Department. Therefore, those who hold these newly created publicly elected positions will be more accountable to New Yorkers and more vocal proponents of Parks Department funding.

New York City does not have to look too hard to find cities that are doing well and have publicly elected parks department officials. For instance, Minneapolis, Minnesota was rated the top parks department in the nation for three straight years and uses a publicly elected parks department structure.<sup>126</sup> The Minneapolis Park and Recreation Board is an “independently elected, semi-autonomous body responsible for governing, maintaining, and developing the Minneapolis Park System.”<sup>127</sup> City of Minneapolis voters “elect nine commissioners every four years: one from each of the six park districts, and three that serve at-large.”<sup>128</sup> Thus, Minneapolis illustrates that the publicly elected parks department model works and can also work in New York City.

Even though the new Parks Department would be publicly elected like the Minneapolis Park and Recreation Board, there is one major difference between the two cities. This difference is that the Minneapolis Parks Department gets allocated a set amount of public funding each year—which allows it to plan into the future.<sup>129</sup> This is contrary to New York City’s current funding structure.<sup>130</sup> Additionally, New York City’s funding structure is un

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<sup>126</sup> See *The Trust for Public Land Releases 2018 ParkScore Index, Ranking Park Systems in the 100 Largest U.S. Cities*, TR. PUB. LAND (May 22, 2018), <https://www.tpl.org/media-room/trust-public-land-releases-2018-parkscore-index-ranking-park-systems-100-largest-us#sm.00000osf2rtrszfmqy63e56poyt29>.

<sup>127</sup> *About the Board*, MINNEAPOLIS PARK & RECREATION BOARD, [https://www.minneapolisparcs.org/about\\_us/leadership\\_and\\_structure/commissioners/brad\\_bourn/](https://www.minneapolisparcs.org/about_us/leadership_and_structure/commissioners/brad_bourn/) (last visited Sept. 4, 2021, 2:28 PM).

<sup>128</sup> *Id.*

<sup>129</sup> See *Budget & Financial: 20-Year Neighborhood Park Plan*, MINNEAPOLIS PARK & RECREATION BOARD, [https://www.minneapolisparcs.org/about\\_us/budget\\_financial/20-year\\_neighborhood\\_park\\_plan/](https://www.minneapolisparcs.org/about_us/budget_financial/20-year_neighborhood_park_plan/) (last visited Sept. 4, 2021, 2:33 PM) (“In 2016, the Minneapolis Park and Recreation Board (MPRB) and the City of Minneapolis approved ordinances to reverse years of underfunding neighborhood parks . . . [These ordinances] [p]rotect current levels of MPRB funding [and] [d]edicate an additional \$11 million annually, through 2036 . . .”).

<sup>130</sup> See Surico, *supra* note 2, at 8 (“With a slim baseline budget for capital work and limited funding through the community boards, the [Parks] [D]epartment’s capital budget is largely cobbled together through discretionary funding, allocated by 51 City Council members, five borough presidents, and the mayor. This system makes it challenging for the Parks Department to prioritize funding for the most urgent infrastructure needs.”).

likely to change because it will affect the entire public funding process.<sup>131</sup> Therefore, New York City legislators must pass legislation that operates within the city's discretionary funding framework, but also creates more autonomy for the Parks Department in controlling the allocation of its funds.

*B. The New York City Council Should Pass Legislation that Requires Fifty Percent of Discretionary Funding Raised for the Parks Department's Budget to be Retained by the Department to Facilitate the Long-Term and Efficient Management of Public Funds*

The current discretionary funding process must be altered because it is ineffective, with too many decision-makers allocating Parks Department resources to too many projects. Almost all parks infrastructure projects are earmarked for individual projects advocated by individual public officials.<sup>132</sup> A complete overhaul of the system would be ideal but is not realistic. So, the New York City Council must figure out a way to work within the discretionary funding system, while still creating more autonomy for the Parks Department over its discretionary funding budget. To achieve this, the City should adopt an ordinance that allocates a maximum of fifty percent of the discretionary funds raised for the Parks Department's capital budget to individual city council members' projects. Conversely, the other fifty percent or more of discretionary funds raised for the Parks Department's capital budget shall go towards projects that the Parks Department has identified as crucial and necessary to fund.

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<sup>131</sup> See N.Y.C. COUNCIL, *Discretionary Funding Policies and Procedures*, 1–2 (May 2018), <http://council.nyc.gov/budget/wp-content/uploads/sites/54/2013/06/fy2014-14budget.pdf> (“Each year, Members of the Council allocate discretionary funds to not-for-profit organizations in order to meet local needs and fill gaps in city agency (Agency) services. Thus, discretionary spending is a critical tool in meeting needs in our communities . . . . Unlike competitively-awarded Agency contracts, discretionary funds contracts may only be awarded for a single fiscal year.”).

<sup>132</sup> See Surico, *supra* note 2, at 32 (“New York City’s parks are almost entirely reliant on elected officials for essential infrastructure funding. In Fiscal Year 2018, about [ninety-eight] percent of parks infrastructure projects are funded through individual capital project allocations from elected officials, known as discretionary spending.”).

This type of ordinance will give the Parks Department more control over its budget. This will increase the Parks Department's ability to allocate funding where it is necessary and to have a long-term approach to capital investment because currently, almost all the funds are being dispersed towards individual projects. Additionally, allocating at least fifty percent of discretionary funding to individual council members' park projects will continue to incentivize individual members to advocate for their district's park needs. Furthermore, if the incentive seems to be lacking, the Parks Department's publicly elected officials can put pressure on the individual council member and make the public aware of that member's stance on public park funding.

Managing funds more efficiently will help, but the Parks Department needs more funds. Another inefficiency that has plagued the Parks Department and its ability to increase control over its revenue and budget is section 109 of the New York City Charter, which determines where park revenues are paid.

*C. The New York City Council Should Amend the New York City Charter to Increase the Parks Department's Budget*

To increase the Parks Department's budget, the New York City Council must amend the New York City Charter with language that removes concession revenues generated on Parks Department property from the reach of section 109 of the New York City Charter. Currently, section 109 of the New York City Charter requires that "[a]ll revenues of the city, of every administration, department . . . not required by law to be paid into any other fund or account shall be paid into a fund to be termed the 'general fund.'"<sup>133</sup> This means that funds collected from concessions in parks must "ultimately return to the city's General Fund, and are not applied to the parks system's need."<sup>134</sup> Additionally, most of the Parks Department's contributed revenue to the "General Fund" is never

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<sup>133</sup> N.Y.C. Charter, ch. 6 § 109 (as amended through July 2004) ("All revenues of the city, of every administration, department, board, office and commission thereof, and of every borough, county and other division of government within the city, from whatsoever source except taxes on real estate, not required by law to be paid into any other fund or account shall be paid into a fund to be termed the 'general fund.'").

<sup>134</sup> Surico, *supra* note 2, at 44.

returned to the Parks Department.<sup>135</sup> Therefore, section 109 of the New York City Charter creates a mechanism that depletes the Parks Department's resources, as well as its incentive to increase concessions in parks because the department will not retain a majority of the revenue generated by those concession contracts.

The New York City Council should adopt a subsection or add specific language that requires by law that concessions generated on the premises of New York City parks and under contract with the Parks Department must go towards a "Parks Department Concession Fund." This type of language will remove from the statutory grasp of section 109 concession revenues generated on Parks Department property and require, by law, that concession revenue generated under contract with the Parks Department be paid into another fund.<sup>136</sup> This modification will allow the Parks Department to retain all the revenue generated by its current 400-plus concession contracts.<sup>137</sup> Increased concession revenue will increase the Parks Department's budget and allow it to spend more on maintenance and repairs. Additionally, the Parks Department will be incentivized to leverage concession contracts as a method to increase its budget, which could further increase the Parks Department's budget. Currently, no such incentive exists.<sup>138</sup> In fact, the Parks Department's fiscal year 2018 expected revenue from concessions, leases, and rentals on parkland are down twenty-two percent from fiscal year 2007.<sup>139</sup> Thus, legislation that statutorily removes concession revenues from the grasp of section 109 of the New York City Charter will allow the Parks Department to increase its revenue and budget, as well as have more control over where to allocate those funds.

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<sup>135</sup> *See id.*

<sup>136</sup> *See* N.Y.C., Charter, ch. 6 § 109 (as amended through July 2004) ("All revenues of the city, of every administration, department, board, office and commission thereof, and of every borough, county and other division of government within the city, from whatsoever source except taxes on real estate, not required by law to be paid into any other fund or account shall be paid into a fund to be termed the 'general fund.'").

<sup>137</sup> *See Concessions at NYC Parks*, N.Y.C. PARKS, <https://www.nycgovparks.org/opportunities/concessions> (last visited Sept. 4, 2021, 2:58 PM).

<sup>138</sup> *See* Surico, *supra* note 2, at 44 ("One factor disincentivizing sustainable revenue growth [from park concessions] is the fact that these funds ultimately return to the city's General Fund, and are not applied to the parks system's needs.").

<sup>139</sup> *See id.* at 44 ("In [Fiscal Year] 2018, the Parks Department expects to collect \$70.5 million from the concessions, leases, and rentals on parkland. However, this revenue has remained largely flat over the years and is down [twenty-two] percent from the [Fiscal Year] 2007 total of \$75.8 million, after adjusting for inflation.").

*D. The Parks Department Should Adopt Equity Criteria to Assist in the Decision-Making Process of Where the Department's Funds Should be Allocated to Increase the Equitable Distribution of Parks Department Funds*

Increasing the Parks Department's funding as well as control of that funding should be achieved in conjunction with ensuring that the funds are equitably distributed. Therefore, the Parks Department should integrate the Minneapolis Parks Department's use of equity criteria into its own decision-making process. The use of equity criteria is necessary because restructuring the Parks Department and increasing revenue retention will not inherently make park funding and access more equitable. Adopting equity criteria, however, will require Parks Department decision-makers to consider underfunded and at-risk communities during the disbursement stage of funding. This will hopefully increase the equitable distribution of Parks Department funds to all New Yorkers, thus increasing access to quality greenspaces to all New Yorkers. Currently, the Minneapolis Parks Department uses equity criteria to help determine where recreational center funding should be allocated.<sup>140</sup> The use of equity criteria is part of the Minneapolis Parks Department's goal "to provide equitable recreational opportunities for all city residents."<sup>141</sup> The Minneapolis Parks Department sees the use of equity criteria for recreation center funding allocations as one of the most effective ways to achieve equal access to recreational resources for all its citizens.<sup>142</sup>

The Minneapolis Parks Department first determines what baseline funding is needed for each of its recreational facilities to be

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<sup>140</sup> See MINNEAPOLIS PARK & RECREATION BOARD, *Equity Criteria for Allocating Recreation Center Funding 2* (2018), [https://www.minneapolisparcs.org/\\_asset/mnm8ps/10-18\\_2018\\_budget\\_equity\\_criteria\\_rec\\_center\\_funding.pdf](https://www.minneapolisparcs.org/_asset/mnm8ps/10-18_2018_budget_equity_criteria_rec_center_funding.pdf) ("[The Minneapolis Park and Recreation Board] has selected the following criteria [*community characteristics*—which looks at a community's diversity, health, Supplemental Nutrition Assistance Program participation, youth and senior populations, vehicle access, crimes against people, and median household income—and *site specific characteristics*—which focuses on a facility's operating hours, programs offered, participation rates, and amenities] to guide where to invest beyond the baseline level of funding needed to operate each recreation center site. The allocation criteria will be reviewed and applied annually.").

<sup>141</sup> *Id.*

<sup>142</sup> See *id.* ("In building a more equitable park system, it is important for the [The Minneapolis Park and Recreation Board] to target investment of public funds into parks in racially diverse and low-income neighborhoods.").

able to properly operate.<sup>143</sup> With the additional funding in its budget, the Minneapolis Park and Recreation Board then determines where to allocate that additional funding based on (1) the community characteristics<sup>144</sup> and (2) site-specific characteristics.<sup>145</sup> These two categories determine 100% of the remaining available funds, each respectively determining fifty percent of the remaining available funds.<sup>146</sup> This system allows the Minneapolis Parks Department to properly fund each recreational center, while also focusing resources towards the individuals and communities that have the most pressing needs.

The Parks Department should adopt similar equity criteria. However, the Parks Department should adapt its equity criteria analysis in two major respects. First, the Minneapolis Parks Department's plan is limited in that it only focuses on recreational facilities.<sup>147</sup> Instead, the Parks Department should adopt equity criteria when determining funding for *all* city parks. Additionally, the Minneapolis Parks Department's equity criteria dictates where 100% of the remaining available funds for recreational centers throughout the city will be allocated.<sup>148</sup> The Parks Department's equity criteria would be neither singular nor entirely controlling when determining park funding. Instead, the equity criteria would be a guiding factor that must be discussed when determining or justifying park funding for specific areas. This means that the Parks Department would be required to substantially discuss the equity criteria in its written analysis about why or why not it did not allocate funds to a specific project. This increased flexibility will allow the Parks Department to take into account many different factors, while still having the equity criteria influence the discussion around the creation of greenspaces. Even though the equity criteria will not be entirely controlling, it will ensure that the generally forgotten and underfunded communities

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<sup>143</sup> *See id.*

<sup>144</sup> *See id.* at 3 (noting that community characteristics take into account diversity, health indicators, SNAP participation, youth population, senior population, vehicle access, crimes against people, and median household income).

<sup>145</sup> *See id.* (noting that site specific characteristics take into account operating hours per week, number of programs offered, participation per hour of activity, late night programs offered, gym on site, warming room on site, and the amount of use of a site).

<sup>146</sup> *See id.*

<sup>147</sup> *See id.* at 3.

<sup>148</sup> *See id.* at 2.

will be discussed during the Parks Department funding process. Additionally, the equity criteria will inform the Parks Department about the populations that will be impacted the most by its decisions. Thus, the Parks Department's equitable criteria will help make the park system more equitable for all New Yorkers and increase access for the most vulnerable populations.

Furthermore, forming and adding equity criteria to the Parks Department funding analysis would not be too costly or time-consuming. The Parks Department already generally inventories and ranks certain types of parks within its jurisdiction, as well as total membership use.<sup>149</sup> The Parks Department has made it a priority to inventory the quality of specific types of parks in order to maintain a high-quality park system.<sup>150</sup> Additionally, the Parks Department should prioritize adding an equity criteria to its analysis because Mayor DeBlasio has frequently discussed how important equitable access to New York City parks is to his administration.<sup>151</sup> Even though the current data collected by the Parks Department is generalized, it shows that the Parks Department already has the existing infrastructure and procedures in place that will allow it to smoothly implement equity criteria into its current analysis.

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<sup>149</sup> See *Report of the Finance Division*, *supra* note 62, at 10, 12 (reporting on a park's overall condition, cleanliness, play equipment acceptability—among other factors).

<sup>150</sup> See *id.* at 10 (“In an effort to maintain high ratings [of the New York City parks system], the Department is completing the citywide implementation of its workforce model known as ‘Parks Operations for the 21st Century,’ which emphasizes better resource management and field staff utilization.”).

<sup>151</sup> See *White Playground*, N.Y.C. PARKS (Oct. 7, 2014), <https://www.nyc.gov/parks/white-playground/pressrelease/21260>. “From children and parents to athletes and students, every New Yorker deserves access to clean and safe public parkland—no matter what neighborhood they live in. The Community Parks Initiative reaffirms our administration’s commitment to the creation and maintenance of vibrant parks and public spaces in all five boroughs,” said Mayor Bill de Blasio. “Through targeted investments and programming, we will engage New Yorkers by re-creating parks in communities that need open space improvements the most. This is a framework that will address system-wide needs for park equity with solutions that have lasting and resilient results for our city’s neighborhoods.”

*Id.*

*E. The New York State Senate Should Adopt Legislation Creating a Neighborhood Parks Alliance Board for New York City Parks*

Just as New York City must try to guarantee the equitable distribution of public funds, it must also try to equalize the distribution of private funds that are overwhelmingly funneled towards parks in wealthier areas of the city. In 2013, former New York State Senator Daniel L. Squadron introduced Senate Bill S5689A to the Cities Committee.<sup>152</sup> The purpose of the bill was to “establish[] a neighborhood parks alliance board and fund to administer additional funding, provided by contributing conservancies, to less [well-funded] recipient parks across the city.”<sup>153</sup> The plan would have required “city park conservancies with operating budgets of over \$5 million to participate in the Neighborhood Parks Alliance.”<sup>154</sup> This Neighborhood Parks Alliance would team up well-off city park conservancies called “contributing parks” with “member parks,” city parks that do not have the proper funding and are in lower-income areas of the city.<sup>155</sup> A “contributing park” would be required to commit twenty percent of its conservancy’s budget to “member parks.”<sup>156</sup>

The Senate Bill was concerned that local council members and community members in areas where there are “member parks” would decrease or deprioritize park funding if this new outside revenue source was secured for their local park.<sup>157</sup> Therefore, the Senate Bill required a certain amount of signatures from local residents to establish their own nature conservancy group to ensure that the community would stay engaged in the rehabilitation process.<sup>158</sup> After a community established enough signatures to create a nature conservancy group, Parks Department and local

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<sup>152</sup> See S. 5689-A, 2013-2014 Reg. Sess. (N.Y. 2013), <https://legislation.nysenate.gov/pdf/bills/2013/S5689A>.

<sup>153</sup> *Id.*

<sup>154</sup> Daniel Squadron, *Squadron, Parks Advocates Urge Large Conservancies to Join Neighborhood Parks Alliance & Ensure More Equity Across NYC Parks*, N.Y. STATE S. (June 2, 2013), <https://www.nysenate.gov/newsroom/press-releases/daniel-l-squadron/squadron-parks-advocates-urge-large-conservancies-join>.

<sup>155</sup> *Id.*

<sup>156</sup> *Id.*

<sup>157</sup> See *id.*

<sup>158</sup> See *id.*

council members would have to commit to at least maintaining current government funding levels.<sup>159</sup> Thus, the local council member would have to commit to not replace public funding with private funding, which would keep the funding for the local park at an equilibrium instead of increasing.<sup>160</sup> This bill, however, did not make it out of committee.<sup>161</sup>

A similar bill to Senate Bill S5689A should be reintroduced to the New York State Senate. The new version of the bill should adopt everything from the prior bill, except that under the new proposal the “contributing parks” should be required to contribute ten percent of their conservancy budgets towards “member parks.”

The adoption of the bill will: (1) create a structured mechanism to redistribute private conservation funding to underserved parks; (2) continue to encourage donations by private donors to “contributing parks” due to the reduced percentage of the overall budget that must be donated; (3) promote involvement in underserved communities with the creation of nature conservancies; and (4) ensure that Parks Department’s resources are being fully utilized.

First, requiring that ten percent of each “contributing parks” budget go towards “member parks” guarantees a structured mechanism to redistribute private conservation funding to underserved parks. Historically, the argument from proponents of nature conservancies was that well-endowed nature conservancies allow the Parks Department to save resources and funnel those resources to more resource-deprived parks.<sup>162</sup> Over time, however, this argument has been doubted by individuals in the industry.<sup>163</sup> This proposed Senate bill would guarantee that private donations made to large conservancies would in fact be assisting resource-deprived parks.

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<sup>159</sup> *See id.*

<sup>160</sup> *See id.*

<sup>161</sup> S. 5689-A, 2013-2014 Reg. Sess. (N.Y. 2013).

<sup>162</sup> *See* Jose, *supra* note 112. “I don’t know if [the private donations] weren’t made on the High Line they would go to parks in the Bronx or Queens,” Hammond [one of the founders of the High Line] said at CUNY. “What it does is free up city money to go to the Department of Parks that can’t afford the conservancy.” *Id.*

<sup>163</sup> *See* Surico, *supra* note 2, at 30–31. “Parks used to say that the benefit of having a conservancy is that parks dollars can go further, because they can be used for other parks,” said Susan Donoghue of Prospect Park Alliance. “But I don’t think that’s the reality on the ground. There isn’t enough money for all the other parks in the system, and that’s part of the problem.” *Id.* at 31.

Second, requiring only ten percent of funds raised by private conservancies with a budget of \$5 million or more will still encourage private donations because a majority of their funds will still benefit their local park. Additionally, ten percent is enough to supply the Parks Department with additional resources to support underfunded parks and communities. Ten percent of \$5 million is \$500,000. That \$500,000 is more than the Van Cortlandt Park Conservancy's operating budget of \$335,539, which is in charge of operating an area nearly 400 acres larger than Central Park.<sup>164</sup>

Third, the proposed bill should encourage community involvement in local parks because it will require the creation of local conservancies. Local conservancies will be maintained and run by local community members who have a stake, and thus will create community coalitions between members who had previously not communicated with each other. Finally, the proposed bill will protect the Parks Department's resources by requiring local council members to verbally commit to at least maintain current government funding levels. A commitment by a city council member will ensure that these new private funds are being used to supplement the existing public funds for that district's park instead of the city council member using existing public funds for the park to fund other non-park projects in that district. This provision of the Neighborhood Parks Alliance will ensure that Parks Department resources are effectively spent and that local city parks do not just stay at the current status quo, and instead improve for the local community's benefit.

The creation of the Neighborhood Parks Alliance and the use of an equity criteria by the Parks Department will help channel funding towards communities that have been forgotten and need public park funding the most.

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<sup>164</sup> See *id.* "Van Cortlandt Park – more than a thousand acres atop the ridges and valleys of northwest Bronx – is New York City's [third-largest] park . . . . The Park is home to the country's first public golf course, the oldest house in the Bronx, and the borough's largest freshwater Lake." *Van Cortlandt Park*, N.Y.C. PARKS <https://www.nyc.gov/parks.org/parks/VanCortlandtPark> (last visited Mar. 17, 2019).

## CONCLUSION

All New Yorkers should have equal access to quality greenspaces, regardless of their socioeconomic classes. Equal access to quality greenspaces starts with equal access to funding. Today's system for public park funding is broken. New York City currently relies on private funding for parks, which has led to the current state of unequal park funding and unequal park access. Additionally, the Parks Department's disbursement of public resources is unequal based on an area's socioeconomic status. Moving forward, drastic measures must be taken by New York State and New York City elected officials. This includes changing the Parks Department board members' positions from appointed positions to publicly elected positions. Additionally, legislation should be passed that allows the Parks Department to retain revenues created on park property and have more autonomy over the Department's existing funding avenues. Furthermore, the Parks Department should include equity criteria when determining project funding to ensure equitable distribution of Parks Department resources. Finally, the New York State Senate should pass a bill to equalize the distribution of private funds that are being funneled towards parks in wealthier areas of New York City. In conclusion, New York City has a social and moral obligation to provide New Yorkers equal access to greenspaces, no matter their geographical location or socioeconomic class, and this Note's proposals will get the city one step closer to fulfilling its obligation.