

1 **MANHATTAN COMMUNITY BOARD 4**

2 May 7, 2014

3 Roosevelt Hospital, 2nd Floor, 1000 Tenth Avenue (58/59)

5 **PUBLIC HEARING**

7 Public Session	Christine Berthet
8 Adoption of Agenda	Christine Berthet
9 Adoption of Last Month's Minutes	Christine Berthet
10 Manhattan Borough President	Diana Howard
11 Local Elected Officials	Various
12 District Manager Report	Robert J. Benfatto, Jr.
13 Chair Report/Committee Reports	Christine Berthet

15
16 **Chair Christine Berthet called the meeting to order at 6:45 p.m.**

17
18 **PUBLIC SESSION:**

19 In the absence of 1st Vice Chair Hugh Weinberg, Chair Berthet called on the members of the public who
20 signed up to speak. The public spoke on the following topics:

- 22 1. *Agenda Item 3 (510-512 West 23rd Street Zoning Text Amendment)*. One individual spoke in
23 favor of this item.
- 24 2. *Agenda Item 16 (Rise Bar and Lounge)*. 17 individuals spoke in favor of this liquor license
25 application, noting that this would be an important meeting place for the neighborhood's thriving
26 gay community; that this would be a bar/lounge not a club; and that the establishment needed the
27 4:00 a.m. closing time to survive as a business. Several of these people stated that they had
28 known one of the owners for years and believed he would be a good operator here. Two of the
29 owners of Rise Bar also spoke in support of the application. 23 individuals spoke against the
30 application, noting that the area was already over-concentrated with liquor-licensed-
31 establishments; that a 4:00 a.m. closing would change the nature of the block with increased
32 noise, traffic, disruption, and harm to property values; and that the quality of life of nearby
33 residents would be seriously compromised by another late-night bar. Several of these community
34 members stated that their primary opposition was to the 4:00 a.m. closing time.
- 35 3. *Agenda Item 17 (Gallery)*. One individual, a partner in a Chelsea catering firm, spoke in favor
36 the application of Gallery for a catering license, stating that he has worked alongside the
37 applicants for several years and found them to be well-organized and community-minded.
- 38 4. *Agenda Item 21 (Mumbai Shanghai)*. A representative of the 100 17th Street Block Association
39 spoke in favor of this liquor license application, stating that the applicant had already begun
40 working on internal noise reduction and urging the Board to include a stipulation about that issue
41 in the application.
- 42 5. *Agenda Item 26 (CB5 Feasibility Study for Fifth and Sixth Avenues)*. Four individuals spoke in
43 favor of this item, one stating that ten thousand signatures had been gathered to petition for safety
44 improvements on Fifth and Sixth Avenues.
- 45 6. *Agenda Item 27 (Pedestrian Safety Improvements -- Ninth Avenue)*. Two individuals, including
46 the president of the Manhattan Plaza Tenants Association, stated they strongly supported this
47 item.

- 1 7. One individual stated that the High Line is violating the disabilities act because there is no
2 wheelchair access and the 23rd Street/10th Avenue elevator has been out of service since
3 Hurricane Sandy. A representative from the High Line later responded that they predicted the
4 elevator would be working again by the end of June. There are also other elevators and
5 accommodations for the disabled.
- 6 8. One individual presented charts seeking to demonstrate that black and latino students are denied
7 equal access to sports in New York City public high schools because money for sports teams is,
8 per the speaker, distributed according to income and race. The speaker stated that he has been
9 negotiating with the Department of Education for three years about this issue.
- 10 9. Two individuals residing at 184 11th Avenue stated that tenant judgments have not been paid and
11 that harassment continues. Chair Berthet noted that Board member Joe Restuccia recuses himself
12 whenever the Housing, Health & Human Services Committee discusses issues relating to this
13 property.
- 14 10. Six individuals spoke on behalf of Brooklyn for Peace, asking that Google be investigated for
15 alleged international law violations arising out of an affiliation with Cornell University.
- 16 11. One individual, the founder of Crowded, spoke about that organization, which opposes rezoning
17 of the west side and presently has 700 members.

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19
20 **LOCAL ELECTED OFFICIALS:**

21 Given the length of this month's Public Session, that session was interrupted at several points to hear
22 from elected officials.

23
24 **Corey Johnson**, Councilmember, District 3, stated that the council is in full swing. He talked about an
25 April hearing on animal issues, including the outlawing of sales by puppy and kitten mills and the
26 microchipping of pets. He reported that a new speed hump would be installed by the Department of
27 Transportation on West 26th Street between Ninth and Tenth Avenues. There will be a public hearing on
28 May 14, 2014, on the M12 bus route. The first of Councilmember Johnson's "Let's Talk" series will take
29 place on May 29, 2014, focusing on women's issues. He congratulated the new members of CB4, stating
30 that it is a well-respected board on which it is an honor to serve.

31
32 **Ellen Rosenthal**, Councilmember, District 6, stated that the City Council Land Use Committee last
33 month voted in support of the TF Cornerstone building at 606 West 57th Street, which CB4 had
34 considered nine months ago. Negotiations with TF Cornerstone led to additional affordable housing and
35 a new public school pre-K in the space, which the developer is paying for.

36
37
38 **ADOPTION OF THE AGENDA AND THE MINUTES OF THE APRIL 2014 FULL BOARD**
39 **MEETING:**

40 The Agenda was adopted without amendment.

41 The Minutes of the April 2014 Full Board Meeting were adopted without amendment.

42
43 **REPORTS OF ELECTED OFFICIALS:**

44 **Diana Howard, for Borough President Gale Brewer**, congratulated the new CB4 members and stated
45 that Borough President Brewer would be hosting a reception for all community board members on May
46 28, 2014, from 6:00 to 8:00 p.m. There will be training workshops for community board members in
47 June. Applications for the Manhattan Community Grant Program are available in the back of the room.

1 **David Baily, for State Senator Adriano Espailat**, reported on the movement to allow cities to reduce
2 speed limits to 20 mph. Senator Espailat is the co-sponsor of such legislation covering New York City.
3 He has also spoken in opposition to LG's proposed Palisades tower.
4

5 **Eli Szenes-Strauss, for Assemblymember Dick Gottfried**, spoke about the recent rally in Albany in
6 support of Assemblymember Gottfried's legislation to create a universal, single payer health coverage
7 plan. A number of elected officials met with the mayor with concerns about a restaurant occupying the
8 Union Square Park Pavilion and adjacent plaza. The compromise reached is that the restaurant will
9 operate approximately six months a year, from April 15 to October 15.
10

11 **Erica Overton, for Assemblymember Linda Rosenthal**, provided an update on Fairytail Lounge on
12 West 48th Street, which was closed by the police on Friday. The bar had been operating without
13 contributing to workers comp since October 2013, and the Assemblymember got a no-work order issued.
14

15 **Tricia Shimamura, for Congresswoman Carolyn Maloney**, echoed the report about the Union Square
16 Park Pavilion restaurant and stated that the Congresswoman was disappointed with the mayor's
17 compromise. The House passed legislation, which the Congresswoman has been working on since 1997,
18 on a potential national woman's history museum.
19

20 **Edgar Yu, for Manhattan District Attorney Cyrus Vance**, reported on the upcoming opening of the
21 Manhattan Family Justice Center, which seeks to be a one-stop center for victims of domestic violence.
22

23 **REPORT OF DISTRICT MANAGER ROBERT J. BENFATTO:**

24 District manager Robert Benfatto welcomed the new members of CB4. He reminded everyone that the
25 Parks and Environment Committee meeting is tomorrow, not next week. The Clinton/Hell's Kitchen
26 Land Use Committee meeting might be moved from May 14 to May 21 to deal with certifying the Irish
27 Arts Center proposal in order to meet the ULURP timeline. The board has completed its response to the
28 preliminary fiscal budget and is now going to start fiscal year 2016. The mayor releases the 2015 budget
29 tomorrow, and the Council votes on it in June. The rezoning of a couple of blocks in the Special West
30 Chelsea district will certify into ULURP in late June or early July. It will also include allowing
31 unenclosed sidewalk cafés in that district.
32

33 **REPORT OF MCB4 CHAIR CHRISTINE BERTHET:**

34 Chair Berthet first welcomed the new CB4 members, noting that we know they could survive a plane
35 crash given that they got through the Borough President's screening process. The new members then
36 introduced themselves. Chair Berthet reported that the Housing, Health & Human Services Committee is
37 working on an affordable housing plan, which she hopes will be voted on by the summer. The land use
38 chairs testified at the City Council on the Brookfield and TF Cornerstone projects. Chair Berthet testified
39 on 22 bills to implement Vision Zero. She also met with the Related Companies about the bus situation
40 and about the relocation of the heliport.
41
42

43 **COMMITTEE LETTERS AND RESOLUTIONS:**

44
45 **Chelsea Land Use Committee (CLU)**

46 The following items were bundled: 1-2 (**APPROVED**)

47 Item 1: Letter to LPC re 416 West 20th Street – renovation (addition)

48 Item 2: Letter to LPC re 521 West 26th Street – mechanical equipment

1 Item 3: Letter to DCP re 510-512 West 23rd Street Zoning Text Amendment – updated support
2 **(APPROVED)**

3
4
5 **Clinton/Hell’s Kitchen Land Use Committee (C/HKLU)**

6 Item 4: Letter to DCP re Silverstein Properties project (West 41st Street/Eleventh Avenue)
7 **(APPROVED WITH AMENDMENTS)**

8
9
10 **Waterfronts, Parks and Environment Committee (WPE)**

11 Item 5: Letter to DPR re Welcome to New Commissioner **(APPROVED)**

12 Item 6: Letter to Mayor de Blasio re Radon Gas Testing **(APPROVED)**

13 Item 7: Letter to Mayor de Blasio re Storm Surge Barriers **(TABLED)**

14
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16 **Quality of Life: ACES Committee (QoL)**

17 Item 8: Letter to SAPO re Cultivating Hell’s Kitchen – Saturday June 14, 2014 on West 52nd Street
18 between Tenth and Eleventh Avenues **(APPROVED)**

19
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21 **Business Licenses and Permits Committee (BLP)**

22 *Co-chair Frank Holozubiec stated that the BLP Committee had another five hour-plus meeting in April*
23 *and was able to reach agreement with several applicants to change aspects of their applications that*
24 *were of most concern to the community.*

25
26 The following items were bundled: 9-14, 17-18 **(APPROVED)**:

27 Item 9: Letter to DCA re 369 West 51st Street – Xai Xai

28 Item 10: Letter to DCA re 370 West 58th Street – European Bakery Café (RATIFICATION)

29 Item 11: Letter to SLA re 301 West 45th Street – Daebak Shinnwha Inc.

30 Item 12: Letter to SLA re 450 Tenth Avenue (35/36) – Holly Grove

31 Item 13: Letter to SLA re 803 Ninth Avenue (53/54) - Limon Jungle (RATIFICATION)

32 Item 14: Letter to SLA re 824 Tenth Avenue (54/55) – Fika

33 Item 17: Letter to SLA re 287 Tenth Avenue (26/27) – Gallery

34 Item 18: Letter to SLA re Pier 78 West 38th Street – Pier Side Café

35
36 The following items were bundled: 19, 21 **(APPROVED AS AMENDED)**:

37 Item 19: Letter to SLA re 451 West 39th Street – Docklands

38 Item 21: Letter to SLA re 579 Sixth Avenue (16) – Mumbai Shanghai

39 *Mr. Holozubiec stated that the applicants in Items 19 and 21 had been approved by the BLP Committee,*
40 *subject to the receipt by the Board office of certain additional materials, which had not yet been received.*
41 *He moved that the letters be sent as drafted if the additional materials were received within the next week*
42 *and otherwise that the letters be revised to recommend denial. That motion was approved.*

43
44
45 Item 22 Letter to SLA re 701 Ninth Avenue (48/49) – The Jolly Monk **(APPROVED)**

1 *Mr. Holozubiec stated that Item 22 is the location of the former Traffic bar, which was a very problematic*
2 *operator. The present applicant owns several other establishments in the neighborhood, including Beer*
3 *Exchange. This location will be a Belgian beer establishment. Although the applicant sought to remain*
4 *open until 4:00 a.m. nightly, after hearing community concerns and negotiating with the BLP Committee,*
5 *they agreed to close at 1:00 a.m. on weekdays and 2:00 a.m. on Thursdays-Saturdays. The applicant did*
6 *a lot of community outreach and will do a thorough renovation of the space, including internal*
7 *soundproofing and replacing the problematic garage doors.*

8
9 *Co-chair Paul Seres added that he believes that we could not ask for better applicant in such a troubled*
10 *space.*

11
12
13 **Item 40: Letter to DCA re 600 11th Avenue (44/45) - Genuine Roadside (APPROVED)**

14 *Mr. Holozubiec explained that this application was being presented as new business because the*
15 *applicant, for a sidewalk café at Gotham West Market, was asked by the BLP Committee to re-work its*
16 *application, and the BLP Committee accordingly did not vote on it. He stated that this presented a good*
17 *example of an applicant and the community working together to find a common ground. The community*
18 *objected to the original sidewalk cafe plans, but the applicant re-worked those plans twice, ultimately*
19 *reducing the number of tables from 19 to 12 and expanding the width of sidewalk space free of café*
20 *furniture from 9'10" to 12'9".*

21
22
23 **Item 20: Letter to SLA re 207 West 14th Street – Coppelia (APPROVED AS TO SIDEWALK CAFÉ,**
24 **DENIED AS TO REAR YARD)**

25 *Mr. Holozubiec explained that this was an operating establishment that sought to extend its liquor license*
26 *to a sidewalk café and a rear yard; the BLP Committee unanimously approved the former, but approved*
27 *the later by a divided vote. He reported that the West 15th Street 100 and 200 Block Association objected*
28 *to the use of the rear yard, stating that the yard was part of of common courtyard on which hundreds of*
29 *residential apartments faced. The Board voted on the item as two motions. The application to extend the*
30 *liquor license to the sidewalk cafe was approved, but extension to the the rear yard was denied.*

31
32
33 **Item 15: Letter to SLA re 362 West 53rd Street – Tori Shin (APPROVED)**

34 *Mr. Seres explained that a prior applicant for this location, a kosher barbecue concept, had been*
35 *approved by the BLP Committee after the applicant agreed not to use the outdoor space, but subsequently*
36 *withdrew its application. The current applicant is a high-end, Michelin-starred Japanese operator.*
37 *There was significant community opposition to use of the outdoor space, but not to the restaurant itself.*
38 *At the BLP Committee meeting, the applicant was not prepared to agree to refrain from using the outdoor*
39 *space, so the BLP Committee voted to deny. Thereafter, the applicant agreed not to use the outdoor*
40 *space, thereby removing the problematic part of the application. Accordingly, the letter being voting on*
41 *by the Board recommends denial of the application unless all of the stipulations with the applicant,*
42 *including no use of outdoor space, are included as terms of its liquor license.*

43
44
45 **Item 16: Letter to SLA re 859 Ninth Avenue (55/56) – Rise Bar and Lounge (APPROVED)**

46 *As noted above, this item was the subject of extensive public comment in the public session.*

47
48 *Morgan McLean stated that he was hired to be a manager at this establishment after the BLP Committee*
49 *vote and that he will not vote on the current motion.*

1 *Mr. Seres stated that the applicant had asked for a 4 a.m. closing every day, but agreed to close at 2:00*
2 *a.m. on Sundays-Wednesdays. With that agreement, the BLP Committee voted by divided vote to approve*
3 *the application.*

4
5 *David Warren stated that he voted at the BLP Committee to approve in order to get it out of committee*
6 *and be presented to the full board. At the time, he requested that the applicant do community outreach*
7 *and asked if that had been done. He also noted that the applicant had referred to a petition with 900*
8 *signatures in support and asked if that petition had been reviewed by the Board and the signatures*
9 *verified. Mr. Seres responded that the applicant had met with the relevant block associations, but that we*
10 *had not seen the 900-signature petition.*

11
12 *Ernest Modarelli stated that he believed it was reasonable for this applicant to have the same hours as*
13 *the hours to which the BLP committee had convinced the Jolly Monk (Item 22) to agree. He made a*
14 *motion to deny unless this applicant conforms to those hours (closing at 1:00 a.m. on weeknights and 2*
15 *a.m. on Thursdays-Saturdays). Mr. Seres noted that, if the applicant refuses to agree, we need to deny*
16 *altogether because “denying unless” they conform to those hours implies that they have agreed to do so.*

17
18 *Chair Berthet asked the applicant if they could reduce their hours. The applicant declined to do so and*
19 *asserted that the Jolly Monk was primarily a restaurant. Mr. Holozubiec noted that the Jolly Monk*
20 *location was a particularly troubled location.*

21
22 *Betty Mackintosh stated that she would defer to people who live in Hell's Kitchen and asked how board*
23 *members there felt about the oversaturation of bars.*

24
25 *Bruce MacAffer stated that he is a member of the BLP Committee and the Balanced Business working*
26 *group and is supportive of good owners like John Blair. He worries that if good owners get denied, bad*
27 *owners will come in and do something worse.*

28
29 *David Solnick stated his belief that opposition to more bars overall is legitimate, but that opposing an*
30 *individual bar because of over-concentration is inappropriate.*

31
32 *Brad Pascarella asked what would happen if the Board voted to deny. Mr. Seres replied that it will go to*
33 *the full SLA board without the stipulations (which include closing at 2:00 a.m. on the weekdays) and that*
34 *the SLA therefore could approve the license with a 4:00 a.m. close every day. He pointed out that there*
35 *was a split vote at the BLP Committee, but that he supported the applicant because John Blair is the*
36 *manager and Mr. Seres thinks Mr. Blair is good operator. Chair Berthet disagreed with that*
37 *characterization of Mr. Blair. She also noted that the SLA executive director has stated that the SLA will*
38 *likely agree with the community board recommendation in 500-foot-rule cases and that a yes vote on the*
39 *present letter is an endorsement of a 4:00 a.m. weekend closing.*

40
41 *Joe Restuccia stated that it has not been our experience that the SLA agrees with the community boards.*
42 *He added that he does not think that XL, another John Blair bar, was well run, although this is a different*
43 *venue. He observed that we may be trying to implement a policy before the policy has been adopted.*
44 *Chair Berthet responded that it is not a policy issue because the question of closing time comes up for*
45 *each applicant.*

46
47 *Mr. Restuccia proposed an amendment to Mr. Modarelli's motion in which the Board denies outright and*
48 *makes clear that the applicant was not willing to stipulate to the hours we would have accepted. Mr.*
49 *Modarelli accepted the amendment, after discussion.*

50

1 *Jay Marcus did not like the idea of creating new rules, short of a policy. New York is a late night town*
2 *with 4:00 a.m. closing permitted by law. We should support good operators. He opposes the new motion.*

3
4 *Lisa Daglian asked how many bars had 4:00 a.m. closings that applied this month and over the past year.*
5 *She expected that the majority did.*

6
7 *JD Noland agreed with Mr. Marcus. He thinks there is something punitive about going after this bar and*
8 *does not want to be inconsistent. Most bars are open till 4 a.m. The prior operator at this location,*
9 *Puttanesca, was problematic, and this operator seems better. He stated that he is unable to vote yes on*
10 *the new motion because he does not want to single out one bar. Chair Berthet responded that there is*
11 *much discussion at the BLP meetings about closing times, so this bar is not being singled out.*

12
13 *The Board first voted on Mr. Modarelli's motion (as amended by Mr. Restuccia) to deny. That motion*
14 *failed. The Board then voted on the original letter, which was approved.*

15 16 17 **Transportation Committee (TRANS)**

18
19 The following items were bundled: 23-31 (**APPROVED**):

20 Item 23: Letter to DCP re Hudson Yard Parking Requirements

21 *Burt Lazarin asked why this letter was needed and was told by Mr. Benfatto that it was a complement to*
22 *Item 4.*

23 Item 24: Letter to DOT re Bike lane rumble strips test

24 Item 25: Letter to DOT re Bolt Bus drop off West 29th Street at Ninth Avenue

25 Item 26: Letter to DOT re CB5 Feasibility Study Fifth and Sixth Avenues

26 Item 27: Letter to DOT re Pedestrian safety improvements - Ninth Avenue

27 Item 28: Letter to DOT re Safety enhancement investigation

28 Item 29: Letter to Mercedes Benz re West 54th Street sidewalk use

29 Item 30: Letter to MTA re Subway Grate Repairs

30 Item 31: Letter to USDOT re Draft EIS for Northeast Corridor Future (NEC Future)

31 *Mr. Lazarin asked whether the proposal was for two or four tracks. Jay Marcus responded that it was*
32 *two tracks: one for Amtrak and the other for the subway.*

33 34 35 **Executive Committee (EXEC)**

36
37 Item 32: MCB4 Conflict of Interest Policy (**APPROVED**)

38 *Mr. Lazarin asked if "not for profit" is the same as "non-profit" in this context, and Mr. Benfatto*
39 *responded yes.*

40
41 Item 33: MCB4 Disclosure Form (**APPROVED**)

42 *David Pincus stated that he would oppose requiring a chair with a conflict on one item to recuse*
43 *himself/herself from running the entire meeting. It will be clarified that the chair need only step down for*
44 *the item(s) involving a conflict.*

45 *James Wallace asked about the language defining "family member" and was told it came from city law.*

1 Item 34: MCB4 Meetings Policy (**APPROVED**)

2
3 Item 35: Letter to NYS Senator Brad Hoylman re S5725A: an act to amend the vehicle and traffic law, in
4 relation to automobile manufacturers and unfair practices by franchisors (**APPROVED**)

5 Item 36: Letter to NYS Assemblymember Richard Gottfried re A7844A: an act to amend the vehicle and
6 traffic law, in relation to automobile manufacturers and unfair practices by franchisors (**APPROVED**)

7
8 *Lee Compton stated that he had reached out to Senator Hoylman and Assemblymember Gottfried and that*
9 *Senator Hoylman opposes part of this bill.*

10
11 *Walter Lancaster objected that the draft letter sounds like a testimonial to the Tesla car. The letter will*
12 *be modified to deal with this concern.*

13
14 *Mr. Marcus stated that he was uncomfortable with endorsing one business (Tesla), but, if we remove*
15 *references to Tesla, we take out most of the letter. He asked if we could say we support Senator*
16 *Hoylman's amendment.*

17 *Bret Firfer asked whether competitors of Tesla would be included. Lee Compton responded that Tesla is*
18 *meant as an example, and Mr. Benfatto noted that the draft letter states we are using Tesla as an*
19 *example. Yoni Bokser stated that the legislature is the one singling out Tesla with its legislation.*

20
21 *Mr. MacAffer objected to the Board voting on this now, particularly without going through a full process.*
22 *He expected that there would be input from other auto businesses if this item had been heard at*
23 *committee. Mr. Lazarin agreed with Mr. MacAffer, noting that it was somewhat confusing which matters*
24 *the Board took a position on and which it did not.*

25 *Mr. Wallace proposed a friendly amendment, which was accepted, that the letter refer to "companies like*
26 *like Tesla."*

27
28 *Mr. Marcus stated his belief that this subject was not appropriate for CB4 business, that we typically do*
29 *not weigh in on large questions like this one, and that we need to be better educated on this issue.*

30
31
32 **New Business (NewBus)**

33
34 Item 37: Letter to SAPO re C.E.R.T. CB 4 Block Party – July 4, 2014 on West 52nd Street between
35 Tenth Avenue and Eleventh Avenues (**APPROVED**)

36
37 Item 38: Letter to SAPO re Nazareth Nursery Montessori School International Day – June 7, 2014 on
38 West 15th Street between Seventh Avenue and Eighth Avenues (**APPROVED**)

39
40 Item 39: Letter to SAPO re 46th Street Block Association Block Party – June 29, 2014 on West 46th
41 Street between Eighth Avenue and Ninth Avenues (**APPROVED**)

42
43
44 **The meeting was adjourned at 9:55 p.m.** Scribed by Frank Holozubiec, with assistance from co-
45 Secretary Miranda Nelson.