


DRAFT 7.2



**THE BOROUGH OF MANHATTAN**  
**GALE BREWER, BOROUGH PRESIDENT**  
**MANHATTAN COMMUNITY BOARD FIVE**  
**VIKKI BARBERO, CHAIR**  
**WALLY RUBIN, DISTRICT MANAGER**

Minutes of the regular Community Board Five meeting held on **Thursday, July 11, 2019 at Xavier High School, 2<sup>nd</sup> Floor Library, 30 West 16th Street (b/t 5th & 6th Aves.), at 6:00pm.** Vikki Barbero, Chair, presided.

**Members Present**

David Achelis  
Nicholas Athanail  
Vikki Barbero  
Andreas Benzing  
Julie Chou  
Christopher Clark  
James Dale  
Aaron Ford  
Laura Garcia  
Jordan Goldman  
Nancy Goshow  
Michael Greeley  
Tristan Haas  
John B. Harris, Jr.  
Matthew Hartman  
William Heyer  
Robert Isaacs  
Samuel Johnson  
Michael Kaback  
E.J. Kalafarski  
Jennifer Kasner  
Renee Kinsella  
Lucas Lopes  
Blaga Lucic  
Richard Mann  
Kimberly McCall  
Charles Miller

Janet Pawson  
Jonathan Rabar  
Tod Shapiro  
Craig Slutzkin  
Barbara Spandorf  
Daniel Spence  
Simon Tschinkel  
Ryan Whalen  
July Yang

**Present Part**

Sarah Dowson  
Sam Levy  
Jessica Verdi

**Absent**

James Beitchman  
Renee Cafaro  
Candy Cook  
Dominic Gatto  
Joseph Maffia  
Evan Meyerson  
Clayton Smith  
Pete Webb  
Rachel Weintraub

**Excused**

Layla Law-Gisiko  
David Sandler

**Public Members**

**Elected Officials**

Richard Gottfried  
Assembly Member

Brad Hoylman  
Senator

Avery Cohen  
Senator Hoylman

Abigail Bessler  
Councilmember Powers

Jeremy Unger  
Councilmember Rivera

Laurie Harjowaroga  
Speaker Johnson

Justin Flagg  
Senator Krueger

Jessica Mates  
Borough President  
Brewer

**Staff**

Wally Rubin  
District Manager

Luke Szabados  
Community Associate

**Public Attendees**

Alessandra Altieri  
Paul Cardozo  
Peter Heap  
Alejandra O'Connell  
Lisa Wager  
Roberto Noboina  
Rafael Bah  
Lloyd Mark  
Perry Ascher

At 6:10 p.m., the Full Board meeting for July 11, 2019 of Manhattan Community Board Five was called to order by Chair, Vikki Barbero.

## PUBLIC SESSION

**Assembly Member Gottfried** – spoke of the consequences of recent elections and gave an update on various legislative bills that were passed over the last year. He stated that the Medical Marijuana and Health Act did not pass and that the Assembly and his staff were still working on these issues.

**Laurie Hardjoworogo – Representing Speaker Johnson** – spoke of the adoption of the 2020 city budget, which included many priorities such as installation of tree guards, new technology for public schools, continue ACE programs for homeless sanitation services and tenant protections.

**Justin Flagg – Representing Senator Krueger** – spoke of the ending of legislative session and the Senator’s various accomplishments, which included the passing of the Farm Laborers’ Fair Labor Practices Act and the Driver’s License Access and Privacy Act (Green Light NY). He also announced the bill to expand the use of bus lane camera enforcement program. He also announced that it was disappointing that the Marijuana Regulation and Taxation Act did not pass.

**Abigail Bessler – Representing Councilmember Powers** – announced that Councilmember Powers urged his colleagues to put \$250 million into the city’s reserves and to commit to funds for the 2020 Census, to ensure that New York’s full population is counted so it can receive the federal funding that it is entitled to. She also spoke of passing of two bills from the Council’s Housing & Building Committee that address the high cost of renting. She also announced an upcoming forum on Scams.

**Jessica Mates – Representing Manhattan Borough President Brewer** – announced a public hearing on Mechanical Void Loopholes which will be live streamed. She also announced a public hearing on the East Side Coastal Resiliency Project which will fortify Manhattan’s coastline between Montgomery and 25th Streets from coastal flooding. She announced summer meals for kids and summer events. She also spoke of more social workers in school to be included in the 2020 budget.

**Joseph Levey – Representing 160 5<sup>th</sup> Avenue** – spoke on application before the Board for 160 5<sup>th</sup> Avenue and asked for the Board’s support in approving.

**Lisa Wager – Representing Fashion Institute of Technology** – spoke of Bio design created by students to produce textiles. Also announced other events at the college.

**Jeremy Unger – Representing Councilmember Rivera** – spoke of the census and the budget processes. He spoke of the allocation of \$40 million from the City Fiscal Year 2020 budget to fund a major outreach campaign to support the vital work of community-based organizations to coordinate events and perform canvassing. He spoke of various programs being funded.

## BUSINESS SESSION

- **VOTE ON THE JUNE 2019 MINUTES**

The June 2019 minutes passed with a vote of 38 in favor, 0 opposed, 1 abstaining, as follows: **IN FAVOR:** Achelis, Athanail, Benzing, Chou, Clark, Dale, Dowson, Ford, Garcia, Goldman, Goshow, Greeley, Haas, Harris Jr., Hartman, Heyer, Isaacs, Johnson, Kaback, Kalafarski, Kasner, Kinsella, Levy, Lopes, Lucic, Mann, McCall, Miller, Pawson, Rabar, Shapiro, Slutzkin, Spandorf, Spence, Tschinkel, Verdi, Whalen Yang. **ABSTAIN:** Barbero.

- **CHAIR’S REPORT – VIKKI BARBERO - WAIVED**

- **DISTRICT MANAGER'S REPORT – WALLY RUBIN**

Announced that September 17 is the date for the annual Full Board retreat, and that attendance is mandatory

**Senator Hoylman** – spoke of the passing of 53 bills, which included making New York Rent regulations system permanent and banning of non-medical exemptions for Vaccines. He also spoke of the passing of the bill to prohibit vessels from operating or mooring while operating digital billboards. He also announced that his Legislative Aide Avery Cohen will be leaving soon to pursue other endeavors.

## **TRANSPORTATION/ENVIRONMENT – E.J. KALAFARSKI**

**Mr. Kalafarski gave brief presentations on behalf of the Committee on the following four (4) bundled resolutions:**

### *Legalization of e-bikes and e-scooters in New York City*

WHEREAS, The New York State Assembly and State Senate have passed A7431B and S5294A, which, if enacted, would classify and legalize electric bicycles (“e-bikes”) and electric scooters (“e-scooters”) in the State of New York, as well as share programs for these devices in areas of the state that are not Manhattan, contingent on approval at the municipal level; and

WHEREAS, Legislation has been introduced in the City Council, including Intro. 1250, Intro. 1264, Intro. 1265, and Intro. 1266, which would, among other things: classify and legalize e-scooters, pedal-assist e-bikes (“Class 1”), and throttle-powered e-bikes (“Class 2”) in New York City, create an e-scooter share program pilot in New York City, and offer financial assistance to disadvantaged workers for the conversion of throttle-powered Class 2 devices to pedal-assist Class 1 devices; and

WHEREAS, Intro. 1250 and Intro. 1264 would legalize e-scooters and throttle-powered e-bikes for street use in New York City; and

WHEREAS, Pedal-assist e-bikes are currently the only motorized vehicle in New York City that is legal to operate under the rules applicable to bicycles; and

WHEREAS, Electric devices can be equipped with a governor-regulated speed, but are also technically able to reach higher speeds with basic adjustments, such as pedal-assist Class 1 e-bikes with a typical maximum speed of 15 mph, throttle-powered Class 2 e-bikes that can reach up to 28 mph, and scooters, electrified or otherwise, which can exceed speeds of 15 mph; and

WHEREAS, As the city’s central business district, Manhattan Community District 5 has an extremely high concentration of protected bike lanes that currently carry various types of two-wheel human-powered traffic, including commuters and food deliveries; and

WHEREAS, Community Board Five recognizes the need for balanced, multi-modal street use, and recognizes the benefits of greater transportation alternatives, including emissions reduction, improved air quality, energy conservation, reduction of street congestion, economic growth benefits, and improved safety; and

WHEREAS, Community Board Five also recognizes both current and prospective safety concerns that stem from any mode of transportation the rules for which are not appropriately regulated and enforced, including long-standing concerns about collisions involving bicyclists that are electric or otherwise with large vehicles such as cars and trucks, and with mobility-challenged pedestrians such as seniors, the disabled, children, parents pushing strollers, people with walkers, and people with shopping carts; and

WHEREAS, Any motorized vehicle must be appropriately regulated by speed, lane of use, and manner of use, with each determined and enforced relative to their size and speed, including ensuring the prohibition of fully throttle-powered e-bikes from the bike lane and its regulation as a motor vehicle; and

WHEREAS, New York State currently requires all non-human-powered motorized vehicles to register with the Department of Motor Vehicles, although throttle-operated e-bikes, which have neither a license nor a vehicle identification number (VIN), cannot currently be registered and thus cannot be identified for the purposes of enforcement; and

WHEREAS, Current enforcement of both human-powered bicycles and electric devices such as throttle-powered e-bikes is both sporadic and unevenly applied, with bike riders sometimes unfairly penalized and treated abusively; and

WHEREAS, Both current conditions and any expanded small vehicle use in New York City will require the introduction of appropriate enforcement and fines to regulate these vehicles, including but not limited to using the wrong lanes, going the wrong way on one-way streets, using the sidewalk, going through red lights, and other infractions, many of which occur currently; and

WHEREAS, Enforcement of safe ownership and operation of electric devices will require a fundamental rethinking of the institutions used to license and register operators and a rethinking of enforcement methods used by the NYPD to ensure safe operation in the spaces in which they operate, the speeds at which they can safely operate, and the manner in which they are operated; and

WHEREAS, Intro. 1265 would establish a citywide program to enable low-income workers with income not exceeding 200% of the federal poverty line (i.e., delivery workers using throttle-operated e-bikes) to convert their illegal Class 2 throttle-powered e-bikes to Class 1 pedal-assist e-bikes by providing financial and other assistance; and

WHEREAS Food delivery workers are the largest user group of illegal throttle-operated e-bikes, which, they purport, enable them to meet customer demands and maintain their livelihood, and who argue that the current prohibition on throttle-powered e-bikes exposes them to frequent stops by NYPD personnel, resulting in confiscation of their vehicle and expensive penalties incurred by the individual; and

WHEREAS, Community Board Five recognizes that it is necessary to establish balance between delivery workers' essential transportation needs and livelihood, and the need to protect pedestrians and regular bicyclists from motorized vehicles with higher speeds and heavier frames than regular bikes; and

WHEREAS, Intro. 1266 would create a shared e-scooter rental pilot program to evaluate the impact and need for e-scooters, most likely conducted in neighborhoods underserved by transit, for a period of one to two years; and

WHEREAS, E-scooter share programs as piloted in other American cities are dockless, such that the devices can be left anywhere and are often found obstructing sidewalks, bicycle lanes, traffic lanes, medians, and other crucial public spaces; and

WHEREAS, Infrastructure for e-scooters is non-existent in New York City, either in terms of parking or dedicated travel spaces, which can and does lead to encroachment on sidewalks or bike paths and dangerously obstructing pedestrian and bicycle passage; and

WHEREAS, Community Board Five recognizes that scooter share programs can provide much benefit particularly in transit deserts, such as outer boroughs, that are not well-served by public transit or Citi

Bike to assist low-income commuters, reduce pollution, save energy, and lessen automobile congestion, but equally provide less benefit and greater chance of abandonment and obstacle in districts of greater density, close public transportation options and limited public space, such as Manhattan; and

WHEREAS, Community Board Five is the densest and most congested business district in the city, where sidewalk space is already at a premium and often filled to capacity, and where both sidewalk and street congestion are rampant and dangerous; therefore be it

**RESOLVED**, Community Board Five **opposes** legalization of e-scooters and e-bikes in the borough of Manhattan until such time that the City Council can prevail upon the state legislature to require the Department of Motor Vehicles (DMV) to license and register electric vehicles and their operators, establish assigned speed limits, establish assigned lanes so that no electric or motorized vehicle may operate on sidewalks, create clear operational regulations for each vehicle class, and provide enforcement of those rules and regulations; and be it further

**RESOLVED**, Community Board Five supports the decision of the state legislature to ban e-scooter share programs in the borough of Manhattan; and be it further

**RESOLVED**, Community Board Five urges the NYPD to improve enforcement through the creation of a two-wheel enforcement unit to oversee regulation of all two-wheeled and other alternative vehicles, collect fines, issue tickets, establish rules, and run a bicycle-patrol force, geared to the particular nature and needs of safely policing such vehicles; and be it further

**RESOLVED**, Community Board Five supports the creation of financial assistance to aid low-income workers in the conversion of illegal throttle-powered devices to approved pedal-assist bikes—with governor regulated speeds—as well as legislation mandating an increased living wage for delivery workers and action to make business owners or third-party delivery companies the liable party for enforcement of illegal operation of e-bikes by their employees or contractors, rather than the delivery persons themselves; and be it further

**RESOLVED**, Community Board Five calls for any legislation considered by the City Council on the legalization of e-scooters, e-bikes, and share programs to be decoupled and considered as individual bills separated by device class and program.

***Garment District Alliance application for a temporary StreetSeat on West 36<sup>th</sup> Street between 7<sup>th</sup> Avenue and the Avenue of the Americas at 152 West 36<sup>th</sup> Street (Macaron Café)***

WHEREAS, The Applicant, the Garment District Alliance, seeks to install a 6-foot-by-40-foot temporary, seasonal “StreetSeat” in front of 152 West 36<sup>th</sup> Street, between 7<sup>th</sup> Avenue and the Avenue of the Americas, on the south side of 36<sup>th</sup> Street, with open seating for the public; and

WHEREAS, The site in question is one (1) commercial parking space with three-hour commercial parking only from 6:00am – 7:00pm, Monday to Friday; and

WHEREAS, The Applicant proposes the StreetSeat as an addition of public space earmarked for pedestrians in a crowded district marked by insufficient open space; and

WHEREAS, The Applicant proposes to model the spaces after the existing StreetSeat template and program allowed across the city by the Department of Transportation, including a full application process and community board approval, of which 18 were approved and maintained during the 2018 calendar year; and

WHEREAS, The Applicant has successfully participated in the StreetSeat program twice before with locations at 224 West 35<sup>th</sup> Street and 302 West 37<sup>th</sup> Street; and

WHEREAS, The Applicant proposes a typical StreetSeat configuration, flush with the curb, with temporary materials to create moveable seating in the space, clearly marked with paint separated from other street parking by concrete wheel stop bars and flexible delineators and from traffic by planters and stainless steel cables; and

WHEREAS, The location will be marked with signage to indicate it is open to the public for anyone to use, with no alcohol or smoking allowed; and

WHEREAS, No commercial activity will be allowed in the proposed space; and

WHEREAS, The Applicant is committed to, and responsible for, cleaning and "resetting" the spaces every night through a maintenance agreement with the Department of Transportation; and

WHEREAS, The Applicant intends to maintain this space on the typical schedule for a StreetSeat with a season of March through the end of November; and

WHEREAS, The business located at the proposed site, Macron Café, desires that the StreetSeat be located as the proposed location; and

WHEREAS, The owners of both 152 West 36<sup>th</sup> Street and Macron Café are aware of the application and have no objection; therefore be it

RESOLVED, Community Board Five **recommends approval** of the Garment District Alliance's application to the Department of Transportation for the installation of a seasonal StreetSeat in front of 152 West 36<sup>th</sup> Street.

***Department of Transportation presentation of proposed bus lane enhancements along entirety of 42nd Street***

WHEREAS, The New York City Department of Transportation ("DOT") seeks approval of a proposal to reconfigure traffic lanes across the length of 42nd Street; and

WHEREAS, 42nd Street is a major commercial and theater corridor of Midtown Manhattan, as well as a popular tourist destination, leading to extremely heavy pedestrian and vehicle congestion; and

WHEREAS, The existing condition includes two bus lanes of substandard width at 9-feet wide, four travel lanes of substandard width at 9-feet wide, and an average speed of 4 mph as compared to the citywide average of 8 mph; and

WHEREAS, The Mayor's stated goal is to increase bus speeds across the city by 25% by 2020, having identified 24 priority projects across all five boroughs; and

WHEREAS, Eight MTA bus routes originating in three boroughs use 42nd Street, including the M42 Manhattan Route, the X68 Queens Route, and six Staten Island routes; and

WHEREAS, Measurement of 42nd Street usage by DOT reflects that 63% of users of 42nd Street are pedestrians and 29% are bus riders, despite the fact that the current configuration allocates vastly more space for automotive traffic than any other use; and

WHEREAS, According to studies by DOT, bus travel times more than double due to traffic during rush hour relative to during the night, with end-to-end travel times in excess of 30 minutes to get from one end of 42nd Street to the other; and

WHEREAS, DOT proposes a new configuration with characteristics unique to each block, but with a standard midblock configuration of two 11-foot travel lanes, two bus lanes of 11- and 12-feet, and a 9-foot parking and loading lane; and

WHEREAS, DOT proposes hours and curb regulations including offset bus lanes (lanes not against the curb) in effect 24 hours a day and curbside bus lanes in effect 7 AM–7 PM (with night hours allocated to metered commercial/truck loading, to encourage deliveries to take place in off-peak night hours); and

WHEREAS, DOT plans to consolidate some M42 bus stops which are very close together, including two on the same block between Lexington Avenue and 3rd Avenue, but is not planning to move any non-M42 stops; and

WHEREAS, DOT plans new turning restrictions, including no turns southbound onto 7th Avenue, no left turn northbound onto 6th Avenue, and no turn southbound onto Lexington Avenue except buses, with the goal of improving speeds and congestion on the throughway; and

WHEREAS, DOT conducted a similar “6-to-5” lane reconfiguration on both 34th Street and 23rd Street; and

WHEREAS, DOT proposes installation during summer of 2019, with post-implementation data collection and monitoring throughout fall of 2019; and

WHEREAS, DOT anticipates the proposed changes will result in only minor disruptions for private vehicles and taxi/for hire vehicles making certain turns; and

WHEREAS, The implementation of this proposal does not require the installation of any permanent street materials and does not prevent DOT from expanding on the proposed improvements in the future; and

WHEREAS, Current construction between Vanderbilt Avenue and Lexington Avenue, such as the One Vanderbilt construction that is underway, and future construction such as the redevelopment of the Grand Hyatt Hotel, causes and will continue to cause bottlenecks and ad hoc incursions into the street configuration that are not represented in this plan; and

WHEREAS, Members of the public and theater owners and institutions housed on 42nd Street have expressed concerns that this reconfiguration does not alleviate current safety and congestion concerns curbside between 7th and 8th Avenues, including the lack of pre- and post-performance ingress and egress on the block, during which hundreds of pedestrians are forced into the streets, as well as congestion caused by tourists and shopping buses on the block; and

WHEREAS, Community stakeholders from 42nd Street have asked for a delay in implementation of the plan and for immediate consultation on future reconfiguration of the block to attempt to address these safety concerns; and

WHEREAS, While the proposed DOT plan does not alleviate or address these very serious existing problems on the block, it also does not create them, as they are existing problems, and the materials and methods proposed by DOT do not preclude further reconfiguration or action to address these very real concerns; and

WHEREAS, The Times Square Alliance applauds the proposed redesign of 42nd Street to improve the speed of crosstown buses, but also asks that DOT delay implementation of the reconfiguration to respond to ingress and egress concerns on the 7th Avenue-to-8th Avenue block, to conduct a full study of overflow conditions on the block and how to mitigate them, and to develop plans to install bollards to protect crowds from the 11 nearby theatrical institutions; and

WHEREAS, Although Community Board Five continues to request that DOT formulates a comprehensive and complete street plan for the district; and

WHEREAS, Although DOT has not provided the requested comprehensive street plan for midtown Manhattan, Community Board Five recognizes that the execution of this proposal should provide measurable improvements to the district in terms of improved traffic flow on one of the City's most congested thoroughfares; therefore be it

**RESOLVED**, Community Board Five **supports** the majority of the Department of Transportation's plan to reconfigure traffic lanes across the length of 42nd Street; and be it further

**RESOLVED**, Community Board Five asks that the Department of Transportation consider and include mitigation within the plan for anticipated construction between Vanderbilt Avenue and Lexington Avenue in the context of the Grand Hyatt Hotel redevelopment; and be it further

**RESOLVED**, Community Board Five asks that Department of Transportation reexamine and reconsider short-term treatment within the plan of the block between 7th and 8th Avenues; and be it further

**RESOLVED**, Community Board Five strongly supports the long term consideration of improvements within the wider Times Square District to more holistically resolve long-standing congestion and safety issues on the 42nd Street block between 7th and 8th Avenues.

***Dept. of Transportation presentation on 8th Avenue Protected Bicycle Lane Project between 38th and 45th Street***

WHEREAS, The New York City Department of Transportation ("DOT") has proposed the installation of a northbound protected bicycle lane on Eighth Avenue between 38<sup>th</sup> Street and 45<sup>th</sup> Street; and

WHEREAS, The Vision Zero program mandates a multi-agency effort to improve safety measures for all road users and reduce traffic fatalities; and

WHEREAS, DOT has recognized parts of Community District Five as especially busy thoroughfares within the City's bicycle network, and the project site has been designated a Vision Zero Priority Area; and

WHEREAS, Currently the number of bicyclists on Eighth Avenue without a protected bike lane is over 390 during the peak hour each day; and

WHEREAS, Bicyclists currently must share a lane measuring 13 feet across with motor vehicles between 39<sup>th</sup> and 42<sup>nd</sup> Streets and are allotted 0% of the road space on this section of Eighth Avenue despite accounting for 3% of all road users; and

WHEREAS, DOT and members of the community have both identified the need for additional pedestrian space to alleviate pedestrian overcrowding; and

WHEREAS, DOT proposes to install six painted sidewalk extensions on the west curb, each measuring 10 feet across, and a new bike lane measuring 6 feet across and protected by a lane divider; and

WHEREAS, DOT proposes to establish three general travel lanes measuring 10 feet across, an alternating taxi lane and a left turn lane on the west side of the street measuring 10 feet across, and a bus stop lane on the east side of the street measuring 10 feet across; and

WHEREAS, DOT proposes to extend metered parking to midnight with a 5-hour limit on Eighth Avenue between 38<sup>th</sup> Street and 45<sup>th</sup> Street as part of the Entertainment District regulation update; and

WHEREAS, DOT proposes to relocate the existing Spanish Transportation Service Corporation bus stop from the south side to the north side of 41<sup>st</sup> Street on the east side of Eighth Avenue; and

WHEREAS, DOT finds that the intersection of 42<sup>nd</sup> Street and Eighth Avenue is a frequent bottleneck for vehicular traffic, with two left turn lanes but infrequent left turns; and

WHEREAS, DOT finds that the space currently available for vehicle through traffic will be impacted only minimally by the proposed changes; and



WHEREAS, DOT proposes to remove an existing curbside taxi stand on Eighth Avenue between 40<sup>th</sup> Street and 41<sup>st</sup> Street and to replace the existing curbside taxi stand in front of the Port Authority Bus Terminal on Eighth Avenue between 41<sup>st</sup> Street and 42<sup>nd</sup> Street with a dispatcher-managed taxi boarding island on Eighth Avenue between 41<sup>st</sup> Street and 42<sup>nd</sup> Street; and

WHEREAS, DOT has found that only 25% of taxi pickups at the Port Authority Bus Terminal take place at the curbside taxi stand that DOT proposes to eliminate; and

WHEREAS, DOT proposes to design the necessary infrastructure according to now-standard principles, to paint the newly-created bicycle lane with green-colored paint, accented with white-colored markings to indicate the proper direction of bicycle traffic; and

WHEREAS, DOT has confirmed that the infrastructure put into place for these proposed changes is temporary and can be altered or removed if necessary;

WHEREAS, A specific and legitimate concern was raised that the NYPD may insist upon installing large concrete bollards in response to the proposed sidewalk expansions, limiting the amount of sidewalk space made available to pedestrians; and

WHEREAS, While Community Board Five has consistently been supportive of the growing bike lane network, many board members continue to raise serious concerns about dangerous cycling activity throughout Manhattan and insist that these concerns be addressed by both DOT and NYPD as the city continues to upgrade its infrastructure to allow for more cycling activity; and

WHEREAS, The proposed protected bike lane is similar to the existing bike lane on Eighth Avenue between 42<sup>nd</sup> and 43<sup>rd</sup> Street; and

WHEREAS, Community Board Five is generally supportive of the expansion of pedestrian space; therefore be it:

**RESOLVED**, Community Board Five **recommends approval** of DOT's request for the installation of a northbound protected bicycle lane and the associated sidewalk and traffic flow changes on Eighth Avenue between 38<sup>th</sup> Street and 45<sup>th</sup> Street; and be it further

**RESOLVED**, Community Board Five **recommends approval** of DOT's proposed changes to metered parking on Eighth Avenue between 38<sup>th</sup> Street and 45<sup>th</sup> Street; and be it further

**RESOLVED**, Community Board Five **recommends approval** of DOT's proposed relocation of the existing Spanish Transportation Service Corporation bus stop from the south side to the north side of 41<sup>st</sup> Street on the east side of Eighth Avenue; and be it further

**RESOLVED**, Community Board Five insists that the NYPD minimize the number of large concrete barriers it installs and instead install bollards whenever protection is necessary, to provide for pedestrian safety while maximizing traversable pedestrian space; and be it further

**RESOLVED**, Community Board Five requests that DOT return to CB5 after the installation of these proposed bike lanes as soon as practical after significant data can be collected related to this section of Eighth Avenue, including but not limited to the number of total vehicles (cars and bicycles) using the street after the redesign, compared with the equivalent time period before the street redesign, along with residential concerns, and pedestrian safety statistics.

After some discussion, the above four (4) bundled resolutions passed with a vote of 38 in favor, 0 opposed, 1 abstaining, except for the resolution on *proposed bus lane enhancements along entirety of 42nd Street*, which passed with a vote of 37 in favor, 0 opposed, 1 abstaining, 1 present not entitled to vote: **IN FAVOR:** Achelis, Athanail, Benzing, Chou, Clark, Dale, Dowson, Ford, Garcia, Goldman, Goshow, Greeley, Haas, Harris Jr., Hartman, Heyer, Isaacs, Johnson, Kaback, Kalafarski, Kasner,

Kinsella, Levy, Lopes, Lucic, Mann, McCall, Miller, Pawson, Rabar, Shapiro, Slutzkin, Spandorf, Spence, Tschinkel, Verdi, Whalen, Yang. **ABSTAIN:** Barbero. **PRESENT NOT ENTITLED TO VOTE:** Clark (Proposed bus lane enhancement on 42<sup>nd</sup> Street only).

## **PARKS AND PUBLIC SPACES – CLAYTON SMITH**

**Craig Slutzkin gave update on an unenclosed sidewalk café, Sidebar Café on 15<sup>th</sup> Street and Irving Place that due to some confusion was previously handled by CB6 and spoke of spirited conversation on issues but was still given no comment. He stated that he requested that the application be pulled and referred to the PSQL committee for further discussion.**

**Mr. Slutzkin gave brief presentations on the following four (4) bundled resolutions:**

*Application from The New York Times and Empire Entertainment for The New York Times Food Festival, a vendor event in association with Bryant Park Corporation, to take place from October 2, 2019 through October 7, 2019 in Bryant Park.*

WHEREAS, The New York Times and Empire Entertainment (the “Applicant”) has submitted an application to have a ticketed food festival in Bryant Park from Wednesday, October 2 through Monday, October 7, 2019 (the “Event”); and

WHEREAS, The Event would take place between the hours of 11:00 am and 6:00 pm on both Saturday and Sunday October 5 and 6, 2019, with set-up beginning at 8:00 pm on Wednesday, October 2, 2019 and breakdown to be completed by 8:00 am on Monday, October 7, 2019; and

WHEREAS, The Applicant will be setting up no fewer than (70) tents of various sizes from 8’x’8 to 65’x49’, including tents for vendors, production support, VIP areas, the sale of alcohol, sponsorship opportunities, and cooking demonstrations in addition to (1) 44’x24’ stage, (18) 12’ standing tables, and (80) picnic tables; and

WHEREAS, The Applicant has not yet completed signing up sponsors, but expects to be complete in August with the sale of sponsorship opportunities; and

WHEREAS, The Event will require substantial infrastructural support for food vending and cooking demonstration kitchens as evidenced by the more than two day set-up time and the de facto closure of 41<sup>st</sup> Street parking and loading zones for private use by the production company and its vendors for deliveries, restroom trailers, VIP trailers, food storage & prep trailers and tents, refrigeration trucks, miscellaneous production vehicles, forklifts, EMS trucks, ice trucks, and other miscellaneous tents and vehicles; and

WHEREAS, The Event will feature numerous food vendor stalls which encompasses an enormous footprint of the lawn of Bryant Park, similar to the Bryant Park Holiday Market (the “Holiday Market”) which commences just a few weeks subsequent to this Event and lasts several months; and

WHEREAS, The lawn of Bryant Park will be closed to prepare for the annual ice rink and Holiday Market directly after this Event; and

WHEREAS, The signage presented to date is both large and ubiquitous and there is a remaining significant amount of intended signage that has not yet been fully identified and presented by the Applicant as the sale of sponsorship opportunities is ongoing; and

WHEREAS, There will be several sources of simultaneous and discordant amplified sound, including microphones and subwoofers for live music, recorded music, and demonstrations with video and audio repeaters for the cooking stage as described by the Applicant as J Series D&B public address system with

sub woofers for the main stage as well as a mix of Meyer UPM and Vurtis CS-1000 with sub woofers for the cooking stage tent, satellite stage, and hospitality tents; and

WHEREAS, The Applicant has presented commendable sanitation and security plans; and

WHEREAS, The Applicant has indicated that this event is meant to be the “First Annual,” thus indicating an intent to repeat this event on a similar scale and with comparable impact annually, an issue of long-standing and considerable concern of CB5; and

WHEREAS, The Applicant expects attendance of upwards of 4,000 people per day; and

WHEREAS, Applicant intends to film the Event and use the resulting footage for both Press and commercial purposes via the use of blanket legal disclaimers that may or may not be viewable by members of the public who will not have the change to affirmatively consent to such exposure, another issue of long-standing and considerable concern of CB5; and

WHEREAS, The Parks and Public Spaces Committee used the matrix assessment tool, as intended for events of this type, to analyze this proposed event, and found the Event to be wholly inappropriate for this location; and

WHEREAS, The Parks and Public Spaces Committee requested the Applicant to consider fully sponsoring the event (a cost of at most \$200,000 given attendance limitations and the \$25.00 ticket price) or proposing an alternative solution to revise the event details to make the event entirely gratis such that the public would not have to pay to access public space, but perhaps only buy a ticket to access a much more constrained and confined area for cooking demonstrations or reserve a free ticket online to assist in limiting overcrowding; and

WHEREAS, The Applicant left the committee meeting having agreed to review and propose scenarios to make Bryant Park entirely publicly accessible, but came back to the committee noting that they believe that such a scenario of keeping the Bryant Park publicly accessible is impossible; and

WHEREAS, The Applicant has subsequently noted that they have the intention to add another 13-15 food and beverage stands in addition to those already proposed and presented at the committee meeting; and

WHEREAS, CB5 has noted that there has been an onslaught of similar events with numerous food vendor stalls encroaching public space within CB5’s boundaries; and

WHEREAS, While CB5 commends both the Applicant and Bryant Park for planning this event well in advance and bringing it to public review for constructive input, CB5 endeavors to keep the limited areas of parks and public spaces in New York City free and publicly accessible to all New Yorkers and visitors, in particular green spaces such as the Bryant Park lawn, and that this Event is scheduled to occur on the last weekend of the season before the lawn is covered by the annual ice rink and the Holiday Market; therefore be it

**RESOLVED**, Community Board Five **recommends denial** of the application from The New York Times and Empire Entertainment for The New York Times and Empire Entertainment for The New York Times Food Festival, a vendor event in association with Bryant Park Corporation, to take place from October 2 through October 7 in Bryant Park.

***Application from Madison Square Park Conservancy for “Planet Oat Marketing Event,” to be held in Madison Square Park from July 17 through July 22, 2019***

WHEREAS, The Madison Square Park Conservancy (“Applicant”) has submitted a permit application to the Parks Department for “Planet Oat Marketing Event” to be held in the southwest gravel section of Madison Square Park (the “Park”) from July 17, 2019 through July 21, 2019 (the “Event”); and

WHEREAS, Set-up would begin at 7:00 am on July 17, 2019, with a small media event to be held from 8:00 am through 12:00 pm on July 19, 2019; and

WHEREAS, The Event would begin in earnest at 10 AM on July 20 and run from 10:00 am until 5:00 pm on both July 20, 2019 and July 21, 2019, with cleanup and dismantling of the event in all respects to be completed by 2:00 pm on July 22, 2019; and

WHEREAS, The Event is to consist of a 41 foot diameter and 18 foot high white igloo-type tented structure (the “Planet Oat Igloo”) with a separate entrance and exit door, fully enclosed with projector screens and sound equipment, refrigerators, couches, and free samples of Planet Oat milk, banana bread, cookies, and oat milk lattes provided inside; and

WHEREAS, Community Board Five believes that the portion of the structure immediately surrounding the entrance doorway, which is currently proposed to be black, should be white like the rest of the structure in order to better blend the Planet Oat Igloo with the surrounding Park, and that Planet Oat logos should be removed from the entrance doors given the oversaturation of those logos across the remaining tent structure; and

WHEREAS, The Applicant was unable to change the black surface; however, the Applicant subsequently agreed to remove the Planet Oat logos from the entrance doors in response to community concerns; and

WHEREAS, The Planet Oat Igloo will be free for members of the public to enter throughout the time at which it is open in the park, and the Applicant estimates approximately 800 visitors per day; and

WHEREAS, the Planet Oat Marketing Event will be staffed by five to eight Planet Oat employees; and

WHEREAS, There will be no sound leakage above ambient noise levels outside of the Planet Oat Igloo, for which the doors will remain closed except when members of the public are entering and exiting the structure; and

WHEREAS, Signage will be limited to one event sign featuring the Planet Oat logo and event opening times outside the Planet Oat Igloo as well as up to a few signs directing visitor traffic in the immediate vicinity of the structure, and that every effort will be made generally to minimize the impact on the use of the park by the general public while the event is ongoing;

WHEREAS, Applicant has indicated that in return for the private use of public space for this Event, a substantial contribution to the Park will be made, which is consistent with past practice per its contractual agreement with the Parks Department, which allows for four annual marketing events, of which this is the second for 2019; and

WHEREAS, All operational aspects of the event, including sanitation and potential queuing, have been planned for in a satisfactory manner; and

WHEREAS, Community Board Five believes that the nature and conduct of the event as proposed, with the exception of the color of the structure immediately surrounding the entrance door is satisfactory and consistent with its past approvals for the four marketing events held in the Park in past years; therefore be it

**RESOLVED**, Community Board Five **recommends approval** of the application from the Madison Square Park Conservancy for “Planet Oat Marketing Event,” to be held in the Park from July 17 through July 22, 2019.

***Application by Community USA II, LLC for an unenclosed sidewalk cafe at 411 Park Avenue South featuring 6 tables and 12 chairs.***

WHEREAS, Community USA II, LLC (“Applicant”) is applying for a new unenclosed sidewalk café (the “Café”) license at [411 Park Avenue South](#); and

WHEREAS, In May 2019, Community Board Five entered into an affidavit with the Applicant for an on-premises liquor license for the Applicant’s interior space; and

WHEREAS, The Café will consist of 6 tables and 12 chairs, with each table being a “two-top”; and

WHEREAS, The sidewalk in question has a width of 15’ and the Café footprint meets all of the requirements for unobstructed pedestrian traffic according to DCA regulations; and

WHEREAS, Due diligence by Community Board Five, upon review of the application, noted that existing foot traffic does not pose a congestion concern; and

WHEREAS, Public notices were posted at the Applicant’s location and the Applicant presented the application at the public hearing, and the sole concerns and objections that were raised related to the operation by previous operators; therefore, be it

**RESOLVED**, Community Board Five **recommends approval** of the application for a new unenclosed sidewalk café at 411 Park Avenue South featuring 6 tables and 12 chairs.

***Application from Ralph Lauren Retail Inc. d/b/a Ralph’s Coffee for a new small unenclosed sidewalk café at 160 Fifth Avenue, New York, NY 10010.***

WHEREAS, Ralph Lauren Retail Inc. d/b/a Ralph’s Coffee (“Applicant”) has submitted an application seeking permission to install and operate a small seasonal unenclosed sidewalk café at 160 Fifth Avenue to consist of four (4) tables and seven (7) chairs for seasonal seating, all located on Fifth Avenue; and

WHEREAS, The hours of operation of the proposed sidewalk café are from 7:00 am to 7:00 pm every day; and

WHEREAS, The proposed sidewalk café has a minimum of 14 feet of sidewalk space for the entire length of the sidewalk, and the majority of the café footprint sits in the recessed wings of building; and

WHEREAS, While CB5 generally believes that the proposed sidewalk café is small and relatively innocuous, both the building and neighborhood are landmarked and this stretch of the Fifth Avenue corridor of the Ladies Mile Historic District has historically been restricted for pedestrian use only, and no other sidewalk café permits exist on Fifth Avenue between 23rd Street and 14th Street; therefore, be it

**RESOLVED**, Community Board Five **recommends denial** of the application from Ralph Lauren Retail Inc. d/b/a Ralph’s Coffee for a new small unenclosed sidewalk café at 160 Fifth Avenue.

After some discussion, the above four (4) bundled resolutions passed with a vote of 36 in favor, 0 opposed, 1 abstaining, except for the resolution on ***New York Times Food Festival***, which passed with a vote of 35 in favor, 0 opposed, 1 abstaining, 1 present not entitled to vote: **IN FAVOR:** Achelis, Athanail, Benzing, Chou, Clark, Dale, Ford, Garcia, Goldman, Goshow, Greeley, Haas, Harris Jr., Hartman, Heyer, Isaacs, Johnson, Kaback, Kalafarski, Kasner, Kinsella, Lopes, Lucic, Mann, McCall, Miller, Pawson, Rabar, Shapiro, Slutzkin, Spandorf, Spence, Tschinkel, Verdi, Whalen, Yang. **ABSTAIN:** Barbero. **PRESENT NOT ENTITLED TO VOTE:** Hartman (NYT Food Festival only).

**BUDGET, EDUCATION AND CITY SERVICES – RENEE KINSELLA**

**Ms. Kinsella gave a brief presentation on the following resolution.**

***NYC Councilmembers Rivera and Powers's Package of Rental Housing Cost Bills***

WHEREAS, Community Board Five is concerned by rising housing costs in New York City; and

WHEREAS, The average apartment rent in New York City has increased 60% since 2011; and

WHEREAS, New Yorkers pay more than \$500 million in security deposits per year; and

WHEREAS, Some apartment rental transactions in New York City require tenants to pay a broker fee to real estate agents of at least one-month's rent and as high as 15% or more of annual rent; and

WHEREAS, Entering a rental agreement may require substantial up-front costs, which could include a broker fee, one month's rent as a security deposit, and sometimes a last month's rent; and

WHEREAS, These upfront costs represent a cost burden on prospective tenants across the economic spectrum, with only 46 percent of renters possessing savings for unexpected expenses or emergencies within the last year; and

WHEREAS, A real estate agent may be hired by a landlord or building manager to promote its housing stock, and in many cases, a prospective tenant is required to pay a broker fee as a condition of signing a lease, notwithstanding the fact that the prospective tenant never sought out the services of the real estate agent and may be unaware that a broker fee will be required when inquiring about or visiting the potential apartment; and

WHEREAS, Broker fees are typically borne entirely by the renter, despite the benefits of landlord-hired real estate agent services accruing almost exclusively to the landlord; and

WHEREAS, Council Members Carlina Rivera and Keith Powers have proposed six bills that would cap broker fees and limit the high costs of housing in New York City; and

WHEREAS, Int 1423A-2019 would limit broker fees paid by renters to brokers hired by a landlord or owner to a maximum of one month's rent; and

WHEREAS, Int 1424-2019 would limit security deposits required by landlords to a maximum of one month's rent; and

WHEREAS, Int 1431A-2019 would require landlords to return security deposits to tenants within 14 days of the end of their lease; and

WHEREAS, Int 1432-2019 would require brokers to disclose itemized explanations for any rental application fees; and

WHEREAS, Int 1433-2019 would require landlords to offer tenants the option of paying a security deposit in six monthly installments (or for leases less than six months, however many monthly installments equal the length of that lease); and

WHEREAS, Int 1499-2019 would provide limitations on and disclosure rules regarding tenant screening reports; and

WHEREAS, While Community Board Five does not believe that these bills have the tangible effect of limiting the substantial upfront costs to renters; and

WHEREAS, Community Board Five is concerned with the lack of data underlying this proposed law; and

WHEREAS, Community Board Five believes that enforcement of the proposed rental fee limitations is not adequately considered in these bills; and

WHEREAS, Community Board Five recognizes that the proposed bills do not increase affordable housing stock in New York, and

WHEREAS, Community Board Five recognizes that there may be some difficulty in the implementation of a fourteen day return of security deposits given the need to await the final utility payments; and

WHEREAS, Community Board Five continues to encourage the City Council to maintain a focus on affordability; and

WHEREAS, Nevertheless, Community Board Five believes that these bills at least take a step in the necessary direction of decreasing the costs of housing for all New Yorkers; and

WHEREAS, Community Board Five believes that these bills would particularly help those New Yorkers who are less financially stable to secure livable housing; therefore be it

**RESOLVED**, Community Board Five supports the passage of Council Member Rivera and Powers's proposed bills, including:

- Int 1423A-2019, which would limit broker fees paid by renters to brokers hired by a landlord or owner to a maximum of one month's rent; and
- Int 1424-2019, which would limit security deposits required by landlords to a maximum of one month's rent, particularly to harmonize New York City law with what is now state law; and
- Int 1431A-2019, would require landlords to return security deposits to tenants within 14 days of the end of their lease, particularly to harmonize New York City law with what is now state law; and
- Int 1432-2019, which would require brokers to disclose itemized explanations for any rental application fees; and
- Int 1433-2019, which would require landlords to offer tenants the option of paying a security deposit in six monthly installments (or for leases less than six months, however many monthly installments equal the length of that lease), and therefore provide a more affordable solution to renters, even though we of Community Board 5 are concerned about the potential unintended consequence of landlord bias toward prospective tenants who do not elect the security deposit installment option; and
- Int 1499-2019, which would provide limitations on and disclosure rules regarding tenant screening reports; and be it further

**RESOLVED**, Community Board Five would strongly encourage the City of New York and/or the Real Estate Board of New York to collect data regarding broker fees, security deposits, and other line items that drive up the cost of renting in New York to inform enforcement and the efficacy of housing policies.

After some discussion, the above resolution passed with a vote of 30 in favor, 3 opposed, 1 abstaining, 2 present not entitled to vote: **IN FAVOR:** Achelis, Benzing, Chou, Clark, Dale, Ford, Garcia, Goldman, Goshaw, Greeley, Haas, Harris Jr., Hartman, Johnson, Kaback, Kalafarski, Kasner, Kinsella, Lopes, Lucic, Mann, McCall, Miller, Pawson, Rabar, Shapiro, Slutzkin, Spandorf, Spence, Whalen. **OPPOSED:** Heyer, Tschinkel, Yang. **ABSTAIN:** Barbero. **PRESENT NOT ENTITLED TO VOTE:** Athanail, Isaacs.

## **PUBLIC SAFETY & QUALITY OF LIFE – NICHOLAS ATHANAIL**

**Mr. Athanail gave a report from the Public Safety & Quality of Life Committee. He announced that there were no resolution but wanted to give updates on 2 items, LeReve which at the SLA hearing did not get a decision, but offered licensee a chance for rebuttal before a final decision was**

made on July 16. He also announced a Taskforce to look into review liquor license in the Broadway Corridor, upper 20's and lower 30's. This taskforce will be headed by Daniel Spence.

• **LAND USE, HOUSING AND ZONING COMMITTEE – LAYLA LAW-GISIKO**

Ryan Whalen gave a brief presentation on the following resolution on behalf of the Committee:

*Dept of City Planning (DCP) proposed zoning text amendment regarding POPS (Privately Owned Public Space) Signage and Amenities, which would require public space signage and permit movable tables and chairs in plazas and arcades where they are currently prohibited.*

WHEREAS, The Department of City Planning (DCP) is proposing a Zoning Text Amendment regarding signage and amenities in Privately Owned Public Spaces (POPS); and

WHEREAS, The proposed zoning text amendment would facilitate the updating of the existing public space symbol, require public space signage for various types of POPS, and permit publicly accessible, moveable tables and chairs to be placed in plazas and arcades where they are currently prohibited; and

WHEREAS, The proposed zoning text amendment would modify the following sections of the Zoning Resolution:

37-53	Design Standards for Pedestrian Circulation Spaces
37-61	Design Standards
37-626	Moveable tables and chairs
37-751	Public space signage systems
37-80	ARCADES
37-81	Moveable Tables and Chairs
74-872	Design requirements for covered pedestrian spaces



APPENDIX E	Design Requirements for Plazas, Residential Plazas and Urban Plazas Developed Prior to October 17, 2007
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WHEREAS, The proposed zoning text amendment is in response to Local Law 116, passed by the NYC City Council and signed into law in 2017, that requires that DCP compile and furnish up-to-date data on POPS, and requires public space signage at all POPS as defined in the Local Law; and

WHEREAS, The Department of City Planning organized an international design competition to create a new logo for the POPS; and

WHEREAS, The Department of City Planning is proposing to permit an unlimited and unregulated number of publicly accessible moveable tables and chairs to be placed in plazas and arcades constructed between 1961 and 1975, when obstructions such as trees and furniture were prohibited; and

WHEREAS, Although the overall purpose of the zoning text amendment is positive and would enhance the experience of POPS users, numerous issues remain unresolved while new issues arise from the proposal:

- the number, style, size, design of movable furniture permitted as-of-right in plazas built prior to 1975 must be clearly determined so as to respect the current design standards for new POPS, as an unlimited number of movable pieces of furniture would create chaos in our congested district (there are 46 plazas completed before 1975 in CB5; or 46% of all POPS in CB5);
- signage must be mandated at each entrance as well as near locations where people tend to congregate, such as near seating areas,
- DCP must be able to uphold specific signage requirements agreed upon between a POPS operator and the local community board,
- DCP must ensure that Department of Building inspectors tasked with enforcement are well trained so as to avoid violations being cited under the incorrect ZR section as it happened in CB5,
- DCP must codify and support enforcement of non-compliant activities in POPS so as to avoid privatization of POPS as frequently happens at a number of POPS in CB5, such as the Kimpton Eventi Hotel located at 851 6th Ave; and

WHEREAS, Community Board Five has the largest number of POPS, with a total of 102 Privately Owned Publicly Accessible Spaces, rendering the proposed zoning text amendment extremely impactful on our district; therefore be it

**RESOLVED**, Community Board Five **recommends denial** of the proposed Zoning Text Amendment unless changes are made to incorporate our concerns stated above.

After much discussion the above resolution passed with a vote of 33 in favor, 0 opposed, 1 abstaining, 1 present not entitled to vote: **IN FAVOR:** Achelis, Athanail, Benzing, Chou, Clark, Dale, Ford, Garcia, Goldman, Goshow, Greeley, Haas, Harris Jr., Hartman, Heyer, Isaacs, Johnson, Kaback, Kalafarski, Kasner, Kinsella, Lopes, Lucic, McCall, Miller, Rabar, Shapiro, Slutzkin, Spandorf, Spence, Tschinkel, Whalen, Yang.

**ABSTAIN:** Barbero. **PRESENT NOT ENTITLED TO VOTE:** Mann.

There being no further business, the regularly scheduled meeting of Community Board Five adjourned at 7:55 p.m.

Respectfully submitted by,

Craig Slutzkin  
Secretary

E.J. Kalafarski  
Assistant Secretary