

# COMMUNITY BOARD #5 MINUTES – THURSDAY, MARCH 12, 1998

THE BOROUGH OF MANHATTAN  
C. VIRGINIA FIELDS, PRESIDENT  
LOLA FINKELSTEIN, CHAIR

Minutes of the regular Community Board #5 meeting held on Thursday, March 12, 1998 at Fashion Institute of Technology, 227 West 27th Street, at 6:00PM. Lola Finkelstein, Chair, presiding. The tapes of the full meeting are available in the Board office.

## Members Present

Vikki Barbero  
Elizabeth Beier  
Marisol Borrero-Saks  
Judith Breidbart  
Joe Clift  
Raymond Cline  
Len Elmer  
Lola Finkelstein  
Kevin Finnegan  
Fr. Pat Fitzgerald  
Jonathan Foster  
Juliette Gordon  
Doreen Guerin  
James Hunt  
Myong Juch  
George Kewin  
Anita Linn  
Lenore Loveman  
Joyce Matz  
Kyle Merker  
Howard Mendes  
Jon Nakagawa  
Tony Orbe  
Harold Orenstein  
Hildy Parks  
Joan Piker  
Michael Presser  
Evelyn Strouse  
Michael Utevsky  
Larry Zucker

## Present Part

David Diamond  
Jim Gabbe  
Jack Goldstein  
William Lukashok  
Joe McCluskey

## Excused

Isobel Robins  
Mickey Schwartz  
Joel Sesser

## Absent

Anthony Abraham  
Annie Brody  
Hal Honig  
Laura Michaels  
Andrew Rasiej  
Steve Wilder

## Public Members

Jon Schachter  
Lee Silver  
William Stuhlbarg  
Florence Van Veen Peavy  
Richard Sachs

## Public

Paul Ames  
Bill Batson  
Jed Bernstein  
Joanne Billott  
Christina Boer  
Gary Bogart  
Robert Bone  
Polly Bookhout  
Mary Brendle  
Jane Buchanan

Tom Burnett  
Eliot Camaren  
Carl Carman  
China Celt  
Vicki Chiu  
Suany Choung  
Richard Corley  
William Dennison  
Joseph DiSalle  
Pat Dolan  
Tiea Dublin  
Beverly Feingold  
John Fisher  
Pam Frederick  
Gladys Froustet  
Eric Gering  
Penny Glenar  
Katherine Gray  
Barry Grove  
Ellen Holahan  
Barbara Hauptman  
Richard Kussmaul  
Batya Lewton  
Rebecca Lieb  
Sarah Linder  
Ginny Louludes  
William Macagnone  
Sandra Malberstram  
Morgan McLean  
Susanne Morena  
Anderson Phillips  
Anthony Picco  
Terry Poe  
Carol Rinzla  
Rebecca Robertson  
Geraldo Roman  
Judy Rubin  
Eric Schneiderman

Gary Shoenfeld  
Quclusa B. Shillips  
Frederick Siransky  
Marilyn Siransky  
Peggy Sloane  
David Stone  
Marilyn Suasky  
Joan Tally  
Jack Taylor  
Carol Trezza  
Matthew Ulterino  
Jonathan Walker  
MaryLou Westerfield  
Anne Zimmerman

## Elected Officials

Dirk McCall  
Borough President C. Virginia Fields

Margarita Lopez  
New York City Councilmember

Franz Leichter  
New York State Senator

Thomas Duane  
New York City Councilmember

Karen Lin  
State Senator Catherine Abate

Richard Gottfried  
New York State Assembly Member

## Staff

Timothy Buzzee  
Gil Cruz  
Robert Barr

## PUBLIC SESSION

Gerald Schoenfeld of the Shubert Foundation Theater Co., urged the Board to support the rezoning of the Theater subdistrict. Mr. Schoenfeld also added that there is no equity interest in the company, that they are passionate about Times Square, and have been supportive of the Clinton area since the 1970's.

Jed Bernstein, Executive Director of the League of American Producers, addressed the Board about the Broadway Initiative. Mr. Bernstein stated that the zoning proposal will only benefit musicals, and that smaller theaters are in danger.

David Stone, a Theatrical Producer, stated that Broadway is only booming for musicals, but not serious plays, and that the zoning proposal will cause the theater industry to lose an entire generation of writers and producers.

Sandra Malberstram, a Clinton resident, spoke to the Board regarding her unhappiness with the rezoning of 8<sup>th</sup> Avenue. She stated that only those who reap huge profits support this plan, and that it should not be approved.

Elliot Cameron, a Clinton resident, addressed the Board about the zoning proposal's lack of human compassion, and that Board #5 should join Board #4 and reject the rezoning proposal.

Richard Kussmaul, President of W. 51<sup>st</sup> Street Block Association, informed the Board of his opposition to the rezoning of 8<sup>th</sup> Avenue. Mr. Kussmaul also stated that developers are never content with development rights, and are always wanting more.

Gladys Froustet, a Clinton resident, urged the Board to vote no to the zoning proposal, and continued by saying that it was a dangerous situation that must be stopped.

Katherine Gray of Community Board #4, informed the Board that the zoning proposal removes public influence from the neighborhood, and that Board #5 should join Board #4 and say no to the rezoning proposal.

Joanne Billott of St. Vincents, addressed the Board about health issues and maintenance.

Mary Lou Westerfield from the Actors' Equity Association, spoke about her support of the Broadway Initiative, and the transfer of air rights.

Peggy Sloane & Tia Dublin from the Hell's Kitchen Neighborhood Association, both informed the Board about their opposition towards the floating of air rights.

Rebecca Lieb, a Clinton resident, urged the Board to consider all facts, and keep Clinton as undeveloped as possible.

Batya Lewton of the Coalition for a Livable West Side, claimed that the zoning proposal is the worst example of spot zoning, and that the Board should reject the rezoning plan.

Jonathan Walker, a Clinton resident and actor, stated that the consequences of the zoning plan outweigh the benefits.

Jack Taylor of the Historic Districts Council, informed the Board that lack of public review is unfair, and that he is against the rezoning of 8<sup>th</sup> Avenue.

Terry Poe of the West Side Law Project, urged the Board to reject the rezoning proposal because it threatens the viability of the Clinton neighborhood.

Marilyn Siransky, a Clinton resident and actress, addressed the Board in regards to how affordable housing in Clinton is the foundation of the theater district because it enables performers to live near by work, and support the theater.

Susanne Morena, a Clinton resident and artist, informed the Board about the community's effort to clean up the Clinton area, and how developers want to reap the rewards from their hard work.

Tom Burnett, a Clinton resident, suggested to the Board that the rezoning proposal will push residents out of the area, and possibly out of the city.

Pam Frederick, Chair of Board #4, commended the 8<sup>th</sup> Avenue Rezoning Task Force, and spoke against the zoning proposal.

Frederick Sirasky, a Clinton resident & playwright, spoke on behalf of the Clinton community and how it enables New York City to have a vital Theater Community, and must be saved from developers.

Judy Rubin, Chair of Playwrights Horizons, spoke to the Board in favor of the rezoning proposal.

Mary Brendle, a Clinton resident, encouraged the Board to vote against the rezoning of 8<sup>th</sup> Avenue. Ms. Brendle stated that the Broadway Initiative will only benefit the developers, not the residents.

Pat Dolan, a Queens resident, urged the Board to stop developers before they reach the outer boroughs.

Lee Silver, a Board #5 public member & Corporate Relations Director of Shubert Organization, assured the Board that the Shubert Organization will not pull out of the Broadway Initiative, even if the rezoning proposal is defeated. He also noted that he is in favor of the rezoning proposal.

John Fisher & Christina Boer from the Clinton Special District Coalition, informed the Board of that the rezoning of 8<sup>th</sup> Avenue will increase density, and create a shadow from the additional tall buildings.

Barbara Hauptman from the Society of Stage Directors & Choreographers, insisted that the Broadway Initiative has brought the theater industry together. She continued by stating that she is in favor of the rezoning proposal.

Carl Carman, a Clinton resident, notified the Board of his opposition of the transfer of air rights proposal. Mr. Carman continued by stating that the rezoning proposal will change the character of the neighborhood and make the Clinton Special District meaningless.

Ellen Holahan, a Clinton resident, advised the Board to reject the rezoning proposal due to its limited public review policy.

Ginny Loulouides from the Alliance of Resident Theaters in NY, told the Board that both Broadway and Off-Broadway plays are booming and that she is in favor of the Broadway Initiative and the rezoning proposal.

Paul Ames, a Clinton resident, expressed to the Board how passionate he felt about the Clinton community and that the rezoning plan will not work.

Carol Trezza from the Real Estate Board of NY, informed the Board that she supports the rezoning plan and that property owners have the right to do what they want.

Jane Buchanan, a Clinton resident, encouraged the Board to reject the rezoning proposal in order to preserve the authentic character of the Clinton Special District.

Anne Zimmerman of the Broadway Initiative, made known to the Board that development is already happening. She also included that without transfer rights theaters will be lost.

Barry Grove of the Manhattan Theater Club, told the Board that he is a strong supporter of the Broadway Initiative and the rezoning proposal.

Joseph DiSalle, a Clinton resident, implored the Board to vote against the rezoning proposal.

Richard Corely of the W. 46<sup>th</sup> Street Block Association, expressed his dissatisfaction with the rezoning proposal, and pleaded that the Board reject the Broadway Initiative by voting against the rezoning proposal.

Eric Schneiderman from the Public Policy & Education Fund, notified the Board of his distrust of the Broadway Initiative. He stated that the rezoning of 8<sup>th</sup> Avenue has nothing to do with saving the theater industry.

Richard Barth from the Department of City Planning, told the Board that the rezoning proposal will preserve, protect, and enhance the theater district. Mr. Barth contends that the Department's proposal does not set a dangerous precedent, but makes for a better streetscape. He continued by noting that during his 20 years as a planner, the Eighth Avenue rezoning proposal is the one he has been most proud to present.

## BUSINESS SESSION

### ● **MANHATTAN BOROUGH PRESIDENT C. VIRGINIA FIELDS ~ *Dirk McCall***

Mr. McCall informed the Board of President Fields' new management team, as follows: Narita Endeno, Deputy Borough President; R. David Adams, Chief of Staff; James Whalen, Chief of Operations; Mike Demorso, Director for Public Information; Barbara Baker, Executive Assistant; Maggie Patton, Senior Assistant; Denise Botram, General Council; and Luther Smith, Director of Community Boards.

### ● **COUNCILMEMBER MARGARITA LOPEZ**

Councilmember Lopez spoke to the Board about her strong support for the arts/theater and how unfavorable the rezoning plan appeared. She continued by stating that the rezoning proposal is unacceptable due to its lack of community input.

### ● **STATE SENATOR FRANZ LEICHTER**

State Senator Leichter also addressed the Board about the rezoning proposal and remarked that there is no need for taller or denser buildings. He also stated that he is in favor of the Broadway Initiative, but not this particular rezoning proposal.

### ● **COUNCILMEMBER THOMAS DUANE**

Councilmember Duane explained to the Board that the rezoning proposal is a city wide economic development issue, and must be looked at further before anyone can proceed with the Broadway Initiative. Councilmember Duane then explained to the Board that in its current state, he could not support the rezoning proposal.

### ● **STATE SENATOR CATHERINE ABATE ~ *Karen Lin***

Ms. Lin spoke to the Board about Senator Abate's concern for the integrity of the Clinton community which was being compromised by the rezoning proposal. Further, Ms. Lin stated that because the proposal does not include community input, Senator Abate could not support City Planning's proposal.

### ● **ASSEMBLYMAN RICHARD GOTTFRIED**

Assemblyman Gottfried informed the Board of his support for the theater industry but stated that there must be other ways to secure the industry besides air transfer rights. He continued by urging Board #5 to join Board #4 in opposing the plan he considered an insult.

## COMMITTEE REPORTS

### ● **EIGHTH AVENUE REZONING TASK FORCE ~ *Kevin Finnegan***

Mr. Finnegan thanked the Planning Department and the public for their attendance. He then stated that Broadway is vital to New York City and our culture, and that the "straight" play on Broadway is in trouble. Mr. Finnegan continued by informing the Board that he supports the Broadway Initiative, but that the City Planning's rezoning proposal is not the way to achieve it. Mr. Finnegan went on to introduce the following resolution:

#### ***ULURP Nos. N 980271ZRM and C 980272ZMM***

WHEREAS, The Department of City Planning (DCP) has made an application for a zoning text and map change for the Theater subdistrict which would expand the subdistrict to the west side of Eighth Avenue and allow an as-of-right transfer of development rights from "listed" theaters to increase the size of all new developments in the expanded subdistrict from 20 – 44%, new provisions governing use covenants for existing theaters and maintenance obligations for theaters which utilize the new transfer system, a special permit procedure for the transfer of additional development rights, as well as other changes governing bonus provisions and use restrictions in much of the theater subdistrict; and

WHEREAS, Community Board #5 has reviewed, analyzed and evaluated the application and having measured its impact and the density of new developments in the theater subdistrict and on Eighth Avenue and its effects on the quality of life in Midtown, and

WHEREAS, Community Board #5 is and has been committed to the long term health and viability of the Broadway Theater; and

WHEREAS, as part of this proposal, \$10 for each square foot of transferred development rights would be paid to a Theater Subdistrict Fund (expected to be administered by the Broadway Initiative), \$2 of which would be used for monitoring and inspection of listed theaters and the remaining monies used to advance the goals of the theater subdistrict; and

WHEREAS, the Broadway Initiative intends to promote non-musical productions in Broadway houses which would be beneficial to the theater industry by increasing employment, improving theater utilization, providing opportunities for off-Broadway, not-for-profit and regional theaters to move productions into Broadway houses and developing new audiences for the theater; and

WHEREAS, the Board finds all of these goals to be laudable and deserving of support, though the Broadway Initiative is in its start-up phase and specifics regarding financing are unclear; and

WHEREAS, while the Board recognizes the decline of the straight play on Broadway, the Board finds that DCP and other supporters of the application have not demonstrated that the theater industry as a whole is under any imminent threat or that any theater owner is actually suffering a hardship under current protections; and

WHEREAS, the new provisions offer little, if any, additional protection to the already landmarked and listed theaters and in some ways diminish use and landmark protections that exist now; and

WHEREAS, an Environmental Impact Statement should have been undertaken to analyze the increased bulk and accelerated development which would be caused by the zoning proposal; and

WHEREAS, it is of concern to the Community Board that the Department of City Planning failed to undertake an Environmental Impact Statement to study the impact and explore mitigation of the proposal; therefore be it

**RESOLVED, THAT,** to the extent that it can be demonstrated that the Broadway Theater Industry is in need of financial assistance; and

THAT such assistance should be provided by the City and State from tax revenue; and

THAT the Board opposes any proposal to weaken the requirements for public review through a special permit process as provided by the City Charter and which would be waived by the transfer mechanism within this proposal; and

THAT the utilization of development rights from listed theaters over a wide area is inappropriate because of the unpredictability of its results, the negative impact of increased density, the potential effect on existing landmarks and the precedent that could be set; and

THAT the substantial burdens imposed by the application are disproportionate to the perceived benefits such that it is necessary to reject this application.

After much discussion, the resolution passed with 27 in favor; 3 opposed; 1 abstention, and 4 present but not entitled to vote as follows: **IN FAVOR:** Barbero, Beier, Borrero-Saks, Breidbart, Clift, Cline, Elmer, Finnegan, Fitzgerald, Foster, Gabbe, Gordon, Guerin, Hunt, Juch, Kewin, Linn, Loveman, Matz, McCluskey, Mendes, Merker, Orbe, Parks, Piker, Strouse, Utevsky. **NOT IN FAVOR:** Lukashok, Orenstein, Zucker. **ABSTENTION:** Finkelstein. **PRESENT BUT NOT ENTITLED TO VOTE:** Diamond, Goldstein, Nakagawa, Presser.

There was an amendment by Board member David Diamond to remove the seventh whereas, which was defeated by a vote of 5 in favor, 24 not in favor, 2 abstentions, and 4 present but not entitled to vote. There were two friendly amendments by Board members Ray Cline, George Kewin, and Kyle Merker that were accepted by Chair, Kevin Finnegan.

Ray Cline's and George Kewin's joint friendly amendment was to have an additional that:

THAT, the Board opposes any proposal to weaken the requirements for public review through a special permit

Kyle Merker's friendly amendment was to have the seventh whereas changed to:

WHEREAS, While the Board recognizes the decline of the straight play on Broadway, the Board finds that DCP and other supporters of the application have not demonstrated that the theater industry as a whole is under any imminent threat or that any theater owner is actually suffering a hardship under current protections; and

## ● CONSENTS & VARIANCES ~ MICKEY SCHWARTZ & ELIZABETH BEIER

Ms. Beier introduced the following resolution:

### *Marble Collegiate Church request for a street blade*

**RESOLVED,** That Manhattan Community Board #5 approves the request for two street blades by Marble Collegiate Church to be placed at the Northwest corner of Fifth Avenue and 29<sup>th</sup> Street and the Northeast corner of 29<sup>th</sup> Street and Broadway to permanently bear the name Norman Vincent Peale Way. The street blade should be double height blades with the current street designation above and the new street name below.

After some discussion, the resolution passed with 23 in favor; 5 opposed; 2 abstentions as follows: **IN FAVOR:** Beier, Breidbart, Clift, Cline, Diamond, Elmer, Finnegan, Fitzgerald, Foster, Gabbe, Guerin, Hunt, Juch, Kewin, Matz, McCluskey, Mendes, Orbe, Nakagawa, Orenstein, Parks, Presser, Zucker. **NOT IN FAVOR:** Borrero-Saks, Gordon, Mendes, Piker, Strouse. **ABSTENTIONS:** Finkelstein, Merker.

### ***Marble Collegiate Church Street Activity Permit Application***

**RESOLVED**, Manhattan Community Board #5 approves the two applications by Marble Collegiate Church for a dedication on Fifth Ave. between 30<sup>th</sup> & 29<sup>th</sup> Streets on May 29<sup>th</sup>, and a celebration on 29<sup>th</sup> Street between Fifth Ave. and Broadway on May 31, 1998.

After some discussion, the resolution passed with 31 in favor; 0 opposed; 1 abstention as follows: **IN FAVOR:** Barbero, Beier, Borrero-Saks, Breidbart, Clift, Cline, Diamond, Elmer, Finnegan, Fitzgerald, Foster, Goldstein, Gordon, Guerin, Hunt, Juch, Kewin, Linn, Matz, McCluskey, Mendes, Merker, Nakagawa, Orbe, Orenstein, Parks, Piker, Presser, Strouse, Utevsky, Zucker. **ABSTENTION:** Finkelstein.

Ms. Beier also introduced the following resolutions:

### ***Pakistan Independence Day Committee Street Fair Application***

**RESOLVED**, That Community Board #5 approves the street fair application by the Pakistan Independence Day Committee, on Madison Ave. between 23<sup>rd</sup> & 16<sup>th</sup> Streets on August 23, 1998.

After much discussion, the resolution failed by vote of 8 in favor; 18 opposed; 4 abstentions as follows: **IN FAVOR:** Barbero, Beier, Finnegan, Fitzgerald, Juch, Orenstein, Presser, Zucker. **NOT IN FAVOR:** Borrero-Saks, Breidbart, Clift, Cline, Elmer, Foster, Gordon, Guerin, Hunt, Kewin, Linn, Lukashok, Mendes, Merker, Parks, Piker, Strouse, Utevsky. **ABSTENTIONS:** Cline, Finkelstein, Loveman, Matz.

Ms. Beier, then introduced the following resolutions:

### ***Street Activity Applications***

**RESOLVED**, That Manhattan Community Board #5 approves the applications:

**Fashion Institute of Technology Dorm Council** for a street fair on 27<sup>th</sup> Street between Seventh & Eighth Avenues on May 2, 1998;

**Knights of Vartan** for a memorial service for American Genocide Victims on Broadway between 43<sup>rd</sup> & 44<sup>th</sup> Streets on April 26, 1998;

**Marble Collegiate Church** for a dedication on Fifth Ave. between 30<sup>th</sup> & 29<sup>th</sup> Streets on May 29<sup>th</sup>, and a celebration on 29<sup>th</sup> Street between Fifth Ave. and Broadway on May 31, 1998.

After some discussion, the resolution passed with 30 in favor; 0 opposed; 1 abstention as follows: **IN FAVOR:** Barbero, Beier, Borrero-Saks, Breidbart, Clift, Cline, Elmer, Finnegan, Fitzgerald, Foster, Goldstein, Gordon, Guerin, Hunt, Juch, Kewin, Linn, Matz, McCluskey, Mendes, Merker, Nakagawa, Orbe, Orenstein, Parks, Piker, Presser, Strouse, Utevsky, Zucker. **ABSTENTION:** Finkelstein.

Ms. Beier also introduced the following resolutions:

### ***Sidewalk Café Applications***

**RESOLVED**, That Manhattan Community Board #5 approves the following renewal applications:

**Seventh Avenue Restaurant Corp.** d/b/a Mustang Sally's, 324 7<sup>th</sup> Avenue for an enclosed sidewalk café.

There was a friendly amendment suggested by Joe Clift that was passed, as follows:

WHEREAS, Several Community Board members have reported violations to the Community Board office in the past; therefore let it be

**RESOLVED**, That Manhattan Community Board #5 approves the renewal application by Seventh Avenue Restaurant Corp. b/d/a Mustang Sally's, 324 Seventh Avenue for an enclosed sidewalk café, and Community Board #5 will closely monitor their compliance during the term of this renewal;

**Irving Place Restaurant Inc.**, d/b/a Sal Anthony's, 55 Irving Place for a sidewalk café.;

and the application by: **Cena L. Corp.**, 12 East 22<sup>nd</sup> Street for a sidewalk café.

After some discussion, the resolution passed with 29 in favor; 0 opposed; 1 abstention as follows: **IN FAVOR:** Barbero, Beier, Borrero-Saks, Breidbart, Clift, Cline, Elmer, Finnegan, Fitzgerald, Foster, Gordon, Guerin, Hunt, Juch, Kewin, Linn, Matz, McCluskey, Mendes, Merker, Nakagawa, Orbe, Orenstein, Parks, Piker, Presser, Strouse, Utevsky, Zucker. **ABSTENTION:** Finkelstein.

## ● TRANSPORTATION ~ JOE CLIFT AND JOE MCCLUSKEY

Mr. Clift introduced the following resolution:

### ***Banning of Street Furniture on Fifth Avenue, 59<sup>th</sup> to 33<sup>rd</sup> Street***

WHEREAS, Fifth Avenue from 59<sup>th</sup> street, with its open view corridor, pedestrian-friendly strolling experience and numerous quality retailers, has provided City residents, commuters and visitors with a unique, world-renowned shopping and strolling experience for many years; and

WHEREAS, This section of Fifth Avenue has experienced a renaissance over the last decade, demonstrated by the investment of hundreds of millions of dollars in new or renovated retail space, continuing increases in pedestrian traffic, record retail sales and the number one ranking for retail rates in the world, making the Avenue an even more important contributor to the successful economic life of the city; and

WHEREAS, The open view corridor and pedestrian-friendly strolling experience on this portion of the Avenue exist almost entirely due to tradition and not government regulation and are now threatened by increased interest in placing various types of street furniture on the Avenue, including telephone booths, bus stop shelters, newsstands, public toilets, information kiosks, newspaper dispensers, bike racks, benches, and planters many of which contain advertising space that would produce even more, visual and physical clutter than does the furniture itself; and

WHEREAS, Placement of such street furniture would destroy the unique environment that is of critical importance to the economic well being of the Avenue and that makes the Avenue attractive to potential providers, therefore be it

**RESOLVED**, That Manhattan Community Board #5 requests that all municipal agencies and providers of street furniture preserve the view corridor and strolling experience on Fifth Avenue and adjacent streets and respect and maintain the tradition of a street-furniture-free environment by rejecting all proposals for the installation of any type of street furniture on Fifth Avenue between 59<sup>th</sup> Street and 34<sup>th</sup> Street on the east side and 33<sup>rd</sup> Street on the west side, extending 15 feet beyond the building line on side streets and east to Madison Avenue and west to Avenue of the Americas on 57<sup>th</sup> Street; and be it further

**RESOLVED**, CB5 requests that the government regulations necessary to codify the tradition of a street-furniture-free environment be adopted to preserve the view corridor and pedestrian-friendly strolling experience on this portion of Fifth Avenue and adjacent streets.

After some discussion, the resolution passed with 26 in favor; 1 opposed; 3 abstentions; 1 present but not entitled to vote as follows:

**IN FAVOR:** Barbero, Beier, Borrero-Saks, Breidbart, Cline, Diamond, Elmer, Finnegan, Fitzgerald, Foster, Guerin, Hunt, Juch, Kewin, Linn, Matz, McCluskey, Mendes, Merker, Nakagawa, Orbe, Orenstein, Parks, Presser, Strouse, Zucker. **NOT IN FAVOR:** Piker. **ABSTENTION:** Finkelstein, Gordon, Utevsy. **PRESENT BUT NOT ENTITLED TO VOTE:** Clift.

Mr. Clift also introduced the following resolution:

### ***33<sup>rd</sup> Street Reversal, Fifth to Sixth Avenues, & Traffic Impact on Nearby Streets***

WHEREAS, Manhattan Community Board #5 supported the Police Department and Department of Transportation in a three-month experimental reversal of 33rd Street between Fifth and Avenue of the Americas/Sixth Avenue during the summer of 1996, which was undertaken with the expectation that the significant traffic backup that regularly occurred on Sixth Avenue below Herald Square could be reduced without serious damage to traffic on nearby streets; and

WHEREAS, DOT promised to study and determine the traffic congestion, pedestrian safety and air quality impacts of the reversal, including the level of improvement on Sixth Avenue, the level of negative impact on nearby streets and Fifth Avenue, and any impact on a separate traffic study of Herald Square and to report all findings to the affected local community immediately at the end of the three-month experimental period; and

WHEREAS, DOT and the PD promised to make adjustments to the reversal, up to and including returning 33rd Street to its original configuration, based on the study findings, after sharing them with the affected local community; and

WHEREAS, 18 months after the end of the three-month experimental period, the 33rd Street reversal is still in place, no study findings have been shared with the affected local community, no adjustments to the reversal have been made, and there have been reports of reduced traffic congestion on Sixth Avenue below Herald Square, and continuing complaints of increased traffic congestion and noise and air pollution on nearby westbound streets, especially 29th Street, pedestrian safety problems at Fifth Avenue and 33rd Street and difficulties accessing the reversed block that reduce traffic on the block to a minimum, negatively affecting commercial activity and encouraging undesirable activities such as bus staging, therefore be it

**RESOLVED**, Manhattan Community Board #5 requests that the Police Department and the Department of Transportation immediately inform CB5 of the status of the study of the 33rd Street experimental reversal and the traffic study of Herald Square, and provide a specific timetable for sharing the study findings with the affected local community, discussing possible adjustments with the community and implementing agreed upon adjustments, up to and including extending the reversal further east to make East 33rd Street a functional outbound street or returning 33rd Street to its original configuration, after sharing them with the community.

After some discussion, the resolution passed with 29 in favor; 0 opposed; 1 abstention; 1 present but not entitled to vote as follows: **IN FAVOR:** Barbero, Beier, Borrero-Saks, Breidbart, Cline, Diamond Elmer, Finnegan, Fitzgerald, Foster, Gordon, Guerin, Hunt, Juch, Kewin, Linn, Matz, McCluskey, Mendes, Merker, Nakagawa, Orbe, Orenstein, Parks, Piker, Presser, Strouse, Utevsky, Zucker. **ABSTENTION:** Finkelstein. **PRESENT BUT NOT ENTITLED TO VOTE:** Clift.

## ● LANDMARKS ~ JOYCE MATZ & JONATHAN FOSTER

Mr. Foster introduced the following resolution:

### ***Grand Central Terminal Restaurant No. 4***

WHEREAS, The fabric of the landmark room is not being damaged or removed; and

WHEREAS, The installation of restaurant furniture is of semi-permanent nature; and

WHEREAS, The restaurateur will place his signage on a portable station on the balcony; and

WHEREAS, Community Board #5 proposed a change to a thinner profile of the ceiling above the alcoves, to allow a more sensitive aesthetic relationship to the arch above, and the architect has agreed and is committed to refining this ceiling detail; therefore be it

**RESOLVED,** That Manhattan Community Board #5 approves the proposal as modified with respect to the ceiling profile.

After some discussion, the resolution passed with 29 in favor; 0 opposed; 1 abstention as follows: **IN FAVOR:** Barbero, Beier, Borrero-Saks, Breidbart, Clift, Cline, Elmer, Finnegan, Fitzgerald, Foster, Gordon, Guerin, Hunt, Juch, Kewin, Linn, Matz, McCluskey, Mendes, Merker, Nakagawa, Orbe, Orenstein, Parks, Piker, Presser, Strouse, Utevsky, Zucker. **ABSTENTION:** Finkelstein.

Mr. Foster then introduced the following resolution:

### ***375 Park Avenue Certificate of Appropriateness to Replace Brasserie Doors***

WHEREAS, The existing doors at the 53<sup>rd</sup> Street entrance do not allow full access; and

WHEREAS, The proposal is sensitive in materials and symmetry to the original design; therefore be it

**RESOLVED,** That Community Board #5 approves this application for a Certificate of Appropriateness to replace the original three doors with two, with the provision that they explore the possibilities of power-activated doors as an additional amenity for the handicapped.

After some discussion, the resolution passed with 29 in favor; 0 opposed; 1 abstention as follows: Barbero, Beier, Borrero-Saks, Breidbart, Clift, Cline, Elmer, Finnegan, Fitzgerald, Foster, Gordon, Guerin, Hunt, Juch, Kewin, Linn, Matz, McCluskey, Mendes, Merker, Nakagawa, Orbe, Orenstein, Parks, Piker, Presser, Strouse, Utevsky, Zucker. **ABSTENTION:** Finkelstein.

## ● PARKS~ MARISOL BORRERO-SAKS

Ms. Borrero-Saks introduced the following resolution:

### ***East Manhattan School Special Events Permit in Union Square Park***

WHEREAS, East Manhattan School a nonprofit pre and elementary School has applied for a special events permit to use the north side of Union Square Park for a Spring Festival on May 31, 1998; and

WHEREAS, The event will consist of performances by the school's students; and

WHEREAS, Some of the performances will be held on the public terrace attached to the north side of the pavilion; and

WHEREAS, The events will begin at 1:00 p.m. and end at 5:00 p.m. and the set up will begin at 10:00 a.m. and clean up will end by 7:00 p.m.; and

WHEREAS, The event will be held on the perimeter of the park proper, at the north end of the park in front of the pavilion area occupied by the Greenmarket on Monday, Friday and Saturday; and

WHEREAS, Adequate pedestrian passage around the area will be provided during the event; and

WHEREAS, Only minimal amplification will be used to enhance the performance of the children; and

WHEREAS, The school has held spring and winter events for the last 30 years and there are no complaints filed at the Board Office; therefore be it

**RESOLVED,** Community Board #5 approves the special permit application for East Manhattan School to hold their Spring Festival in Union Square Park.

After some discussion, the resolution passed with 29 in favor; 0 opposed; 1 abstention as follows: Barbero, Beier, Borrero-Saks, Breidbart, Clift, Cline, Elmer, Finnegan, Fitzgerald, Foster, Gordon, Guerin, Hunt, Juch, Kewin, Linn, Matz, McCluskey, Mendes, Merker, Nakagawa, Orbe, Orenstein, Parks, Piker, Presser, Strouse, Utevsky, Zucker. **ABSTENTION:** Finkelstein.

Ms. Borrero-Saks also introduced the following resolution:

***Picnic for Parity Special Events Permit in Bryant Park***

WHEREAS, Picnic for Parity, a nonprofit volunteer mental health advocacy group has applied for a Special Events Permit to use Bryant Park on Sunday, May 17, 1998; and  
WHEREAS, This event will be an information fair with tables and booths set up on the walkways to distribute educational pamphlets and flyers on mental health; and  
WHEREAS, The setup will begin at 8:00 p.m. and the cleanup will end by 5:00 p.m.; and  
WHEREAS, The event itself will last from 12:00 Noon to 4:00 p.m.; and  
WHEREAS, Number of participants will be 2000; and  
WHEREAS, Amplification will only be used for two hours; and  
WHEREAS, This event has been held in the East Meadow in Central Park for the last three years and the participants have the area cleaner than they found it; therefore be it  
**RESOLVED**, Community Board #5 approves the special permit application for Picnic for Parity to hold their special event in Bryant Park on Sunday, May 17, 1998.

After some discussion, the resolution passed with 29 in favor; 0 opposed; 1 abstention as follows: Barbero, Beier, Borrero-Saks, Breidbart, Clift, Cline, Elmer, Finnegan, Fitzgerald, Foster, Gordon, Guerin, Hunt, Juch, Kewin, Linn, Matz, McCluskey, Mendes, Merker, Nakagawa, Orbe, Orenstein, Parks, Piker, Presser, Strouse, Utevsky, Zucker. **ABSTENTION:** Finkelstein.

Ms. Borrero-Saks then introduced the following resolution:

***International Council for the Celebration of Buddha's Birthday Special Permit in Union Square Park***

WHEREAS, International Council for the Celebration of Buddha's Birthday, a religious organization, has applied for a Special Events Permit to use Union Square Park on Sunday, April 26, 1998; and  
WHEREAS, The event is a religious ceremony that will consist of speeches and musical performances and will be held on the perimeter of the park proper, at the north end of the park in front of the Pavilion area occupied by The Greenmarket on Monday, Wednesday, Friday and Saturday; and  
WHEREAS, The Greenmarket does not operate in Union Square Park on Sunday; and  
WHEREAS, The setup will begin at 4:30 p.m. and the cleanup will end by 7:30 p.m.; and  
WHEREAS, The event itself will last from 5:30 p.m. to 7:00 p.m.; and  
WHEREAS, Number of participants will be 450; and  
WHEREAS, Amplification will be kept to a minimum; therefore be it  
**RESOLVED**, Community Board #5 approves the special permit application for International Council for the Celebration of Buddha's Birthday to hold their special event in Union Square Park on Sunday, April 26, 1998.

After some discussion, the resolution passed with 29 in favor; 0 opposed; 1 abstention as follows: Barbero, Beier, Borrero-Saks, Breidbart, Clift, Cline, Elmer, Finnegan, Fitzgerald, Foster, Gordon, Guerin, Hunt, Juch, Kewin, Linn, Matz, McCluskey, Mendes, Merker, Nakagawa, Orbe, Orenstein, Parks, Piker, Presser, Strouse, Utevsky, Zucker. **ABSTENTION:** Finkelstein.

Ms. Borrero-Saks also introduced the following resolution:

***International Council for the Celebration of Buddha's Birthday Special Permit in Madison Square Park***

WHEREAS, The International Council for the Celebration of Buddha's Birthday, a religious organization, has applied for a Special Events Permit to use Madison Square Park on Sunday, April 26, 1998; and  
WHEREAS, The event is the second part of a religious ceremony that will begin in Union Square Park at 5:30 p.m. the same day; and  
WHEREAS, This event will consist of a pick-up truck carrying a religious symbol entering Madison Square Park on 25<sup>th</sup> Street and Madison Avenue, proceed by the paved pathways to the fountain; and  
WHEREAS, The truck will park by the fountain and participants will circle the truck and the fountain for 30 minutes; and  
WHEREAS, The event will begin at 7:45 p.m. and end by 8:15 p.m.; and  
WHEREAS, There will be no amplification used at this event; and  
WHEREAS, The number of participants will be about 200; therefore be it  
**RESOLVED**, Community Board #5 approves the special permit application by the International Council for the Celebration of Buddha's Birthday to hold their special event in Madison Square Park on Sunday, April 26, 1998 from 7:45 to 8:45 p.m..

After some discussion, the resolution passed with 29 in favor; 0 opposed; 1 abstention as follows: Barbero, Beier, Borrero-Saks, Breidbart, Clift, Cline, Elmer, Finnegan, Fitzgerald, Foster, Gordon, Guerin, Hunt, Juch, Kewin, Linn, Matz, McCluskey, Mendes, Merker, Nakagawa, Orbe, Orenstein, Parks, Piker, Presser, Strouse, Utevsky, Zucker. **ABSTENTION:** Finkelstein.

## ○ PUBLIC SAFETY & QUALITY OF LIFE ~ *Vikki Barbero & Kyle Merker*

Mr. Merker introduced the following resolution:

### ***Fontalina, Inc., d/b/a Bricco 2, 46 West 22<sup>nd</sup> Street, Liquor License***

WHEREAS, Mr. Catuogno has applied for an on-premises liquor license for "Bricco 2" at 46 West 22<sup>nd</sup> Street; and  
WHEREAS, Community Board #5 is extremely concerned by the current number of liquor license establishments in the area of this application and, to alleviate this over saturation, Community Board #5 has adopted a general moratorium on liquor licenses in this area, subject to a review of each application; and  
WHEREAS, This moratorium allows an exception for small, full-service restaurants; and  
WHEREAS, Mr. Catuogno plans to open a small, full-service restaurant with six stools and approximately 20 tables and 60 seats; and  
WHEREAS, Community Board #5 is sensitive to the needs of both the residents and the businesses operating in this area; and  
WHEREAS, Mr. Catuogno has stated that he does not plan to have an outdoor café, and does not plan to admit patrons after 1 a.m., and is willing to sign an affidavit to this effect; and  
WHEREAS, Mr. Catuogno has stated that should his establishment be sold, the above provisions shall apply as a condition of sale with the same terms and treatment of the liquor license continuing with the new owner, and that if the new owner will not operate in the same way or will not accept these stipulations, the liquor license will be surrendered to the State Liquor Authority and the application will be treated as a new liquor license application subject to a 500 foot hearing; and  
WHEREAS, Mr. Catuogno is willing to sign such an affidavit, and is willing to request that SLA attach these stipulations to this liquor license, therefore be it  
**RESOLVED**, That Community Board #5 supports the application for a liquor license for Fontalina, Inc., d/b/a Bricco 2, at 46 West 22<sup>nd</sup> Street, provided the above affidavits are signed by Mr. Catuogno and accepted by the SLA.

After some discussion, the resolution passed with 29 in favor; 0 opposed; 1 abstention as follows: Barbero, Beier, Borrero-Saks, Breibart, Clift, Cline, Elmer, Finnegan, Fitzgerald, Foster, Gordon, Guerin, Hunt, Juch, Kewin, Linn, Matz, McCluskey, Mendes, Merker, Nakagawa, Orbe, Orenstein, Parks, Piker, Presser, Strouse, Utevsy, Zucker. **ABSTENTION:** Finkelstein.

Mr. Merker also introduced the following resolution:

### ***F. Stop, L.L.C., d/b/a Lava, 28 West 20<sup>th</sup> Street, Liquor License***

WHEREAS, F. Stop, LLC., d.b.a. Lava, located at 28 West 20<sup>th</sup> Street, was licensed in January 1996, in area overly saturated with cabaret license establishments; and  
WHEREAS, As part of the residents' and businesses' testimony at the 500 foot hearing, the community was opposed to another liquor license on this already over saturated street and voiced concerns that, since the owners had no prior experience in the restaurant business, should the business fail, the premises were large enough (4,500) square feet) to support a much different operation, i.e., a nightclub or "special events" nights using outside promotion, etc.; and  
WHEREAS, The State Liquor Authority (SLA) replied that while they understood the community's fears, they could not deny a license based on what might happen; and  
WHEREAS, A compromise was eventually reached in which the owners of F. Stop agreed to and signed sworn affidavits regarding the nature of their business, i.e., that it was a restaurant with a particular closing time and other relevant constraints designed to make sure another large late night bar/lounge would not be perpetrated upon this community; and  
WHEREAS, Six months after opening their "white tablecloth restaurant," F. Stop lost their chef and during the next 18 months barely operated as an "upscale French restaurant," renting out their facilities for private parties and events, some with a club-like atmosphere, causing late night vehicular and pedestrian traffic jams; and  
WHEREAS, During this time, F. Stop received summonses for unlicensed cabaret activity and failure to maintain crowds; and  
WHEREAS, F. Stop the "upscale French restaurant" has now become Lava a tapas bar and lounge which: serves appetizers that do not exceed \$9; plays loud disco and techno music until 4 am which is heard by residents in the two residential buildings that are on either side of Lava; has bouncers; and has placed stanchions which block the sidewalk and reportedly have lines of upwards of 20-30 patrons waiting to get in; and  
WHEREAS, The weekend of March 7 and 8, 1998, the club was operating in such a manner that caused residents to call the Police Department from midnight until 4:00 a.m. with complaints including overcrowding on the sidewalks, rowdy patrons, unbearably loud music, and the blocking of fire exit doors by police stanchions placed there by Lava; and  
WHEREAS, The next morning, the sidewalk in front of the residential buildings was littered with empty bottles and paper, as well as 20-50 garbage bags which remained there from Sunday morning until the regular garbage pick-up on Monday night; and

WHEREAS, Of the affidavits that F. Stop signed which were attached to their liquor license, in one affidavit F. Stop swore that they would not let patrons in after 1:00 a.m. and during the past two years, F. Stop and now Lava has repeatedly violated the stipulation in this affidavit; therefore be it

**RESOLVED**, That based on the foregoing, Community Board #5 strongly urges the State Liquor Authority to revoke the liquor license of F. Stop, LLC, d.b.a. Lava, located at 28 west 20<sup>th</sup> Street, because this establishment:  
was misrepresented to the Community Board and the State Liquor License Authority;  
is in violation of the stipulations that the State Liquor License Authority attached to the liquor license in the sworn affidavits; is not in compliance with the original business plan; and  
is now, more than ever before negatively affecting the quality of life of this neighborhood.

After some discussion, the resolution passed with 29 in favor; 0 opposed; 1 abstention as follows: Barbero, Beier, Borrero-Saks, Breidbart, Clift, Cline, Elmer, Finnegan, Fitzgerald, Foster, Gordon, Guerin, Hunt, Juch, Kewin, Linn, Matz, McCluskey, Mendes, Merker, Nakagawa, Orbe, Orenstein, Parks, Piker, Presser, Strouse, Utevsky, Zucker. **ABSTENTION:** Finkelstein.

## ● LANDUSE AND ZONING ~ *Kevin Finnegan*

Mr. Finnegan introduced the following resolution

### ***Rear Yard Bulk Variance Appeal for 13-19 East 15<sup>th</sup> Street, BSA Cal. NO. 48-98-BZ***

WHEREAS, Ajax LLC of 82 Greene St., New York, NY 10012, through its attorneys Frank Angelino, Decampo, Diamond & Ash has filed an application for a zoning bulk variance for two combined properties at 13-19 East 15<sup>th</sup> Street in the Ladies Mile Historic District; and

WHEREAS, The property is a unique small wedge-shaped lot and the applicant seeks a waiver of the 10 foot rear yard requirement for an enlargement of an existing residential third floor and a new residential fourth floor; and

WHEREAS, The applicant has already received a Certificate of Appropriateness from the Landmarks Commission and approval for the enlargement from this Community Board; and

WHEREAS, The applicant has represented that the owners of neighboring properties have been informed of this application and have raised no objections; and

WHEREAS, The addition to the building would not be a detriment to the character of the neighborhood; and

WHEREAS, The physical nature of this property is unique and presents a practical impossibility of complying with rear yard requirements; therefore be it

**RESOLVED**, That Community Board #5 recommends approval of the application of Ajax LLC of 82 Greene St., New York, NY 10012 for a rear yard bulk variance and 10 foot rear yard waiver for the two combined properties at 13-19 East 15<sup>th</sup> Street.

After some discussion, the resolution passed with 29 in favor, 0 opposed, and 1 abstention as follows: Barbero, Beier, Borrero-Saks, Breidbart, Clift, Cline, Elmer, Finnegan, Fitzgerald, Foster, Gordon, Guerin, Hunt, Juch, Kewin, Linn, Matz, McCluskey, Mendes, Merker, Nakagawa, Orbe, Orenstein, Parks, Piker, Presser, Strouse, Utevsky, Zucker. **ABSTENTION:** Finkelstein.

Mr. Finnegan then introduced a proposal by **Sony Plaza and the Whitney Museum**. The Board acting as a committee of the whole, was presented with a resolution to deny the Sony Plaza's application to install the Viola work of art which they had contracted with the Whitney Museum to display on a temporary basis. Representatives of the Whitney Museum and the Sony Plaza presented plans for the location of the display in the public space of the plaza.

This motion was defeated by a vote of 5 in favor; 22 opposed; 1 abstention; 1 present but not entitled to vote as follows:

**IN FAVOR:** Barbero, Breidbart, Clift, Finnegan, Matz. **NOT IN FAVOR:** Beier, Borrero-Saks, Cline, Elmer, Fitzgerald, Foster, Gordon, Guerin, Juch, Linn, Loveman, McCluskey, Mendes, Merker, Orbe, Orenstein, Parks, Piker, Presser, Strouse, Utevsky, Zucker. **ABSTENTION:** Finkelstein. **PRESENT BUT NOT ENTITLED TO VOTE:** Kewin.

Respectfully submitted,

Vikki Barbero  
Secretary