

MANHATTAN COMMUNITY BOARD NO 4

OCTOBER 5, 2011
ROOSEVELT HOSPITAL, 1000 TENTH AVENUE

MEETING AGENDA

Public Session	Christine Berthet
Adoption of Agenda	Corey Johnson
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	Corey Johnson
Committee Reports -- Letters & Resolutions	
Old Business	
New Business	
Adjournment	

Because of the many people present who wanted to speak on Item 1, the application for a new on-premises liquor license by Boxers Enterprises, Corey decided to divide the public session. He announced that the first session would allow for statements on all issues other than Item 1 and it would be followed by the reports. The second session would come after the Chair's report and would be devoted only to those wanting to speak on Item 1. The two minute rule would be strictly adhered to. Corey strongly urged people to take to the mike only if they had something new to say. It is okay he stated to simply say "I agree with everything everyone said before me" and then sit down.

PUBLIC SESSION I

Virginia Monte of West 48th Street complained about the noise generated by the bar on the corner of Ninth Avenue and 48th Street. She lives above it and is constantly assaulted by the noise. There are fights and lots of traffic. She wondered why there actually were two bars in the same building. Andrew Goldstein of West 53rd Street, a 20 year resident, had issues with Bar 9 on his block. It has live music and karaoke and keeps its façade open. They should close their doors he said. Mike Riegelman of Tenth Avenue is concerned that in his immediate vicinity there are applications for five bars. Betty Mackintosh wants everyone to be aware of the Hell's Kitchen farm at the Metro Baptist Church on West 40th Street on October 17 from 4:30 to 7 pm. Watty Strouss informed the Board that the original street improvements on West 46th Street are failing. Andrew Begg from the West 46th Street Block Association stated that they have been excluded from planning for the new street changes on W46th Street. They want to give feedback to the

Times Square Association which is taking the lead. Brendan concurred and wants more time for consultation. Paul Adams spoke about the need for space for artists in the community. Barbara Davis reminded everyone about the soon to begin senior survey sponsored by many local groups including MCB 4. Jackie Delvalle announced that the Seventh Annual West Side Tenants' Association conference is being held at Fordham University Law School on November 5. Saleen Shah of the Citizens Committee for New York City invited volunteer neighborhood groups to apply for block transformation grants. These are up to \$1,000 to help renew and fix-up streets. Melina DiPietro of the Highline reviewed activities that will be taking place in the coming season. Dustin Francis of Urban Pathways works with the chronic homeless from Houston Street north to 42nd Street. He does outreach and tries to provide assistance. Detta Ahl spoke in favor of extending the bike lanes on Eighth and Ninth Avenues.

REPORT OF MANHATTAN BOROUGH PRESIDENT SCOTT STRINGER

represented by Sandy Myers

Myers announced that the Borough President has proposed a number of reforms to the community education councils. He has also released a study of construction sites stalled by the recession. It is called "Arrested Development" and has a number of suggestions on how to creatively use these sites. His office will be conducting a new round of training for community board members. The Borough President gave testimony before the state on the application for a Certificate of Need (CoN) for the new North Shore Long Island Jewish health facility to be built in the O'Toole Building on Seventh Avenue.

REPORTS OF OTHER ELECTEDS

Congressmember Jerold Nadler, Katie Smith announced, has reiterate his call for the elimination of all tourist helicopters.

Senator Tom Duane's representative Sara Myers Zimble yielded her time in the face of the many people present at the meeting who wanted to speak on Item 1.

Jeffery Lafrancois informed the Board that people wanting to could fill out the senior survey in State Senator Dick Gottfried's office. What had been the 34th Street Transitway is now described as Select Bus. There will be an informational meeting at 6 pm on October 11th

State Assemblymember Linda Rosenthal's representative Paul Swere reiterated her opposition to fracking and invited everyone to a meeting about the issue sponsored by the Assemblymember on November 2 at 7 pm.

City Councilmember Christine Quinn's representative, Michaela Miller, emphasized the importance of the meeting on October 11 at PS 11 on the proposed school rezonings. She also spotlighted the Pumpkin Patch on the Highline that will be undertaken by the Fulton Youth Future group.

City Comptroller John Liu, announced Jessica Dennison, has put up a new website called "My New York City."

Manhattan District Attorney Cyrus Vance's liaison to the Board, Edgar Hugh, reminded the meeting that October is Domestic Violence Awareness Month.

City Councilmember Gayle Brewer spoke before the Board (actually later on in the meeting when she arrived in the middle of the public session II but it is reported here). Yesterday, she said, the Mayor asked for \$2 billion in cuts to the current budget and this is of major concern to her. She is looking forward to working on the street telephone issue and is proposing that

in the future all election districts be supplied with sample ballots. The crash of a helicopter in the East River only underscored, the Councilmember said, her opposition to tourist helicopters. Finally, she is continuing her efforts to regulate street food trucks separately from food carts.

ADOPTION OF THE AGENDA AND THE MINUTES OF THE SEPTEMBER BOARD MEETING (out of agenda sequence)

After the electeds' representatives spoke, the agenda for the night's meeting was adopted. The Board accepted the September minutes as submitted by Larry Roberts, his first minutes in his new position as MCB 4 Co-Secretary.

REPORT OF DISTRICT MANAGER ROBERT J. BENFATTO

Bob updated the Board on the BRC facility on West 26th Street. All 32 chemical dependency beds are occupied as are 182 of the 200 beds assigned to the general homeless population. The Avenues School to be opened in the fall of 2012 on Tenth Avenue is now accepting applications for scholarships.

REPORT OF MCB 4 CHAIR COREY JOHNSON

Corey reported he had appointed Larry Roberts as Co-Secretary of the Board to replace Carmen Matias who had resigned. Nicole Miller was recently appointed to the Board. She is an attorney from Chelsea and Corey introduced her. Two Board members have resigned: Anthony Hayes and Nydia Mata.

Corey is appointing a task force to review the sanitation garage site proposed for affordable housing a number of years ago and currently be urged by residents of the immediate area as a vest pocket park.

Avenues School is having difficulty locating applicants from the neighborhood who are interested in attending.

Because the DoE is proposing a rezoning of a number of schools in Chelsea and most people are unaware of the fact though it will have a major impact, MCB 4 will be sponsoring along with other groups a meeting at PS 11 on Monday October 10 6:30 pm to discuss the issue. Before any changes on implemented, the Community Education Council for School District 2 must vote on the rezoning.

PUBLIC SESSION II

Before people were invited to speak in the public session on Item 1, the applicants made a presentation. Donald Burstein, the lawyer representing Boxers, contended that there had been dissemination of false information in the community and that when he presented to the BLP committee he had only given facts. He noted that the 200' rule is part of the state's statues and clearly defines the measuring distance as from the entrance of an establishment to the entrance of a school or church and that the distance cannot be less than 200' in order to be considered for a liquor license. The building intended for use by Boxers is not on school or publicly owned property. Its entrance is on Tenth Avenue. Burstein said we have heard the community's perspective that it is too close to the schools and have modified our methods of operation as

clearly outlined in the agreed to stipulations. Turning to the Board, he said if you were to deny the license application because of the 200' rule, the action would be worthless and would eliminate the possibility of the stipulations being included in any methods of operations approved by the SLA. Rob Hynds, one of the applicants, pointed out that you cannot see into the proposed establishment from the schoolyard because it hasn't any windows. Bob Fluet, the other applicant, advised that they had collected 1,100 signatures in support of Boxers moving into the neighborhood. He said they were willing to listen to everyone.

Following the directions of Corey, people were called upon to speak by First Vice-Chair Christine Berthet in groups of three, those for and those against, Item 1. Many of the speakers for the applicant were acquainted with the existing Boxers in Chelsea and commented on its community involvement and its "regular" ambiance. On the other hand, many of the speakers against the applicant noted their opposition to a bar so close to two schools and one religious facility and were fearful of what they saw as the exposure of their children to the consumption of alcohol and some of the behaviors associated with that.

Scott Kohanowski said that Boxers had supported the LGBT swim team and had been a sponsor of the water polo tournament. David Jarrett stated that he found Boxers to be a quiet place to be and that he had had two friends mugged near the proposed location and felt that if Boxers were to open in Hell's Kitchen, it would make the neighborhood safer by bringing activity into what is now a desolate area.

Bob Minor identified himself as having worked in Hell's Kitchen as a sound technician for over 40 years. He believes that the applicant will need for fire exit reasons to construct a second door that would have to lead to the schoolyard. Leslie Nipkow from West 50th Street clarified that for her it was an issue of a gay bar moving into the neighborhood but one of an establishment serving liquor near schools. Paul Ames, Co-Chair of the HK5051 Block Association, said the applicant represented a bad idea getting worse.

Jon Morgan, president of the Gotham Knights gay rugby team, spoke in favor of the application. Doug Langly, a business owner in Hell's Kitchen, described Boxers as a place for guys to hang out. Joey Chan finds Boxers a comfortable place to go to with friends.

Tom Cayler has lived in the neighborhood for 30 years and was against the application. Irma Medina, the principal of PS111, apprised the Board that the school yard is used all day until 6 pm. She is concerned about the street smoke that will arise from people stepping outside the bar noted that the open rooftop of the proposed establishment can be directly observed from the upper floors of her school. Elke Fears of the West 47th/48th Street Block Association supported the other block associations' opposition to the applicant. For her the issue is that the proposed location is in a schoolyard.

Derrell Hall works in Hell's Kitchen and held that Boxers is a good place and would not cause any deterioration in the area. Jack Vitayanon, a resident of West 58th Street, argued that Boxers was a respected and responsive organization. David Schneider, a 20 year resident of Hell's Kitchen, continued that Boxers was a "class joint" and it gives back to the community.

Steve Belida of the HK5051 block association asked who speaks for the children and answered that we do. Boxers he contended is evading the law. Gwen Arment, the Co-Chair of the HK5051 Block Association described Hell's Kitchen as a neighborhood of families, schools, and churches and she held that there were too many bars. Sheila O'Conner of Tenth Avenue characterized the proposed establishment as a bar in a school yard and she was against that.

Brendan Voller of a gay cycling group attested to the support given his group by Boxers. Matthew Coyle, 13 years in Hell's Kitchen, related how he has walked up Tenth Avenue often and has observed that many businesses have gone under and doesn't see how a child would be affected negatively by the opening of Boxers. Megan Jenkins of Frontrunners New York stated that the

applicant had been a sponsor of the organization's largest event and was a good community member.

Katherine Johnson lives on Tenth Avenue and identified herself as a parent. She said that the area was a family neighborhood. Jeff Robins stated that the applicant was proposing a bar in a schoolyard. There is a law against this, he said, and that is what is right. Patricia Abelarde lives across the street from the site. She contended it is 80 feet from the Sacred Heart School and near the West 52nd Street Project for Children which has performances and activities at night. James Johnson, describing himself as a senior citizen and a religious professor, acknowledged that he goes to Boxers because he finds it more social than senior centers and doesn't know if it is straight or gay. Troy Harris noted that the existing building is crumbling and in a dark corner. Patty Odonnell who lives opposite the precinct and said she had gay friends so that was not an issue for her. She questioned where all those 1,100 people who signed the Boxers petition lived. PS 111 is a struggling school and the kids going to the library on Tenth Avenue would have to pass by Boxers and don't need more bad influences. Nivia Ceballo has lived in Hell's Kitchen 65 years and said that she had seen many changes but nothing like this. Kids are curious she declared and shouldn't be put in danger. Holly Kanter, secretary of a co-op on West 52nd Street, argued that the Board should take into account residents' quality of life.

Evelyn Gonzalez, an 18 year resident of the area, stated she goes to Boxers; it's a "normal" bar and would enhance the neighborhood. Steven Wright recently moved into Hell's Kitchen and believes that Boxers has a good atmosphere. Its impact on the school is being blown out of proportion he stated. He thought that it would bring foot traffic to the area and make it safer. Thomas Vicari, a restaurant owner in the neighborhood, said that the area was loaded with bars. He noted that he lived in the area with his children and did not see the proposed establishment as a threat to the community. He said he had walked by it tonight at 6 pm and the school yard was closed.

Evelyn Ceballo told the Board that she believed the bar was disrespectful of her and her kids. Jessie Clinton, president of the West 44th Street Block Association, reported that it had voted to oppose the application but added that it would welcome Boxers to the community if it were in another location. Megdallia Colon, a 37 year resident who had brought up her children and grandchildren in Hell's Kitchen, said she would go to Boxers, it's a great place, but it doesn't belong in the schoolyard.

Kevin Jennings lives on West 20th Street near the existing Boxers and he saw it as a good neighbor. Trehett Vaigneir said he was an educator and from his point of view the most important thing in education is what goes on in the classroom.

Ericka Salas' children attend the Sacred Heart School and she argued that the Board had a responsibility to the children and this would mean denying the applicant's license request. Al Fierstein, president of Accoustilog, stated that the noise from the open roof would be minimal, less than the ambient noise, and he noted that he had proposed a wall to the applicant to further mitigate sound. John Doucette, president of the New York Pool League, said it was a charitable organization and that Boxers was voted their best sponsor. JC Alvarez declared that Boxers in Hell's Kitchen would bring economic opportunities to the area. Ray Greenlof said that Boxers was "community driven." Don Robinder knows Boxers in Chelsea and he described it as "upstanding" and said it adhered to the law.

COMMITTEE LETTERS AND RESOLUTIONS

Business Licenses and Permits Committee (BLP)

Presented by Lisa Daglian and Paul Seres, Co-Chairs.

Item 1: Letter to SLA re Boxers Enterprises, LLC d/b/a Boxers HK – 766 Tenth Avenue.

Lisa declared that the application fits within the law; it is more than 200' from any school or church but there will be a 500' hearing before the SLA because there are three other liquor licenses nearby. The committee discussion which lasted over two hours resulted in a 9-3 vote in favor of denial unless the nine stipulations developed by the committee were incorporated into the establishment's methods of operation. Lisa reviewed all these stipulations. Boxers has stated that when school is in session it will not open until 4 pm.

Larry Roberts argued that the 200' measurement is calculated building wall to building wall, not door to door as asserted by the applicant. MCB 4 Executive Director Bob Benfatto interjected that he tried to get a ruling from the SLA but could not. They did say that they would take into consideration the nearby schools in their decision making process. Jean-Daniel Noland wondered where the second egress is. The answer is on Tenth Avenue. Betty Mackintosh asked why the entrance was moved from its place in the original structure. Bob responded that the space fronting on W52nd Street will be converted into a taco bar and use the existing entrance. The new bar serving alcohol will need its own entrance and that will be the Tenth Avenue one. James Wallace noted that activities take place on school property at least until 6 pm. Did anyone, he inquired, know if they went past that hour? Paul mentioned that that question did not come up in committee. The principal of the school who was present said there were lots of programs late in the day, some going until 7 pm. Pete Diaz joined in by saying that he knew the school yard was used late into the evening and the applicant's proposal did not make any sense to him.

Was there an interior connection, Jay Marcus asked, between the taco joint and the bar? No. Raul Larios stated that in committee he voted against the applicant because he felt there had been little attempt at outreach. Since then he observed they have connected to many groups such as the West Side Neighborhood Alliance. Yet, he says, he still opposes the applicant and questions their ownership structure.

Miguel Acevedo wanted to know how flexible the applicant was on its hours of operation, particularly its opening time. Corey thought that 4 pm is it. JD wanted to know how much before the public opening the applicant needed to begin start-up work. Paul answered two hours. Sara Desmond pointed out that the stipulation in the letter indicated 1 pm. A mistake she asked? No, Lisa stated, the 4 pm modification had been agreed to after the letter was written. Sandy Roldos thought the applicant sounds wonderful but she added that wherever they live, they should have the same rights as we do in turning down a bar thought by the community to have a negative impact.

Seth said he held three liquor licenses and knows the business and the operators of Boxers and they are great. It's highly likely that the SLA will approve this application but it would be better, he argued, to have our stipulations attached than not. Its naïve he said to think otherwise. Lisa added she agrees with Seth.

Joe Restuccia stated that if the vote were solely based on the nature of the operators, he would be in favor. But, he continued, that is not the issue. I am not happy with the process he added. The location is the key point and he resents the implication that the opposition is homophobic, anti-gay and anti-nightlife. JD confessed that he doesn't like being here. It appears to me, he said, that what we have is a conflict of land uses. The intent of the 200' law was to separate

children from alcohol, bars. Forty years ago that corner land was essential for a local business and was not needed for the school. That business does not now exist. In all good conscience, he concluded, he cannot vote for the letter. He believes the law is being bent. James Wallace thanked the owners and neighbors for coming to the Board to present their views. But he sees a duck no matter how it is described and recognizes that the law is problematic. Assemblymember Dan Squadron is right now introducing legislation to change the law James explained. Brett Firfer avers that there is an 11th Commandment to use your head. From biblical to secular, he says, everyone agrees this bar would have an impact.

John Weiss stated that he is for the applicant. He also commented on the tenor of the discussion in the public session feeling that there was a tension and many unspoken concerns about the fact that the applicant is a "gay friendly" bar. Jay says he likes to use the 11th amendment cited by Brett and for that reason he, too, is for the applicant.

Paul reminded members of the Board that we have a history of contentious discussions. We also have a 500' hearing to go to and we will have to provide testimony there. We need to keep in mind this is all part of a larger process and voting for the stipulations is part of that process. At this point Joe proposed a substitute motion that would deny the application. The letter of denial in Joe's motion would mention that even though we understand that the operator is a good one with a fine record, the location is near two schools and we find this problematic. We are not lawyers and not qualified to decide if the 200' rule is applicable. We know the SLA will consider this. The letter will list the stipulations already approved by the committee mentioning that if the SLA were to grant the applicant a liquor license against the Board's wishes, we would want them included in the methods of operation. Ed Kirkland says there must be a vote to accept the substitute and then if accepted there needs to be a vote on the resolution itself. John W inquired how do we intend to handle the 200' rule. Joe responded that we don't. Christine suggested that the first section of the letter include a history of the site. Corey asked if this were a friendly amendment and would Joe agree to it. Joe said he would accept it.

Lisa wanted to clarify the issues. She said that in the past the Board has been "burned" using this logic of denying an applicant and yet enumerating stipulations to be used in case the SLA approved the application. Lisa contends that from her experience once the SLA sees deny they do not read any further and do not incorporate the stipulations into the establishment's approved methods of operation. Morgan McLean reviewed the situation and the nature of the applicant and believes that it is the best we will get for that space. He is for approval. Larry brought up the fact that the Board had approved Boxers in its original request on Ninth Avenue so its not a question of the operator but of the location. Burt expressed dismay at the dialogue heard tonight in the public session. He felt that there was much use of code words and phrases hiding underlying prejudice and fear. It may have been intentional or done without awareness of meaning. No matter, people need to examine the effect of their words and their motives.

Vote to accept substitute motion carried 27 – 10.

Vote to adopt substitute motion carried 28 – 9.

Item 3: Letter to SLA re Top One Top, Inc. d/b/a Tabata Noodle Restaurant – 538-542 Ninth Avenue (btwn W39th and W40th Streets).

Item 4: Letter to SLA re Jason Francisco or Corp to be formed – One River Place.

Item 5: Letter to SLA re B+R Sorrento Corp. d/b/a Intermezzo – 202 Eighth Avenue (btwn W20th and W21st Streets).

Item 6: Letter to SLA re Nora on 9th Inc. d/b/a Aura Thai – 462 Ninth Avenue (btwn W35th and W36th Streets).

Item 7: Letter to SLA re 1-3-5 Thai Select Inc. d/b/a TBD – 460-462 Ninth Avenue (btwn W35th and W36th Streets).

Item 8: Letter to SLA re IPPUDO Westside Inc. – 321-323 West 51st Street.

Pete Diaz pointed out that in Item 6, line 23 should be changed to 11 pm.

Maarten de Kadt observed that the Board's attention to noise emanating from establishments with liquor licenses should be year round, not only focused on the warmer months when windows and doors might be opened.

Items 3 through 8 were bundled and approved with the change to Item 6.

Item 2: Letter to SLA re Foragers City grocer – 300-302 West 22nd Street. Approved.

Clinton/Hell's Kitchen Land Use Committee

Presented by Elisa Gerontianos, Co-Chair.

Item 9: Letter to BSA re 910-924 Ninth Avenue, Block 1049, Lot 1, BSA Calendar No. 39-59-BZ (public parking garage). Approved.

Item 10: Letter will be created out of testimony by Board Member JD Noland and Executive Director Bob Benfatto commenting on a Draft Public Scoping Document for the Preparation of an Environmental Impact Statement for the Durst 57 LLC – 625 West 57th Street project. Approved.

Chelsea Preservation and Planning Committee

Presented by Bret Firfer, Co-Chair.

Item 11: Letter to DCP re Chelsea Square Restaurant – 363 West 23rd Street (enclosed sidewalk café). Letter originally because of timing voted out in Executive Committee. Action ratified.

Transportation Planning Committee

Presented by Christine Berthet and Jay Marcus, Co-Chairs.

Item 12: Letter to DoT re Bike Lane extensions north on Eighth and Ninth Avenues.

JD suggested the information in the footnotes be incorporated into the body of the letter with the proper source citation. He also believes that the Board should be more specific on what we mean by police enforcement. Lourdes Calderon reminded the Board that the Port Authority bus terminal begins at W40th Street and so crossing times there should be lengthened. Pamela Wolf wanted to know who was responsible for landscaping and was answered by Christine that Parks was the agency in charge of plantings in the bicycle barriers. Corey stated that he had real concerns about the traffic ramifications of bike lanes. Jay related that the committee was impressed with the outreach to business made by the DoT in planning the bike lane extensions. Lisa concurred with Corey. She said she fears bike lanes, that they create problems and more traffic. She wondered if the Council would approve the lanes if the Board withheld its consent. JD agreed with Corey and Lisa. He wanted to know if the experiment failed, would they be removed? Christine said that that is exactly what happened with some bike lanes in Staten Island and Brooklyn which were found unworkable. Brett believes bikes will always be here and we should accommodate them. John W observed that as far as he is concerned the bicycle lanes on Eighth Avenue in Chelsea do not work; they are great but there are no bike riders. Gretchen Minneman considers all bike lanes temporary pending a final evaluation. Sandy said on Eighth Avenue the back up of traffic because of the new bike lanes is causing lots of fumes. The use of the lanes, she thought, was only seasonal. Lisa added that she does not support the creation of bike lanes near the entrances to the Lincoln Tunnel. Ed said his experience of the lanes on Ninth Avenue is that the traffic has adjusted to the changed pattern and its better flowing; the same process he believes will happen on Eighth Avenue, its just needs time. Like Lisa, he would also remove the

bike lanes from areas near the tunnel entrances. Jay summed up part of the argument for the bike lanes: they are part of a larger plan to modify the use and traffic patterns of automobiles in the city. The stats are clear, he stated. There are less pedestrian accidents which make for a safer environment. Christine agreed. We have been fighting for these measures for many years, she said, and these installations slow traffic and increase safety. Pamela added that she loves the concept of bicycle lanes but finds that the lack of education among pedestrians and bicyclists on how to properly use them is a problem. Ernest Modarelli suggested that this need for more education be included in the letter. Approved.

Item 13: Letter to DoT re Relocation of Megabus Terminal. Approved.

Item 14: Letter of Support for Restaurant Row Restoration Project. Tabled pending more outreach to the community.

Item 15: Letter to DCA re application for a newsstand Tenth Avenue and West 37th Street. Withdrawn by applicant; will return.

Item 16: Letter to DCA re application for a newsstand (license # 1406393) north side of West 42nd Street and Dyer Avenue. Sent back to committee.

Housing Health and Human Services

Presented by Barbara Davis, Co-Chair.

Item 17: Letter to HPD re Mayoral Override of Compactor Enclosure at Artimus Project 401 West 25th Street on Elliot-Chelsea parking lot. Approved.

Item 18: Letter to HPD re Inclusionary Housing, Clinton Park – 777 Eleventh Avenue. Approved.

New Business

Item 19: Letter to DoT re 34th Street Transitway Traffic Analysis. Approved.

Item 20: Letter to City Council Speaker Christine Quinn re The 45th Street Theater – Certificate of Occupancy. Approved.

Item 21: Letter to DHPD and Artimus Construction re NYCHA Elliot-Chelsea Houses Application Process for new Affordable Housing at 401 West 25th Street. Approved.

The meeting was adjourned.

Respectfully submitted by Burt Lazarin