

# **MANHATTAN COMMUNITY BOARD NO 4**

DECEMBER 1, 2010

FULTON CENTER AUDITORIUM, 119 NINTH AVENUE

## **PUBLIC HEARINGS**

Fiscal Year 2012 Capital and Expense Budget Requests. No one offered comments or suggestions.

**Application for a Special Permit: for an enclosed sidewalk café at New York Fast Gourmet Premier, LLC, d/b/a New York Burger Co, 470 West 23<sup>rd</sup> Street (proposal: 25 tables and 54 seats). ULURP # 100362 ECM, DCA #1350374.** No speakers.

**Application for an Amendment of the Zoning Map and Designation as an Urban Development Area project: Clinton Commons, 533-542 West 52<sup>nd</sup> Street. ULURP # C 110125 ZMM, C 110126 HAM.**

Elisa Gerontianos, Co-Chair of the Clinton/Hell's Kitchen Land Use committee provided some background on the project and the process and then introduced Frank Dubinsky, the developer of the project. He presented an overview and gave the floor over to Mary D'Lia, President of the Clinton Housing Association. The original plans for this project, she related, go back many years and has been improved to include more apartments reserved for low and moderate income people. The ownership will be structured in such a way that when selling an apartment there will be limited individual profit and booked appreciation will be capped at 2% a year. There currently is on the site one manufacturer, a welding company, and it is in negotiations with the developer over relocation. JD Noland thanked the developer for listening to the community and addressing its needs. Christine Berthet requested that to foster the growth of sidewalk trees grates be included for protection. In responding to a question posed by John Lamb, Frank stated that two bedroom apartments would constitute about 48% of the total. Miguel Acevedo commended the developer for having more one and two bedroom apartments than studios.

**Application for a Special Permit: for a public parking garage, Central Parking System, 332 West 44<sup>th</sup> Street. ULURP # 090377 ZSM.**

The attorney for the applicant, Howard Zipser, stated that the applicant agreed to most of the stipulations outlined in the proposed letter (Item #8) except the reduction of parking spaces to 310. The applicant wants 350. Christine suggested that as at other parking sites the Central Parking should plant a screen of trees in front of its

facility. The attorney said he would take it up with the applicant. Leslie Johnson of the West 44<sup>th</sup> Street Block Association liked the repositioning of the new entrance/exit but strongly objected on behalf of her neighbors the continued stacking of cars which she believes is not necessary. The new owners should not be rewarded for the illegal operations of their predecessors.

## **MEETING AGENDA**

Public Session	Corey Johnson
Adoption of Agenda	John Weis
Adoption of Last Month's Minutes	
Report of the Manhattan Borough President	Sandy Myers
Reports of Local Elected Officials	Various
Report of the District Manager	Robert J. Benfatto, Jr.
Report of the Chair	John Weis
Committee Letters & Resolutions	John Weis
Old Business	John Weis
New Business	
Adjournment	

## **PUBLIC SESSION**

Six people signed-in to speak about the Pink Elephant club and were given one minute each. David Saraor, one of the owners of Pink Elephant, reminded the Board that the court order has strict parameters. He informed everyone that he and his partner had made additional stipulations to their proposed method of operation and had paid all back taxes. Ken Roberts of the West 27<sup>th</sup>/West 28<sup>th</sup> Street Block Association argued that any move by the Board tonight was a "do-over" and illegal. Anthony Bartolacci agreed and said that the Board could only vote no. Donna Langman of West 27<sup>th</sup> Street asked why was a lot of previously expended time and energy being ignored to permit a "do-over?" Rodney Sherman of West 24<sup>th</sup> Street said he respected the Board and believes notice is important so people's voices can be heard. Robert Montwaid, another owner of Pink Elephant, commented that he lives in the community and he respects people's opinions.

Kate Lindquist of Friends of the Highline announced upcoming holiday activities along the elevated parkway. Winter hours, 7am – 8 pm, are now in effect.

Former long-time member of MCB4 Millie Glaberman spoke about how she was recently struck down by a bicycle and was taken to the Bellevue Trauma Center. She urged us to back the licensing of bicycles as is done in China. Though difficult, bike rules should be more strictly enforced.

Jeff Asher and Stephanie Levy, NYU urban planning students, let the meeting know that they were doing a survey on attitudes about the Hudson Yards development and would appreciate it if people would complete their survey.

Nine people from the Friends of 20<sup>th</sup> Street Park spoke in favor of developing the parcel on the north side of West 20<sup>th</sup> Street between Sixth and Seventh Avenues now being vacated by the NYC Department of Sanitation into a park. Though previously targeted for affordable housing as part of the offsite commitment of the Hudson Yards developers, many of these people argued that the park would fulfill a more immediate geographic need. Other sites could be identified, they said, for affordable housing while this one is uniquely fitted for a neighborhood park. There is no other park in the surrounding area. Sally Greenspan read a letter from the Council of Chelsea Block Associations supporting the proposed park.

Donald Bernstein, the attorney for the Axel Hotel to be built on West 42<sup>nd</sup> Street, reiterated that it's the first of its kind (i.e., gay-oriented hotel chain). The applicant has agreed to all the stipulations to its method of operations proposed by MCB4's BLPNorth committee. Ian Reisner thanked the committee for its work. The hotel wants to be a good neighbor.

Yehudit Moch from the Hudson Guild announced her organization's winter bazaar this coming Sunday December 5.

Linda Crosby from the Fulton Houses asked the developers of the Dream Hotel on West 17<sup>th</sup> Street to not forget the neighborhood people when they open and begin to hire employees.

Lauren Danziger spoke of the activities of the Chelsea-Greenwich Village Chamber of Commerce.

## **ADOPTION OF THE AGENDA AND THE MINUTES OF THE NOVEMBER BOARD MEETING**

After the Public Session the agenda for the night's meeting was adopted with the inclusion of a new item, #21. The Board accepted the November minutes as submitted by Paul Seres, Co-Secretary of MCB 4.

## **REPORT OF MANHATTAN BOROUGH PRESIDENT SCOTT STRINGER**

represented by Sandy Myers

Myers reminded all current community board members whose terms are expiring to get in their reapplications by December 31. New applicants have an additional two weeks, until January 14, to get in theirs.

The Borough President has a number of initiatives going including publicizing green roofs and he is sponsoring a forum on December 6 to Kill the Drill. He is also creating a register of community groups to be called Speak Up New York.

## **REPORTS OF OTHER ELECTEDS**

Two of the electeds, Assemblymember Richard Gottfried and State Senator Tom Duane, appeared in person. As is the custom of MCB4, they were asked to speak when they arrived so their turns were out of sequence both coming in the middle of the Public Hearings.

Gottfried mentioned that this was his first Board meeting since his reelection with 82% of the vote. The recent special session of the legislature dwelt on minor issues except fracking. A six month moratorium was placed on fracking waiting the findings of the state environmental report. On another subject, Gottfried said he was glad MCB4 voted last month against Pink Elephant even though the SLA may approve the license application. He believes the Board should in its revisiting tonight write a letter against the application but in the same letter list the stipulations we would want attached to its method of operations if the license application were to be approved.

Duane informed the Board that his appearance was part of his World Aid's Day whirlwind to keep up people's awareness of the disease and its consequences and the actions necessary to fight it. He also reminded the Board about the meeting December 7 updating the community of the General Theological Seminary's plans for residential development on its Chelsea campus.

Congressmember Jerold Nadler, Katie Smith reported, wrote a letter to Transportation Secretary LaHood asking that the \$3 billion New Jersey forfeited by abandoning the ARC tunnel should be applied to other metropolitan transportation projects. Nadler's 9/11 health bill passed the House last month and is now awaiting action in the Senate.

Councilmember Christine Quinn's representative, Amanda Younger, highlighted the December 6 meeting at the Fulton Center which will continue the needs assessment process for a hospital facility on the lower West Side of Manhattan. It is jointly sponsored with MCB4 and MCB2 as well as with Hunter College and Northshore LIJ. Also, the Councilmember is working with the Department of Transportation to enhance pedestrian safety by reducing the speed of automobiles and trucks. The installation of traffic calming devices such as speed bumps, bike lanes, signs, crossings, and lights will help reach this goal Younger reported.

## **REPORT OF DISTRICT MANAGER ROBERT J. BENFATTO**

Bob reported on a meeting held today with representatives of the electeds and the NYS Division of Parole about their West 40<sup>th</sup> Street facility. It was agreed that they would remove their name from the front of the building and the "cage" at its

entrance. Be aware, Bob said, that they are consolidating into this one site operations from a number of others. Issues discussed today included parking and trees on the block. As an aside, the NYPD Sex Unit is also in the building but is not in any way connected to the Parole people.

## **REPORT OF MCB 4 CHAIR JOHN WEIS**

John summarized the process to date on Pink Elephant. MCB4 in November voted by a show of hands to deny the license application 16 – 18 and on that vote we should have composed a letter to this effect to the SLA but it wasn't done. The voting sheets that were turned in by Board members showed a tie 18 – 18. But the Board's by-laws state that one must be present to vote. This can lead to ambiguity since a member can leave early. How best to move forward now?

At the Executive Committee it was decided to bring to tonight's full Board meeting two letters on Pink Elephant. These you have in your packet (Items # 5 and 5A). Not everyone is happy with this but it is the compromise we made. I have received telephone calls objecting to the nature and tone of the Board's discourse. Please, John emphasized, be civil at our Board meetings and respect each other.

John announced the appointment of two new committee co-chairs: Barbara Davis for Housing Health and Human Services; and Bret Firfer for Chelsea Preservation and Planning.

Lastly, John asked Jesse Campoamor to give the Board an update on the December 6 St. Vincent's meeting. Jesse said the meeting would be from 6 pm to 7:30 pm. Everyone is invited; particularly important are constituencies that feel their needs have not yet been heard. Though the electeds will speak, so should people from the neighborhood.

## **COMMITTEE LETTERS AND RESOLUTIONS**

### Chelsea Preservation and Planning (CPP)

Item 1: Letter to DCP and DCA re New York Fast Gourmet Premier, LLC d/b/a New York Burger Co – 470 West 23<sup>rd</sup> Street, ULURP #100362 ECM, DCA #1350374. Approved unanimously on a roll-call vote.

Item 2: Letter to DCP re Key Terms Clarification Text Amendment, N 110090 ZRY. Co-Chair Lee Compton described the changes in definition to these key terms used throughout the zoning resolution such as "building" and "residential." Many are in common usage and this contributes to the confusion. Lee expressed concern about the effects the changes might have on residential buildings in residentially zoned areas containing other uses such as community facilities or professional offices. Maarten de Kadt said that he and Lee have had a continuing discussion about these proposed redefinitions. It is an extraordinarily complex issue. Maarten felt that what

was missing was what might be lurking behind the 700 pages; we need more time. He concluded that he must at this point abstain.

Lee believes it is our responsibility to do the best we can within the time constraints under which we operate. It is a process and Lee added that further changes will be made as we go forward past the approval of City Planning and the City Council. We have done an excellent job. Approved.

### Executive Committee

Item 3: Letter to OMB re Fiscal Year 2012 Capital and Expense Budget Requests. Christine presented the Board's proposed budget priorities. A number of Board members suggested changes. Jay Marcus wanted an amendment to the bike statement. Lisa Daglian asked for a redefinition or make more specific what we mean by police support since all New York City blocks are "nightlife" blocks. Christine asked her for other wording and she offered "nightlife intensity." JD wondered why parking swaps had a higher priority than parks. Walter Mankoff thought that the reference to SCRIE may be in the wrong place.

Approved with changes.

Item 4: Letter to SLA re Dream Hotel – 346 West 17<sup>th</sup> Street (btwn Eighth & Ninth Avenues) incorporating three entities applying for three licenses. Miguel thanked the hotel developers for working with the community and bringing jobs into the neighborhood. Corey Johnson thought this letter was a great job but questioned the use of the outdoor space. Paul Seres, Co-Chair of BLPSouth, stated that he spoke with the applicant and it is a mixed space, not solely a bar. Corey responded that MCB4 has a policy covering use of outdoor spaces and we should not stray from it. Lisa agreed with Corey pointing out that the hotel is located on a residential block. Damyanti was worried about the floodlights, spotlights that are going to be used in this space. Paul said that it was his sense they were not an issue. Ed Kirkland at this point made a friendly amendment that the Board should follow its own policy. Christine seconded Ed's amendment. Joe Restuccia thought that even though this is a good applicant, we have adopted a policy to create predictability and we should maintain it. Christine seconded Joe's position. John L also stated his belief we should adhere to our policy. Ed proposed to restate policy and Pete Diaz seconded it: the roof outdoor space should be open until no later than 11 pm Friday and Saturday and to no later than 10 pm Sundays through Thursday. Lisa added to the amendment that the applicant can return to the Board after six months of experience with the outdoor space. At that time we will have been able to observe its effects on the surrounding blocks. Michael Mazier observed that since this was a hotel, our policy which was created primarily for backyards and roofs of bars doesn't apply. The amendments passed.

Approved.

Item #5A: Letter to SLA re NY 27 Entertainment Group LLC d/b/a Pink Elephant – 530 West 28<sup>th</sup> Street (btwn Tenth and Eleventh Avenues). This letter recommends denial unless eight cited stipulations are included in the applicant's method of operation. Voted down 17 – 23.

Item #5B: Letter to SLA re NY 27 Entertainment Group LLC d/b/a Pink Elephant – 530 West 28<sup>th</sup> Street (btwn Tenth and Eleventh Avenues). This letter recommends denial. Lisa proposed an amendment to include the stipulations and Jay seconded it. Joe states we should do it clean. Bob Trentlyon disagreed with Lisa and does not want any stipulations. JD pointed out that the stipulations cannot correct the biggest problem which is that this club should not be there. Paul argued that if we send the proposed letter as is to the SLA, they will have nothing from us to base any modification of the applicant's method of operation. Miguel warned that the applicant didn't have to do any stipulations to get its license. The amendment was voted down 20 – 22.  
Approved.

### Clinton/Hell's Kitchen Land Use Committee

Presented by Sarah Desmond, Co-Chair.

Item #6: Letter to HPD re Clinton Commons, 533-542 West 52<sup>nd</sup> Street, ULURP # C 110125 ZMM, C 110126 HAM.  
Approved unanimously on a roll-call vote.

Item #21: Letter to State Senator Thomas K. Duane and Assemblymember Richard Gottfried re Clinton Commons, 533-542 West 52<sup>nd</sup> Street Article XI Tax Exemption.  
Approved.

Item #7: Letter to HPD re Irish Arts Center – CURA Site 9A.  
Approved.

Presented by Elisa Gerontianos, Co-Chair.

Item #8: Letter to DCP re 332 West 44<sup>th</sup> Street, special permit application for public parking garage, ULURP # 090377 ZSM. Bret questioned the applicant's motive in requesting a special permit to cover an illegal operation of many years standing. Did they come because they were in violation or did they come on their own volition he asked? The applicant's attorney responded that they wanted to be legal. Lisa urged the garage to construct a ten foot screen. Jay thought it was an excellent letter capturing the community's outrage and noting that the stacker issue on the roof was critical. He suggested the actual number of stackers be put in the letter. Bob referred to his speech a few months back about the Taconic garage on West 15<sup>th</sup> Street. It seems we do not mete out punishments, only provide rewards for wrongdoers. The only punishment could be economic and that would be no additional parking permits. Elisa observed that this garage already exists; if they were a new facility their application would be denied. Walter requested that the letter emphasize the reduction in parking spaces to 310. Christine argued that in this case with an existing garage we are getting benefits and so it's a trade-off. We don't have the grounds to say no she added. Miguel expressed concern about the noise the stackers make and what happens after midnight. The applicant's attorney said that their usage runs with the theater and so are not used late at night.

Elisa reported that the applicant is preparing a letter of clarification of the agreed to stipulations.

Approved 35 – 7 on a roll-call vote.

#### Landmarks Committee

Item 9: Letter to LPC re 467 West 21<sup>st</sup> Street, Chelsea Historic District, replacement of windows and façade repair on the rear elevation.

Approved.

#### Business Licenses and Permits Committee North

Item 10: Letter to SLA re Casa Nonna NYC LLC – 310 West 38<sup>th</sup> Street (btwn Eighth & Ninth Avenues).

Item 11: Letter to SLA re The Rock Bar & Grill – 697 Tenth Avenue (btwn W47th & W48th Streets)

Both approved.

Item 12: Letter to SLA re 42<sup>nd</sup> Street Hotel LLC & 42<sup>nd</sup> Street Kitchen LLC & WHYEAT LLC d/b/a Axel Hotel – 508-510 W42nd Street (btwn Tenth & Eleventh Avenues).

Co-Chair Lisa Daglian pointed out that this was a license application for both indoor and outdoor spaces. JD thought it was an excellent letter. Paul contended with this letter the Board was being inconsistent. John L stated this was a different venue with different hours. Joe introduced the fact that this “outdoor” space was fully enclosed by glass and within the hotel’s private area. Corey, too, believed that this situation is not similar to the Dream Hotel.

Approved.

#### Business Licenses and Permits Committee South

Item 13: Letter to SLA re Nicolas Matar or Corp to be formed later – 136 Ninth Avenue (btwn W18th & W19th Streets). The patio will now be enclosed and the hours have been modified.

Approved.

Item 14: Letter to SLA re NYC 515 LLC – 515 West 27<sup>th</sup> Street (btwn Tenth & Eleventh Avenues). Martin Treat wanted to be assured there was no cabaret planned in this establishment and there wasn’t. JD saw no need in the fourth stipulation to describe the sound mitigation steps as “extraordinary.” Approved with this change.

Item 15: Letter to SLA re Sleep No More North America LLC – 530 West 27<sup>th</sup> Street (btwn Tenth & Eleventh Avenues). This applicant is an experimental arts group.

Approved.

Item 16: Letter to SLA re 765 Avenue of the Americas, inc. Sunac Fancy Food – 765 Avenue of the Americas (btwn W25th & W26th Streets). Approved.



Item 17: Letter to DCA re The Park – 118 Tenth Avenue (btwn W17th & W18th Streets). Approved.

Quality of Life/Education, Libraries, and Cultural Affairs Committee

Item 18: Letter to DoB re 233 West 15<sup>th</sup> Street rooftop parties. Approved.

Housing, Health, and Human Services Committee  
Waterfront and Parks

Item 20: Letter to Related Companies re Terrific Tenements. Approved.

New Business

No new business.

The meeting was adjourned.

Respectfully submitted by Burt Lazarin