

SUPPLEMENT TO

THE CITY RECORD

THE COUNCIL —STATED MEETING OF
THURSDAY, SEPTEMBER 17, 2009

THE COUNCIL

Minutes of the
STATED MEETING

of
Thursday, September 17, 2009, 2:18 p.m.

The President Pro Tempore (Council Member Rivera)
Acting Presiding Officer

Council Members

Christine C. Quinn, Speaker

Tony Avella	Alan J. Gerson	James S. Oddo
Charles Barron	Eric N. Gioia	Annabel Palma
Gale A. Brewer	Sara M. Gonzalez	Domenic M. Recchia, Jr.
Leroy G. Comrie, Jr.	Vincent M. Ignizio	Diana Reyna
Elizabeth S. Crowley	Robert Jackson	Joel Rivera
Bill de Blasio	Letitia James	James Sanders, Jr.
Inez E. Dickens	Melinda R. Katz	Larry B. Seabrook
Erik Martin Dilan	G. Oliver Koppell	Helen Sears
Mathieu Eugene	Jessica S. Lappin	Kendall B. Stewart
Simcha Felder	John C. Liu	Eric A. Ulrich
Julissa Ferreras	Melissa Mark-Viverito	James Vacca
Lewis A. Fidler	Darlene Mealy	Peter F. Vallone, Jr.
Helen D. Foster	Rosie Mendez	Albert Vann
Daniel R. Garodnick	Kenneth C. Mitchell	David I. Weprin
James F. Gennaro	Michael Nelson	David Yassky
Vincent J. Gentile		

Excused: Council Members Arroyo, Baez, and White.

There is presently one vacancy in the Council (10th Council District, Manhattan).

The Public Advocate (Ms. Gotbaum) was not present at this Meeting. The Majority Leader (Council Member Rivera) assumed the Chair as the President Pro Tempore and Acting Presiding Officer.

After being informed by the City Clerk and Clerk of the Council (Mr. McSweeney), the presence of a quorum was announced by the President Pro Tempore (Council Member Rivera).

There were 47 Council Members present at this Stated Meeting.

INVOCATION

The Invocation was delivered by Rabbi Bob Kaplan, Director, Cause-NY, a division of the Jewish Community Relations Council of New York, 70 W. 36th Street, New York, NY 10018.

As we stand before these holy days
and the ending of holy days for the Muslim community as well,
Ramadan ending and the Eid ul-Fitr coming up this weekend
and Rosh HaShanah coming up this weekend as well.
It's two symbols of diversity in our city
coming together and working together
and moving together, forward together.

I'd like to tell a little story.
I know it's dangerous to have a rabbi tell a story,
but I'll try by best to keep it short.

A young student stands in the middle of the study hall
trembling in fear before these days of awe.
Their teacher walks in, gray in hair and wisdom
and the student breaks out into tears.
The rabbi, in deep compassion and love and caring,
walks over to the student, inquires of their pain.
The student looks up at the teacher and says,
"How can I stand before God in judgment
when there are people who are around like you.
Look at you, you're so holy, you're so there.
The grayness of your hair just talks about
what you have been through in life."
The teacher looks down upon the student
with love and compassion and says,
"True, I have been through many things,
but each lock of the gray hair
is one of the trials I have been through
that has led me to this place,
that has led me to a place
where I can stand before God
and feel a little bit more confident,
not totally but a little bit more confident
in what I have done in life.
Go on, take the journey and get to that place
and perhaps, some day you will give
the same advice to the next generation."

May God bless all of those here assembled in this room
with the passion and the awe of youth.
But also the power of the wisdom of experience
and may we always pass it on to another
but may we always stand before judgment
with a little bit of trepidation in our heart.
May we all have a happy new year.
May we all move forward in this new year
and your session today.

Thank you.

Council Member Nelson moved to spread the Invocation in full upon the Record.

ADOPTION OF MINUTES

Council Member Lappin moved that the Minutes of the Stated Meetings of June 10, June 15 and June 19, 2009 be adopted as printed.

LAND USE CALL UPS

M-1563

By the Speaker (Council Member Quinn):

Pursuant to Rule 11.20(b) of the Council and Section 20-226(g) of the New York City Administrative Code, the Council resolves that the action of the Department of Consumer Affairs approving an unenclosed sidewalk café located at 119 Macdougall Street, Manhattan, CB 2, Application no. 20085246 TCM shall be subject to review by the Council.

Coupled on Call – Up Vote

M-1564

By the Speaker (Council Member Quinn):

Pursuant to Rule 11.20(c) of the Council and Section 197-d(b)(3) of the New York City Charter, the Council hereby resolves that the action of the City Planning Commission on Uniform Land Use Procedure Applications no. C 090431 ZSM and C090432 ZSM shall be subject to review by the Council.

Coupled on Call – Up Vote

M-1565

By Council Member Gerson:

Pursuant to Rule 11.20(b) of the Council and Section 20-226(g) of the New York City Administrative Code, the Council resolves that the action of the Department of Consumer Affairs approving an unenclosed sidewalk café located at 106 Kenmare Street, Manhattan, CB 2, Application no. 20095244 TCM shall be subject to review by the Council.

Coupled on Call – Up Vote

M-1566

By Council Member Koppell:

Pursuant to Rule 11.20(b) of the Council and Section 20-226(g) of the New York City Administrative Code, the Council resolves that the action of the Department of Consumer Affairs approving an unenclosed sidewalk café located at 3535 Riverdale Avenue, Borough of the Bronx, CB 8, Application no. 20095528 TCX shall be subject to review by the Council.

Coupled on Call – Up Vote

M-1567

By the Chair of the Land Use Committee Council Member Katz:

Pursuant to Rule 11.20(c) of the Council and Section 197-d (b)(3) of the New York City Charter, the Council hereby resolves that the action of the City Planning Commission on Uniform Land Use Procedure Applications no. C 090443 ZSK , and shall be subject to Council review. This application is related to Uniform Land Use Procedure Application nos. C 090441 ZMK, N 090442.

Coupled on Call – Up Vote

M-1568

By the Chair of the Land Use Committee Council Member Katz:

Pursuant to Rule 11.20(c) of the Council and Section 197-d (b)(3) of the New York City Charter, the Council hereby resolves that the action of the City Planning Commission on Uniform Land Use Procedure Applications no. C 090445 ZSK, and shall be subject to Council review. This application is related to Uniform Land Use Procedure Application nos. C 090444 ZMK, C 090446 HAK.

Coupled on Call – Up Vote

LAND USE CALL UP VOTE

The President Pro Tempore (Council Member Rivera) put the question whether the Council would agree with and adopt such motions which were decided in the **affirmative** by the following vote:

Affirmative –Avella, Barron, Brewer, Comrie, Crowley, de Blasio, Dickens, Dilan, Eugene, Felder, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Ignizio, Jackson, James, Katz, Koppell, Lappin, Liu, Mark-Viverito, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Sanders, Seabrook, Sears, Stewart, Ulrich, Vacca, Vallone Jr., Vann, Weprin, Yassky, Oddo, Rivera and the Speaker (Council Member Quinn) – 47.

At this point, the President Pro Tempore (Council Member Rivera) declared the aforementioned items **adopted** and referred these items to the Committee on Land Use and to the appropriate Land Use subcommittees.

REPORTS OF THE STANDING COMMITTEES

Report of the Committee on Environmental Protection

Report for Int. No. 622-A

Report of the Committee on Environmental Protection in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to retrofitting of and age limitations on diesel fuel-powered school buses.

The Committee on Environmental Protection, to which the annexed proposed amended local law was referred on September 25, 2007 (Minutes, page 3894), respectfully

REPORTS:

I. Introduction

On Thursday, September 17, 2009, the Committee on Environmental Protection will hold a hearing to consider and vote upon the above referenced legislation, a local law pertaining to retrofitting of, and age limitations on, diesel fuel-powered school buses. A previous hearing was held for this bill on September 8, 2009.

Background

In 1970 Congress passed the Clean Air Act to respond to health and environmental threats presented by polluted air. Since Congress passed the Clean Air Act of 1970, numerous research studies have documented a variety of

deleterious health effects associated with exposure to air pollution. A major source of air pollution is diesel exhaust from motor vehicles.

Exposure to diesel exhaust includes exposure to particulate matter, nitrogen oxides and sulfur dioxides. In addition to containing particulate matter, nitrogen oxides and sulfur dioxides, diesel exhaust contains air toxins, such as benzene (a carcinogen), formaldehyde (a probable carcinogen) and dioxin (known for its non-cancer and reproductive health effects).¹

Synergy among Air Pollutants

These air pollutants, although discussed and regulated individually, are generally not occurring or being experienced individually. Based upon recent research, there is evidence that synergisms among air pollutants are also causing measurable adverse biological effects in laboratory studies of humans and animals.²

II. Health Effects of Air Pollution

These adverse health effects from breathing polluted air include increased mortality, respiratory diseases and hospitalizations, changes in lung function, asthma attacks and lost days from school or work.³ Associations have also been documented between air pollution and cardiopulmonary mortality as well as lung cancer mortality.⁴ Air pollution may also increase blood pressure,⁵ alter the electrical functioning of the heart,⁶ which is particularly dangerous for people with pre-existing coronary artery disease, and may actually cause asthma.⁷ Exposure to diesel exhaust was found by one study to promote myocardial ischemia and to inhibit the body's ability to dispel blood clots.⁸

Everyone is impacted by poor air quality but certain groups experience more serious impacts than others due to greater susceptibility to the same levels of air pollution. Most studies have found greater susceptibility to air pollution in vulnerable populations including, but not limited to the elderly and children.⁹ Of all groups disproportionately impacted by air pollution studied, the most research has involved adverse health impacts to children.

III. Adverse Impacts of Air Pollution on Children

Children are more susceptible to air pollution than adults because they take in more air per unit of body weight than adults; children spend more time outdoors than adults and children do not respond to air pollution the same way as adults do.¹⁰ As children, they are the least able to mitigate the impacts of air pollution. Recent studies that examined the impact of air pollution on children prenatally exposed found that children heavily exposed to polycyclic aromatic hydrocarbons or exposed to black carbon scored lower on intelligence tests than children with low exposures.¹¹ Children exposed to pollution from traffic were also found to have reduced lung function.¹² Children exposed to even low levels of ozone are at significant risk for respiratory symptoms and for rescue medication use.¹³ Among obese children¹⁴ more pronounced deficits in lung

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1. Control of Emissions of Air Pollution from Nonroad Diesel Engines and Fuel at 28,338, Federal Register: June 29, 2004 Volume 69, Number 124.

2. Joe L. Muaderly and Jonathan M. Samet, Is There Evidence for Synergy Among Air Pollutants in Causing Health Effects?, Environmental Health Perspectives, Volume 117, Number 1, January 2009.

3. Wong RY, Gohlke J, Griffith WC, Farrow S, Faustman, EM, Economic Benefits of Air Pollution Reductions for Children, Environ. Health Perspect. 2004, Feb; 112(2):226-232.

4. Pope CA 3rd, Burnett RT, Thun MJ, Calle EE, Krewski D, Ito K, Thurston GD, Lung Cancer, cardiopulmonary mortality and long term exposure to fine particulate air pollution, Journal of the American Medical Association. 2002 Mar 6;287(9):1132-1141.

5. Sun Q, Yue P, Ying Z, Cardiuel AJ, Brook RD, Devlin R, Hwand JS, Zweier JL, Chen LC, Rajagopalan S, Air Pollution Exposure Potentiates Hypertension Through Reactive Oxygen Species-Mediated Activation of RHO/ROCK, Arterioscler Thromb Vasc Biol. 2008 Jul 3.

6. Chuang KJ, Coull BA, Zabobetti A, Suh H, Schwartz J, Stone PH, Litonjua A, Speozzer FE, Gold DR. Particulate air pollution as a risk factor for ST-segment depression in patients with coronary artery disease. 2008 Sep 23 ; (118):1314-20.

7. Air Pollution and Respiratory Disease, National Institute of Environmental Health Sciences, www.niehs.nih.gov/health/impacts; George D. Thurston, David V. Bates, Air Pollution as an Underappreciated Cause of Asthma Symptoms, Journal of the American Medical Association, October 8, 2003;290:1915-1917.

8. Joan Stephenson Ph.D., Diesel Smog and Blood Clots, Journal of the American Medical Association, October 17, 2007;298:1752.

9. Id.; Redim J. Sram, Blanka Binkova, Jan Dejmek, and Martin Bobak, Ambient Air Pollution and Pregnancy Outcomes: A review of the Literature, Environmental Health Perspectives, Volume 113, Number 4, April 2005; PennEnvironment, 500 Premature Deaths from Air Pollution in PA, www.pennenvironment.org/in-the-news/clean-air.

10. Michael T. Kleinman, Ph.D., The Health Effects of Air pollution on Children, www.aqmd.gov/forstudents/health_effects_on_children.html

11. Suglia SF, Gryparis A, Wright RO, Schwartz J, and Wright RJ, Association of black carbon with cognition among children in prospective birth cohort study, Am J Epidemiol. 2008 Feb 1;167(3):280-6; Frederica P. Perera, DrPh, Zhigang Li, MPS, Robin Whyatt, DrPH, Lori Hoepner MPH, Shuang Wang PhD, David Camann MS and Virginia Rauh, Scd, Prenatal Airborne Polycyclic Aromatic Hydrocarbon Exposure and Child IQ at Age 5 Years, Pediatrics Published online July 20, 2009 doi:10.1542/10.154/peds.2008-3506.

12. W. James Gauderman, Ph.D., Rob McConnell, MD, Frank Gilliland, MD, Ph.D., Duncan Thomas, Ph.D., Edward Avol, MS, Nino Kuenzli, MD, Ph.D., Michael Jerrett Ph.D. and John Peters, MD, SC.D., Effect of exposure to traffic on lung development from 10-18 years of age: a cohort study, Lancet. 2007 Feb 17;369(9561):571-7; Tracy Hampton, Smog Stunts Lung Growth in Young, Journal of the American Medical Association, October 27, 2004.

13. Gent, JF, Triche EW, Holford TR, Belanger K, Braken MB, Beckett WS and Leaderer, BP, Ph.D., Association of Low-Level Ozone and Fine Particles with Respiratory Symptoms in Children with Asthma, JAMA, 2003; 290:1859-1867.

function have been observed in response to air pollution than among children of normal weight. Air pollution likely increases airway oxidative stress and decreases small airway function in asthmatic children.¹⁵

IV. Air Pollution Exposure Inside School Buses

One air pollution exposure source unique to children is the air pollution exposure that occurs during school bus commutes. Several studies of pollutant exposures show high levels of exposures inside of school buses from fugitive diesel exhaust that travels through cracks in the chassis and that finds its way into the school bus cabin¹⁶. One study found that school bus commutes are more important than bus stops in terms of exposure because children spend much more time commuting than stopped, with the highest concentrations occurring when windows are closed.¹⁷ By using tracer-gas experiments that measure air quality in empty school buses and on routes, researchers were able to establish that children riding in a school bus inhale seven to seventy times more exhaust than non-riding residents inhale from all school bus emissions in the area.¹⁸ An extensive report based upon a study prepared by the Natural Resources Defense Council found that cancer risks faced by children are between twenty three and forty six times the level considered significant by the Environmental Protection Agency¹⁹.

V. Remedy for "Self-Pollution" in School Buses

Pollution inside school buses presents a significant cancer risk, but the good news is that pollution inside the school buses that children ride can be reduced to safe levels or even eliminated.²⁰ According to the 2007 report "Measuring Pollution Levels Inside Texas School Buses", by Environmental Defense, retrofitting school buses with available pollution control technologies can provide significant air quality benefits for children²¹. The Environmental Defense report found that use of crankcase ventilation systems, which capture pollution from engine operations, effectively eliminate most in cabin particulate matter.²² Diesel particulate filters, installed in place of standard mufflers, capture particulate emissions that would exit the tailpipe. Bus "self pollution" emission rates are generally higher from the crankcase than from the tailpipe.²³

While we do not often measure the benefits of air pollution controls, there are significant economic benefits associated with air pollution reduction for children.²⁴ According to some researchers, the reductions in criteria pollutants predicted to occur by 2010 in response to Clean Air Act regulations would result in two hundred fewer cases of post neonatal mortality, ten thousand fewer asthma hospitalizations, forty thousand fewer emergency room visits for children, twenty million school absences avoided and ten thousand fewer low birth weight infants²⁵. This translates into as much as \$100 billion in health benefits estimated to result from decreased morbidity and mortality.²⁶

Improvements in air quality are also expected to increase the average life expectancy in the United States by five months.²⁷ One study shows that even if emissions reductions were many times more expensive per gram emitted for school buses than for an average vehicle, it would still be less expensive per gram inhaled by a student to reduce emissions from buses than from an average vehicle.²⁸

14. Luttmann-Gibson H, Dockery DW. Short-term effects of air pollution on lung function: Are obese children at higher risk? Paper presented at: annual meeting of the American Thoracic Society; May 23, 2004; Orlando.

15. Linh Lui, Raymond Poon, Li Chen, Anna-Maria Fresurea, Paolo Montuschi, Giovanni Ciabattini, Amada Wheller, and Robert Dales, Acute Effects of Air Pollution on Pulmonary Function, Airway Inflammation, and Oxidative Stress in Asthmatic Children, Environmental Health Perspective, Volume 117, Number 4, April 2009; David V. Bates, The Effects of Air Pollution on Children, Environmental Health Perspectives, Volume 103, Supplement 6, November 1995.

16. Lisa D. Sabin, Eduardo Behrentz, Arthure M. Winer, Seong Jeong Lee, Dennis R. Fitz, David Pankratz, Steven D. Colome and Scott Fruin, Characterizing The Range of Children's Pollutant Exposure During School Bus Commutes, <http://www.arb.ca.gov/research/schoolbus/crc2003overview.pdf>.

17. Id.

18. Obesity, Fitness and Wellness Week, via NewsRx.com, Environmental Health: More Exhaust Inhaled By Kids IN School Buses than Others in the Area, April 30, 2005.

19. Gina M. Solomon, M.D., M.P.H., Todd R. Campbell, M.E.S., M.P.P., Gail Ruderman Feuer, Julie Masters, Artineh Samkian, Kavita Ann Paul, No Breathing In The Aisles.: Diesel Exhaust Inside School Buses, Natural Resources Defense Council, Coalition for Clean Air, January 2001.

20. Environmental Defense, The Clean Air Task Force, The Conroe Independent School District, Measuring Pollution Levels Inside Texas School Buses, March 2007.

21. Id.

22. Id.

23. Barbara Zielinska, David Campbell, Douglas R. Lawson, Robert G. Ireson, Christopher S. Weaver, Thomas W. Hesterberg, Timothy Larson, Mark Davey and L.-J. Sally Liu, Detailed Characterization and Profiles of Crankcase and Diesel Particulate Matter Exhaust Emissions Using Speciated Organics, Environ. Sci. Technol., 2008, 42 (15) pp. 5661-5666.

24. Wong RY, Gohlke J, Griffith WC, Farrow S, Faustman, EM, Economic Benefits of Air Pollution Reductions for Children, Environ. Health Perspect. 2004, Feb; 112(2):226-232.

25. Id.

26. Id.

27. Pope CA 3rd, Ezzati M, Dockery DW, Fine-Particulate air pollution and life expectancy in the United States, N Engl J Med, Jan 22;360(4):376-86.

28. Julian D. Marshall and Eduardo Behrentz, University of California, Berkeley, Environ. Sci. Technol., 2005, 39 (8), pp. Air pollution emission rates were generally higher from the crankcase than from the tailpipe 2559-2563.

These environmental health and economic benefits are already being reaped by a number of states that have created programs to retrofit their school buses.²⁹ New York City has one of the largest public school bus systems in the United States,³⁰ and New York City committed four years ago to clean up some of its school buses. In 2005 New York City acted to address school bus “self pollution” in general education buses by enacting Local Law 42 of 2005 to require that diesel fuel-powered school buses, excluding any vehicle utilized primarily to transport children with special educational needs who do not travel to and from school in vehicles used to transport general education students, utilize the best available retrofit technology. Local Law 42 covered 2,322 of its 6,770 public diesel school buses.³¹ However the legislation enacted in 2005 did not cover children who exclusively use special education buses to ride to and from school. New York City school children who ride in special education buses remain at risk from asthma and other respiratory diseases and from cancer.³² In April of 2007, in PlaNYC, Mayor Bloomberg committed to retrofitting all of New York City School buses used for children with special education needs.³³ This commitment is particularly important in a place like New York City because New York City air does not meet federal health standards for two criteria pollutants and because children in New York City are twice as likely to be hospitalized for asthma³⁴. Some New York City communities have asthma hospitalization rates approaching twenty-five percent and asthma occurs most frequently in African Americans and people living in cities.³⁵ Today’s legislation is designed to close that loophole.

V. Bill Discussion

Proposed Int. No. 622-A

Section 1 of Proposed Int. No. 622-A adds a new section 24-163.9 to the Administrative Code.

Subdivision (a) of new section 24-163.9 provides definitions of certain terms used in that section. The terms defined are “Department of education”, “Person” “School bus” and “School bus contract”.

“Department of education” means the New York City Department of Education, formerly known as the New York city board of education, and any successor agency or entity thereto, the expenses of which are paid in whole or in part from the city treasury.

“Person” means any natural person, partnership, firm, company, association, joint stock association, corporation or other legal entity.

“School bus” means any vehicle of the designation “Type A bus,” “Type B bus,” “Type C bus,” or “Type D bus,” as set forth in subdivisions (x), (y), (z), and (aa) of section 720.1 of title seventeen of the New York Codes, Rules and Regulations, that is operated pursuant to a school bus contract and is used to transport children to or from any school located in the City of New York.

“School bus contract” means any agreement between any person and the department of education to transport children on a school bus.

Subdivision (b) provides that diesel fuel-powered school buses shall utilize a closed crankcase ventilation system, selected from among the mobile sources devices identified and approved as part of the diesel retrofit verified technologies list by the United States environmental protection agency or the list of currently verified diesel emissions control strategies by the California air resources board, to reduce engine emissions to the school bus cabin, in accordance with the following schedule:

Paragraph (1) of subdivision (b) provides that fifty percent of diesel fuel-powered school buses used to fulfill each school bus contract shall be equipped with such a closed crankcase ventilation system by September 1, 2010.

Paragraph (2) of subdivision (b) provides that one hundred percent of diesel fuel-powered school buses used to fulfill each school bus contract shall be equipped with such a closed crankcase ventilation system by September 1, 2011.

Subdivision (c) provides that diesel fuel-powered school buses shall not be used to fulfill any school bus contract beyond the end of the sixteenth year from the date of manufacture, as noted on the vehicle registration, or the end of the school year in which that date falls, whichever is later.

Subdivision (d) provides that school buses shall be replaced pursuant to subdivision c of this section with either a school bus meeting the most recent diesel engine emissions standards issued by the United States Environmental Protection Agency, or an all-electric, gasoline-powered, compressed natural gas, or hybrid school bus, as long as the particulate matter emissions of such school bus do not exceed emission levels permitted in the most recent diesel engine emissions standards issued by the United States Environmental Protection Agency.

Subdivision (e) provides that no later than December 31, 2011, and no later than December 31 of every year thereafter, the department of education shall submit a report to the Mayor and the Speaker of the Council on compliance with this section. Such report will include, but not be limited to, data on the age and crankcase

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²⁹ Patricia Monahan, School Bus Pollution Report Card 2006, Grading the States, Union of Concerned Scientists, May 2006, at p. 34.

³⁰ Mel Peffers and Isabelle Silverman, A Healthier Ride to School, Cleaning Up New York City’s Dirty Diesel School Buses, Environmental Defense Fund, October 2008, www.edf.org/nycbuses.

³¹ Id. at p. 13.

³² Id.

³³ Id.

³⁴ Id.

³⁵ Public Health Statement for Sulfur Dioxide, Department of Health and Human Services, Agency for Toxic Substances and Disease Registry, www.atsdr.cdc.gov/toxprofiles. Research suggests that African American children have increased sensitivity to sulfur dioxide.

ventilation retrofit status of every school bus pursuant to a school bus contract. The department of education shall also perform yearly reviews on a sample of school buses from at least ten different vendors to verify the accuracy of data reported.

Subdivision (f) contains limiting language under which circumstances this section shall not apply. According to subdivision (f) this section shall not apply where federal or state funding precludes the City from imposing the requirements of this section or to purchases that are emergency procurements pursuant to section three hundred fifteen of the New York City Charter or where federal or state law prohibits the application of the requirements of this section.

Subdivision (g) provides penalties for noncompliance. Pursuant to subdivision (g) any person who violates any provision of this section, except as provided in subdivision (h) of this section, shall be liable for a civil penalty of not less than one thousand dollars and not more than ten thousand dollars, in addition to twice the amount of money saved by such person for failure to comply with this section.

Subdivision (h) provides a penalty for false compliance claims. Pursuant to subdivision (h) where a person has been found to have made a false claim with respect to the provisions of this section, such person shall be liable for an additional civil penalty of twenty thousand dollars.

Subdivision (i) provides that nothing in this section shall be construed to limit the authority of the Department of Education or of the City of New York to cancel or terminate a contract, deny or withdraw approval to perform a subcontract or provide supplies, issue a non-responsibility finding, issue a non-responsiveness finding, deny a person or entity prequalification as a vendor, or otherwise deny a person or entity city business.

Section § 3 states that this local law shall take effect on July 1, 2010.

An earlier version of the bill, Int. No. 622, was introduced on July 11, 2007 and differed from this version in the following ways.

Int. No. 622 had no definition section but bill section (1) amended the existing definition of “school bus”.

Int. No. 622 amended subdivision (b) of section 24-163.7 of the Administrative Code rather than adding a new section 24-163.9.

Paragraph (1) of subdivision (b), which requires the use of ultra low sulfur diesel fuel at any school bus facility at which ultra low sulfur fuel is still available, was amended to exclude school buses that transport fewer than ten children at one time or school buses that are used primarily to transport children with special education needs and who do not travel to and from school in vehicles used to transport general education students from the requirement that the buses use ultra low sulfur diesel fuel.

Paragraph (2) of subdivision (b) which applies to any buses not covered by subdivision (1) and requires the use of ultra low sulfur diesel fuel, was amended to exclude school buses that transport fewer than ten children at one time or school buses that are used primarily to transport children with special education needs and who do not travel to and from school in vehicles used to transport general education students.

Paragraph (3) of Subdivision (b) of section 24-163.7 requires any diesel fuel powered school bus that was not covered by paragraphs one and two of this subdivision to use ultra low sulfur fuel commencing on September 1 of 2008.

Int. No. 622 amended subdivision (c) of section 24-163.7 of the Administrative Code,

which requires the use of best retrofit available technology for fifty percent of the school buses used to fulfill each school bus contract by September 1, 2006 and one hundred percent of school buses used to fulfill each school bus contract by September 1, 2007, to exclude school buses that transport fewer than ten children at one time or school buses that are used primarily to transport children with special education needs and who do not travel to and from school in vehicles used to transport general education students.

Int. No. 622 (i) also added new items (iii) and (iv) to subdivision (c) of section 24-163.7. Item (iii) requires use of best available retrofit technology for fifty percent of the school buses used to fulfill each school bus contract, for school buses that transport fewer than ten children at one time or school buses that are used primarily to transport children with special education needs and who do not travel to and from school in vehicles used to transport general education students by September 1, 2008.

Item (iv) mandates best available retrofit technology for one hundred percent of the vehicles described in paragraph (iii), school buses that transport fewer than ten children at one time or school buses that are used primarily to transport children with special education needs and who do not travel to and from school in vehicles used to transport general education students, by September 1, 2009.

Section 4 stated that this local law would take effect immediately.

(The following is from the text of the Fiscal Impact Statement for Int. No. 622-A:)

FISCAL IMPACT STATEMENT:

	Effective FY 11	FY Succeeding Effective FY 12	Full Fiscal Impact FY 11
Revenues (+)	\$0	\$0	\$0

Expenditures (-)	(\$6,000,085)	See Below	(\$6,000,085)
Net	(\$6,000,085)	See Below	(\$6,000,085)

IMPACT ON REVENUES: There is potential for fine revenue from this legislation but full compliance is expected, making the revenue impact negligible.

IMPACT ON EXPENDITURES: The impact on expenditures resulting from the enactment of this legislation will be \$6,000,085 in Fiscal Year 2011 and \$17,150,426 cumulative expense for the period of Fiscal Year 2012 through Fiscal Year 2015. Additional expenses will be incurred after Fiscal 2015.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: General Fund

SOURCE OF INFORMATION:The Mayor’s Office of Operations and the Department of Education Council Finance Division

ESTIMATE PREPARED BY: Jonathan Rosenberg, Deputy Director
Nathan Toth, Assistant Director

HISTORY: Intro. 622 was introduced by the Council and referred to the Committee on Environmental Protection on September 25, 2007. The legislation was considered and laid over by the Committee on September 8, 2009. An amended version of this legislation, Proposed Intro. 622-A, is to be considered by the Committee on September 17, 2009.

Accordingly, Your Committee recommends its adoption, as amended.

(The following is the text of Int. No. 622-A:)

Int. No. 622-A

By Council Members Gonzalez, Brewer, Dilan, Fidler, Nelson, Gerson, James, Liu, Mark-Viverito, Palma, Seabrook, Vacca, White, Arroyo, Gennaro, Vallone, Koppell, Eugene, Crowley, Jackson, Lappin, Gentile, Sears and Weprin.

A Local Law to amend the administrative code of the city of New York, in relation to retrofitting of and age limitations on diesel fuel-powered school buses.

Be it enacted by the Council as follows:

Section 1. Subchapter 7 of chapter 1 of title 24 of the administrative code of the city of New York is amended by adding a new section 24-163.9 to read as follows:

§24-163.9 Retrofitting of and age limitations on diesel fuel-powered school buses.

a. Definitions. For the purposes of this section only, the following terms shall have the following meanings:

(1) “Department of education” means the New York city department of education, formerly known as the New York city board of education, and any successor agency or entity thereto, the expenses of which are paid in whole or in part from the city treasury.

(2) “Person” means any natural person, partnership, firm, company, association, joint stock association, corporation or other legal entity.

(3) “School bus” means any vehicle of the designation “Type A bus,” “Type B bus,” “Type C bus,” or “Type D bus,” as set forth in subdivisions x, y, z, and aa of section 720.1 of title seventeen of New York codes, rules and regulations, that is operated pursuant to a school bus contract and is used to transport children to or from any school located in the city of New York.

(4) “School bus contract” means any agreement between any person and the department of education to transport children on a school bus.

b. Diesel fuel-powered school buses shall utilize a closed crankcase ventilation system, selected from among the mobile sources devices identified and approved as part of the diesel retrofit verified technologies list by the United States environmental protection agency or the list of currently verified diesel emission control strategies by the California air resources board, to reduce engine emissions to the school bus cabin, in accordance with the following schedule:

(1) fifty percent of diesel fuel-powered school buses used to fulfill each school bus contract shall be equipped with such a closed crankcase ventilation system by September 1, 2010;

(2) one hundred percent of diesel fuel-powered school buses used to fulfill each school bus contract shall be equipped with such a closed crankcase ventilation system by September 1, 2011;

c. Diesel fuel-powered school buses shall not be used to fulfill any school bus contract beyond the end of the sixteenth year from the date of manufacture, as noted on the vehicle registration, or the end of the school year in which that date falls, whichever is later.

d. School buses shall be replaced pursuant to subdivision c of this section with (1) a school bus meeting the most recent diesel engine emissions standards issued by the United States environmental protection agency, or (2) an all-electric, gasoline-powered, compressed natural gas, or hybrid school bus, as long as the particulate matter emissions of such school bus do not exceed emission levels permitted in the most recent diesel engine emissions standards issued by the United States environmental protection agency.

e. No later than December 31, 2011, and no later than December 31 of every year thereafter, the department of education shall submit a report to the mayor and the speaker of the council on compliance with this section. Such report shall include, but not be limited to, data on the age and crankcase ventilation retrofit status of every school bus pursuant to a school bus contract. The department of education shall also perform yearly reviews on a sample of school buses from at least ten different vendors to verify the accuracy of data reported.

f. This section shall not apply:

(1) where federal or state funding precludes the city from imposing the requirements of this section;

(2) to purchases that are emergency procurements pursuant to section three hundred fifteen of the New York city charter; or

(3) where federal or state law prohibits the application of the requirements of this section.

g. Any person who violates any provision of this section, except as provided in subdivision h of this section, shall be liable for a civil penalty of not less than one thousand dollars and not more than ten thousand dollars, in addition to twice the amount of money saved by such person for failure to comply with this section.

h. Where a person has been found to have made a false claim with respect to the provisions of this section, such person shall be liable for an additional civil penalty of twenty thousand dollars.

i. Nothing in this section shall be construed to limit the authority of the department of education or of the city of New York to cancel or terminate a contract, deny or withdraw approval to perform a subcontract or provide supplies, issue a non-responsibility finding, issue a non-responsiveness finding, deny a person or entity prequalification as a vendor, or otherwise deny a person or entity city business.

§2. This local law shall take effect on July 1, 2010.

JAMES F. GENNARO, Chairperson; BILL de BLASIO, G. OLIVER KOPPELL, DOMENIC M. RECCHIA JR., PETER F. VALLONE JR., MELISSA MARK-VIVERITO, MATHIEU EUGENE, ELIZABETH CROWLEY, ERIC A. ULRICH, Committee on Environmental Protection, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Reports of the Committee on Finance

Report for Int. No. 1065

Report of the Committee on Finance in favor of approving and adopting a Local Law to amend the administrative code of the city of New York, in relation to providing a biotechnology credit against the general corporation tax, and the unincorporated business tax.

The Committee on Finance, to which the annexed proposed local law was referred on August 20, 2009 (Minutes, page 4667), respectfully

REPORTS:

Today, the Finance Committee will consider Int. 1065, a local law that would provide a refundable credit against the City’s General Corporation Tax (GCT) and Unincorporated Business Income Tax (UBT) for certain companies located in New York City that focus primarily on biotechnology. This credit will help a young firm equip a lab, train technicians, and fund access to high tech equipment.

Currently, there is a New York State Qualified Emerging Technology Incentive program¹ that provides credits against the State personal income tax and corporation franchise tax for qualified emerging technology companies (QETC)² that create new jobs, or for corporate taxpayers that invest in emerging technology companies.

Biotechnology in New York City

Biotechnology is a form of technology involving the scientific manipulation of living organisms to produce products conducive to improving the lives and health of plants, animals and humans. This includes research on new drugs, medical devices and diagnostic tests.³

With 9 world class research institutions, 26 medical centers, 175 hospitals, and an unparalleled talent pool, New York City has a natural advantage in emerging technologies, particularly biotechnology, yet it lags behind other cities, such as Boston and San Diego, in the commercialization of new technologies. With the recent development of laboratory space at the East River Science Park and in BioBAT at the Brooklyn Army Terminal, these spaces, along with existing facilities, would provide approximately 2 million square feet of laboratory space in the City. Accordingly, a credit toward the advancement of biotechnology is necessary to facilitate the growth of this emerging technology.

Authorizing State Legislation for Biotechnology Credit

On September 16, 2009, the Governor signed into law S.4845-B/A.8131 (the "State Law"), which amended section 1201-a of the New York Tax Law, which authorized New York City to provide a credit "substantially identical to" the New York State's Emerging Technologies Facilities, Operations and Training Credit⁴ against the City's GCT and UBT for QETCs located in New York City that focus primarily on biotechnology.

New York City's credit, termed the "Biotechnology Credit", is modeled after, and designed to work with, New York State's Qualified Emerging Technologies Facilities, Operations and Training Credit. The State Law allows New York to pass a local law that would provide QETC firms with a refundable credit, for three types of expenses: qualifying expenses related to acquiring research and development property, certain expenses related to training employees, and other research and development expenses. The State Law limits the credit to small firms engaged in research and development that meet New York State standards as qualified emerging technology companies. According to the State Law, such qualified emerging technology companies would be eligible for the credit for up to 3 years.

Like the State credit, the State Law provides that in order to claim the

Biotechnology credit, the QETC must:

- 1) Have 100 full-time employees or less, with at least 75% of those employees employed in New York City;
- 2) Have a ratio of research and development funds to net sales, which equals or exceeds six percent (6%) during its tax year; and
- 3) Have gross revenues, along with the gross revenues of its affiliates and related members that did not exceed \$20 million dollars for the immediately preceding tax year.

Also, like the State credit, the State Law provides that the amount of the Biotechnology credit is the sum of the following amounts (or pro rata share of the sum, in the case of a partnership), up to \$250,000:

- 1) 18% of research and development property, costs, and fees incurred in connection with emerging technology activities;
- 2) 9% of qualified research expenses paid or incurred by the taxpayer during the tax year; and
- 3) 100% of qualified high-technology training expenses paid or incurred by the taxpayer, limited to \$4,000 per employee per year.

While the State Law requires the Biotechnology credit to be "substantially identical to" the State's Qualified Emerging Technologies Facilities, Operations and Training Credit, the State Law sets forth exceptions for the purpose of encouraging growth among QETCs. In the State Law, the allowable expenses and the credit based on those expenses would be the same as for the New York State credit for firms that increase their employment by at least 5 percent, compared to a base year. Those that do not grow would still be eligible for the credit, but at half the rate. Growing firms would have their credit capped at a maximum of \$250,000 per year and those that do not make the 5 percent threshold would have a maximum credit of \$125,000.

Further, another way the City's Biotechnology credit differs from the State credit is that the City credit is a two-tiered credit. In the first tier, eligible firms would receive 100% of the credit available, up to \$250,000 per calendar year. Firms would be eligible for this tier of the credit if firms increase their employment level by 5% more than their employment level in their base year⁵. Firms that are newly established, newly relocated, or did not have any employees in the year prior to which the credit is claimed are not subject to the base year employment increase, and are eligible for this tier of the credit. In the second tier, firms who increase their employment level by less than 5% of their base year employment, the maximum amount of the credit would be 50% of the maximum amount of the credit, not to exceed \$125,000. Firms in academic incubators are not eligible for the 50 percent credit, nor are they eligible for an additional year of the credit as in the State's credit.

Under the State Law, the total credits for a given year are capped at \$3 million. If credits in a given year exceed the cap, the credit would be allocated on a prorated basis by the New York City Department of Finance. The credit would be for three consecutive years starting in January 2010 and ending in December 2012. Firms that are located in academic incubators and relocate outside the incubator would be eligible for an additional year of the credit.

Int. 1065

This bill would amend sections 11-604 and 11-503 of the administrative code of the city of New York to provide a City Biotechnology credit against the City GCT and the UBT, as authorized by the State Law. This local law would provide a refundable credit for certain companies located in New York City that focus on primarily on biotechnology for qualifying expenses related to acquiring research and development property, certain expenses related to training employees, and other research and development expenses.

Specifically, section 1 of the local law amends the administrative code of the city of New York to provide a credit against the City's GCT. The local law:

- 1) Provides a refundable credit, up to \$250,000 per QETC, to small QETCs focusing on biotechnology;
- 2) Provides a credit for biotechnology firms that have increased their employment in the City by at least 5 percent, newly formed, or newly located to the City:
 - a. In the amount of 18 percent of costs related to purchase or renting of equipment for testing, quality control or research;
 - b. In the amount of up to 9 percent for qualified research expenses, primarily in-house research related operating costs; and
 - c. Up to \$4,000 per employee for certain training expenses.
- 3) Allows existing biotechnology firms that have not increased their employment by at least 5 percent to be eligible for the credit, up to \$125,000, for the same expenses, but at half of the above rates (i.e. 9 percent of costs related to purchase or renting of equipment... 4.5 percent for qualified research expenses ... up to \$2,000 per employee for certain training expenses.);
- 4) Provides that an eligible taxpayer may only claim the credit for 3 consecutive years;
- 5) Provides that the credit will only be allowed for taxable years beginning on or after January 1, 2010 and ending on December 31, 2012; and
- 6) Provides that the Biotechnology credit may be claimed and applied against the GCT after all other GCT credits available to the taxpayer are taken.

Section 2 of the bill sets forth nearly identical provisions as in section 1, but provides the Biotechnology credit against the City's UBT.

Section 3 of the local law provides that the aggregate amount of tax credits allowed in any calendar year will be 3 million dollars, allocated on a pro rata basis by the NYC Department of Finance.

Section 4 of the local law provides that by October 31, 2009, the NYC Department of Finance shall establish by rule, procedures for the allocation of the Biotechnology credit.

Lastly, section 5 of the local law provides that the local law will take effect immediately and apply to taxable years beginning on or after January 1, 2010, and before January 1, 2013.

¹ Any eligible type of business formation is eligible for these credits (e.g., sole proprietor, partnership, and corporation). The QETC credits are broken into three components: (1) Capital Tax Credit, which encourages investment into QETC by providing a credit when a corporation, partnership, or other business entity makes a contribution of property to a QETC in exchange for stock or another ownership interest, in a QETC;(2) Employment Tax Credit, which encourages the creation of jobs in emerging technology companies by providing a credit to QETCs that increase employment by at least 1% of the average number of individuals employed by the QETC during the 3 taxable years preceding the first taxable year the credit is claimed. The credit is available for three years and equal to \$1,000 for each new employee hired over base year employment; and (3) Facilities, Operations and Training Credit, which encourages research and training in emerging technology by providing a credit for testing, inspection, qualified research expenses, and qualified high technology expenditures.

² A Qualified emerging technology company is a company located in New York State: (A) whose primary products or services are classified as emerging technologies and whose total annual product sales are ten million dollars or less; or (B) a company that has research and development activities in New York State and whose ratio of research and development funds to net sales equals or exceeds the average ratio for all surveyed companies classified as determined by the National Science Foundation in the most recent published results from its Survey of

Industry Research and Development, or any comparable successor survey as determined by the department, and whose total annual product sales are ten million dollars or less.

³ Biotechnologies is defined as “technologies involving the scientific manipulation of living organisms, especially at the molecular and/or the sub-molecular genetic level, to produce products conducive to improving the lives and health of plants, animals, and humans; and the associated scientific research, pharmacological, mechanical, and computational applications and services connected with these improvements. Activities included with such applications and services shall include, but not be limited to, alternative mRNA splicing, DNA sequence amplification, antigenetic switching, bioaugmentation, bioenrichment, bioremediation, chromosome walking, cytogenetic engineering, DNA diagnosis, fingerprinting, and sequencing, electroporation, gene translocation, genetic mapping, site-directed mutagenesis, bio-transduction, bio-mechanical and bio-electrical engineering, and bio-informatics.” § 3102-e (b) (5) of the New York State Public Authorities law.

⁴ In order to claim the credit, the QETC must: 1) Have 100 full-time employees or less, with at least 75% of those employees employed in New York City; 2) Have a ratio of research and development funds to net sales, which equals or exceeds six percent (6%) during its tax year; and 3) Have gross revenues, along with the gross revenues of its affiliates and related members that did not exceed \$20 million dollars for the immediately preceding tax year.

⁵ Under the bill, base year employment is defined as the average number of individuals employed full-time by the taxpayer in the city in the year preceding the first calendar year in which the credit is claimed.

(The following is from the text of the Fiscal Impact Statement for Int. No. 1065:)

FISCAL IMPACT STATEMENT:

	Effective FY 11	FY Succeeding Effective FY 12	Full Fiscal Impact FY 11
Revenues (+)	(\$2,000,000)	(\$2,800,000)	(\$2,000,000)
Expenditures (-)	\$0	\$0	\$0
Net	(\$2,000,000)	(\$2,800,000)	(\$2,000,000)

IMPACT ON REVENUES: There would be a reduction in revenue of \$2,000,000 in Fiscal 2011 resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: There would be no impact on expenditures as a result of enactment of this legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION:New York City Council Finance Division

ESTIMATE PREPARED BY: Raymond Majewski, Deputy Director/Chief Economist
City Council Finance Division

HISTORY: This bill was introduced on August 20, 2009. The Finance Committee will consider the bill on September 17, 2009.

Date Submitted to Council: **AUGUST 20, 2009.**

Accordingly, Your Committee recommends its adoption.

(The following is the text of Int. No. 1065:)

Int. No. 1065

By Council Members Lappin, Garodnick, The Speaker (Council Member Quinn), and Council Members Brewer, Comrie, Fidler, Gentile, Gerson, James, Stewart, Weprin, Nelson, Dilan, Gennaro, Jackson and Sears.

A Local Law to amend the administrative code of the city of New York, in relation to providing a biotechnology credit against the general corporation tax, and the unincorporated business tax.

Be it enacted by the Council as follows:

Section 1. Section 11-604 of the administrative code of the city of New York is amended by adding a new subdivision 21 to read as follows:

21. *Biotechnology Credit.* (a) (1) A taxpayer that is a qualified emerging technology company, engages in biotechnologies, and meets the eligibility requirements of this subdivision, shall be allowed a credit against the tax imposed

by this subchapter. The amount of credit shall be equal to the sum of the amounts specified in subparagraphs (3), (4), and (5) of this paragraph, subject to the limitations in subparagraph (7) of this paragraph and paragraph (b) of this subdivision. For the purposes of this subdivision, “qualified emerging technology company” shall mean a company located in city: (A) whose primary products or services are classified as emerging technologies and whose total annual product sales are ten million dollars or less; or (B) a company that has research and development activities in city and whose ratio of research and development funds to net sales equals or exceeds the average ratio for all surveyed companies classified as determined by the National Science Foundation in the most recent published results from its Survey of Industry Research and Development, or any comparable successor survey as determined by the department, and whose total annual product sales are ten million dollars or less. For the purposes of this subdivision, the definition of research and development funds shall be the same as that used by the National Science Foundation in the aforementioned survey. For the purposes of this subdivision, “biotechnologies” shall mean the technologies involving the scientific manipulation of living organisms, especially at the molecular and/or the sub-molecular genetic level, to produce products conducive to improving the lives and health of plants, animals, and humans; and the associated scientific research, pharmacological, mechanical, and computational applications and services connected with these improvements. Activities included with such applications and services shall include, but not be limited to, alternative mRNA splicing, DNA sequence amplification, antigenetic switching, bioaugmentation, bioenrichment, bioremediation, chromosome walking, cytogenetic engineering, DNA diagnosis, fingerprinting, and sequencing, electroporation, gene translocation, genetic mapping, site-directed mutagenesis, bio-transduction, bio-mechanical and bio-electrical engineering, and bio-informatics.

(2) An eligible taxpayer shall (A) have no more than one hundred full-time employees, of which at least seventy-five percent are employed in the city, (B) have a ratio of research and development funds to net sales, as referred to in section thirty-one hundred two-e of the public authorities law, which equals or exceeds six percent during the calendar year ending with or within the taxable year for which the credit is claimed, and (C) have gross revenues, along with the gross revenues of its “affiliates” and “related members” not exceeding twenty million dollars for the calendar year immediately preceding the calendar year ending with or within the taxable year for which the credit is claimed. For the purposes of this subdivision, “affiliates” shall mean those corporations that are members of the same affiliated group (as defined in section fifteen hundred four of the internal revenue code) as the taxpayer. For the purposes of this subdivision, the term “related members” shall mean a person, corporation, or other entity, including an entity that is treated as a partnership or other pass-through vehicle for purposes of federal taxation, whether such person, corporation or entity is a taxpayer or not, where one such person, corporation or entity, or set of related persons, corporations or entities, directly or indirectly owns or controls a controlling interest in another entity. Such entity or entities may include all taxpayers under chapters five, eleven and seventeen of this title, and subchapters two and three of this chapter. A controlling interest shall mean, in the case of a corporation, either thirty percent or more of the total combined voting power of all classes of stock of such corporation, or thirty percent or more of the capital, profits or beneficial interest in such voting stock of such corporation; and in the case of a partnership, association, trust or other entity, thirty percent or more of the capital, profits or beneficial interest in such partnership, association, trust or other entity.

(3) An eligible taxpayer shall be allowed a credit for eighteen per centum of the cost or other basis for federal income tax purposes of research and development property that is acquired by the taxpayer by purchase as defined in section 179(d) of the internal revenue code and placed in service during the calendar year that ends with or within the taxable year for which the credit is claimed. Provided, however, for the purposes of this paragraph only, an eligible taxpayer shall be allowed a credit for such percentage of the (A) cost or other basis for federal income tax purposes for property used in the testing or inspection of materials and products, (B) the costs or expenses associated with quality control of the research and development, (C) fees for use of sophisticated technology facilities and processes, and (D) fees for the production or eventual commercial distribution of materials and products resulting from the activities of an eligible taxpayer as long as such activities fall under activities relating to biotechnologies. The costs, expenses and other amounts for which a credit is allowed and claimed under this paragraph shall not be used in the calculation of any other credit allowed under this subchapter. For the purposes of this subdivision, “research and development property” shall mean property that is used for purposes of research and development in the experimental or laboratory sense. Such purposes shall not be deemed to include the ordinary testing or inspection of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions, or research in connection with literary, historical or similar projects.

(4) An eligible taxpayer shall be allowed a credit for nine per centum of qualified research expenses paid or incurred by the taxpayer in the calendar year that ends with or within the taxable year for which the credit is claimed. For the purposes of this subdivision, “qualified research expenses” shall mean expenses associated with in-house research and processes, and costs associated with the dissemination of the results of the products that directly result from such research and development activities; provided, however, that such costs shall not include advertising or promotion through media. In addition, costs associated with the preparation of patent applications, patent application filing fees, patent research

fees, patent examinations fees, patent post allowance fees, patent maintenance fees, and grant application expenses and fees shall qualify as qualified research expenses. In no case shall the credit allowed under this subparagraph apply to expenses for litigation or the challenge of another entity's intellectual property rights, or for contract expenses involving outside paid consultants.

(5) An eligible taxpayer shall be allowed a credit for qualified high-technology training expenditures as described in this subparagraph paid or incurred by the taxpayer during the calendar year that ends with or within the taxable year for which the credit is claimed.

(A) The amount of credit shall be one hundred percent of the training expenses described in clause (C) of this subparagraph, subject to a limitation of no more than four thousand dollars per employee per calendar year for such training expenses.

(B) Qualified high-technology training shall include a course or courses taken and satisfactorily completed by an employee of the taxpayer at an accredited, degree granting post-secondary college or university in city that (i) directly relates to biotechnology activities, and (ii) is intended to upgrade, retrain or improve the productivity or theoretical awareness of the employee. Such course or courses may include, but are not limited to, instruction or research relating to techniques, meta, macro, or micro-theoretical or practical knowledge bases or frontiers, or ethical concerns related to such activities. Such course or courses shall not include classes in the disciplines of management, accounting or the law or any class designed to fulfill the

discipline specific requirements of a degree program at the associate, baccalaureate, graduate or professional level of these disciplines. Satisfactory completion of a course or courses shall mean the earning and granting of credit or equivalent unit, with the attainment of a grade of "B" or higher in a graduate level course or courses, a grade of "C" or higher in an undergraduate level course or courses, or a similar measure of competency for a course that is not measured according to a standard grade formula.

(C) Qualified high-technology training expenditures shall include expenses for tuition and mandatory fees, software required by the institution, fees for textbooks or other literature required by the institution offering the course or courses, minus applicable scholarships and tuition or fee waivers not granted by the taxpayer or any affiliates of the taxpayer, that are paid or reimbursed by the taxpayer. Qualified high-technology expenditures do not include room and board, computer hardware or software not specifically assigned for such course or courses, late-charges, fines or membership dues and similar expenses. Such qualified expenditures shall not be eligible for the credit provided by this section unless the employee for whom the expenditures are disbursed is continuously employed by the taxpayer in a full-time, full-year position primarily located at a qualified site during the period of such coursework and lasting through at least one hundred eighty days after the satisfactory completion of the qualifying course-work. Qualified high-technology training expenditures shall not include expenses for in-house or shared training outside of a city higher education institution or the use of consultants outside of credit granting courses, whether such consultants function inside of such higher education institution or not.

(D) If a taxpayer relocates from an academic business incubator facility partnered with an accredited post-secondary education institution located within city, which provides space and business support services to taxpayers, to another site, the credit provided in this subdivision shall be allowed for all expenditures referenced in clause (C) of this subparagraph paid or incurred in the two preceding calendar years that the taxpayer was located in such an incubator facility for employees of the taxpayer who also relocate from said incubator facility to such city site and are employed and primarily located by the taxpayer in city. Such expenditures in the two preceding years shall be added to the amounts otherwise qualifying for the credit provided by this subdivision that were paid or incurred in the calendar year that the taxpayer relocates from such a facility. Such expenditures shall include expenses paid for an eligible employee who is a full-time, full-year employee of said taxpayer during the calendar year that the taxpayer relocated from an incubator facility notwithstanding (i) that such employee was employed full or part-time as an officer, staff-person or paid intern of the taxpayer when such taxpayer was located at such incubator facility or (ii) that such employee was not continuously employed when such taxpayer was located at the incubator facility during the one hundred eighty day period referred to in clause (C) of this subparagraph, provided such employee received wages or equivalent income for at least seven hundred fifty hours during any twenty-four month period when the taxpayer was located at the incubator facility. Such expenditures shall include payments made to such employee after the taxpayer has relocated from the incubator facility for qualified expenditures if such payments are made to reimburse an employee for expenditures paid by the employee during such two preceding years. The credit provided under this paragraph shall be allowed in any taxable year that the taxpayer qualifies as an eligible taxpayer.

(E) For purposes of this subdivision the term "academic year" shall mean the annual period of sessions of a post-secondary college or university.

(F) For the purposes of this subdivision the term "academic incubator facility" shall mean a facility providing low-cost space, technical assistance, support services and educational opportunities, including but not limited to central services provided by the manager of the facility to the tenants of the facility, to an entity located in city. Such entity's primary activity must be in biotechnologies, and such entity must be in the formative stage of development. The academic incubator facility and the entity must act in partnership with an accredited post-secondary college or university located in city. An academic incubator facility's mission shall be to promote job creation, entrepreneurship, technology transfer, and provide

support services to incubator tenants, including, but not limited to, business planning, management assistance, financial-packaging, linkages to financing services, and coordinating with other sources of assistance.

(6) An eligible taxpayer may claim credits under this subdivision for three consecutive years. In no case shall the credit allowed by this subdivision to a taxpayer exceed two hundred fifty thousand dollars per calendar year for eligible expenditures made during such calendar year.

(7) The credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less than the amount prescribed in clause (4) of subparagraph (a) of paragraph E of subdivision one of this section. Provided, however, if the amount of credit allowed under this subdivision for any taxable year reduces the tax to such amount, any amount of credit not deductible in such taxable year shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section 11-677 of this chapter; provided, however, that notwithstanding the provisions of section 11-679 of this chapter, no interest shall be paid thereon.

(8) The credit allowed under this subdivision shall only be allowed for taxable years beginning on or after January first, two thousand ten and before January first, two thousand thirteen.

(b) (1) The percentage of the credit allowed to a taxpayer under this subdivision in any calendar year shall be:

(A) If the average number of individuals employed full time by a taxpayer in the city during the calendar year that ends with or within the taxable year for which the credit is claimed is at least one hundred five percent of the taxpayer's base year employment, one hundred percent, except that in no case shall the credit allowed under this clause exceed two hundred fifty thousand dollars per calendar year. Provided, however, the increase in base year employment shall not apply to a taxpayer allowed a credit under this subdivision that was, (i) located outside of the city, (ii) not doing business, or (iii) did not have any employees, in the year preceding the first year that the credit is claimed. Any such taxpayer shall be eligible for one hundred percent of the credit for the first calendar year that ends with or within the taxable year for which the credit is claimed, provided that such taxpayer locates in the city, begins doing business in the city or hires employees in the city during such calendar year and is otherwise eligible for the credit pursuant to the provisions of this subdivision.

(B) If the average number of individuals employed full time by a taxpayer in the city during the calendar year that ends with or within the taxable year for which the credit is claimed is less than one hundred five percent of the taxpayer's base year employment, fifty percent, except that in no case shall the credit allowed under this clause exceed one hundred twenty five thousand dollars per calendar year. In the case of an entity located in city receiving space and business support services by an academic incubator facility, if the average number of individuals employed full time by such entity in the city during the calendar year in which the credit allowed under this subdivision is claimed is less than one hundred five percent of the taxpayer's base year employment, the credit shall be zero.

(2) For the purposes of this subdivision, "base year employment" means the average number of individuals employed full-time by the taxpayer in the city in the year preceding the first calendar year that ends with or within the taxable year for which the credit is claimed.

(3) For the purposes of this subdivision, average number of individuals employed full-time shall be computed by adding the number of such individuals employed by the taxpayer at the end of each quarter during each calendar year or other applicable period and dividing the sum so obtained by the number of such quarters occurring within such calendar year or other applicable period.

(4) Notwithstanding anything contained in this section to the contrary, the credit provided by this subdivision shall be allowed against the taxes authorized by this chapter for the taxable year after reduction by all other credits permitted by this chapter.

§2. Section 11-503 of the administrative code of the city of New York is amended by adding a new subdivision (o) to read as follows:

(o) **Biotechnology Credit.** (a) (1) A taxpayer that is a qualified emerging technology company, engages in biotechnologies, and meets the eligibility requirements of this subdivision, shall be allowed a credit against the tax imposed by this subchapter. The amount of credit shall be equal to the sum of the amounts specified in subparagraphs (3), (4), (5) of this paragraph, subject to the limitations in subparagraph (7) of this paragraph and paragraph (b) of this subdivision. For the purposes of this subdivision, "qualified emerging technology company" shall mean a company located in city: (A) whose primary products or services are classified as emerging technologies and whose total annual product sales are ten million dollars or less; or (B) a company that has research and development activities in city and whose ratio of research and development funds to net sales equals or exceeds the average ratio for all surveyed companies classified as determined by the National Science Foundation in the most recent published results from its Survey of Industry Research and Development, or any comparable successor survey as determined by the department, and whose total annual product sales are ten million dollars or less. For the purposes of this subdivision, the definition of research and development funds shall be the same as that used by the National Science Foundation in the aforementioned survey. For the purposes of this subdivision, "biotechnologies" shall mean the technologies involving the scientific manipulation of living organisms, especially at the molecular and/or the sub-molecular genetic level, to produce products conducive to improving the lives and health of plants, animals, and humans; and the associated scientific research, pharmacological, mechanical, and computational applications and services connected with these improvements. Activities included with such

applications and services shall include, but not be limited to, alternative mRNA splicing, DNA sequence amplification, antigenetic switching bioaugmentation, bioenrichment, bioremediation, chromosome walking, cytogenetic engineering, DNA diagnosis, fingerprinting, and sequencing, electroporation, gene translocation, genetic mapping, site-directed mutagenesis, bio-transduction, bio-mechanical and bio-electrical engineering, and bio-informatics.

(2) An eligible taxpayer shall (A) have no more than one hundred full-time employees, of which at least seventy-five percent are employed in the city, (B) have a ratio of research and development funds to net sales, as referred to in section thirty-one hundred two-e of the public authorities law, which equals or exceeds six percent during the calendar year ending with or within the taxable year for which the credit is claimed, and (C) have gross revenues, along with the gross revenues of its "affiliates" and "related members" not exceeding twenty million dollars for the calendar year immediately preceding the calendar year ending with or within the taxable year for which the credit is claimed. For the purposes of this subdivision, "affiliates" shall mean those corporations that are members of the same affiliated group (as defined in section fifteen hundred four of the internal revenue code) as the taxpayer. For the purposes of this subdivision, "related members" shall mean a person, corporation, or other entity, including an entity that is treated as a partnership or other pass-through vehicle for purposes of federal taxation, whether such person, corporation or entity is a taxpayer or not, where one such person, corporation or entity, or set of related persons, corporations or entities, directly or indirectly owns or controls a controlling interest in another entity. Such entity or entities may include all taxpayers under chapters six, eleven and seventeen of this title, and subchapters two and three of this chapter. A controlling interest shall mean, in the case of a corporation, either thirty percent or more of the total combined voting power of all classes of stock of such corporation, or thirty percent or more of the capital, profits or beneficial interest in such voting stock of such corporation; and in the case of a partnership, association, trust or other entity, thirty percent or more of the capital, profits or beneficial interest in such partnership, association, trust or other entity.

(3) An eligible taxpayer shall be allowed a credit for eighteen per centum of the cost or other basis for federal income tax purposes of research and development property that is acquired by the taxpayer by purchase as defined in section 179(d) of the internal revenue code and placed in service during the calendar year that ends with or within the taxable year for which the credit is claimed. Provided, however, for the purposes of this paragraph only, an eligible taxpayer shall be allowed a credit for such percentage of the (A) cost or other basis for federal income tax purposes for property used in the testing or inspection of materials and products, (B) the costs or expenses associated with quality control of the research and development, (C) fees for use of sophisticated technology facilities and processes, (D) fees for the production or eventual commercial distribution of materials and products resulting from the activities of an eligible taxpayer as long as such activities fall under activities relating to biotechnologies. The costs, expenses and other amounts for which a credit is allowed and claimed under this paragraph shall not be used in the calculation of any other credit allowed under this subchapter. For the purposes of this subdivision, "research and development property" shall mean property that is used for purposes of research and development in the experimental or laboratory sense. Such purposes shall not be deemed to include the ordinary testing or inspection of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions, or research in connection with literary, historical or similar projects.

(4) An eligible taxpayer shall be allowed a credit for nine per centum of qualified research expenses paid or incurred by the taxpayer in the calendar year ending with or within the taxable year for which the credit is claimed. For the purposes of this subdivision, "qualified research expenses" shall mean expenses associated with in-house research and processes, and costs associated with the dissemination of the results of the products that directly result from such research and development activities; provided, however, that such costs shall not include advertising or promotion through media. In addition, costs associated with the preparation of patent applications, patent application filing fees, patent research fees, patent examinations fees, patent post allowance fees, patent maintenance fees, and grant application expenses and fees shall qualify as qualified research expenses. In no case shall the credit allowed under this paragraph apply to expenses for litigation or the challenge of another entity's intellectual property rights, or for contract expenses involving outside paid consultants.

(5) An eligible taxpayer shall be allowed a credit for qualified high-technology training expenditures as described in this paragraph paid or incurred by the taxpayer during the calendar year that ends with or within the taxable year for which the credit is claimed.

(A) The amount of credit shall be one hundred percent of the training expenses described in subparagraph (C) of this paragraph, subject to a limitation of no more than four thousand dollars per employee per calendar year for such training expenses.

(B) Qualified high-technology training shall include a course or courses taken and satisfactorily completed by an employee of the taxpayer at an accredited, degree granting post-secondary college or university in city that (i) directly relates to biotechnology activities, and (ii) is intended to upgrade, retrain or improve the productivity or theoretical awareness of the employee. Such course or courses may include, but are not limited to, instruction or research relating to techniques, meta, macro, or micro-theoretical or practical knowledge bases or frontiers, or ethical concerns related to such activities. Such course or courses

shall not include classes in the disciplines of management, accounting or the law or any class designed to fulfill the

discipline specific requirements of a degree program at the associate, baccalaureate, graduate or professional level of these disciplines. Satisfactory completion of a course or courses shall mean the earning and granting of credit or equivalent unit, with the attainment of a grade of "B" or higher in a graduate level course or courses, a grade of "C" or higher in an undergraduate level course or courses, or a similar measure of competency for a course that is not measured according to a standard grade formula.

(C) Qualified high-technology training expenditures shall include expenses for tuition and mandatory fees, software required by the institution, fees for textbooks or other literature required by the institution offering the course or courses, minus applicable scholarships and tuition or fee waivers not granted by the taxpayer or any affiliates of the taxpayer, that are paid or reimbursed by the taxpayer. Qualified high-technology expenditures do not include room and board, computer hardware or software not specifically assigned for such course or courses, late-charges, fines or membership dues and similar expenses. Such qualified expenditures shall not be eligible for the credit provided by this section unless the employee for whom the expenditures are disbursed is continuously employed by the taxpayer in a full-time, full-year position primarily located at a qualified site during the period of such coursework and lasting through at least one hundred eighty days after the satisfactory completion of the qualifying course-work. Qualified high-technology training expenditures shall not include expenses for in-house or shared training outside of a city higher education institution or the use of consultants outside of credit granting courses, whether such consultants function inside of such higher education institution or not.

(D) If a taxpayer relocates from an academic business incubator facility partnered with an accredited post-secondary education institution located within city, which provides space and business support services to taxpayers, to another site, the credit provided in this subdivision shall be allowed for all expenditures referenced in subparagraph (C) of this paragraph paid or incurred in the two preceding calendar years that the taxpayer was located in such an incubator facility for employees of the taxpayer who also relocate from said incubator facility to such city site and are employed and primarily located by the taxpayer in city. Such expenditures in the two preceding years shall be added to the amounts otherwise qualifying for the credit provided by this subdivision that were paid or incurred in the calendar year that the taxpayer relocates from such a facility. Such expenditures shall include expenses paid for an eligible employee who is a full-time, full-year employee of said taxpayer during the calendar year that the taxpayer relocated from an incubator facility notwithstanding (i) that such employee was employed full or part-time as an officer, staff-person or paid intern of the taxpayer when such taxpayer was located at such incubator facility or (ii) that such employee was not continuously employed when such taxpayer was located at the incubator facility during the one hundred eighty day period referred to in subparagraph (C) of this paragraph, provided such employee received wages or equivalent income for at least seven hundred fifty hours during any twenty-four month period when the taxpayer was located at the incubator facility. Such expenditures shall include payments made to such employee after the taxpayer has relocated from the incubator facility for qualified expenditures if such payments are made to reimburse an employee for expenditures paid by the employee during such two preceding years. The credit provided under this paragraph shall be allowed in any taxable year that the taxpayer qualifies as an eligible taxpayer.

(E) For purposes of this subdivision the term "academic year" shall mean the annual period of sessions of a post-secondary college or university.

(F) For the purposes of this subdivision the term "academic incubator facility" shall mean a facility providing low-cost space, technical assistance, support services and educational opportunities, including but not limited to central services provided by the manager of the facility to the tenants of the facility, to an entity located in city. Such entity's primary activity must be in biotechnologies, and such entity must be in the formative stage of development. The academic incubator facility and the entity must act in partnership with an accredited post-secondary college or university located in city. An academic incubator facility's mission shall be to promote job creation, entrepreneurship, technology transfer, and provide support services to incubator tenants, including, but not limited to, business planning, management assistance, financial-packaging, linkages to financing services, and coordinating with other sources of assistance.

(6) An eligible taxpayer may claim credits under this subdivision for three consecutive years. In no case shall the credit allowed by this subdivision to a taxpayer exceed two hundred fifty thousand dollars per calendar year for eligible expenditures made during such calendar year.

(7) The credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less than the amount computed in subdivision (a) of this section. Provided, however, if the amount of credit allowed under this subdivision for any taxable year reduces the tax to such amount, any amount of credit not deductible in such taxable year shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section 11-526 of this chapter; provided, however, that notwithstanding the provisions of section 11-528 of this chapter, no interest shall be paid thereon.

(8) The credit allowed under this subdivision shall only be allowed for taxable years beginning on or after January first, two thousand ten and before January first, two thousand thirteen.

(b)(1) The percentage of the credit allowed to a taxpayer under this subdivision in any calendar year shall be:

(A) If the average number of individuals employed full time by a taxpayer in the city during the calendar year that ends with or within the taxable year which the credit is claimed is at least one hundred five percent of the taxpayer's base year employment, one hundred percent, except that in no case shall the credit allowed under this clause exceed two hundred fifty thousand dollars per calendar year. Provided, however, the increase in base year employment shall not apply to a taxpayer allowed a credit under this subdivision that was (I) located outside of the city, (II) not doing business, or (III) did not have any employees, in the year preceding the first year that the credit is claimed. Any such taxpayer shall be eligible for one hundred percent of the credit for the first calendar year that ends with or within the taxable year for which the credit is claimed, provided that such taxpayer locates in the city, begins doing business in the city or hires employees in the city during such calendar year and is otherwise eligible for the credit pursuant to the provisions of this subdivision.

(B) If the average number of individuals employed full time by a taxpayer in the city during the calendar year that ends with or within the taxable year for which the credit is claimed is less than one hundred five percent of the taxpayer's base year employment, fifty percent, except that in no case shall the credit allowed under this clause exceed one hundred twenty five thousand dollars per calendar year. In the case of an entity located in city receiving space and business support services by an academic incubator facility, if the average number of individuals employed full time by such entity in the city during the calendar year in which the credit allowed under this subdivision is claimed is less than one hundred five percent of the taxpayer's base year employment, the credit shall be zero.

(2) For the purposes of this subdivision, "base year employment" means the average number of individuals employed full-time by the taxpayer in the city in the year preceding the first calendar year that ends with or within the taxable year for which the credit is claimed.

(3) For the purposes of this subdivision, average number of individuals employed full-time shall be computed by adding the number of such individuals employed by the taxpayer at the end of each quarter during each calendar year or other applicable period and dividing the sum so obtained by the number of such quarters occurring within such calendar year or other applicable period.

(4) Notwithstanding anything contained in this section to the contrary, the credit provided by this subdivision shall be allowed against the taxes authorized by this chapter for the taxable year after reduction by all other credits permitted by this chapter.

§ 3. The aggregate amount of tax credits allowed under this local law in any calendar year shall be 3 million dollars. Such aggregate amount of credits shall be allocated by the department of finance of the city of New York among eligible taxpayers on a pro rata basis. Taxpayers eligible for such pro rata allocation shall be determined by the department of finance of the city of New York no later than February twenty-eighth of the succeeding calendar year in which the credit provided in this local law is applied.

§ 4. The department of finance of the city of New York shall establish by rule by October 31, 2009 procedures for the allocation of tax credits as required by section 3 of this local law. Such rules shall include provisions describing the application process, the due dates for such applications, the standards that shall be used to evaluate the applications, the documentation that will be provided to taxpayers to substantiate the amount of tax credits allocated to such taxpayers, and such other provisions as deemed necessary and appropriate.

§ 5. This local law shall take effect immediately; provided, however, that this local law shall apply to taxable years beginning on or after January 1, 2010 and before January 1, 2013.

DAVID I. WEPRIN, Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G. COMRIE, BILL DEBLASIO, LEWIS A. FIDLER, JAMES F. GENNARO, ERIC N. GIOIA, ROBERT JACKSON, G. OLIVER KOPPELL, HELEN SEARS, ALBERT VANN, DAVID YASSKY, VINCENT J. GENTILE, VINCENT M. IGNIZIO, JAMES S. ODDO, Committee on Finance, September 17, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point, the Speaker (Council Member Quinn) announced that the following items have been **preconsidered** by the Committee on Finance and have been favorably reported for adoption.

Report for Res. No. 2174

Report of the Committee on Finance in favor of approving a Resolution concerning the extension of the Times Square Business Improvement District in the Borough of Manhattan and setting the date, time and place for the public hearing to hear all persons interested in the extension of such district.

The Committee on Finance, to which the annexed resolution was referred on September 17, 2009, respectfully

REPORTS:

Today, the Committee on Finance will consider a preconsidered resolution setting the date, time and place for the public hearing on the extension of the Times Square Business Improvement for September 30, 2009 at 11:00 a.m. in the City Council Committee Meeting Room.

ANALYSIS:

This Proposed Resolution is required by the existing law, Chapter 4 of Title 25 of the New York City Administrative Code, (the "BID Law"), which authorizes the City Council to establish Business Improvement Districts.

The main purpose of this Resolution is to set the public hearing date, time and place for the review of the local law which would extend the Times Square Business Improvement District (the "Times Square BID").

The hearing on the local law and the Times Square BID plan, as amended, will be held on September 30, 2009, in the City Council Committee Room, 2nd Floor, City Hall at 11:00 a.m. before the Committee on Finance.

This Resolution also directs that all notices required under the BID Law be properly given by the Department of Business Services and the Times Square District Management Association.

BIDs, which are specifically established areas, use the City's property tax collection mechanism to approve a special tax assessment with which to fund additional services that would enhance such areas and improve local business. The additional services are normally in the areas of security, sanitation, physical/capital improvements (lighting, landscaping, sidewalks, etc.), seasonal activities (Christmas lighting) and related business services (marketing and advertising). The BID demarcates the areas in which services will be enhanced and also establishes the mechanism for the assessment needed to generate the required budget.

BID Extension

This Resolution sets the date for the local law that extends the boundaries of the Times Square BID. The Times Square BID will be extended to include a new property, the Bank of America Tower, at One Bryant Park and properties west of Sixth Avenue to Eight Avenue and from 40th Street to 53rd Street. In addition, the Times Square BID includes properties on West 46th Street between 8th and 9th Avenues (Restaurant Row).

The Bank of America Tower, which is a 55-story with a gross building area of 2.2 million square feet, is so large that it is also partly situated in the Bryant Park BID. The extended Times Square BID will integrate the Bank of America Tower into its security, sanitation, promotion, and streetscape improvement services. Both the Times Square and Bryant Park BIDs will incorporate the added property into their marketing and promotional plans. The extended district will be managed by the Times Square District Management Association, Inc

It is to be noted that this Preconsidered Resolution supplants Proposed Res. 2096-A, which set September 16, 2009 as the hearing date to consider a local law that would authorize an extension of the Times Square Business Improvement District.

Accordingly, Your Committee recommends its adoption.

In connection herewith, Council Member Weprin offered the following resolution:

Res. No. 2174

Resolution concerning the extension of the Times Square Business Improvement District in the Borough of Manhattan and setting the date, time and place for the public hearing to hear all persons interested in the extension of such district.

By Council Members Weprin and Comrie.

WHEREAS, pursuant to the authority granted by chapter 4 of title 25 of the Administrative Code of the City of New York (the "Law"), the Board of Estimate of the City of New York, by a resolution dated July 19, 1990 (Cal. No. 322), provided for the preparation of a district plan (the "Original Plan") for the Times Square Business Improvement District (the "District") in the Borough of Manhattan; and

WHEREAS, pursuant to Local Law No. 82 for the year 1990, the City Council assumed responsibility for adopting legislation extending Business Improvement Districts; and

WHEREAS, pursuant to section 25-405 (c) of the Law, the New York City Department of Small Business Services ("SBS") submitted an amended District Plan

(the "Amended Plan") for the Times Square Business Improvement District to the City Planning Commission (the "CPC") on March 3, 2009; and

WHEREAS, pursuant to section 25-405 (c) of the Law, the CPC submitted the Amended Plan to the City Council on March 9, 2009; and

WHEREAS, pursuant to section 25-405 (c) of the Law, the CPC submitted the Amended Plan to the Council Member representing the council district in which the proposed extended district is located on March 9, 2009; and

WHEREAS, pursuant to section 25-405 (c) of the Law, the CPC submitted the Amended Plan to the community boards (Manhattan Community Board Number 4 and 5, hereinafter the "Community Boards") for the community districts in which the proposed extended district is located on March 9, 2009; and

WHEREAS, pursuant to section 25-405 (c) of the Law, the Community Board 4 notified the public of the Amended Plan in accordance with the requirements established by the CPC; and

WHEREAS, pursuant to section 25-405 (c) of the Law, Community Board 4 conducted a public hearing on April 1, 2009; and

WHEREAS, on April 1, 2009, the Community Board voted to approve the extension of the District; and

WHEREAS, pursuant to section 25-405 (c) of the Law, the CPC reviewed the Amended Plan, held a public hearing and prepared a report certifying its unqualified approval of the Amended Plan; and

WHEREAS, pursuant to section 25-405 (c) of the Law, the CPC submitted its report to the Mayor, to the affected Borough President, to the City Council and to the Council Member representing the council district in which the proposed extended district is located; and

WHEREAS, pursuant to section 25-405 (c) of the Law, a copy of the CPC's report, together with the Original and Amended Plans, was transmitted for filing with the City Clerk on May 20, 2009; and

WHEREAS, pursuant to section 25-406 (a) of the Law, a copy of the Amended Plan and the CPC's report are annexed hereto and are made part of this Resolution; and

WHEREAS, pursuant to section 25-406 (a) of the Law, the Amended Plan is on file for public inspection in the Office of the City Clerk, Municipal Building, Room 265, New York, New York; and

WHEREAS, pursuant to Section 25-406 (b) of the Law, any owner of real property, deemed benefited and therefore within the extended District, objecting to the Amended Plan must file an objection at the Office of the City Clerk within thirty days of the conclusion of the hearing held by the City Council, notice of which is provided by this Resolution, on forms made available by the City Clerk; and

WHEREAS, pursuant to Section 25-406 (b) of the Law, if owners of at least fifty-one percent of the assessed valuation of all the benefited real property situated within the boundaries of the District proposed for extension, as shown upon the latest completed assessment roll of the City, or at least fifty-one percent of the owners of benefited real property within the area included in the District proposed for extension, file objections to the Amended Plan with the City Clerk within the thirty-day objection period, the District will not be extended; now, therefore, be it

RESOLVED, that the Council of the City of New York, pursuant to Section 25-406 of the Law, hereby directs that:

(i) September 30, 2009 is the date and 11:00 a.m. is the time and the City Council Committee Meeting Room, 2nd Floor, City Hall is the place for a public hearing (the "Public Hearing") to hear all persons interested in the extension of the District;

(ii) the Times Square District Management Association shall, not less than ten nor more than thirty days before the date of the Public Hearing, mail a copy of this Resolution or a summary thereof to each owner of real property within the proposed extended district at the address shown on the latest City assessment roll, to such other persons as are registered with the City to receive tax bills concerning real property within the proposed extended district, and to the tenants of each building within the proposed extended district;

(iii) SBS shall arrange for the publication of a copy of this Resolution or a summary thereof at least once in the City Record or a newspaper in general

circulation in the City, the first publication to be not less than ten nor more than thirty days before the date of the Public Hearing; and

(iv) in the event that the Times Square District Management Association, Inc. mails, or SBS arranges for the publication of, a summary of this Resolution, such summary shall include the information required by section 25-406 (c) of the Law.

DAVID I. WEPRIN, Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G. COMRIE, BILL DEBLASIO, LEWIS A. FIDLER, JAMES F. GENNARO, ERIC N. GIOIA, ROBERT JACKSON, G. OLIVER KOPPELL, HELEN SEARS, ALBERT VANN, DAVID YASSKY, VINCENT J. GENTILE, VINCENT M. IGNIZIO, JAMES S. ODDO, Committee on Finance, September 17, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point, the Speaker (Council Member Quinn) announced that the following items have been **preconsidered** by the Committee on Finance and have been favorably reported for adoption.

Report for Res. No. 2175

Report of the Committee on Finance in favor of approving a Resolution concerning an amendment to the District Plan of the Times Square Business Improvement District that provides for a change in the method of assessment upon which the district charge is based, and setting the date, time and place for the public hearing of the local law authorizing a change in the method of assessment upon which the district charge in the Times Square Business Improvement District is based.

The Committee on Finance, to which the annexed resolution was referred on September 17, 2009, respectfully

REPORTS:

This resolution sets a date for a public hearing pursuant to requests from the Times Square Business Improvement District ("BID") to change the method of assessment upon which the district charge is based as of July 1, 2009.

Pursuant to § 25-410(b) of the Administrative Code, a BID may change their method of assessment by means of the adoption of a local law amending the BID's district plan. Such a local law may be adopted by the City Council after a determination that it is in the public interest to authorize such change, and that the tax and debt limits prescribed in section 25-412 of the Administrative Code will not be exceeded. Notice of the hearing on this local law must be published in at least one newspaper having general circulation in the district specifying the time when and the place where the hearing will be held and stating the proposed change in the method of assessment upon which the district charge in the BID is based.

Although this is the only relevant legal requirement for the provision of notice prior to the Council approving the BID, the Finance Committee Chair has informed the Department of Business Services that it desires written notices of the proposed change in the method of assessment.

Currently, the assessment method for the Times Square BID is based on assessed value. This Resolution sets the date for the local law that provides for a change in the method of assessment upon which the district charge is based. The recent construction of the Bank of America Tower at One Bryant Park is the reason for the change in the method of assessment. The Bank of America Tower occupies a site that falls partly within the Times Square BID and the extended Bryant Park BID. This bill would authorize a change in the method of assessment by creating an additional new class of commercial properties that exist on more than one tax lot that has been combined and now exists within the boundaries of more than one BID. The Bank of America Tower shall be assessed in the following manner: \$150,000 x (the BID's current year approved budget ÷ the BID's fiscal year 2008 budget). The assessment formula change would result in a fair assessment of all commercial properties within the District.

The date set by this resolution for the hearing on the legislation that would change the method of assessment in the Times Square BID is September 30, 2009 at 11:00 a.m. in the Committee Room in City Hall.

It is to be noted that this Preconsidered Resolution supplants Proposed Res. 2139-A, which set September 16, 2009 as the hearing date to consider a local law that would authorize a change in the method of assessment upon which the district charge in the Times Square Business Improvement District is based.

Accordingly, Your Committee recommends its adoption.

(The following is the text of Res. No. 2175:)

Res. No. 2175

Resolution concerning an amendment to the District Plan of the Times Square Business Improvement District that provides for a change in the method of assessment upon which the district charge is based, and setting the date, time and place for the public hearing of the local law authorizing a change in the method of assessment upon which the district charge in the Times Square Business Improvement District is based.

By Council Members Weprin and Comrie.

Whereas, pursuant to the authority formerly granted to the Board of Estimate by chapter 4 of title 25 of the Administrative Code of the City of New York (the "Law"), the Board of Estimate, by a resolution dated July 19, 1990 (Cal. No. 322), provided for the preparation of a district plan (the "Original Plan") for the Times Square Business Improvement District (the "District") in the Borough of Manhattan; and

Whereas, pursuant to Local Law No. 82 for the year 1990, the City Council assumed responsibility for adopting legislation relating to Business Improvement Districts; and

Whereas, pursuant to Section 25-410(b) of the Law, an amendment to the District Plan that provides for any change in the method of assessment upon which the district charge is based may be adopted by local law, provided that the City Council determines, after a public hearing, that it is in the public interest to authorize such change and that the tax and debt limits prescribed in Section 25-412 of the BID Law will not be exceeded by such change; and

Whereas, the Times Square Business Improvement District wishes to amend the District Plan in order to provide for changes in the method of assessment upon which the district charge is based; and

Whereas, pursuant to Section 25-410(b) of the BID Law, the City Council is required to give notice of the public hearing by publication of a notice in at least one newspaper having general circulation in the district specifying the time when and the place where the hearing will be held and stating the proposed change in the method of assessment upon which the district charge in the Times Square Business Improvement District is based; now, therefore, be it

Resolved, that the Council of the City of New York, pursuant to Section 25-410(b) of the BID Law, hereby directs that:

(i) September 30, 2009 is the date and the City Council Committee Meeting Room, 2nd floor, City Hall, is the place and 11:00 a.m. is the time for a public hearing (the "Public Hearing") to hear all persons interested in the legislation that would authorize a change in the method of assessment upon which the district charge in the Times Square Business Improvement District is based; and

(ii) On behalf of the City Council and pursuant to Section 25-410(b) of the BID Law, the District Management Association of the Times Square Business Improvement District is hereby authorized to publish in a newspaper of general circulation in the district, not less than ten (10) days prior to the Public Hearing, a notice stating the time and place of the Public Hearing and stating the proposed change in the method of assessment upon which the district charge in the Times Square Business Improvement.

DAVID I. WEPRIN, Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G. COMRIE, BILL DEBLASIO, LEWIS A. FIDLER, JAMES F. GENNARO, ERIC N. GIOIA, ROBERT JACKSON, G. OLIVER KOPPELL, HELEN SEARS, ALBERT VANN, DAVID YASSKY, VINCENT J. GENTILE, VINCENT M. IGNIZIO, JAMES S. ODDO, Committee on Finance, September 17, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point, the Speaker (Council Member Quinn) announced that the following items have been **preconsidered** by the Committee on Finance and have been favorably reported for adoption.

Report for L.U. No. 1197

Report of the Committee on Finance in favor of approving Parkview Senior Citizens Apartments Block 3044, Lot 17, Bronx, Council District No. 15

The Committee on Finance, to which the annexed Land Use resolution was referred on September 17, 2009, respectfully

REPORTS:

September 17, 2009

TO: Hon. David Weprin
Chair, Finance Committee

Members of the Finance Committee

FROM: Anthony Brito, Finance Division

RE: Finance Committee Agenda of September 17, 2009-Resolution approving tax exemptions for five preconsidered Land Use Items (Council District's 9, 15, 16, 17, 18).

HPD has submitted requests to the Council to approve property tax exemptions for the following properties: Findlay Plaza located in Council Member Foster's District, United Odd Fellows Residence located in Council Member Palma's District, Sebco Houses located at Council Member Arroyo's District, Parkview Senior Citizens Apartments located in Council Member Rivera's District and Impac Houses located in Council Member Dicken's District.

Findlay Plaza will contain three new multiple dwellings that provides 162 units of rental housing for low income families. The owner and sponsor, Findlay Teller Housing Development Fund Corporation, will finance the acquisition and rehabilitation of the project with a loan from HPD, a mortgage subsidy from the State of New York Division of Housing and Community Renewal and low income housing tax credits. In order to keep the project financially viable and provide affordable housing, HPD is requesting a tax exemption pursuant to Section 577 of the Private Housing Finance Law.

The United Odd Fellows Residence for the Elderly will be a 4-story building that will provide 72 units of rental housing for elderly persons of low income. The sponsor, United Odd Fellows Housing Development Fund Company, will develop the project under the Section 202 Supportive Housing Program For The Elderly with financing and operating subsidies from the United States Department of Housing and Urban Development ("HUD") and a tax exemption from the City. In order to keep the project financially viable and provide affordable housing to low-income seniors, HPD is requesting a tax exemption pursuant to Section 422 of the Private Housing Finance Law.

The Sebco Houses for the Elderly is a multiple dwelling that provides 92 units of rental housing for elderly persons of low income. The sponsor, Sebco Housing Development Fund Company, developed the project under the Section 202 Supportive Housing Program For The Elderly with financing and operating subsidies from the United States Department of Housing and Urban Development ("HUD") and a tax exemption from the City. The sponsor now wishes to refinance its original HUD mortgage in order to fund needed repairs. Refinancing the original HUD mortgage would terminate its current tax exemption. In order to keep the project financially viable and provide affordable housing to low-income seniors, HPD is requesting a new exemption that is consistent with the terms of the original exemption pursuant to Section 577 of the Private Housing Finance Law.

The Parkview Houses for the Elderly is a multiple dwelling that provides 120 units of rental housing for elderly persons of low income. The sponsor, 178th Street Housing Development Fund Company, developed the project under the Section 202 Supportive Housing Program For The Elderly with financing and operating subsidies from the United States Department of Housing and Urban Development ("HUD") and a tax exemption from the City. The sponsor now wishes to refinance its original HUD mortgage in order to fund needed repairs. Refinancing the original HUD mortgage would terminate its current tax exemption. In order to keep the project financially viable and provide affordable housing to low-income seniors, HPD is requesting a new exemption that is consistent with the terms of the original exemption pursuant to Section 577 of the Private Housing Finance Law.

Impac Houses will contain one new multiple dwelling that provides 119 units of rental housing for low income families. The owner and sponsor, 116th Street Associates I, LLC will finance the acquisition and rehabilitation of the project with a private bank loan and low income housing tax credits. In order to keep the project

financially viable and provide affordable housing, HPD is requesting a tax exemption pursuant to Section 577 of the Private Housing Finance Law.

These items have the approval of Council Members Dickens, Rivera, Foster, Arroyo and Palma.

Accordingly, Your Committee recommends the adoption of LU Nos. 1197, 1198, 1199, 1200, and 1201 (for text of coupled resolutions for LU Nos. 1198, 1199, 1200, and 1201, please see, respectively, the Reports of the Committee on Finance for LU Nos. 1198, 1199, 1200, and 1201; for text of the coupled resolution for LU No. 1197, please see immediately below).

In connection herewith, Council Member Weprin offered the following resolution:

Res. No. 2176

Resolution approving a partial exemption from real property taxes for property located at (Block 3044, Lot 17) the Bronx, pursuant to Section 577 of the Real Property Tax Law (Preconsidered L.U. No. 1197).

By Council Member Weprin.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated August 17, 2009 that the Council take the following action regarding a housing project (the "Project") to be located at (Block 3044, Lot 17) the Bronx ("Exemption Area"):

Approve a partial exemption of the Project from real property taxes pursuant to Section 577 of the Real Property Tax Law (the "Tax Exemption");

WHEREAS, the project description that HPD provided to the Council states that the purchaser of the Project (the "Sponsor") is a duly organized housing development fund company under Article XI of the Private Housing Finance Law;

WHEREAS, the Council held a hearing on the Project on September 17, 2007;

WHEREAS, the Council has considered the financial implications relating to the Tax Exemption;

RESOLVED:

The Project shall be developed upon the terms and conditions set forth in the Project Summary that HPD has submitted to the Council, a copy of which is attached hereto.

The Council hereby grants an exemption from real property taxes as follows:

1. For the purposes hereof, the following terms shall have the following meanings:
 - a) "Effective Date" shall mean the date of repayment or refinancing of the HUD Mortgage.
 - b) "Exemption Area" shall mean the real property located in the Borough of the Bronx, City and State of New York, identified as Block 3044, Lot 17 on the Tax Map of the City of New York.
 - c) "Expiration Date" shall mean the earlier to occur of (i) a date which is forty (40) years from the Effective Date, (ii) the date of the expiration or termination of the Regulatory Agreement, or (iii) the date upon which the Exemption Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.
 - d) "HDFC" shall mean 178th Street Housing Development Fund Company, Inc.
 - e) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.

- f) "HUD" shall mean the Department of Housing and Urban Development of the United States of America.
- g) "HUD Mortgage" shall mean the original loan made by HUD to the HDFC in connection with the Section 202 Supportive Housing Program for the Elderly, which loan was secured by a mortgage on the Exemption Area.
- h) "New Exemption" shall mean the partial exemption from real property taxation provided hereunder with respect to the Exemption Area.
- i) "Prior Exemption" shall mean the partial exemption from real property taxation for the Exemption Area approved by the Board of Estimate on December 16, 1982 (Cal. No. 41).
- j) "Regulatory Agreement" shall mean the regulatory agreement between HPD and the HDFC which commences on or before the Effective Date, runs with the land, binds all subsequent parties in interest to the Exemption Area until a date which is forty years from the Effective Date, and requires that (i) notwithstanding any term of the Use Agreement or another agreement to the contrary, the Exemption Area shall remain subject to the terms of the Use Agreement until a date which is forty years from the Effective Date, (ii) in the event of a breach or a threatened breach of any of the covenants and agreements contained in the Use Agreement, in addition to any other remedies that HPD has or may have at law or in equity, HPD shall be entitled to institute legal action to enforce specific performance of such covenants and agreements, and to enjoin any acts which violate such covenants and agreements, (iii) the HDFC shall exercise any all available options to obtain and renew Rental Subsidy for eligible tenants and (iv) the HDFC shall not cause or permit the Rental Subsidy to expire, to not be expended, to not be renewed, or to be terminated.
- k) "Rental Subsidy" shall mean Section 8 rental assistance and any similar form of rental assistance from any governmental entity.
- l) "Use Agreement" shall mean a use agreement by and between the HDFC and HUD which commences on or before the Effective Date, runs with the land, binds all subsequent owners and creditors of the Exemption Area, and requires that the housing project on the Exemption Area continue to operate on terms at least as advantageous to existing and future tenants as the terms required by the original Section 202 loan agreement or any Section 8 rental assistance payments contract or any other rental housing assistance contract and all applicable federal regulations.

2. The Prior Exemption shall terminate upon the Effective Date.
3. All of the value of the property in the Exemption Area, including both the land and any improvements (excluding those portions, if any, devoted to business or commercial use), shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date.
4. Commencing upon the Effective Date, and during each year thereafter until the Expiration Date, the HDFC shall make real property tax payments in the sum of (i) \$167,156, plus (ii) an additional amount equal to twenty-five percent of the amount by which the total contract rents applicable to the housing project for that year (as adjusted and established pursuant to Section 8 of the United States Housing Act of 1937, as amended) exceed the total contract rents which are authorized as of the Effective Date. Notwithstanding the foregoing, the total annual real property tax payment by the HDFC shall not at any time exceed the amount of real property taxes that would otherwise be due in the absence of any form of exemption from or abatement of real property taxation provided by an existing or future local, state, or federal law, rule or regulation.
5. Notwithstanding any provision hereof to the contrary:
 - a) The New Exemption shall terminate if HPD determines at any time that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Exemption Area is not being operated in accordance with the requirements of the Regulatory Agreement, (iii) the Exemption Area is not being operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, or (iv) the demolition of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the HDFC and all mortgagees of record, which shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the New Exemption shall prospectively terminate.

- b) The New Exemption shall not apply to any building constructed on the Exemption Area which did not have a permanent certificate of occupancy on the Effective Date.
 - c) Nothing herein shall entitle the HDFC to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.
 - d) All previous resolutions, if any, providing an exemption from or abatement of real property taxation with respect to the Exemption Area are hereby revoked.
6. In consideration of the New Exemption, prior to or simultaneous with repayment or refinancing of the HUD Mortgage, the HDFC, for itself, its successors and assigns, shall (i) execute and record a Use Agreement with HUD, (ii) execute and record a Regulatory Agreement with HPD, and (iii) waive, for so long as the New Exemption shall remain in effect, the benefits of any additional or concurrent exemption from or abatement of real property taxation which may be authorized under any existing or future local, state or federal law, rule or regulation.

DAVID I. WEPRIN, Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G. COMRIE, BILL DEBLASIO, LEWIS A. FIDLER, JAMES F. GENNARO, ERIC N. GIOIA, ROBERT JACKSON, G. OLIVER KOPPELL, HELEN SEARS, ALBERT VANN, DAVID YASSKY, VINCENT J. GENTILE, VINCENT M. IGNIZIO, JAMES S. ODDO, Committee on Finance, September 17, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point, the Speaker (Council Member Quinn) announced that the following items have been **preconsidered** by the Committee on Finance and have been favorably reported for adoption.

Report for L.U. No. 1198

Report of the Committee on Finance in favor of approving Sebco Houses for the Elderly Block 2746, Lot 30 Bronx, Council District No. 17.

The Committee on Finance, to which the annexed Land Use resolution was referred on September 17, 2009, respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Finance for L.U. No. 1197 printed in these Minutes.)

Accordingly, Your Committee recommends its adoption.

In connection herewith, Council member Weprin offered the following resolution:

Res. No. 2177

Resolution approving a partial exemption from real property taxes for property located at (Block 2746, Lot 30) the Bronx, pursuant to Section 577 of the Real Property Tax Law (Preconsidered L.U. No. 1198).

By Council Member Weprin.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated August 17, 2009 that the Council take the following action regarding a housing project (the "Project") to be located at (Block 2746, Lot 30) the Bronx ("Exemption Area"):

Approve a partial exemption of the Project from real property taxes pursuant to Section 577 of the Real Property Tax Law (the "Tax Exemption");

WHEREAS, the project description that HPD provided to the Council states that the purchaser of the Project (the "Sponsor") is a duly organized housing development fund company under Article XI of the Private Housing Finance Law;

WHEREAS, the Council held a hearing on the Project on September 17, 2007;

WHEREAS, the Council has considered the financial implications relating to the Tax Exemption;

RESOLVED:

The Project shall be developed upon the terms and conditions set forth in the Project Summary that HPD has submitted to the Council, a copy of which is attached hereto.

The Council hereby grants an exemption from real property taxes as follows:

1. For the purposes hereof, the following terms shall have the following meanings:
 - a) "Effective Date" shall mean the date of repayment or refinancing of the HUD Mortgage.
 - b) "Exemption Area" shall mean the real property located in the Borough of the Bronx, City and State of New York, identified as Block 2746, Lot 30 on the Tax Map of the City of New York.
 - c) "Expiration Date" shall mean the earlier to occur of (i) a date which is forty (40) years from the Effective Date, (ii) the date of the expiration or termination of the Regulatory Agreement, or (iii) the date upon which the Exemption Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.
 - d) "HDFC" shall mean SEBCO Housing Development Fund Company, Inc.
 - e) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
 - f) "HUD" shall mean the Department of Housing and Urban Development of the United States of America.
 - g) "HUD Mortgage" shall mean the original loan made by HUD to the HDFC in connection with the Section 202 Supportive Housing Program for the Elderly, which loan was secured by a mortgage on the Exemption Area.
 - h) "New Exemption" shall mean the partial exemption from real property taxation provided hereunder with respect to the Exemption Area.
 - i) "Prior Exemption" shall mean the partial exemption from real property taxation for the Exemption Area approved by the Board of Estimate on April 12, 1984 (Cal. No. 43).
 - j) "Regulatory Agreement" shall mean the regulatory agreement between HPD and the HDFC which commences on or before the Effective Date, runs with the land, binds all subsequent parties in interest to the Exemption Area until a date which is forty years from the Effective Date, and requires that (i) notwithstanding any term of the Use Agreement or another agreement to the contrary, the Exemption Area shall remain subject to the terms of the Use Agreement until a date which is forty years from the Effective Date, (ii) in the event of a breach or a threatened breach of any of the covenants and agreements contained in the Use Agreement, in addition to any other remedies that HPD has or may have at law or in equity, HPD shall be entitled to institute legal action to enforce specific performance of such covenants and agreements, and to enjoin any acts which violate such covenants and agreements, (iii) the HDFC shall exercise any all available options to obtain and renew Rental Subsidy for eligible tenants and (iv) the HDFC shall not cause or permit the Rental Subsidy to expire, to not be extended, to not be renewed, or to be terminated.
 - k) "Rental Subsidy" shall mean Section 8 rental assistance and any similar form of rental assistance from any governmental entity.

- 1) "Use Agreement" shall mean a use agreement by and between the HDFC and HUD which commences on or before the Effective Date, runs with the land, binds all subsequent owners and creditors of the Exemption Area, and requires that the housing project on the Exemption Area continue to operate on terms at least as advantageous to existing and future tenants as the terms required by the original Section 202 loan agreement or any Section 8 rental assistance payments contract or any other rental housing assistance contract and all applicable federal regulations.
2. The Prior Exemption shall terminate upon the Effective Date.
3. All of the value of the property in the Exemption Area, including both the land and any improvements (excluding those portions, if any, devoted to business or commercial use), shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date.
4. Commencing upon the Effective Date, and during each year thereafter until the Expiration Date, the HDFC shall make real property tax payments in the sum of (i) \$121,681, plus (ii) an additional amount equal to twenty-five percent of the amount by which the total contract rents applicable to the housing project for that year (as adjusted and established pursuant to Section 8 of the United States Housing Act of 1937, as amended) exceed the total contract rents which are authorized as of the Effective Date. Notwithstanding the foregoing, the total annual real property tax payment by the HDFC shall not at any time exceed the amount of real property taxes that would otherwise be due in the absence of any form of exemption from or abatement of real property taxation provided by an existing or future local, state, or federal law, rule or regulation.
5. Notwithstanding any provision hereof to the contrary:
 - a) The New Exemption shall terminate if HPD determines at any time that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Exemption Area is not being operated in accordance with the requirements of the Regulatory Agreement, (iii) the Exemption Area is not being operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, or (iv) the demolition of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the HDFC and all mortgagees of record, which shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the New Exemption shall prospectively terminate.
 - b) The New Exemption shall not apply to any building constructed on the Exemption Area which did not have a permanent certificate of occupancy on the Effective Date.
 - c) Nothing herein shall entitle the HDFC to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.
 - d) All previous resolutions, if any, providing an exemption from or abatement of real property taxation with respect to the Exemption Area are hereby revoked.
6. In consideration of the New Exemption, prior to or simultaneous with repayment or refinancing of the HUD Mortgage, the HDFC, for itself, its successors and assigns, shall (i) execute and record a Use Agreement with HUD, (ii) execute and record a Regulatory Agreement with HPD, and (iii) waive, for so long as the New Exemption shall remain in effect, the benefits of any additional or concurrent exemption from or abatement of real property taxation which may be authorized under any existing or future local, state or federal law, rule or regulation.

DAVID I. WEPRIN, Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G. COMRIE, BILL DEBLASIO, LEWIS A. FIDLER, JAMES F. GENNARO, ERIC N. GIOIA, ROBERT JACKSON, G. OLIVER KOPPELL, HELEN SEARS, ALBERT VANN, DAVID YASSKY, VINCENT J. GENTILE, VINCENT M. IGNIZIO, JAMES S. ODDO, Committee on Finance, September 17, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point, the Speaker (Council Member Quinn) announced that the following items have been **preconsidered** by the Committee on Finance and have been favorably reported for adoption.

Report for L.U. No. 1199

Report of the Committee on Finance in favor of approving United Odd Fellows Section 202 Housing Program for the Elderly 1040 Havemeyer Avenue Bronx, Council District No. 18.

The Committee on Finance, to which the annexed Land Use resolution was referred on September 17, 2009, respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Finance for L.U. No. 1197 printed in these Minutes.)

Accordingly, Your Committee recommends its adoption.

In connection herewith, Council Member Weprin offered the following resolution:

Res. No. 2178

Resolution approving a partial exemption from real property taxes for property located at 1040 Havemeyer Avenue (Block 3827, Lots p/o 221 and p/o 216), The Bronx, pursuant to Section 422 of the Real Property Tax Law (Preconsidered L.U. No. 1199).

By Council Member Weprin.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated August 17, 2009 that the Council take the following action regarding a housing project to be located at 1040 Havemeyer Avenue (Block 3827, Lots p/o 221 and p/o 216), The Bronx ("Exemption Area"):

Approve a partial exemption of the Project from real property taxes pursuant to Section 422 of the Real Property Tax Law (the "Tax Exemption");

WHEREAS, the project description that HPD provided to the Council states that the purchaser of the Project (the "Sponsor") is a duly organized housing development fund company under Article XI of the Private Housing Finance Law;

WHEREAS, the Council held a hearing on the Project on September 17, 2009;

WHEREAS, the Council has considered the financial implications relating to the Tax Exemption;

RESOLVED:

The Project shall be developed upon the terms and conditions set forth in the Project Summary that HPD has submitted to the Council, a copy of which is attached hereto.

The Council hereby grants an exemption from real property taxes as follows:

1. All of the value of the property in the Exemption Area, including both the land and improvements, shall be exempt from real property taxes, other than assessments for local improvements, from the date of conveyance of the land to the Sponsor until the date of issuance of the temporary or permanent Certificate of Occupancy for the housing project;
2. All of the value of the property in the Exemption Area, including both the land and improvements, (excluding those portions, if any, devoted to business or commercial use), shall be exempt from real property taxes, other than assessments for local improvements, commencing upon the date of issuance of the temporary or permanent Certificate of Occupancy for the housing project (or, if the housing project is constructed in stages, upon the

date of issuance of the temporary or permanent Certificate of Occupancy for each such stage) ("Effective Date") and terminating upon the earlier to occur of (i) the date the HUD mortgage is satisfied, or (ii) a date which is forty (40) years from the Effective Date ("Expiration Date"); provided, however, that the Sponsor shall make an annual real estate tax payment commencing upon the Effective Date and terminating upon the Expiration Date;

3. Commencing upon the Effective Date and during each year thereafter until the Expiration Date, the Sponsor shall make real estate tax payments in the sum of (i) \$34,646, which is ten percent (10%) of the annual shelter rent for the housing project, as determined by HPD in accordance with the formula agreed upon with HUD, plus (ii) an additional amount equal to twenty-five percent (25%) of the amount by which the total contract rents applicable to the housing project for that year (as adjusted and established pursuant to Section 8 of the United States Housing Act of 1937, as amended) exceed the total contract rents which are authorized as of the Effective Date. Notwithstanding the foregoing, the total annual real estate tax payment by the Sponsor shall not at any time exceed the lesser of either (i) seventeen percent (17%) of the contract rents, or (ii) the amount of real estate taxes that would otherwise be due in the absence of any form of tax exemption or abatement provided by any existing or future local, state, or federal law, rule or regulation; and
4. In consideration of such tax exemption, the Sponsor, for so long as the partial tax exemption provided hereunder shall remain in effect, shall waive the benefits, if any, of additional or concurrent real property tax abatement and/or tax exemption which may be authorized under any existing or future local, state, or federal law, rule or regulation.

DAVID I. WEPRIN, Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G. COMRIE, BILL DEBLASIO, LEWIS A. FIDLER, JAMES F. GENNARO, ERIC N. GIOIA, ROBERT JACKSON, G. OLIVER KOPPELL, HELEN SEARS, ALBERT VANN, DAVID YASSKY, VINCENT J. GENTILE, VINCENT M. IGNIZIO, JAMES S. ODDO, Committee on Finance, September 17, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point, the Speaker (Council Member Quinn) announced that the following items have been **preconsidered** by the Committee on Finance and have been favorably reported for adoption.

Report for L.U. No. 1200

Report of the Committee on Finance in favor of approving Findlay Plaza, Block 2435, Lot 45, Bronx, Council District No. 16.

The Committee on Finance, to which the annexed Land Use resolution was referred on September 17, 2009, respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Finance for L.U. No. 1197 printed in these Minutes.)

Accordingly, Your Committee recommends its adoption.

In connection herewith, Council Member Weprin offered the following resolution:

Res. No. 2179

Resolution approving an amendment to a resolution approved by the Board of Estimate on November 16, 1978 for property located at (Block 2435, Lots 45) Bronx, with respect to a real property exemption pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 1200).

By Council Member Weprin.

WHEREAS, on November 16, 1978 (Cal. No. 188), the Board of Estimate approved Resolution No. 346 ("BOE Resolution"), which authorized a partial real

property tax exemption for a housing project ("Project") located at Block 2435, Lot 45, Bronx, ("Exemption Area") pursuant to Section 577 of the Private Housing Finance Law ("Prior Exemption");

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated May 22, 2009 that the Council (a) amend the Prior Exemption approved by the BOE Resolution to retroactively approve a full real property tax exemption for the Exemption Area pursuant to Section 577 of the Private Housing Finance Law that will terminate upon the conveyance of the Exemption Area to Findlay Teller Housing Development Fund Corporation ("HDFC"), and (b) grant a new real property tax exemption to the Exemption Area pursuant to Section 577 of the Private Housing Finance Law that would commence upon the conveyance of the Exemption Area to the HDFC;

WHEREAS, the project description that HPD provided to the Council states that the HDFC is a duly organized housing development fund company under Article XI of the Private Housing Finance Law;

WHEREAS, the Council held a hearing on the Project on September 17, 2009; and

WHEREAS, the Council has considered the financial implications relating to the Tax Exemption;

WHEREAS, the Council approved a resolution on July 29, 2009 (Resolution No. 2097) for a new real property tax exemption for the Exemption Area pursuant to Section 577 of the Private Housing Finance law that will commence upon the later of (i) the date of conveyance of the Exemption Area to the HDFC, and (ii) the date that HPD, the HDFC, and Findlay Teller L.P. enter into the Regulatory Agreement as defined therein.

RESOLVED:

The Project shall be developed upon the terms and conditions set forth in the Project Summary that HPD has submitted to the Council, a copy of which is attached hereto.

The BOE Resolution is amended by replacing the fourth "Whereas" clause and the first "Resolved" clause therein with a new "Whereas" clause and a new "Resolved" clause to read, respectively, as follows:

WHEREAS, the Department of Housing Preservation and Development (HPD) has recommended exemption from local and municipal taxes, other than assessments for local improvements, of all of the value of the property included in the Completed Project (excluding those portions, if any, devoted to business and commercial use). The exemption approved herein shall operate and continue for as long as a Federally-aided mortgage is outstanding, but in no event for a period of more than 40 years, commencing from the date on which the benefits of such exemption first becomes available and effective.

RESOLVED: by the Board of Estimate that pursuant to Section 577 of the Private Housing Finance Law, an exemption from local and municipal taxes, other than assessments for local improvements, to the extent of all of the value of the property included in the Completed Project (excluding those portions, if any, devoted to business and commercial use) is approved. The exemption approved herein shall operate and continue for so long as a Federally-aided mortgage is outstanding, but in no event for a period of more than 40 years, commencing from the date on which the benefits of such exemption first becomes available and effective. Notwithstanding any provision hereof to the contrary, nothing herein shall entitle any owner to a refund of any real property taxes which accrued and were paid before June 30, 2009.

DAVID I. WEPRIN, Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G. COMRIE, BILL DEBLASIO, LEWIS A. FIDLER, JAMES F. GENNARO, ERIC N. GIOIA, ROBERT JACKSON, G. OLIVER KOPPELL, HELEN SEARS, ALBERT VANN, DAVID YASSKY, VINCENT J. GENTILE, VINCENT M. IGNIZIO, JAMES S. ODDO, Committee on Finance, September 17, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point, the Speaker (Council Member Quinn) announced that the following items have been **preconsidered** by the Committee on Finance and have been favorably reported for adoption.

Report for L.U. No. 1201

Report of the Committee on Finance in favor of approving Section 577 of Private Housing Finance Law, Impac Houses, 1428 Fifth Avenue, a/k/a 2-24 West 117th Street Block 1600, Lot 20 New York, Community District No. 10 Council District No. 9.

The Committee on Finance, to which the annexed Land Use resolution was referred on September 17, 2009, respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Finance for L.U. No. 1197 printed in these Minutes.)

Accordingly, Your Committee recommends its adoption.

In connection herewith, Council Member Weprin offered the following resolution:

Res. No. 2180

Resolution approving a partial exemption from real property taxes for property located at 1428 Fifth Avenue (Block 1600, Lot 20) Manhattan, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No 1201).

By Council Member Weprin.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated August 3, 2009 that the Council take the following action regarding a housing project to be located at 1428 Fifth Avenue (Block 1600, Lot 20) Borough of Manhattan ("Exemption Area"):

Approve a partial exemption of the Project from real property taxes pursuant to Section 577 of the Private Housing Finance Law (the "Tax Exemption");

WHEREAS, the project description that HPD provided to the Council states that the purchaser of the Project (the "Sponsor") is a duly organized housing development fund company under Article XI of the Private Housing Finance Law;

WHEREAS, the Council held a hearing on the Project on September 17, 2009;

WHEREAS, the Council has considered the financial implications relating to the Tax Exemption;

RESOLVED:

The Project shall be developed upon the terms and conditions set forth in the Project Summary that HPD has submitted to the Council, a copy of which is attached hereto.

The Council hereby grants an exemption from real property taxes as follows:

1. Approve the partial exemption of the Project from real property taxation pursuant to Section 577 of the PHFL as follows:
 - a. For the purposes hereof, the following terms shall have the following meanings:
 - (1) "Current Owner" shall mean Impac Associates Redevelopment Company L.P.
 - (2) "Effective Date" shall mean the later of (i) the date of conveyance of the Exemption Area to the HDFC, and (ii) the date that HPD and the New Owner enter into the Regulatory Agreement.
 - (3) "Exemption Area" shall mean the real property located in the Borough of Manhattan, City and State of New York,

identified as Block 1600, Lot 20 on the Tax Map of the City of New York and shall include any tax lot created by any subdivision of such Lot 20 which occurs after July 1, 2009.

- (4) "Expiration Date" shall mean the earlier to occur of (i) a date which is forty (40) years from the Effective Date, (ii) the date of the expiration or termination of the Regulatory Agreement, or (iii) the date upon which the Exemption Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.
 - (5) "HDFC" shall mean The New York City Partnership Housing Development Fund Company, Inc.
 - (6) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
 - (7) "J-51 Program" shall mean the program of exemption from and abatement of real property taxation authorized pursuant to Real Property Tax Law §489 and Administrative Code §11-243.
 - (8) "Limited Liability Company" shall mean West 116th Street Associates I, LLC.
 - (9) "New Exemption" shall mean the partial exemption from real property taxes provided hereunder with respect to the Exemption Area.
 - (10) "New Owner" shall mean, collectively, the HDFC and the Limited Liability Company.
 - (11) "Old Exemption" shall mean the partial exemption of the Exemption Area from real property taxation pursuant to Section 125 of the PHFL approved by the Board of Estimate on December 4, 1980 (Cal. No. 5)
 - (12) "PHFL" shall mean the Private Housing Finance Law.
 - (13) "Regulatory Agreement" shall mean the regulatory agreement between HPD and the New Owner providing that, for the term of the New Exemption, all dwelling units in the Exemption Area must, upon vacancy, be rented to families whose incomes do not exceed 80% of area median income.
 - (14) "Shelter Rent" shall mean the total rents received from the commercial and residential occupants of the Exemption Area, including any federal subsidy (including, but not limited to, Section 8, rent supplements, and rental assistance), less the cost of providing to such occupants electricity, gas, heat and other utilities.
 - (15) "Shelter Rent Tax" shall mean an amount equal to ten percent (10%) of Shelter Rent.
- b. All of the value of the property in the Exemption Area, including both the land and improvements (excluding those portions, if any, devoted to business or commercial use), shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date.
 - c. Commencing upon the Effective Date, and during each year thereafter until the Expiration Date, the New Owner shall make annual real property tax payments in the sum of the Shelter Rent Tax. Notwithstanding the foregoing, the total annual real property tax payment by the New Owner shall not at any time exceed the amount of real estate taxes that would otherwise be due in the absence of any form of exemption from or abatement of real property taxation provided by an existing or future local, state, or federal law, rule or regulation.
 - d. Notwithstanding any provision hereof to the contrary:
 - (1) The New Exemption shall terminate if HPD determines that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the PHFL, (ii) the Exemption Area is not being operated in accordance with the requirements of the Regulatory

Agreement and such non-compliance constitutes an event of default under the Regulatory Agreement, (iii) the Exemption Area is not being operated in accordance with the requirements of any regulatory agreement with or for the benefit of the City of New York, or (iv) the demolition of a private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the New Owner and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the New Exemption shall prospectively terminate.

- (2) The New Exemption shall not apply to any building constructed on the Exemption Area which did not have a permanent certificate of occupancy on the Effective Date or to any tax lot containing such building.
- e. In consideration of the New Exemption, the owner of the Exemption Area shall, for so long as the New Exemption shall remain in effect, waive the benefits of any additional or concurrent real property tax abatement and/or tax exemption which may be authorized under any existing or future local, state or federal law, rule or regulation. Notwithstanding the foregoing, the Exemption Area may receive any exemption from and/or abatement of real property taxation pursuant to the J-51 Program, provided, however, that the aggregate exemption from and abatement of real property taxation pursuant to the J-51 Program in any twelve month period shall not exceed fifty percent of the Shelter Rent Tax for such twelve month period pursuant to the New Exemption.
2. Approve, pursuant to Section 125 of the PHFL, the termination of the Old Exemption, which termination shall become effective one day preceding the conveyance of the Exemption Area from the Current Owner to the New Owner.
 3. Consent, pursuant to Section 123(4) of the PHFL, to the voluntary dissolution of the Current Owner.
 4. If the conveyance of the Exemption Area from the Current Owner to the New Owner does not occur either (i) within one day following the termination of the Old Exemption, or (ii) on the same day as the voluntary dissolution of the Current Owner, then all of the approvals and consents set forth above shall be null and void and both the and Old Exemption the obligations of the Current Owner to remain an Article V redevelopment company shall be reinstated as though they had never been interrupted.

DAVID I. WEPRIN, Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G. COMRIE, BILL DEBLASIO, LEWIS A. FIDLER, JAMES F. GENNARO, ERIC N. GIOIA, ROBERT JACKSON, G. OLIVER KOPPELL, HELEN SEARS, ALBERT VANN, DAVID YASSKY, VINCENT J. GENTILE, VINCENT M. IGNIZIO, JAMES S. ODDO, Committee on Finance, September 17, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Reports of the Committee on Fire and Criminal Justice Services

Report for Int. No. 986-A

Report of the Committee on Fire and Criminal Justice Services in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York and the New York city building code, in relation to hydrostatic pressure testing of standpipes and sprinklers.

The Committee on Fire and Criminal Justice Services, to which the annexed amended proposed local law was referred on May 20, 2009 (Minutes, page 1993), respectfully

REPORTS:

I. INTRODUCTION

On September 17, 2009, the Committee on Fire and Criminal Justice Services, chaired by Council Member James Vacca, will consider the above-referenced legislation. A previous hearing was held on these bills on June 2, 2009.

II. BACKGROUND

On August 18, 2007, a fire in the former Deutsche Bank Building at 130 Liberty Street in Manhattan led to the deaths of New York City Firefighters Joseph Graffagnino and Robert Beddia and resulted in injuries to several others. 130 Liberty Street was a 26 story high-rise office building which was undergoing asbestos abatement and demolition at the time of the fire.¹ As early as August 20, 2007 the FDNY announced it was investigating the possibility that the fire was caused by a discarded cigarette on the 17th floor,² with later investigations concluding the cause of the fire was the careless discard of smoking material in the asbestos decontamination area on the south side of the building on the 17th floor.³ The FDNY also concluded shortly thereafter that the sprinkler system was damaged and out of service and that there was no working standpipe in the building on the day of the fire, which resulted in significant delay in getting water on the fire.⁴ These and other findings led Council Members to pursue legislative solutions to the problems being uncovered and prompted the City of New York to undertake a comprehensive review of the way construction, demolition, and abatement operations are regulated and conducted in the City.⁵ The bills before this Committee are part of a package of twelve bills that resulted from a collaborative process between the Administration and the Council. These bills combine the findings and recommendations of a Working Group (“the Working Group”) called for by the mayor on this subject⁶ with legislative proposals put forth by Council Members in the wake of the fire. The bills are collectively intended to improve construction, demolition, and asbestos abatement procedures in the City of New York.

III. ANALYSIS OF PROP. INT. NO. 986-A

At the time of the 130 Liberty Street fire the Fire Prevention Code required the owners of occupied buildings to conduct a hydrostatic pressure test of standpipes once every five years, a process that involves fully charging the system with water and utilizing pressure gauges to confirm its suitability for FDNY operations.⁷ However, while buildings being demolished were required to maintain an operational standpipe, no separate hydrostatic pressure test of the standpipe system was required by virtue of the fact the building was undergoing demolition.⁸ The last hydrostatic pressure test of the 130 Liberty Street standpipe and sprinkler systems on record was conducted on November 12 and 13, 1996, when both systems were deemed satisfactory.⁹ The next hydrostatic pressure test was scheduled for November 2001, two months after the September 11 terrorist attacks. That test did not occur due to the condition of the building.¹⁰ The New York City Building Code required buildings undergoing a demolition to maintain non-automatic systems unless a variance had been requested and approved by the FDNY. According to the FDNY investigation, no such variance had been granted at 130 Liberty Street at the time of the fire.¹¹ Regarding newly constructed buildings, the Working Group reported that at the time of their report these buildings were only required to pressure test the standpipe at the end of construction.

Therefore, among other things aimed at ensuring that all buildings which require them have working standpipes, the Working Group recommended that DOB should amend its rules and/or seek legislation to require a licensed plumber or fire suppression contractor to pressure test standpipe systems every 75 feet for buildings under construction.¹² Prop. Int. No. 986-A requires hydrostatic pressure testing for new or altered sprinkler systems and for new or altered standpipe systems as detailed below.

Section 1 of Proposed Int. No. 986-A amends section 1704.21 of the building code by providing that new or altered sprinkler systems shall be inspected in accordance with new section 1704.21.1 and clarifying that the special inspector need not witness the hydrostatic pressure test when such test is witnessed by the DOB. Additionally, this section requires that the special inspector verify that any painting of the sprinkler system required by section 903.6 of the building code has been performed. Finally, section 1 adds a new subsection 1704.21.1 which provides that all new or altered sprinkler systems in buildings shall undergo successful hydrostatic pressure testing by a licensed master plumber or licensed fire suppression piping contractor in accordance with the requirements of the building code, including Section 901.5, and NFPA 13.

Section 2 of Proposed Int. No. 986-A amends subsection 1704.22 of the building code by adding a new section 1704.22.1.

Subsection 1704.22 is amended to require that new or altered standpipe systems shall be inspected in accordance with new section 1704.22.1. Additionally, this section amends subsection 1704.22 by requiring the special inspector to verify that any painting of the standpipe system required by section 905.11 of the building code has been performed and clarifies that the special inspector need not witness the hydrostatic pressure test when such test is witnessed by the DOB.

New section 1704.22.1 requires that all new or altered standpipe systems in building shall undergo successful hydrostatic pressure testing by a licensed master plumber or licensed fire suppression piping contractor in accordance with section 901.5, sections 1704.22.1.1 through 1704.22.1.5 described below and NFPA 14.

New section 1704.22.1 provides for an exception from the hydrostatic pressure testing requirement when the standpipe system is exposed to freezing conditions, and allows the hydrostatic pressure test to be postponed until such conditions no longer exist, notwithstanding any requirement that the standpipe be maintained in a

state of readiness, provided that the system undergoes an interim test with dry nitrogen or air using a compressor in accordance with NFPA 14. Any such air pressure tests shall be witnessed by the special inspector unless witnessed by the DOB.

Section 1704.22.1.1 requires new buildings under construction, which have standpipes that are required to comply with section 3303.8 of the building code to have an initial hydrostatic pressure test of the entire system performed when the building reaches a height of 75 feet and additional successful hydrostatic pressure tests of the entire system at 175 feet and at every 100 feet in height thereafter. The permit holder is required to perform a final acceptance test of the completed system in accordance with the requirements of section 901.5 of the building code.

Section 1704.22.1.2 requires hydrostatic tests be performed of the entire system every 75 feet where there is an enlargement that triggers a new standpipe system or where there is an addition to an existing standpipe system.

Section 1704.22.1.3 requires hydrostatic testing of the entire standpipe system where stories are removed from a building served by an existing standpipe, prior to the commencement of work.

Section 1704.22.1.4 requires the permit holder to perform a final test of the completed system in accordance with the requirements of section 901.5 of the building code for alterations not covered under sections 1704.22.1.2 or 1704.22.1.3.

Section 1704.22.1.5 provides that no standpipe system shall be considered in readiness until there has been a successful hydrostatic test.

Section 3 of Proposed Int. No. 986-A provides that within 120 days of enactment, the DOB shall promulgate rules pursuant to section 28-103.19 of the administrative code amending NFPA 14 and establishing minimum standards for hydrostatic pressure tests of standpipe systems under sections 1704.22.1.1 and 1704.22.1.2 of the building code at not less than 20.7 bar (300 psi) of pressure for one hour.

Section 4 of Proposed Int. No. 986-A provides that the local law shall take effect 120 days after enactment except that the commissioner of buildings may promulgate rules or take other administrative actions for the implementation of this local law prior to such effective date.

IV. ANALYSIS OF PROP. INT. NO. 1004-A

At the time of the 130 Liberty Street fire there was no requirement that buildings undergoing construction or demolition have dry standpipe alarms that would sound if a standpipe were compromised. When the Working Group issued its report, they indicated that the FDNY Manhattan Borough Command had reacted favorably to pressurized standpipe alarms that were being piloted by private contractors. The Working Group recommended that the FDNY and DOB study the feasibility of requiring the installation of a pressurized standpipe alarm system (or other security measures) on new buildings under construction and full demolition jobs, and make recommendations pertaining to the adoption of rules or proposal of legislation to implement such requirement.¹³ Subsequent to the 130 Liberty Street fire, a pressurized alarm was installed in the former Deutsche Bank building. On February 5, 2009 a standpipe at 130 Liberty Street was once again severed. An alarm sounded at 8:30 a.m. on that day, signaling the standpipe had lost pressure, which ultimately resulted in the evacuation of the building and the issuance of a stop work order until the standpipe was fixed.¹⁴

Section 1 of Proposed Int. No. 1004-A amends section 3303.8 of the building code and adds a new subsection 3303.8.1, which requires an air pressurized alarm system for dry standpipe systems during construction or demolition operations. Item 1 of this new subsection requires that in vacant buildings and structures undergoing demolition, all existing standpipes shall be maintained in a state of readiness as dry standpipes in accordance with section 3303.8 and shall be provided with an air pressurized alarm system. Item 2 requires that a temporary standpipe shall be in a state of readiness once the work reaches a height greater than 75 feet and shall contain an air pressurized alarm system. Item 3 requires that an application to install an alarm system be filed by a registered design professional and a permit obtained by a licensed master plumber or licensed master fire suppression piping contractor. A licensed electrician must obtain any required electrical permits in accordance with the administrative code. Item 4 establishes the specification for the required alarm systems such as such as; pressure, alarm activation, air compressor, alarm, power supply, check valves, locks and caps, FDNY connections, drainage, manual air release connection, construction documents, and signage. Most notable among these provisions are Items 4.2 and 5 pertaining to the automatic air pressurized alarm activation and the planned removal from service of the standpipe system and air pressurized alarm system.

Item 4.2 sets out that the alarm shall be automatically activated when the pressure drops below the supervisory pressure or rises above the maximum pressure of 25 psig (172.4 kPa gauge). When the alarm is activated, repairs to the standpipe necessary to restore the required pressure shall be undertaken immediately. All notification shall be made to the Fire Department in accordance with section 901.7.7 of the fire code, all work at the site shall cease and an investigation of the entire standpipe system and air compressor shall be immediately performed to determine the cause of the alarm. Unless authorized by the Fire Department, no construction or demolition work shall resume until the standpipe system is repaired and the appropriate pressure is restored, except that any repairs to the standpipe system needed to restore the required pressure shall be undertaken immediately and the standpipe system restored as soon as possible. Item 4.2 further requires that there shall be compliance with the requirements of section 901.7.7 of the fire code while the standpipe system is out of service. Upon completion of repairs to the standpipe system a full inspection of such system shall be performed, which shall include, among other things, visually tracing the standpipe, including risers, cross connections and siamese connections to verify that no breach exists and checking all

gauges of the standpipe system to ensure the standpipe system has been restored to a state of readiness.

Item 5 establishes what happens during the planned removal from service of a standpipe system and standpipe air pressurized alarm. Whenever the standpipe system is to be placed out of service for the addition of a new section to the system, removal of an existing section as demolition operations progress, or other planned event, the standpipe alarm may be temporarily deactivated subject to compliance with the requirements of section 901.7.7 of the fire code. Where a site safety manager or coordinator is required by section 3310.5 of the building code, all alarm activations, inspections, and repairs shall be logged into the log book maintained by such site safety manager or coordinator. If the standpipe system is not returned to a state of readiness and the alarm reactivated within 2 hours of such planned removal from service, all construction or demolition work at the site shall cease, unless otherwise approved by the Fire Department.

Section 2 amends section 901.7 of the fire code by adding a new section 901.7.7 which relates to out of service standpipe systems at construction sites.

Section 901.7.7 requires the owner, fire safety manager and/or impairment coordinator to take several actions whenever a standpipe system at a construction site is out of service, including: (1) Immediately notifying the department of any unplanned out of service condition; (2) Notifying the fire department at least 24 hours prior to any planned removal of the standpipe system from service; (3) Ensuring that a fire watch is continuously maintained; (4) Repairing the standpipe system and return it to service. The construction site may continue to be occupied, and construction, demolition or alteration activities may continue, pending such repair and restoration to service, except: (1) As otherwise provided in section 3303.8.1 of the building code; and/or; (2) As otherwise directed by the fire commissioner upon a determination that, in the absence of an operable standpipe system, the conduct of certain construction, demolition or alteration activities would be imminently perilous to life or property; and (3) That in no circumstance shall hot work be conducted on the construction site until such time as the standpipe system is restored to service and the standpipe alarm reactivated.

Section 3 of Proposed Int. No. 1004-A provides that the local law shall take effect 120 days after enactment except that the commissioner of buildings may promulgate rules or shall take such actions as are necessary for the its implementation of the local law, including the promulgation of rules, prior to such effective date.

V. AMENDMENTS TO PROPOSED INT. NO. 986-A:

Section 2, which in part adds a new section 1704.22.1 to section 1704.22 that requires all new or altered standpipe systems in building to undergo successful hydrostatic pressure testing by a licensed master plumber or licensed fire suppression piping contractor was amended to allow for an exception from the hydrostatic pressure testing requirement when the standpipe system is exposed to freezing conditions, and to allow the hydrostatic pressure test to be postponed until such conditions no longer exist, notwithstanding any requirement that the standpipe be maintained in a state of readiness, provided that the system undergoes an interim test with dry nitrogen or air using a compressor in accordance with NFPA 14. Any such air pressure tests shall be witnessed by the special inspector unless witnessed by the DOB. This change was made to address concerns that conducting hydrostatic pressure testing when the standpipe system is exposed to freezing conditions could damage the standpipe system.

Section 1704.22.1.1 was amended to make it clear that the provisions apply only to new buildings that are under construction. Additionally, while the initial pressure test is to be performed when the building reaches a height of 75 feet, subsequent and additional successful hydrostatic pressure tests of the entire system shall be performed at 175 feet, and at every 100 feet in height thereafter, rather than at 150 feet and every 75 feet thereafter. This change was made to reflect the requirement that sectional valves are placed at 100 foot intervals thereby creating a natural interval to perform the pressure tests. Finally, this section was amended to make it clear that the pressure tests must include the entire system so that blanks are not used in the portions of the system that had previously been tested.

Section 1704.22.1.2, which requires hydrostatic pressure testing for every 75 feet of additional height added to an existing standpipe system was also amended to make it clear that the pressure tests must include the entire system.

Section 1704.22.1.3 regarding pressure testing requirements when building stories are removed, including full demolitions, was amended to require buildings served by an existing standpipe system to undergo hydrostatic pressure testing of the entire system prior to the commencement of work, irrespective of whether the building is in violation of existing testing requirements as had previously been the case. This change was made to reflect the increased danger associated with demolitions and to ensure that as the project commences the standpipe is in a state of readiness.

Section 3 was modified and renumbered as section 4 as detailed below. A new section 3 replaced the old section 3 and requires that within 120 days of enactment of the legislation, the department of buildings promulgates rules pursuant to section 28-103.19 of the administrative code amending NPFA 14 and establishing the minimum standards for hydrostatic pressure tests of standpipe systems under sections 1704.22.1.1 and 1704.22.1.2 of the building code at not less than 20.7 bar (300 psi) of pressure for one hour. This was done in order to establish a minimum standard in the law with more specificity to be added by rule in conjunction with the effective date of the local law.

Section 4, which was previously section 3, was amended by reducing the timeframe in which the law takes effect from six months after enactment to 120 days after enactment to ensure the implementation of the law more rapidly.

VI. AMENDMENTS TO PROPOSED INT. NO. 1004-A:

Section 1 of Proposed Int. No. 1004-A amends subsection 3303.8 of the building code and adds a new section 3303.8.1, which requires an air pressurized alarm system for dry standpipe systems during construction or demolition operations. Section 3303.8 previously consisted of 4 items which have each been amended and 1 item has been added for a total of 5, the last of which relates to the planned removal from service of standpipe systems and standpipe air pressurized alarms. Both Item 1, which relates to demolitions, and Item 2, which relates to new buildings, were amended to include references to structures so as not to limit these requirements to vacant buildings only. Item 2 was also amended to clarify that its requirements were only triggered when the work reaches a height greater than 75 feet rather than exactly 75 feet, the former of which is in keeping with existing building and fire code provisions. Item 3, which relates to the submission of an application of the installation of air pressurized alarm systems, was amended to require that a permit for the installation be obtained by a licensed master plumber or licensed master fire suppression piping contractor to ensure a structured process with greater reliability and accountability.

There were several amendments to Item 4 which sets out the specifications for the air pressurized alarm systems. Item 4.1 was amended to clarify that the pressure required to be maintained in the standpipe shall also be maintained in the cross connections and that those pressure levels shall be met by utilizing nitrogen or an air compressor with an air dryer. These changes are intended to maintain the integrity of the system and provide greater specificity as to what is required to do so.

Previously, Item 4.2 indicated that the alarm shall be activated when the pressure drops below or rises above the supervisory pressure. Furthermore, Item 4.2 indicated that when the alarm is activated, repairs to the standpipe necessary to restore the required pressure shall be undertaken immediately and concluded by stating that all work shall cease until the standpipe system is repaired and the appropriate pressure restored. While those provisions have been modified and reworked they remain largely in tact while a few exceptions were created and other provisions added. Under the amended version of Item 4.2, once the alarm is activated notification must be made to the Fire Department in accordance with new fire code section 901.7.7, which amends existing fire code section 901.7 and is detailed in section 2 of Proposed Int. No. 1004-A and below. New Item 4.2 also requires that after the alarm is activated an investigation of the entire standpipe system and air compressor be immediately performed to determine the cause of the alarm and specifically states that unless authorized by the Fire Department, no construction or demolition work shall resume until the standpipe system is repaired and the appropriate pressure is restored, except that any repairs to the standpipe system needed to restore the required pressure shall be undertaken immediately and the standpipe system restored as soon as possible. Item 4.2 further requires that there shall be compliance with the requirements of new section 901.7.7 of the fire code while the standpipe system is out of service. Finally, revised item 4.2 requires that upon completion of repairs to the standpipe system a full inspection of such system shall be performed, which shall include, among other things, visually tracing the standpipe, including risers, cross connections and siamese connections to verify that no breach exists and checking all gauges of the standpipe system to ensure the standpipe system has been restored to a state of readiness.

A new item 4.2.1 has been added and cross referenced in item 4.2 which indicates that, notwithstanding the provisions of Item 4.2, the activation of the alarm shall not require the cessation of work necessary for the completion of concrete pouring operations in progress at the time of alarm activation, where such cessation would cause a cold joint that would impair the structural integrity of the finished construction. The continuation of such operations shall be permitted only until an orderly termination of such operations can be effectuated. The site safety manager or coordinator shall record the names and locations of any employees necessary for the completion of the concrete pouring operations and provide them to the Fire Department personnel who arrive on the scene. This provision was added so as not to unfairly burden building owners by making them re-pour cement because the standpipe alarm has been activated.

Item 5 is entirely new and establishes what happens during the planned removal from service of a standpipe system and standpipe air pressurized alarm to reflect the inherent differences between an alarm sounding and a planned event in the ordinary course of construction and demolition. Item 5 indicates that whenever the standpipe system is to be placed out of service for the addition of a new section to the system, removal of an existing section as demolition operations progress, or other planned event, the standpipe alarm may be temporarily deactivated subject to compliance with the requirements of new fire code section 901.7.7. Where a site safety manager or coordinator is required by section 3310.5 of the building code, all alarm activations, inspections, and repairs shall be logged into the log book maintained by such site safety manager or coordinator. If the standpipe system is not returned to a state of readiness and the alarm reactivated within 2 hours of such planned removal from service, all construction or demolition work at the site shall cease, unless otherwise approved by the Fire Department.

Section 2 amends section 901.7 of the fire code by adding a new section 901.7.7 which relates to out of service standpipe systems at construction sites.

Section 901.7.7 was added to provide greater specificity as to the obligations of and restrictions on building owners and personnel when a standpipe system at a construction site is out of service. Section 901.7.7 requires the owner, fire safety manager and/or impairment coordinator to take several actions whenever a standpipe system at a construction site is out of service, including: (1) Immediately notifying the department of any unplanned out of service condition; (2) Notifying the fire

department at least 24 hours prior to any planned removal of the standpipe system from service; (3) Ensuring that a fire watch is continuously maintained; (4) Repairing the standpipe system and returning it to service. The construction site may continue to be occupied, and construction, demolition or alteration activities may continue, pending such repair and restoration to service, except: (1) As otherwise provided in Section 3303.8.1 of the building code; and/or; (2) As otherwise directed by the fire commissioner upon a determination that, in the absence of an operable standpipe system, the conduct of certain construction, demolition or alteration activities would be imminently perilous to life or property; and (3) That in no circumstance shall hot work be conducted on the construction site until such time as the standpipe system is restored to service and the standpipe alarm reactivated.

Section 3 provides that this local law shall take effect 120 days after enactment except that the commissioner of buildings may promulgate rules or shall take such actions as are necessary for the its implementation of this local law, including the promulgation of rules, prior to such effective date.

¹ Fire Department City of New York Safety and Inspection Services Command, Investigative Report 130 Liberty Street, Volume 1, at pg. 5..

² News from the BLUE ROOM, Multi-Agency Update on Fire at 130 Liberty Street, August 20, 2007.

³ Supra, note 1.

⁴ New from the BLUE ROOM, Update on Investigations of the Fire at 130 Liberty Street, August 22, 2007.

⁵ In the fall of 2007, Deputy Mayor Edward Skyler convened a Working Group that included representatives of the Department of Buildings, Department of Environmental Protection, New York City Fire Department, the Mayor’s Office of Operations, and the Law Department to review how the City regulates construction, demolition and abatement operations, including agency practices regarding enforcement, and the ways these operations are conducted in the field. See, Strengthening the Safety, Oversight and Coordination of Construction, Demolition and Abatement Operations, Report and Recommendations to Mayor Michael R. Bloomberg, July 2008.

⁶ Strengthening the Safety, Oversight and Coordination of Construction, Demolition and Abatement Operations, Report and Recommendations to Mayor Michael R. Bloomberg, July 2008.

⁷ Id.

⁸ Id.

⁹ Id.

¹⁰ Id.

¹¹ Supra, note 1 at pg. 3.

¹² Supra, note 6 at pg. 20.

¹³ Supra, note 6 at pg. 20.

¹⁴ *Workers Sever Standpipe that Turned Deutsche into Deathtrap...Again*, By Jonathan Lemire and Bill Hutchinson, February 6, 2009 – New York Daily News.

(The following is from the text of the Fiscal Impact Statement for Int. No. 986-A:)

FISCAL IMPACT STATEMENT:

	Effective FY 10	FY Succeeding Effective FY 11	Full Fiscal Impact FY 10
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: This local law would generate no additional revenues for the City.

IMPACT ON EXPENDITURES: There would be no impact on expenditures as a result of this legislation since existing resources could be used by all impacted agencies in order to compel compliance with the legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: City Council Finance Division, Mayor’s Office of City Legislative Affairs, Mayor’s Office of Management and Budget

ESTIMATE PREPARED BY: John Russell, Legislative Financial Analyst
Andy Grossman, Deputy Director

HISTORY: Intro. 986 was introduced by the Council and referred to the Committee on Fire and Criminal Justice Services on May 20, 2009. The legislation was considered and laid over by the Committee on June 2, 2009. An amended

version of this legislation, Proposed Intro. 986-A, is to be considered by the Committee on September 17, 2009.

(For text of Int No. 1004-A and its Fiscal Impact Statement, please see the Report of the Committee of Fire and Criminal Justice Services for Int No. 1004-A printed in these Minutes).

Accordingly, Your Committee recommends the adoption of Int No. 986-A and Int No. 1004-A.

(The following is the text of Int. No. 986-A:)

Int. No. 986-A

By Council Member Gentile, the Speaker (Council Member Quinn), Baez, Vallone, Avella, Fidler, Gentile, Gonzalez, James, Koppell, Liu, Nelson, Sanders, Weprin, Gerson, Lappin, Eugene, Gennaro, Jackson and Sears (in conjunction with the Mayor).

A Local Law to amend the administrative code of the city of New York and the New York city building code, in relation to hydrostatic pressure testing of standpipes and sprinklers.

Be it enacted by the Council as follows:

Section 1. Section 1704.21 of the New York city building code, as added by local law number 33 for the year 2007, is amended and a new section 1704.21.1 is added to read as follows:

1704.21 Sprinkler system special inspection. New and altered sprinkler [system] systems shall be inspected in accordance with [Section] Sections 903 and 1704.21.1. The permit holder responsible for the sprinkler work shall perform all required acceptance tests, complete and sign the appropriate contractor's material and test certifications. The special inspector shall witness all required tests, and shall verify that all installations of all materials, fittings, hangers, assemblies and signage are in accordance with the approved construction documents, *that painting of the sprinkler system required by Section 903.6 of this code has been performed* and that the contractor has transmitted required maintenance literature and instruction to the owner. The special inspector shall verify that the material and test certification forms have been transmitted to the Fire Department and the department.

Exception: [Special inspection of] *The special inspector need not witness the hydrostatic pressure test [shall not be required] when such test is witnessed by the department.*

1704.21.1 Hydrostatic pressure testing. *All new or altered sprinkler systems in buildings shall undergo successful hydrostatic pressure testing by a licensed master plumber or licensed fire suppression piping contractor in accordance with the requirements of this code, including Section 901.5, and NFPA 13.*

§2. Section 1704.22 of the New York city building code, as added by local law number 33 for the year 2007, is amended and a new section 1704.22.1 is added to read as follows:

1704.22 Standpipe system special inspection. New and altered standpipe systems shall be inspected in accordance with [Section] Sections 905 and 1704.22.1. The permit holder responsible for the standpipe work shall perform all required acceptance tests, complete and sign the appropriate contractor's material and test certifications. The special inspector shall witness all required tests, verify that installation of all materials, fittings, hangers, assemblies and signage are in accordance with the approved construction documents, *that painting of the standpipe system required by Section 905.11 of this code has been performed* and that the contractor has transmitted required maintenance literature and instruction to the owner. The special inspector shall verify that the material and test certification forms have been transmitted to the Fire Department and the department.

Exception: [Special inspection of] *The special inspector need not witness the hydrostatic pressure test [shall not be required] when such test is witnessed by the department.*

1704.22.1 Hydrostatic pressure testing. *All new or altered standpipe systems in buildings shall undergo successful hydrostatic pressure testing by a licensed master plumber or licensed fire suppression piping contractor in accordance with the requirements of this code, including Section 901.5, Sections 1704.22.1.1 through 1704.22.1.5 and NFPA 14.*

Exception: *When the standpipe system is exposed to freezing conditions, a hydrostatic pressure test required by this section may be postponed until such conditions no longer exist, notwithstanding any requirement that the standpipe be maintained in a state of readiness,*

provided that the system undergoes an interim test with dry nitrogen or air using a compressor in accordance with NFPA 14. Any such air pressure tests shall be witnessed by the special inspector unless witnessed by the department.

1704.22.1.1 New buildings under construction. *For standpipes required to comply with Section 3303.8 of this code, an initial hydrostatic pressure test of the entire system shall be performed when the building reaches a height of 75 feet (22 860 mm) and additional successful hydrostatic pressure tests of the entire system shall be performed at 175 feet (53 340 mm), and at every 100 feet (30 480 mm) in height thereafter. The permit holder shall perform a final acceptance test of the completed system in accordance with the requirements of Section 901.5 of this code.*

1704.22.1.2 Enlargements or additions to existing system. *Where there is an enlargement that triggers a new standpipe system or there is an addition to an existing standpipe system, hydrostatic pressure tests of the entire system shall be performed for every 75 feet (22 860 mm) of additional height added to the system. The permit holder shall perform a final acceptance test of the completed system in accordance with the requirements of Section 901.5 of this code.*

1704.22.1.3 Removal of stories, including full demolitions. *Where stories are removed from a building served by an existing standpipe system, hydrostatic pressure tests of the entire system shall be performed prior to the commencement of work.*

1704.22.1.4 Alterations. *For alterations not covered under Sections 1704.22.1.2 or 1704.22.1.3 above, the permit holder shall perform a final acceptance test of the completed system in accordance with the requirements of Section 901.5 of this code.*

1704.22.1.5 Readiness. *No standpipe system shall be considered in readiness until there has been a successful hydrostatic pressure test.*

§3 Within 120 days of enactment, the department of buildings shall promulgate rules pursuant to section 28-103.19 of the administrative code amending NPFA 14 and establishing the minimum standards for hydrostatic pressure tests of standpipe systems under sections 1704.22.1.1 and 1704.22.1.2 of this code at not less than 20.7 bar (300 psi) of pressure for one hour.

§4. This local law shall take effect 120 days after enactment except that the commissioner of buildings may promulgate rules or take other administrative actions for the implementation of this local law prior to such effective date.

JAMES VACCA, Chairperson; TONY AVELLA, ERIC N. GIOIA, PETER F. VALLONE JR., VINCENT J. GENTILE, MATHIEU EUGENE, ELIZABETH CROWLEY, Committee on Fire and Criminal Justice Services, September 17, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for Int. No. 1004-A

Report of the Committee on Fire and Criminal Justice Services in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, the New York city building code and the New York city fire code, in relation to an air pressurized alarm system for standpipes.

The Committee on Fire and Criminal Justice Services, to which the annexed amended proposed local law was referred on May 20, 2009 (Minutes, page 2036), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Fire and Criminal Justice Services for Int No. 986-A printed in these Minutes).

The following is from the text of the Fiscal Impact Statement for Int. No. 1004-A:

FISCAL IMPACT STATEMENT:

	Effective FY 10	FY Succeeding Effective FY 11	Full Fiscal Impact FY 10
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: This local law would generate no additional revenues for the City.

IMPACT ON EXPENDITURES: There would be no impact on expenditures as a result of this legislation since existing resources could be used by all impacted agencies in order to compel compliance with legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: City Council Finance Division, Mayor's Office of City Legislative Affairs, Mayor's Office of Management and Budget

ESTIMATE PREPARED BY: John Russell, Legislative Financial Analyst
Andy Grossman, Deputy Director

HISTORY: Intro. 1004 was introduced by the Council and referred to the Committee on Fire and Criminal Justice Services on May 20, 2009. The legislation was considered and laid over by the Committee on June 2, 2009. An amended version of this legislation, Proposed Intro. 1004-A, is to be considered by the Committee on September 17, 2009.

Accordingly, Your Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1004-A:)

Int. No. 1004-A

By Council Member Sanders, the Speaker (Council Member Quinn), and Council Members Vallone Jr., Fidler, Gentile, James, Koppell, Liu, Nelson, Weprin, Gerson, Eugene, Gennaro and Jackson (in conjunction with the Mayor).

A Local Law to amend the administrative code of the city of New York, the New York city building code and the New York city fire code, in relation to an air pressurized alarm system for standpipes.

Be it enacted by the Council as follows:

Section 1. Section 3303.8 of the New York city building code, as added by local law number 33 for the year 2007, is amended by adding a new section 3303.8.1 to read as follows:

3303.8.1 Air pressurized alarm system for dry standpipe systems during construction or demolition operations. Air pressurized alarm systems shall be provided as set forth in Items 1 through 5 below. The provisions of NFPA 14, Chapter 12, as modified in Appendix Q, shall also apply.

1. *Demolitions.* In vacant buildings and structures undergoing demolition, all existing standpipes shall be maintained in a state of readiness as dry standpipes in accordance with Item 2 of Section 3303.8 and shall be provided with an air pressurized alarm system.
2. *New buildings and structures.* All required permanent or temporary standpipes shall be in a state of readiness once the work reaches a height greater than 75 feet (22 860 mm) and shall contain an air pressurized alarm system.
3. *Submission of application.* An application to install an air pressurized

alarm system shall be filed by a registered design professional and a permit obtained by a licensed master plumber or licensed master fire suppression piping contractor. A licensed electrician shall obtain all required electrical permits in accordance with Chapter 3 of Title 27 of the Administrative Code.

4. *Specifications.* The following provisions shall apply to the air pressurized alarm system:
 - 4.1. *Pressure.* Pressure shall be maintained in the standpipe and cross connections at all times and shall not exceed 25 psig (172 kPag) by utilizing nitrogen or an air compressor with an air dryer. The supervisory pressure shall be as determined by a registered design professional.
 - 4.2. *Automatic air pressurized alarm activation.* The alarm shall be automatically activated when the pressure drops below the supervisory pressure or rises above the maximum pressure of 25 psig (172 kPag). When the alarm is activated, notification shall be made to the Fire Department in accordance with Section 901.7.7 of the New York City Fire Code, all work at the site shall cease, except as provided in Item 4.2.1, and an investigation of the entire standpipe system and air compressor shall be immediately performed to determine the cause of the alarm. Unless authorized by the Fire Department, no construction or demolition work shall resume until the standpipe system is repaired and the appropriate pressure is restored, except that any repairs to the standpipe system needed to restore the required pressure shall be undertaken immediately and the standpipe system restored as soon as possible. There shall be compliance with the requirements of Section 901.7.7 of the New York City Fire Code while the standpipe system is out of service. Upon completion of repairs to the standpipe system a full inspection of such system shall be performed, which shall include, among other things, visually tracing the standpipe, including risers, cross connections and siamese connections to verify that no breach exists and checking all gauges of the standpipe system to ensure the standpipe system has been restored to a state of readiness.
 - 4.2.1. *Notwithstanding the provisions of Item 4.2, the activation of the alarm shall not require the cessation of work necessary for the completion of concrete pouring operations in progress at the time of alarm activation, where such cessation would cause a cold joint that would impair the structural integrity of the finished construction. The continuation of such operations shall be permitted only until an orderly termination of such operations can be effectuated. The site safety manager or coordinator shall record the names and locations of any employees necessary for the completion of the concrete pouring operations and provide them to the Fire Department personnel who arrive on the scene.*
 - 4.3. *Air compressor.* The air compressor shall be designed to automatically cut in and cut out at the supervisory pressure and shall be tied into the standpipe system between the siamese connections and the house check valves. The air compressor shall utilize an air dryer during times when freezing conditions exist to condition the air entering the dry standpipe system.
 - 4.4. *Alarm.* The standpipe alarm system shall utilize pressure switches and control equipment to announce a local audible alarm on site that can be heard during working and non-working hours. The audible signal of the horn shall be at least 15 dBA above the ambient noise level but no more than 110 dBA.
 - 4.5. *Power supply.* The standpipe alarm system shall be connected to an active, dedicated power supply at all times.
 - 4.6. *Check valves.* Check valves shall be installed to prevent water from entering the air compressor.
 - 4.7. *Locks and caps.* All control valves shall be chained and locked in the appropriate position and shall be provided with capped outlets. All hose valves shall also be provided with capped outlets.
 - 4.8. *Fire Department connections.* Three inch (76 mm) iron hose plugs with gaskets in Fire Department connection swivels shall be provided.
 - 4.9. *Drainage.* Provisions shall be made to drain water in any trapped sections of the dry standpipe system that are subject to freezing.
 - 4.10. *Manual air release connection.* A minimum 2.5-inch (64 mm) connection located immediately downstream of the Fire Department Siamese connection check valve shall be provided and piped to a location immediately adjacent to the Siamese connections. This line shall be fitted with a 2.5-inch (64 mm) hose valve and shall allow for

release of the pressurized air from the dry standpipe system. The number of air release valves provided shall be such that the air pressure shall be released in no more than 3 minutes, which shall be verifiable by an actual air release test performed at the time of the initial installation,

- 4.11. Construction documents. Plans shall identify all standpipe risers, cross connections, siamese connections, any intermediate check valves that have to be removed, proposed location of the air release connections, designation of the supervisory pressure, complete information regarding the alarm system, and procedures for the safe pressurization and depressurization of the system .
- 4.12. Signage. Signage shall be provided at all Siamese connections indicating that the dry standpipe system is pressurized and showing the location of the manual air release
- 5. Planned removal from service of standpipe system and standpipe air pressurized alarm. Whenever the standpipe system is to be placed out of service for the addition of a new section to the system, removal of an existing section as demolition operations progress, or other planned event, the standpipe alarm may be temporarily deactivated subject to compliance with the requirements of Section 901.7.7 of the New York City Fire Code. Where a site safety manager or coordinator is required by Section 3310.5 of this code, all alarm activations, inspections, and repairs shall be logged into the log book maintained by such site safety manager or coordinator. If the standpipe system is not returned to a state of readiness and the alarm reactivated within 2 hours of such planned removal from service, all construction or demolition work at the site shall cease, unless otherwise approved by the Fire Department.

§ 2. Section 901.7 of the New York city fire code, as added by local law number 26 for the year 2008, is amended by adding a new section 901.7.7, to read as follows:

901.7.7 Out of service standpipe systems at construction sites. The owner, fire safety manager and/or impairment coordinator shall take the following actions whenever a standpipe system at a construction site is out of service:

- 1. Immediately notify the department of any unplanned out of service condition, and otherwise comply with the requirements of Section 901.7.5.
- 2. Notify the department at least 24 hours prior to any planned removal of the standpipe system from service, and otherwise comply with the requirements of Section 901.7.4.
- 3. Ensure that a fire watch is continuously maintained in compliance with the requirements of Section 901.7 while the standpipe system is out of service.
- 4. Repair the standpipe system and return it to service in compliance with the requirements of Sections 901.6 and 901.7.6 and Section 3303.8.1 of the New York City Building Code. The construction site may continue to be occupied, and construction, demolition or alteration activities may continue, pending such repair and restoration to service, except:
 - 4.1. As otherwise provided in Section 3303.8.1 of the New York City Building Code; and/or
 - 4.2. As otherwise directed by the commissioner upon a determination that, in the absence of an operable standpipe system, the conduct of certain construction, demolition or alteration activities would be imminently perilous to life or property; and
 - 4.3 That in no circumstance shall hot work be conducted on the construction site until such time as the standpipe system is restored to service and the standpipe alarm reactivated.

§3. This local law shall take effect 120 days after enactment except that the commissioner of buildings shall take such actions as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

JAMES VACCA, Chairperson; TONY AVELLA, ERIC N. GIOIA, PETER F. VALLONE JR., VINCENT J. GENTILE, MATHIEU EUGENE, ELIZABETH CROWLEY, Committee on Fire and Criminal Justice Services, September 17, 2009.

(The following is the text of a Message of Necessity from the Mayor for the Immediate Passage of Int No. 1004-A:)

Pursuant to authority vested in me by section twenty of the Municipal Home Rule and by section thirty-seven of the New York City Charter, I hereby certify to the necessity for the immediate passage of a local law, entitled:

A LOCAL LAW

To amend the administrative code of the city of New York and the New York city building code, in relation to an air pressurized alarm system for standpipes.

Given under my hand and seal this 17th day of September, 2009 at City Hall in the City of New York.

Michael R. Bloomberg
Mayor

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Reports of the Committee on Land Use

Report for L.U. No. 1188

Report of the Committee on Land Use in favor of approving Application no. 20105030 HAX, an amended Urban Development Action Area Project located at 2228 Givan Avenue, Council District no. 12, Borough of the Bronx. This matter is subject to Council review and action pursuant to Article 16 of the New York General Municipal Law, at the request of the New York City Department of Housing Preservation and Development, and pursuant to Section 422 of the Real Property Tax Law for a partial exemption from real property taxes.

The Committee on Land Use, to which the annexed Land Use resolution was referred on August 20, 2009 (Minutes, page 4712), respectfully

REPORTS:

SUBJECT

Proposal subject to Council review and action pursuant to the Urban Development Action Area Act, Article 16 of the New York General Municipal Law, at the request of the Department of Housing Preservation and Development ("HPD"),

<u>ADDRESS</u>	<u>BLOCK/LOT</u>	<u>Non-ULURP NO.</u>	<u>L.U. NO.</u>	<u>PROGRAM PROJECT</u>
2228 Givan Avenue Bronx	5141/260	20105030 HAX	1188	Section 202 Supportive Housing

INTENT

HPD requests that the Council:

- 1. Find that the present status of the Disposition Area tends to impair or arrest the sound growth and development of the municipality and that the proposed Urban Development Action Area Project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law;
- 2. Approve the designation of the Disposition Area as an Urban Development Action Area pursuant Section 693 of the General Municipal Law;
- 3. Approve the project as an Urban Development Action Area Project pursuant to Section 694 of the General Municipal Law; and
- 4. Approve a partial exemption of the Project from real property taxes pursuant to Section 422 of the Real Property Tax Law (the "Tax Exemption").

Report Summary:**COMMITTEE RECOMMENDATION AND ACTION**

DATE: September 10, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the proposals, grant the requests made by the Department of Housing Preservation and Development, and make the findings required by Article 16 of the General Municipal Law.

In connection herewith, Council Members Katz and Garodnick offered the following resolution:

Res. No. 2181

Resolution approving an amended Urban Development Action Area Project located at 2228 Givan Avenue (Block 5141, Lot 260), Borough of the Bronx, and approving the urban development action area designation and project, pursuant to Sections 693 and 694 of the General Municipal Law (L.U. No. 1188; 20105030 HAX).

By Council Members Katz and Garodnick.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on July 24, 2009 its request dated July 6, 2009 that the Council take the following actions regarding the following Urban Development Action Area Project (the "Project") located at 2228 Givan Avenue (Block 5141, Lot 260), Borough of the Bronx (the "Disposition Area"):

1. Find that the present status of the Disposition Area tends to impair or arrest the sound growth and development of the municipality and that the proposed Urban Development Action Area Project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law;
2. Approve the designation of the Disposition Area as an Urban Development Action Area pursuant Section 693 of the General Municipal Law;
3. Approve the project as an Urban Development Action Area Project pursuant to Section 694 of the General Municipal Law; and
4. Approve a partial exemption of the Project from real property taxes pursuant to Section 422 of the Real Property Tax Law (the "Tax Exemption");

WHEREAS, the Project is to be developed on land that is now an eligible area as defined in Section 692 of the General Municipal Law, consists solely of the rehabilitation or conservation of existing private or multiple dwellings or the construction of one- to four-unit dwellings, and does not require any change in land use permitted under the New York City Zoning Resolution;

WHEREAS, the Project is related to Resolution No. 1361 of 2008 and Resolution No. 1509 of 2008;

WHEREAS, upon due notice, the Council held a public hearing on the Project on September 9, 2009;

WHEREAS, the Council has considered the land use and financial implications and other policy issues relating to the Project;

RESOLVED:

The Council finds that the present status of the Disposition Area tends to impair or arrest the sound growth and development of the City of New York and that a designation of the Project as an urban development action area project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law.

The Council approves the area designation of the Disposition Area as an urban development action area under Section 693 of the General Municipal Law pursuant to said Section.

The Council approves the Project as an Urban Development Action Area Project pursuant to Section 694 of the General Municipal Law.

The Project shall be disposed of and developed upon the terms and conditions set forth in the Project Summary that HPD has submitted to the Council, a copy of which is attached hereto.

The Council approves the partial Tax Exemption as follows:

- a. All of the value of the property included in the housing project, including both Disposition Area and improvements, shall be exempt from real property taxes, other than assessments for local improvements, from the date of conveyance of the land to the Sponsor until the date of issuance of the temporary or permanent Certificate of Occupancy for the housing project.
- b. All of the value of the property included in the housing project (excluding those portions, if any, devoted to business or commercial use), shall be exempt from real property taxes, other than assessments for local improvements, commencing upon the date of issuance of the temporary or permanent Certificate of Occupancy for the housing project (or, if the housing project is constructed in stages, upon the date of issuance of the temporary or permanent Certificate of Occupancy for each such stage) ("Effective Date") and terminating upon the earlier to occur of (i) the date the HUD mortgage is satisfied, or (ii) a date which is forty (40) years from the Effective Date ("Expiration Date"); provided, however, that the Sponsor shall make an annual real estate tax payment commencing upon the Effective Date and terminating upon the Expiration Date.
- c. Commencing upon the Effective Date and during each year thereafter until the Expiration Date, the Sponsor shall make real estate tax payments in the sum of (i) \$33,203, which is ten percent (10%) of the annual shelter rent for the housing project, as determined by HPD in accordance with the formula agreed upon with HUD, plus (ii) an additional amount equal to twenty-five percent (25%) of the amount by which the total contract rents applicable to the housing project for that year (as adjusted and established pursuant to Section 8 of the United States Housing Act of 1937, as amended) exceed the total contract rents which are authorized as of the Effective Date. Notwithstanding the foregoing, the total annual real estate tax payment by the Sponsor shall not at any time exceed the lesser of either (i) seventeen percent (17%) of the contract rents, or (ii) the amount of real estate taxes that would otherwise be due in the absence of any form of tax exemption or abatement provided by any existing or future local, state, or federal law, rule or regulation.
- d. In consideration of such tax exemption, the Sponsor, for so long as the partial tax exemption provided hereunder shall remain in effect, shall waive the benefits, if any, of additional or concurrent real property tax abatement and/or tax exemption which may be authorized under any existing or future local, state, or federal law, rule or regulation.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, ALBERT VANN, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, September 10, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1189

Report of the Committee on Land Use in favor of approving Application no. 20105031 HAQ, an Urban Development Action Area Project located at 69-21 Bayfield Avenue and 69-30 Elizabeth Avenue, Council District no. 31, Borough of Queens. This matter is subject to Council review and action pursuant to Article 16 of the New York General Municipal Law, at the request of the New York City Department of Housing Preservation and Development, and pursuant to Section 696 of the General Municipal Law for a partial exemption from real property taxes.

The Committee on Land Use, to which the annexed Land Use resolution was referred on August 20, 2009 (Minutes, page 4712), respectfully

REPORTS:

SUBJECT

Proposal subject to Council review and action pursuant to the Urban Development Action Area Act, Article 16 of the New York General Municipal Law, at the request of the Department of Housing Preservation and Development ("HPD"),

<u>ADDRESS</u>	<u>BLOCK/LOT</u>	<u>NON-ULURP NO.</u>	<u>L.U. NO.</u>	<u>PROGRAM PROJECT</u>
69-21 Bayfield Avenue Control	16045/21	20105031 HAQ	1189	Asset
69-30 Elizabeth Avenue Area Queens	16049/43			

INTENT

HPD requests that the Council:

1. Find that the present status of the Exemption Area tends to impair or arrest the sound growth and development of the municipality and that the proposed Urban Development Action Area Project is consistent with the policy and purposes of Section 691 of the General Municipal Law;
2. Waive the area designation requirement of Section 693 of the General Municipal Law pursuant to said Section;
3. Waive the requirements of Sections 197-c and 197-d of the New York City Charter pursuant to Section 694 of the General Municipal Law;
4. Approve the project as Urban Development Action Area Projects pursuant to Section 694 of the General Municipal Law; and
5. Approve an exemption of the project from real property taxes pursuant Section 696 of the General Municipal Law.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: September 9, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the proposals, grant the requests made by the Department of Housing Preservation and Development, and make the findings required by Article 16 of the General Municipal Law.

In connection herewith, Council Members Katz and Garodnick offered the following resolution:

Res. No. 2182

Resolution approving an Urban Development Action Area Project located at 69-21 Bayfield Avenue (Block 16045/Lot 21) and 69-30 Elizabeth Avenue (Block 10649/Lot 43), Borough of Queens, and waiving the urban development action area designation requirement and the Uniform Land Use Review Procedure, pursuant to Sections 693 and 694 of the General Municipal Law (L.U. No. 1189; 20105031 HAQ).

By Council Members Katz and Garodnick.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on July 24, 2009 its request dated July 6, 2009 that the Council take the following actions regarding the following Urban Development Action Area Project (the "Project") located at 69-21 Bayfield Avenue (Block 16045/Lot 21) and 69-30 Elizabeth Avenue (Block 10649/Lot 43), Community District 14, Borough of Queens (the "Exemption Area");

1. Find that the present status of the Exemption Area tends to impair or arrest the sound growth and development of the municipality and that the proposed Urban Development Action Area Project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law;
2. Waive the area designation requirement of Section 693 of the General Municipal Law pursuant to said Section;
3. Waive the requirements of Sections 197-c and 197-d of the New York City Charter pursuant to Section 694 of the General Municipal Law;
4. Approve the Project as an Urban Development Action Area Project pursuant to Section 694 of the General Municipal Law; and
5. Approve the exemption of the Project from real property taxes pursuant to Section 696 of the General Municipal Law (the "Tax Exemption").

WHEREAS, the Project is to be developed on land that is now an eligible area as defined in Section 692 of the General Municipal Law, consists solely of the rehabilitation or conservation of existing private or multiple dwellings or the construction of one to four unit dwellings, and does not require any change in land use permitted under the New York City Zoning Resolution;

WHEREAS, upon due notice, the Council held a public hearing on the Project on September 9, 2009;

WHEREAS, the Council has considered the land use and financial implications and other policy issues relating to the Project;

RESOLVED:

The Council finds that the present status of the Exemption Area tends to impair or arrest the sound growth and development of the City of New York and that a designation of the Project as an urban development action area project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law.

The Council waives the area designation requirement pursuant to Section 693 of the General Municipal Law.

The Council waives the requirements of Sections 197-c and 197-d of the New York City Charter pursuant to Section 694 of the General Municipal Law.

The Council approves the Project as an urban development action area project pursuant to Section 694 of the General Municipal Law.

The Project shall be developed in a manner consistent with the Project Summary that HPD has submitted to the Council, a copy of which is attached hereto.

The exemption of the Project from real property taxes pursuant to Section 696 of the General Municipal Law is approved as follows:

- a. All of the value of the buildings, structures, and other improvements situated on the Exemption Area shall be exempt from local and municipal taxes, other than assessments for local improvements and land value, for a period of ten years commencing on the January 1st or July 1st (whichever shall first occur), during the last five years of which such exemption shall decrease in equal annual decrements, following certification by HPD or its designee that (i) rehabilitation of the building on the Exemption Area has been substantially completed and a temporary or permanent Certificate of Occupancy for such building has been issued by the Department of Buildings or is not required, and (ii) the cost of such rehabilitation is at least equal to the assessed value of such building as determined in the tax year immediately preceding the grant of the tax exemption hereunder.
- b. The partial tax exemption granted hereunder shall terminate with respect to all or any portion of the Exemption Area if HPD determines that such real property has not been, or is not being, developed, used, and/or operated in compliance with the requirements of all applicable agreements made by the Sponsor or the owner of such real property with, or for the benefit of, the City of New York or HUD. HPD shall deliver written notice of any such determination of noncompliance to the owner of such real property and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than ninety (90)

days. If the noncompliance specified in such notice is not cured within the time period specified therein, the partial tax exemption granted hereunder shall prospectively terminate with respect to the real property specified therein.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, ALBERT VANN, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, September 10, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1194

Report of the Committee on Land Use in favor of approving Application no. 20095598 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition for RRBV Associates LLC d/b/a Harbor NY, to establish, maintain and operate an unenclosed sidewalk café located at 290 Hudson Street (Block 579, Lot 5), Borough of Manhattan, Council District no.3. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and §20-226(g) of the New York City Administrative Code.

The Committee on Land Use, to which the annexed Land Use resolution was referred on August 20, 2009 (Minutes, page 4714), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 2

20095598 TCM

Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of RRBV Associates, LLC, d/b/a Harbour, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café at 290 Hudson Street.

INTENT

To allow an eating or drinking place located on a property which abuts the street to establish, maintain and operate an unenclosed service area on the sidewalk of such street.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: September 9, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the Petition.

In connection herewith, Council Members Katz and Avella offered the following resolution:

Res. No. 2183

Resolution approving the petition for a revocable consent for an unenclosed sidewalk café located at 290 Hudson Street, Borough of Manhattan (20095598 TCM; L.U. No. 1194).

By Council Members Katz and Avella.

WHEREAS, the Department of Consumer Affairs filed with the Council on July 31, 2009 its approval dated July 31, 2009 of the petition of RRBV Associates, LLC, d/b/a Harbour, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 290 Hudson Street, Community District 2,

Borough of Manhattan (the "Petition"), pursuant to Section 20-226 of the New York City Administrative Code (the "Administrative Code");

WHEREAS, the Petition is subject to review by the Council pursuant to Section 20-226(g) of the Administrative Code;

WHEREAS, upon due notice, the Council held a public hearing on the Petition on September 9, 2009; and

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Petition;

RESOLVED:

Pursuant to Section 20-226 of the Administrative Code, the Council approves the Petition.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, ALBERT VANN, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, September 10, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1195

Report of the Committee on Land Use in favor of approving Application no. 20095695 TCQ, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition for A & A Food Enterprises LLC d/b/a. Aged Bar N Grill, to establish, maintain and operate an unenclosed sidewalk café located at 107-02 70th Road (Block 3239, Lot 32), Borough of Queens, Council District no. 29. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and §20-226(g) of the New York City Administrative Code.

The Committee on Land Use, to which the annexed Land Use resolution was referred on August 20, 2009 (Minutes, page 304), respectfully

REPORTS:

SUBJECT

QUEENS CB - 6

20095695

TCQ

Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of A & A Food Enterprises, LLC, d/b/a Aged Bar & Grill, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café at 107-02 70th Road.

INTENT

To allow an eating or drinking place located on a property which abuts the street to establish, maintain and operate an unenclosed service area on the sidewalk of such street.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: September 9, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the Petition.

In connection herewith, Council Members Katz and Avella offered the following resolution:

Res. No. 2184

Resolution approving the petition for a revocable consent for an unenclosed sidewalk café located at 107-02 70th Road, Borough of Queens (20095695 TCQ; L.U. No. 1195).

By Council Members Katz and Avella.

WHEREAS, the Department of Consumer Affairs filed with the Council on August 6, 2009 its approval dated August 6, 2009 of the petition of A & A Food Enterprises, LLC, d/b/a Aged Bar & Grill, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 107-02 70th Road, Community District 6, Borough of Queens (the "Petition"), pursuant to Section 20-226 of the New York City Administrative Code (the "Administrative Code");

WHEREAS, the Petition is subject to review by the Council pursuant to Section 20-226(g) of the Administrative Code;

WHEREAS, upon due notice, the Council held a public hearing on the Petition on September 9, 2009; and

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Petition;

RESOLVED:

Pursuant to Section 20-226 of the Administrative Code, the Council approves the Petition.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, ALBERT VANN, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, September 10, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1196

Report of the Committee on Land Use in favor of approving Application no. 20095133 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition for Greek Kitchen Inc. d.b.a. Greek Kitchen, to construct, maintain and use an enclosed sidewalk café located at 885-889 Tenth Avenue (Block 1086, Lot 34), Borough of Manhattan, Council District no.6.

The Committee on Land Use, to which the annexed Land Use resolution was referred on August 20, 2009 (Minutes, page 4716), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 4

20095133 TCM

Application pursuant to Section 20-225 of the Administrative Code of the City of New York, concerning the petition of the Greek Kitchen, Inc., d/b/a The Greek Kitchen, for a revocable consent to construct, maintain and operate an enclosed sidewalk café at 885-889 Tenth Avenue.

INTENT

To allow an eating or drinking place located on a property which abuts the street to construct, maintain and operate an enclosed service area on the sidewalk of such street.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: September 9, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the Petition.

In connection herewith, Council Members Katz and Avella offered the following resolution:

Res. No. 2185

Resolution approving the petition for a revocable consent for an enclosed sidewalk café located at 885-889 Tenth Avenue, Borough of Manhattan (20095133 TCM; L.U. No. 1196).

By Council Members Katz and Avella.

WHEREAS, the Department of Consumer Affairs filed with the Council on August 10, 2009 its approval dated August 10, 2009 of the petition of Greek Kitchen, Inc., d/b/a The Greek Kitchen, for a revocable consent to construct, maintain and operate an enclosed sidewalk café located at 885-889 Tenth Avenue, Community District 4, Borough of Manhattan (the "Petition"), pursuant to Section 20-225 of the New York City Administrative Code (the "Administrative Code");

WHEREAS, the Petition is subject to review by the Council pursuant to Section 20-225(g) of the Administrative Code;

WHEREAS, upon due notice, the Council held a public hearing on the Petition on September 9, 2009; and

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Petition;

RESOLVED:

Pursuant to Section 20-225 of the Administrative Code, the Council approves the Petition.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, ALBERT VANN, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, September 10, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point, the Speaker (Council Member Quinn) announced that the following items have been **preconsidered** by the Committee on Land Use and have been favorably reported for adoption.

Report for L.U. No. 1202

Report of the Committee on Land Use in favor of approving Application no. 20105018 HKM (N 100003 HKM), pursuant to §3020 of the Charter of the City of New York, concerning the designation (List No.414, LP-2327) by the Landmarks Preservation Commission of the John Pierce Residence, (Block 1287, Lot 10) as an historic landmark, Council District no. 3.

The Committee on Land Use, to which the annexed Land Use resolution was referred on September 17, 2009, respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 5 20105018 HKM (N 100003 HKM)

Designation by the Landmarks Preservation Commission (List No. 414/LP-2327), pursuant to Section 3020 of the New York City Charter, of the landmark designation of the John Peirce Residence located at 11 East 51st Street (Block 1287, Lot 10), as an historic landmark.

Report Summary:COMMITTEE RECOMMENDATION AND ACTION

DATE: September 9, 2009

The Committee recommends that the Council approve the attached resolution and thereby affirm the designation.

In connection herewith, Council Members Katz and Lappin offered the following resolution:

Res. No. 2186

Resolution affirming the designation by the Landmarks Preservation Commission of the John Peirce Residence, located at 11 East 51st Street (Block 1287, Lot 10), Borough of Manhattan, Designation List No. 414, LP- 2327 (Preconsidered L.U. No. 1202; 20105018 HKM; N 100003 HKM).

By Council Members Katz and Lappin.

WHEREAS, the Landmarks Preservation Commission filed with the Council on July 1, 2009 a copy of its designation dated June 23, 2009 (the "Designation"), of the John Peirce Residence located at 11 East 51st Street, Community District 5, Borough of Manhattan, as a landmark and Block 1287, Lot 10, as its landmark site pursuant to Section 3020 of the New York City Charter;

WHEREAS, the Designation is subject to review by the Council pursuant to Section 3020 of the City Charter;

WHEREAS, the City Planning Commission submitted to the Council on August 26, 2009 its report on the Designation dated August 19, 2009 (the "Report");

WHEREAS, upon due notice, the Council held a public hearing on the Designation on September 9, 2009; and

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Designation;

RESOLVED:

Pursuant to Section 3020 of the City Charter, and on the basis of the information and materials contained in the Designation and the Report, the Council affirms the Designation.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, ALBERT VANN, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, September 10, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point, the Speaker (Council Member Quinn) announced that the following items have been **preconsidered** by the Committee on Land Use and have been favorably reported for adoption.

Report for L.U. No. 1203

Report of the Committee on Land Use in favor of approving Application no. 20105019 HKM (N 100004 HKM), pursuant to §3020 of the Charter of the City of New York, concerning the designation (List No.414, LP-2320) by the Landmarks Preservation Commission of the Mount Olive Fire Baptized Holiness Church, located at 308 West 122nd street (aka 304-308 West 122nd Street) as an historic landmark, Council District no. 9.

The Committee on Land Use, to which the annexed Land Use resolution was referred on September 17, 2009, respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 10 20105019 HKM (N 100004 HKM)

Designation by the Landmarks Preservation Commission (List No. 414/LP-2320), pursuant to Section 3020 of the New York City Charter, of the landmark designation of the Mount Olive Fire Baptized Holiness Church (Former Second Reformed Presbyterian Church) located at 308 West 122nd Street (aka 304-308 West 122nd Street), as an historic landmark.

Report Summary:COMMITTEE RECOMMENDATION AND ACTION

DATE: September 9, 2009

The Committee recommends that the Council approve the attached resolution and thereby affirm the designation.

In connection herewith, Council Members Katz and Lappin offered the following resolution:

Res. No. 2187

Resolution affirming the designation by the Landmarks Preservation Commission of the Mount Olive Fire Baptized Holiness Church (Former Second Reformed Presbyterian Church) located at 308 West 122nd Street (aka 304-308 West 122nd Street) (Block 1948, Lot 41), Borough of Manhattan, Designation List No. 414, LP-2320 (Preconsidered L.U. No. 1203; 20105019 HKM; N 100004 HKM).

By Council Members Katz and Lappin.

WHEREAS, the Landmarks Preservation Commission filed with the Council on July 1, 2009 a copy of its designation dated June 23, 2009 (the "Designation"), of the Mount Olive Fire Baptized Holiness Church (Former Second Reformed Presbyterian Church) located at 308 West 122nd Street (aka 304-308 West 122nd Street), Community District 10, Borough of Manhattan, as a landmark and Block 1948, Lot 41, as its landmark site pursuant to Section 3020 of the New York City Charter;

WHEREAS, the Designation is subject to review by the Council pursuant to Section 3020 of the City Charter;

WHEREAS, the City Planning Commission submitted to the Council on August 26, 2009 its report on the Designation dated August 19, 2009 (the "Report");

WHEREAS, upon due notice, the Council held a public hearing on the Designation on September 9, 2009; and

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Designation;

RESOLVED:

Pursuant to Section 3020 of the City Charter, and on the basis of the information and materials contained in the Designation and the Report, the Council affirms the Designation.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, ALBERT VANN, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, September 10, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point, the Speaker (Council Member Quinn) announced that the following items have been **preconsidered** by the Committee on Land Use and have been favorably reported for adoption.

Report for L.U. No. 1204

Report of the Committee on Land Use in favor of approving Application no. 20105021 HKK (N 100002 HKK), pursuant to §3020 of the Charter of the City of New York, concerning the designation (List No.414, LP-2314) by the Landmarks Preservation Commission of Prospect Heights as a historic district, Council District no. 35.

The Committee on Land Use, to which the annexed Land Use resolution was referred on September 17, 2009, respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 8 20105021 HKK (N 100002 HKK)

Designation by the Landmarks Preservation Commission (List No. 414/LP-2314) pursuant to Section 3020 of the New York City Charter of the landmark designation of Prospect Heights Historic District, as an historic district.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: September 9, 2009

The Committee recommends that the Council approve the attached resolution and thereby affirm the designation.

In connection herewith, Council Members Katz and Lappin offered the following resolution:

Res. No. 2188

Resolution affirming the designation by the Landmarks Preservation Commission of the Prospect Heights Historic District, Borough of Brooklyn, Designation List No. 414, LP-2314 (Preconsidered L.U. No. 1204; 20105021 HKK; N 100002 HKK).

By Council Members Katz and Lappin.

WHEREAS, the Landmarks Preservation Commission filed with the Council on July 1, 2009 a copy of its designation dated June 23, 2009 (the "Designation"), of the Prospect Heights Historic District. The district boundaries are: property bounded by a line beginning at the southwest corner of Underhill Avenue and Prospect Place, extending southerly along the western curbline of Underhill Avenue to a point in said curbline formed by its intersection with a line extending westerly from the northern property line of 349-351 Park Place, aka 147-151 Underhill Avenue (Block 1160, Lot 1), easterly across Underhill Avenue and along said property line, northerly along the western property line of 369 Park Place, easterly along the northern Property lines of 369 to 411 Park Place and a portion of the northern property line of 413 Park Place, easterly along the angled northern property lines of 413 to 421 Park Place, southerly along the eastern property line of 421 Park Place across Park Place to its southern curbline, easterly along said curbline to a point formed by its intersection with a line extending northerly from the eastern property line of 426 Park Place, southerly along said property line, easterly along the northern property lines of 423 to 429 Sterling Place, southerly along a portion of the eastern

property line of 429 Sterling Place, easterly along the northern property line of 431 Sterling Place, southerly along the eastern property line of 431 Sterling Place, across Sterling Place to its southern curbline, easterly along said curbline to a point formed by its intersection with a line extending northerly from the eastern property line of 446 Sterling Place, southerly along said property line, westerly along the southern property lines of 446 to 364 Sterling Place, northerly along a portion of the western property line of 364 Sterling Place, westerly along the southern property line of 346 Sterling Place, aka 185 Underhill Avenue and across Underhill Avenue to its western curbline, southerly along said curbline to the northwest corner of Underhill Avenue and St. John's Place, westerly along the northern curbline of St. John's Place to a point formed by its intersection with a line extending southerly from the western property line of 323 St. John's Place, aka 200 Underhill Avenue, northerly along the angled property lines of 323 St. John's Place, aka 200 Underhill Avenue, and 198 to 188 Underhill Avenue, easterly along a portion of the northern property line of 188 Underhill Avenue, northerly along the western property lines of 186 Underhill Avenue (aka 186A Underhill Avenue) to 176 Underhill Avenue, aka 340-344 Sterling Place, and across Sterling Place to its northern curbline, westerly along said curbline to a point formed by its intersection with a line extending northerly across Sterling Place from a portion of the eastern property line of 288 Sterling Place, aka 29 Butler Place, southerly across Sterling Place and said property line, following its eastward angle to the northern curbline of Butler Place, westerly along said curbline to a point formed by its intersection with a line extending southerly from a portion of the western property line of 286 Sterling Place, aka 27 Butler Place, northerly along said property line, westerly along the angled southern property lines of 284 and 282 Sterling Place, continuing westerly along the southern property lines of 280 to 276 Sterling Place, southerly along a portion of the eastern property line of 274 Sterling Place, westerly along the southern property line of 274 Sterling Place, northerly along a portion of the western property line of 274 Sterling Place, westerly along the southern property line of 272 Sterling Place and the angled southern property lines of 270 and 268 Sterling Place, northerly along the western property line of 268 Sterling Place and across Sterling Place to its northern curbline, westerly along said curbline to the northeast corner of Sterling Place and Vanderbilt Avenue, northerly along the eastern curbline of Vanderbilt Avenue and across Park Place to a point in said curbline formed by its intersection with a line extending eastward from the southern property line of 630A Vanderbilt Avenue, westerly across Vanderbilt Avenue and along said property line, southerly along a portion of the eastern property line of 210A-220 Prospect Place and the eastern property line of 233-235 Park Place, across Park Place and continuing southerly along the eastern property line of 248 Park Place, westerly along the southern property line of 248 Park Place, southerly along a portion of the eastern property line of 226-246 Park Place, westerly along the southern property line of 226-246 Park Place, southerly along the eastern property line of 213 Sterling Place to the northern curbline of Sterling Place, westerly along said curbline northerly along the eastern curbline of Flatbush Avenue, easterly along the northern property line of 375 Flatbush Avenue, easterly along the northern property lines of 375 Flatbush Avenue and 183 to 187 Sterling Place, northerly along portions of the western property lines of 189-191 Sterling Place and 200 Park Place, westerly along a portion of the southern property line of 200 Park Place and the southern property lines of 196 to 188 Park Place and the angled southern property lines of 186 to 180 Park Place, northerly along the western property line of 180 Park Place and across Park Place to its northern curbline, westerly along said curbline, northerly along the eastern curbline of Carlton Avenue to a point in said curbline formed by its intersection with a line extending easterly from the southern property line of 632A Carlton Avenue, westerly across Carlton Avenue and along said property line to a point formed by its intersection with a line extending southerly from the western property line of 632 Carlton Avenue, northerly along said line and the western property line of 632 Carlton Avenue, easterly along a portion of the northern property line of 632 Carlton Avenue, northerly along the western property lines of 628-630 and 626 Carlton Avenue, westerly along the angled southern property lines of 140 and 138 Prospect Place, northerly along a portion of the western property line of 138 Prospect Place, westerly along the southern property line of 321 Flatbush Avenue to the eastern curbline of Flatbush Avenue, northerly along the eastern curbline of Flatbush Avenue to the northern curbline of Prospect Place, westerly along said curbline to a point formed by its intersection with a line extending southward from the western property line of 115 Prospect Place, northerly along said property line and the angled western property lines of 112 to 102 St. Mark's Avenue, westerly along the southern property line of 283 Flatbush Avenue to the eastern curbline of Flatbush Avenue, northerly along said curbline to the northern curbline of St. Mark's Avenue, westerly along the northern curbline of Saint Mark's Avenue to a point formed by its intersection with a line extending southward from the western property line of 75 St. Mark's Avenue, northerly along said property line, easterly along the northern property line of 75 St. Mark's Avenue, northerly along a portion of the western property line of 77 St. Mark's Avenue, easterly along the northern property lines of 77 to 107 St. Mark's Avenue and a portion of the northern property line of 109 St. Mark's Avenue, northerly along the western property line of Block 1143, Lot 140 (an interior lot), westerly along a portion of the southern property line of 538 Bergen Street and the southern property lines of 536 and 534 Bergen Street, northerly along the western property line of 534 Bergen Street and across Bergen Street to the northern curbline of Bergen Street, westerly along said curbline to a point formed by its intersection with a line extending southward from the western property line of 531 Bergen Street, northerly along said property line, easterly along the northern property lines of 531 to 535 Bergen Street and a portion of the northern property line of 537 Bergen Street, northerly along the western property line of 546 Dean Street to the southern curbline of Dean Street, easterly along the southern curbline of Dean Street to a point formed by its intersection with a line extending southerly from the western property line of 536 Carlton Avenue, aka 561-565 Dean Street, northerly across Dean Street and along the western property lines of 536 to 522 Carlton

Avenue, easterly along a portion of the northern property line of 522 Carlton Avenue, northerly along the western property lines of 520 to 516 Carlton Avenue, aka 734-738 Pacific Street, to the southern curblineline of Pacific Street, easterly along said curblineline to the southwest corner of Pacific Street and Carlton Avenue, southerly along the western curblineline of Carlton Avenue and across Dean Street to the southwest corner of Dean Street and Carlton Avenue, easterly across Carlton Avenue and along the southern curblineline of Dean Street to a point formed by its intersection with a line extending northerly from the eastern property line of 555 Carlton Avenue, aka 574 Dean Street, southerly along the eastern property lines of 555 to 565A Carlton Avenue and a portion of the eastern property line of 567 Carlton Avenue, easterly along the northern property lines of 573 to 585 Bergen Street, southerly along the eastern property line of 585 Bergen Street and across Bergen Street to the southern curblineline of Bergen Street, easterly along said curblineline to a point formed by its intersection with a line extending southward and across Bergen Street from the western property line of 570 Vanderbilt Avenue, aka 635 Bergen Street, northerly across Bergen Street and along the western property lines of 570 to 566 Vanderbilt Avenue and a portion of the western property line of 564 Vanderbilt Avenue, westerly along a portion of the southern property line of 564 Vanderbilt Avenue, northerly along portions of the western property lines of 564 and 560 Vanderbilt Avenue, easterly along a portion of the northern property line of 560 Vanderbilt Avenue, northerly along a portion of the western property line of 560 Vanderbilt Avenue and the western property lines of 558 to 552 Vanderbilt Avenue, aka 662 Dean Street to the southern curblineline of Dean Street, easterly along said curblineline and across Vanderbilt Avenue to the southeast corner of Vanderbilt Avenue and Dean Street, northerly across Dean Street and along the eastern curblineline of Vanderbilt Avenue to the southeast corner of Vanderbilt Avenue and Pacific Street, easterly along the southern curblineline of Pacific Street to a point formed by its intersection with a line extending northward from the eastern property line of 565 Vanderbilt Avenue, aka 820-826 Pacific Street, southerly along the eastern property lines of 565 to 583 Vanderbilt Avenue and across Dean Street to its southern curblineline, easterly along said curblineline to a point formed by its intersection with a line extending northward from the eastern property line of 680 Dean Street, southerly along the eastern property line of 680 Dean Street and the angled eastern property line of 589 Vanderbilt Avenue, easterly along a portion of the northern property line of 591 Vanderbilt Avenue, southerly along the eastern property line of 591 Vanderbilt Avenue and a portion of the eastern property line of 593 Vanderbilt Avenue, easterly along a portion of the northern property line of 593 Vanderbilt Avenue, southerly along a portion of the eastern property line of 593 Vanderbilt Avenue and the eastern property lines of 593½ to 601 Vanderbilt Avenue, aka 651 Bergen Street, continuing southerly across Bergen Street to its southern curblineline, westerly along said curblineline to a point formed by its intersection with a line extending northerly from the eastern property line of 603 Vanderbilt Avenue, aka 640 Bergen Street, southerly along the eastern property lines of 603 to 623 Vanderbilt Avenue to the northern curblineline of St. Mark's Avenue, westerly along said curblineline to a point formed by its intersection with a line extending northerly and across St. Mark's Avenue from the eastern property line of 625 Vanderbilt Avenue, aka 236 St. Mark's Avenue, southerly across St. Mark's Avenue and along the eastern property lines of 625 to 633 Vanderbilt Avenue and a portion of the eastern property line of 635 Vanderbilt Avenue, easterly along the northern property lines of 239 to 277 Prospect Place, northerly along a portion of the western property line of 281 Prospect Place, easterly along a portion of the northern property line of 281 Prospect Place, southerly along a portion of the eastern property line of 281 Prospect Place, easterly along a portion of the northern property line of 281 Prospect Place and the northern property lines of 287 and 289 Prospect Place, southerly along the angled portion of the eastern property lines of 289 and 291 Prospect Place, easterly along the angled northern property lines of 293 to 297 Prospect Place, southerly along a portion of the eastern property line of 297 Prospect Place, easterly along the northern property lines of 299 to 307 Prospect Place, southerly along a portion of the eastern property line of 307 Prospect Place, easterly along the northern property line of 309 Prospect Place, southerly along the eastern property line of 309 Prospect Place and across Prospect Place to its southern curblineline, and easterly along said curblineline to the point of the beginning, Community District 8, Borough of Brooklyn, as a historic district pursuant to Section 3020 of the New York City Charter;

WHEREAS, the Designation is subject to review by the Council pursuant to Section 3020 of the City Charter;

WHEREAS, the City Planning Commission submitted to the Council on August 26, 2009 its report on the Designation dated August 19, 2009 (the "Report");

WHEREAS, upon due notice, the Council held a public hearing on the Designation on September 9, 2009; and

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Designation;

RESOLVED:

Pursuant to Section 3020 of the City Charter, and on the basis of the information and materials contained in the Designation and the Report, the Council affirms the Designation.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, ALBERT VANN, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, September 10, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report of the Committee on Rules, Privileges and Elections

At this point, the Speaker (Council Member Quinn) announced that the following items have been **preconsidered** by the Committee on Rules, Privileges and Elections and have been favorably reported for adoption.

Report for M-1569

Report of the Committee on Rules, Privileges and Elections in favor of approving the appointment of Arva R. Rice as a Member of the Equal Employment Practices Commission.

The Committee on Rules, Privileges and Elections, to which the annexed communication was referred on September 17, 2009, respectfully

REPORTS:

New York City Equal Employment Practices Commission – (Candidate for appointment by the Council)

• **Arva R. Rice [Preconsidered M-1569]**

Chapter 36 of the *New York City Charter* (the "Charter") establishes an Equal Employment Practices Commission ("EEPC") within the City of New York. The law provides that EEPC shall review, evaluate and monitor the employment procedures, practices and programs of City agencies including the City's Department of Citywide Administrative Services. Its purpose is to ensure an effective affirmative employment program of equal employment opportunity for minority group members and women who are employed by or seek employment with City agencies.

The EEPC consists of five members who are compensated on a per-diem basis.¹ The Mayor and the Council each appoint two members, and the Mayor and the Speaker of the Council jointly appoint a fifth member to serve as Chair of EEPC. Members, including the Chair, have four year terms. A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of EEPC. Three members thereof shall constitute a quorum.

EEPC may, within available appropriations, appoint an executive director and such deputies, assistants, and other employees as may be needed in the performance of its duties. EEPC may meet as necessary to implement the provisions of Chapter 36 of the *Charter*, but at least once every eight weeks.

Some of EEPC powers and duties include:

- monitoring the employment practices of all local agencies, including non-Mayoral agencies;
- monitoring the implementation and coordination of City affirmative employment programs;
- requesting information from agencies to carry out Commission functions;
- communicating to the New York City Human Rights Commission concerning violations;
- reviewing and providing comments on annual equal employment opportunity plans adopted by City agencies;

- recommending to any City agency actions which such agency should consider including in its next annual plan;
- advising, and if requested, assisting City agencies in their efforts to increase employment of minority group members and women who are employed by or who seek employment with City agencies;
- auditing and evaluating the employment practices and procedures of each City agency and their efforts to ensure fair and effective equal employment opportunity for minority group members and women at least once every four years and whenever requested by the New York City Civil Service Commission or the New York City Human Rights Commission or whenever otherwise deemed necessary by the Commission;
- making policy, legislative and budgetary recommendations to the Mayor, the Council, the New York City Department of Citywide Administrative Services or any City agency as the Commission deems necessary;
- publishing by the 15th of February of each year, a report to the Mayor and the Council on the activities of EEPC and the effectiveness of each City agency's affirmative employment efforts and the efforts by the New York City Department of Citywide Administrative Services to ensure equal employment opportunity for minority group members and women who are employed by or seek to be employed by City agencies;
- establishing appropriate advisory committees;
- serving as liaison for the City to state, federal and local agencies responsible for compliance with equal employment opportunity; and
- taking such other actions as are appropriate to effectuate the provisions and purposes of Chapter 36 of the *Charter*.

EEPC is also empowered with compliance procedures to insure that City agencies are adhering to the law.

Ms. Arva R. Rice is scheduled to appear before the Council's Committee on Rules, Privileges and Elections on Thursday, September 17, 2009. If appointed by the Council as a member of EEPC, Ms. Rice, a resident of Manhattan, will fill a vacancy and be eligible to serve for the remainder of a four year term that will expire on June 30, 2011. A copy of Ms. Rice's résumé and report/resolution is annexed to this briefing paper.

¹ The current per-diem rate for Commission members is \$250. The rate for the Chair is \$275.

After interviewing the candidate and reviewing the relevant material, this Committee decided to approve the appointment of nominee Arva R. Rice.

The Committee on Rules, Privileges and Elections respectfully reports:

Pursuant to § 830 of the *New York City Charter*, the Committee on Rules, Privileges and Elections, hereby approves the appointment by the Council of Arva R. Rice as a member of the Equal Employment Practices Commission to serve a four-year term that expires on June 30, 2011.

This matter was referred to the Committee on September 17, 2009.

In connection herewith, Council Member Reyna offered the following resolution:

Res. No. 2189

Resolution approving the appointment by the Council of Arva R. Rice as a member of the Equal Employment Practices Commission.

By Council Member Reyna.

RESOLVED, that pursuant to § 830 of the *New York City Charter*, the Council does hereby approve the appointment of Arva R. Rice as a member of the Equal

Employment Practices Commission to serve a four-year term that expires on June 30, 2011.

DIANA REYNA, Chairperson; JOEL RIVERA, LEROY G. COMRIE, ERIK MARTIN DILAN, LEWIS A. FIDLER, ROBERT JACKSON, MELINDA R. KATZ, LARRY B. SEABROOK, DAVID I. WEPRIN, VINCENT J. GENTILE, INEZ E. DICKENS, DANIEL R. GARODNICK, JAMES S. ODDO, CHRISTINE C. QUINN, Committee on Rules, Privileges and Elections, September 17, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

GENERAL ORDER CALENDAR

Resolution approving various persons Commissioners of Deeds

By the Presiding Officer –

Resolved, that the following named persons be and hereby are appointed Commissioners of Deeds for a term of two years:

Approved New Applicant's Report

Name	Address	District #
Inessa Abayev	108-21 65th Avenue Queens, NY 11375	29
Rodney L. Cordell	458 West 150th Street New York, NY 10031	7
Jhasmine J. Figueroa	3023 Fish Avenue Bronx, NY 10469	12
Karl T. Frazier	530 East 139th Street #8G Bronx, NY 10456	16
Maritza Galarza	198 Ellery Street Brooklyn, NY 11206	36
Luz A. Gonzalez	140-24 174th Street Queens, NY 11434	31
Tonya Hardison	152 Somers Street #1 Brooklyn, NY 11233	37
Takemasa John Kurita	25-15 14th Place #2B Queens, NY 11102	22
Victoria Ledeneva	171 Grimsby Street Staten Island, NY 10306	50
Anatoly Petrikovsky	1169 Father Capodanno Blvd Staten Island, NY 10306	50
Hector D. Quinones	111-2 Freedom Avenue #2C Staten Island, NY 10314	50
Paula Lubin	71.2 East 27th Street Brooklyn, NY 11210	45
Nydia Ojeda	1590 West 8th Street #1H Brooklyn, NY 11204	44
Jonathan M. Phillips	1424 64th Street #2F Brooklyn, NY 11219	38
Jacqueline Pollitt	2010 Bruckner Blvd #10L Bronx, NY 10473	18
Margaret Rivin	200 Rector Place #43F New York, NY 10280	1
Malcolm I. Roberts	382 Central Park West #19G New York, NY 10025	8
Wynette Tomlinson-Beaumont	170-44130th Avenue Queens, NY 11434	28
Valeriy Verkhovskiy	2180 East 8th Street #1R Brooklyn, NY 11223	47

Approved New Applicants and Reapplicants

Name	Address	District #	Name	Address	District #
Martha M. Aguilera	93-01 50th Avenue #1 Elmhurst, NY 11373	25	John J. Curcio	124 Beadel Street Brooklyn, NY 11222	34
Floristean Anthony	173-22 105th Avenue Queens, NY 11433	27	Wilfredo Garcia	274 South 2nd Street Brooklyn, NY 11211	34
Betty Gayle	164-01 Foch Blvd #2A Queens, NY 11434	27	Miguelina Sanchez	1184 Gates Avenue #2 Brooklyn, NY 11221	34
Lucy M. Arostiguez	101-23 97th Street Ozone Park, NY 11416	32	Gina De Gori	23-42 College Point Blvd College Point, NY 11356	19
Catherine Crudo	138 Beach 125th Street Queens, NY 11694	32	Bruce Gamill	47-15 212th Street Queens, NY 11361	19
Diana Avishalom	2528 East 19th Street #2 Brooklyn, NY 11235	48	Lawrence Haspel	38-39 205th Street Queens, NY 11361	19
Rosemarie Gagliardi	2530 East 23rd Street Brooklyn, NY 11235	48	Mildred De Leon	1131 Ogden Avenue #8H Bronx, NY 10452	16
Ephraim Nierenberg	966 East 23rd Street Brooklyn, NY 11210	48	Contina Session	980 Trinity Avenue Bronx, NY 10456	16
Brenda J. Barrett	1295 5th Avenue #22A New York, INY 10029	9	Diane Delorenzo	48 Fenway Circle Staten Island, NY 10308	51
Jean M. Hockaday	161 West 140th Street #63 New York, NY 10030	9	Lorraine Garguilo	97 Thollen Street Staten Island, NY 10306	51
Lillian Benezra	2348 Knapp Street Brooklyn, NY 11229	46	Isabelle Gerhard	19 Marne Avenue Staten Island, NY 10312	51
Lucy Campos	4105 Avenue P Brooklyn, NY 11234	46	Ruth Salih	18 Ocean Road Staten Island, NY 10308	51
Eliana Domb	7279 Royce Place Brooklyn, NY 11234	46	Mitchell Schwartz	651 Annadale Road Staten Island, NY 10312	51
Frank J. Ferrara	2920 Avenue R Brooklyn, NY 11229	46	Carmen G. Siconolfi	45 Raily Court Staten Island, NY 10312	51
Marie R. Lennon	2939 Avenue Y #4E Brooklyn, NY 11235	46	Peter C. Deluca	199 Bleecker Street New York, NY 10012	3
Wayne Butler	3743 Nautilus Avenue Brooklyn, NY 11224	47	Madlyn I. Solivan	747 10th Avenue #18F New York, NY 10019	3
Rita Goodman	2823 West 12th Street #6H Brooklyn, NY 11224	47	Linda S. Dicks-Walker	2942 Gunther Avenue Bronx, NY 10469	12
Susie Lawson	17 Avenue W #2G Brooklyn, NY 11223	47	Dagny J. McDaniel	3317 Tiemann Avenue Bronx, NY 10469	12
Hyacinth R. Taylor	18 Avenue V #3E Brooklyn, NY 11223	47	Mildred S. Soto-Perez	3040 Cruger Avenue Bronx, NY 10467	12
Judith A. Capolongo	25 Devon Place Staten Island, NY 10301	49	Simone B. Eisenberg-Blaut	77-60 269th Street Queens, NY 11040	23
Jerry J. Cocozello	275 Pelton Avenue Staten Island, NY 10310	49	Dhyan Pal Singh	244-34 90th Avenue Queens, 11111426	23
Patricia Ferrante	55 Jaffe Street Staten Island, NY 10314	49	Evelyn Falcon	122 St. Marks Place Brooklyn, NY 11217	35
Dorothy Raffo	20 Herkimer Street Staten Island, NY 10301	49	Stephen H. Serota	217 Washington Avenue Brooklyn, NY 11205	35
Charlotte L. Carlo	47 Greenport Street Staten Island, NY 10304	50	Madeleine Whittington	1197 Carroll Street Brooklyn, NY 11225	35
Howard Halbreich	396 Hawthorne Avenue Staten Island, NY 10314	50	Elba Feliciano	55 Rutgers Street #7 New York, NY 10002	1
Saralynn Halbreich	396 Hawthorne Avenue Staten Island, NY 10314	50	Birmania V. GarciaPineiro	2145 Starling Avenue #529 Bronx, NY 10462	18
Sang In Lee	1650 Richmond Avenue Staten Island, NY 10314	50	Jeanine Theresa Givens	1710 Seward Avenue #2A Bronx., NY 10473	18
Ann Marie Caspare	333 West 57 Street New York, NY 10019	6	Millicent A. Johnson	880 Thieriot Avenue #2A Bronx, NY 10473	18
Jack P. Chanler	520 East 72 Street New York, NY 10021	5	Hector Maldonado	1430 Thierot Avenue #4F Bronx, NY 10460	18
Barbara Chipman	311 East 50th Street New York, NY 10022	5	Nizaly Marrero	2090 East Tremont Avenue Bronx, NY 10462	18
Sandra Crawford	688 Rockaway Avenue #2B Brooklyn, NY 11212	41	Luis A. Torres	1315 Fteley Avenue Bronx, NY 10472	18
Carolyn Nixon	903 Lenox Road #D 10 Brooklyn, NY 11203	41	Melvin Geiger Sr.	163-35 130th Avenue #8G Jamaica, NY 11434	28
Sandy B. Cruz	83-77 Woodhaven Blvd Woodhaven NY 11421	30	Rosita Gonzalez	205 Alexander Avenue Bronx, NY 10454	17
Wayne Ruggiere	89-11 Jamaica Avenue Queens, NY 11421	30	Beverly Scriven	880-3 Colgate Avenue Bronx, NY 10473	17
			Mark D. Goret	3640 Johnson Avenue Bronx, NY 10463	11
			Genese Jackson	89-44 162nd Street #6J Queens, NY 11432	24
			Joseph J. Jacobs	845 East 9th Street	45

Luisa O. Lagares	Brooklyn, NY 11230 281 Throop Avenue #4	36
Lorraine Leader	Brooklyn, NY 11206 1228 80th Street	43
Jeanne Liebman	Brooklyn, NY 11228 535 Ocean Parkway #3D	39
Sylvia Logiudice-Lyba	Brooklyn, NY 11218 47-57 59th Street	26
Sonia Mendez	Queens, NY 11377 793 Logan Street	42
Donna Marie Stone	Brooklyn, NY 11208 790 Eldert Lane #13H	42
Ronald Morris	Brooklyn, NY 11208 2065 1st Avenue # 12D	8
Rolando Rodriguez	New York, NY 10029 180 Brook Avenue #12	8
Sylvia Rosario	Bronx, NY 10454 324 East 108th Street	8
Doris D. White	New York, NY 10029 410 Central Park West #10C	8
Samuel O. Oladeru	New York, NY 10025 1831 Trafalgar Place	15
Manuel F. Perez	Bronx, NY 10460 31-39 56th Street	22
Ann M. Proglor	Queens, NY 11377 665 Thwaites Place #4J	13
Renee Serrano	Bronx, NY 10467 1602 Edison Avenue #3	13
Angel L. Rivera	Bronx, NY 10461 568 Pacific Street #IC	33
Arlene Schreiber	Brooklyn, NY 11217 1736 East 7th Street	44
Trumilla Stone	Brooklyn, NY 11223 144-39 168 Street	31
Barbara Walston	Queens, NY 11434 462 Beach 47 Street	31
Patricio Suarez III	Far Rockaway, NY 11691 1036 Park Avenue #15B	4
James E. Taylor	New York, NY 10028 385 Edgecombe Avenue #54	7
Narcissus Thomas	New York, NY 10031 590 Flatbush Avenue	40
	Brooklyn, NY 11225	

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

**ROLL CALL ON GENERAL ORDERS FOR THE DAY
(Items Coupled on General Order Calendar)**

- (1) **M 1569 & Res 2189 - Arva R. Rice** - As a Member of the Equal Employment Practices Commission.
- (2) **Int 622-A -** Retrofitting of and age limitations on diesel fuel-powered school buses.
- (3) **Int 986-A -** Hydrostatic pressure testing of standpipes and sprinklers.
- (4) **Int 1004-A -** An air pressurized alarm system for standpipes **(with Message of Necessity requiring affirmative vote of at least two-thirds of the Council for passage).**
- (5) **Int 1065 -** Providing a biotechnology credit against the general corporation tax, and the unincorporated business tax.
- (6) **Res 2174 -** Extension of the Times Square Business Improvement District in the Borough of Manhattan.
- (7) **Res 2175 -** Amendment to the District Plan of the Times Square Business Improvement District that

- provides for a change in the method of assessment upon which the district charge is based.
- (8) **L.U. 1188 & Res 2181 -** App. **20105030 HAX**, UDAAP, 2228 Givan Avenue, Council District no. 12, Borough of the Bronx.
- (9) **L.U. 1189 & Res 2182 -** App. **20105031 HAQ**, UDAAP, 69-21 Bayfield Avenue and 69-30 Elizabeth Avenue, Council District no. 31, Queens.
- (10) **L.U. 1194 & Res 2183 -** App. **20095598 TCM**, unenclosed sidewalk café located at 290 Hudson Street (Block 579, Lot 5), Manhattan, CD 3.
- (11) **L.U. 1195 & Res 2184 -** App. **20095695 TCQ**, unenclosed sidewalk café located at 107-02 70th Road (Block 3239, Lot 32), Queens, CD 29.
- (12) **L.U. 1196 & Res 2185 -** App. **20095133 TCM**, enclosed sidewalk café located at 885-889 Tenth Avenue (Block 1086, Lot 34), Manhattan, CD 6.
- (13) **L.U. 1197 & Res 2176 -** Parkview Senior Citizens Apartments Block 3044, Lot 17, Bronx, Council District No. 15
- (14) **L.U. 1198 & Res 2177 -** Sebco Houses for the Elderly Block 2746, Lot 30 Bronx, Council District No. 17
- (15) **L.U. 1199 & Res 2178 -** United Odd Fellows Section 202 Housing Program for the Elderly 1040 Havemeyer Avenue Bronx, CD 18.
- (16) **L.U. 1200 & Res 2179 -** Findlay Plaza, Block 2435, Lot 45, Bronx, Council District No. 16
- (17) **L.U. 1201 & Res 2180 -** Section 577 of Private Housing Finance Law, Impac Houses, 1428 Fifth Avenue, a/k/a 2-24 West 117th Street Block 1600, Lot 20 New York, Community District No. 10 Council District No. 9
- (18) **L.U. 1202 & Res 2186 -** App. **20105018 HKM (N 100003 HKM)**, John Pierce Residence, as an historic landmark, Council District no. 3.
- (19) **L.U. 1203 & Res 2187 -** App. **20105019 HKM (N 100004 HKM)**, Mount Olive Fire Baptized Holiness Church, as an historic landmark, Council District no. 9.
- (20) **L.U. 1204 & Res 2188 -** App. **20105021 HKK (N 100002 HKK)**, Prospect Heights as a historic district, Council District no. 35.
- (21) **Resolution approving various persons Commissioners of Deeds.**

The President Pro Tempore (Council Member Rivera) put the question whether the Council would agree with and adopt such reports which were decided in the **affirmative** by the following vote:

Affirmative –Avella, Barron, Brewer, Comrie, Crowley, de Blasio, Dickens, Dilan, Eugene, Felder, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Ignizio, Jackson, James, Katz, Koppell, Lappin, Liu, Mark-Viverito, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Sanders, Seabrook, Sears, Stewart, Ulrich, Vacca, Vallone, Jr., Vann, Weprin, Yassky, Oddo, Rivera, and the Speaker (Council Member Quinn) – **47**.

The General Order vote recorded for this Stated Meeting was 47-0-0 as shown.

The following Introductions were sent to the Mayor for his consideration and approval: Int Nos.622-A, 986-A, 1004-A, and 1065.

INTRODUCTION AND READING OF BILLS

Res. No. 2166

Resolution calling upon the United States House of Representatives to pass both H.R. 22, the United States Postal Service Financial Relief Act, and H.R. 658, the Access to Postal Services Act, which would stop the unnecessary closure of neighborhood post offices and would increase community input as the Post Office reorganizes branches throughout the city of New York.

By The Speaker (Council Member Quinn) and Council Members Lappin, Barron, Brewer, Comrie, Dickens, Ferreras, Fidler, Foster, Gentile, James, Nelson, Sanders, Seabrook, Stewart, Weprin, Gerson, Mendez and White.

Whereas, On August 20, 2009, elected officials from all levels of government in the City of New York gathered to officially call on the United States Postal Service (“USPS”) to halt unnecessary closures of neighborhood post offices and to call for greater community involvement in the USPS’s procedures for closing or consolidating post offices throughout the city; and

Whereas, Because of the recent economic downturn and the increasing popularity of digital forms of communication, the USPS is facing a potential loss of \$7 billion for the 2009 fiscal year; and

Whereas, If the USPS’s fiscal crisis is not resolved soon, the USPS will likely be forced to close 700 locations throughout the nation, including as many as 53 locations in New York City; and

Whereas, The two boroughs that would be most adversely affected are Manhattan and Queens with a potential of 25 and 11 closings, respectively; and

Whereas, The post office is an important but often overlooked component of the nation’s and city’s infrastructure that is critical to the success of the economy; and

Whereas, New York City elected officials have called upon the United States Congress to pass two bills that could potentially alleviate the fiscal crisis facing the USPS and ultimately ensure that the level of postal service remains unchanged throughout the City: H.R. 22, the United States Postal Service Financial Relief Act, and H.R. 658, the Access to Postal Services Act; and

Whereas, H.R. 22, the United States Postal Service Financial Relief Act, would save the USPS approximately \$3.5 billion per year in operating expenses - money which could be used to preserve postal service throughout the country - by allowing it to access the Postal Service Retiree Health Benefits Fund to pay health insurance for postal retirees; and

Whereas, According to the Congressional Budget Office, the use of such funds from the Postal Service Retiree Health Benefits Fund would not jeopardize the USPS’s ability to provide proper healthcare to its employees in the future; and

Whereas, H.R. 658, the Access to Postal Services Act, would improve the USPS’s procedures for closings or consolidating services by ensuring that communities that now are only notified of potential changes through mailings and newspaper notices, would, in the future, also have the ability to participate in such decisions at public hearings; and

Whereas, Congressional Representative Jerry Nadler, a co-sponsor of both bills, said in support of the legislation at a press conference on August 20, 2009: “There is no excuse for the Postal Service to give short shrift to customers and cut services that every person and business depends on; I am calling on the USPS to work harder to make sure that needs of community members and businesses are met;” and

Whereas, The USPS performs an invaluable service in every community throughout the nation by enabling the dissemination of information and helping to make the movement of goods possible; and

Whereas, A well functioning Postal Service is critical to the nation’s overall economic recovery, as it not only helps to increase economic activity in the short term, but also ensures that the nation has a strong foundation that makes sustained growth and prosperity possible throughout the 21st century; and

Whereas, Postal closings will have a negative impact on all affected communities, but pose the greatest harm to the most economically vulnerable New Yorkers, including many seniors and low-income families; and

Whereas, What used to be a simple trip to the local post office for a senior citizen or a working parent, for example, if these closings occur, could potentially necessitate the use of public transportation to get to the closest post office, making such a visit more costly and time consuming; and

Whereas, H.R. 22 and H.R. 658 will help ease the financial burden on not only New Yorkers but all Americans; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the United States House of Representatives to pass both H.R. 22, the United States Postal Service Financial Relief Act, and H.R. 658, the Access to Postal Services Act, which would stop the unnecessary closure of neighborhood post offices and would increase community input as the Post Office reorganizes branches throughout the city of New York.

Referred to the Committee on Consumer Affairs.

Int. No. 1073

By Council Members de Blasio, Brewer, Gonzalez, James, Nelson, Palma, Seabrook, Stewart, Mark-Viverito and Mendez.

A Local Law to amend the administrative code of the city of New York, in relation to commercial recycling.

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 16-306 of title 16 of the administrative code of the city of New York is amended to read as follows:

a. *In addition to the materials already designated as recyclable by rule of the commissioner for solid waste collected by private carters under the department’s general designation and for food or beverage service establishments and residential generators of private carter-collected waste, [T]he commissioner shall within six months of the effective date of this section, adopt and implement rules requiring all commercial buildings receiving private carter waste collection to source separate the following materials, in order to be consistent with the department’s determination of economic markets and designation for source separation by food or beverage service establishments: containers made of glass or metal and bottles and jugs made of polyethylene terephthalate plastic (known as PET, or plastic resin number 1) or high density polyethylene plastic (known as HDPE, or plastic resin number 2), aluminum foil and aluminum foil products. The commissioner shall ensure that all materials designated as recyclable pursuant to this section shall [designating recyclable materials that] constitute in the aggregate at least one-half of all solid waste collected by private carters, and may include additional materials if the commissioner determines that economic markets exist for [them] such materials. Pursuant to subdivision b of this section, such rules shall require generators of private carter-collected waste to source separate some or all of the designated materials and to arrange for lawful collection for recycling, reuse or sale for reuse by private carters or persons other than private carters of such source separated materials. With regard to designated materials that are not required by such rules to be source separated, generators of private carter-collected waste may source separate these designated materials and, in any event, shall arrange for their lawful collection for recycling, reuse or sale for reuse by private carters or persons other than private carters. If a generator or private carter-collected waste has source separated the designated materials in accordance with the rules and arranged for the lawful collection for recycling, reuse or sale for reuse by private carters or persons other than private carters of such source separated materials and, with regard to designated materials that are not required by such rules to be source separated, arranged for lawful collection for recycling, reuse or sale for reuse by private carters or persons other than private carters, such arrangement shall constitute an affirmative defense to any proceeding brought against the generator pursuant to section 16-324 of this chapter.*

§ 2. This local law shall take effect immediately.

Referred to the Committee on Sanitation and Solid Waste Management.

Int. No. 1074

By Council Members Felder, Barron, Brewer, Comrie, Gonzalez, James, Koppell, Nelson, Seabrook, Weprin and Mendez.

A Local Law to amend the administrative code of the city of New York, in relation to the installation of cigarette waste receptacles outside of all city-owned buildings.

Be it enacted by the Council as follows:

Section 1. Title 16 of the administrative code of the city of New York is amended by adding a new section 16-120.2 to read as follows:

§16-120.2 *Cigarette waste receptacle program. Within six months of the effective date of the local law that added this section, the department, with the assistance of the department of citywide administrative services, shall place cigarette waste receptacles at or near the entrances of all city-owned buildings, or at other appropriate locations outside of all such buildings where significant cigarette waste is generated or found. All waste deposited in such cigarette waste receptacles shall be collected by the department or the department of citywide administrative services at least once per week, or more frequently if the commissioner or the commissioner of citywide administrative services deems such collection to be necessary.*

§ 2. This local law shall take effect immediately.

Referred to the Committee on Sanitation and Solid Waste Management.

Res. No. 2167

Resolution calling upon the United States Congress to pass H.R. 2695, an act that would allow merchants to collectively negotiate with credit card providers over interchange fees.

By Council Members Felder, Brewer, Comrie, Ferreras, Fidler, Gentile, Gonzalez, James, Palma, Sanders, Seabrook, Weprin, Nelson and Mendez.

Whereas, Interchange fees are fees that a merchant must pay to a credit card company whenever the company's card is used to make a purchase at that merchant's store; and

Whereas, Interchange fees run nearly two percent of the total purchase in the United States, higher than in any other industrialized country; and

Whereas, In addition to paying a percentage of the total sale, on every credit card purchase a merchant must also pay a flat per-transaction fee to the credit card company and an additional fee to his or her own bank; and

Whereas, In 2008, interchange fees earned credit card companies over 48 billion dollars, twice the amount that they received for late fees that year and a 189 percent increase since 2001; and

Whereas, Visa and Mastercard recently announced 290 and 270 percent increases, respectively, to their flat per-transaction fee, a move that is expected to raise the companies' revenues by about 600 million dollars; and

Whereas, As the public continues to favor credit cards over cash, small businesses have no choice but to accept credit cards at their places of business, lest they lose customers to their competitors; and

Whereas, If a consumer's credit card is damaged and the numbers must be entered manually, or if the credit card company offers the holder certain rewards or incentives, the interchange fee a merchant must pay will often be higher; and

Whereas, The cost of accepting credit cards has become so high for merchants that some may lose money on small purchases paid for with a credit card and are therefore forced to set minimum amount for purchases made with a credit card; and

Whereas, Consumers are also bearing the cost of exorbitant interchange fees through higher retail prices; and

Whereas, With nation's top ten banks controlling 88 percent of the nation's credit card business, small businesses are at a severe disadvantage in negotiating interchange fees; and

Whereas, If passed, H.R. 2695 (Conyers) would amend antitrust laws to allow merchants who use electronic payment systems and their providers to voluntarily negotiate the rates and terms for using the system; and

Whereas, H.R. 2695 would also require that the negotiated rates and terms be consistent for all merchants and providers, and that all involved parties disclose itemized costs and access agreements; and

Whereas, The United States thrives on the survival of its small businesses, and it is imperative they be given every fair opportunity to influence the terms of their financial agreements; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the United States Congress to pass H.R. 2695, an act that would allow merchants to collectively negotiate with credit card providers over interchange fees.

Referred to the Committee on Consumer Affairs.

Res. No. 2168

Resolution calling on the Mayor of the City of New York to examine how the City's economic policies can be strengthened to address the disparate unemployment rate and joblessness of black New Yorkers which have increased due to the current recession.

By Council Members Foster, Jackson, Barron, Comrie, Dickens, Ferreras, Gonzalez, James, Palma, Sanders, Seabrook, Stewart, Mendez and White.

Whereas, Throughout history, the unemployment rate and joblessness for Blacks have been higher than for Whites; and

Whereas, Unemployment figures capture individuals available for and actively seeking work during the survey period and joblessness reflects individuals who are completely detached from the labor market, no longer seeking employment upon the belief that opportunities do not exist; and

Whereas, According to a report released by the New York City Comptroller, the unemployment rate in New York City will reach 9.5 percent by 2010, leaving 400,000 New Yorkers jobless; and

Whereas, The same report indicates that from the first quarter of 2008 to the first quarter of 2009, Black unemployment in New York City rose four times faster than for any other group; and

Whereas, During the same time period, the Comptroller report indicates that Black unemployment in the City rose from 5.7 percent to 14.7 percent, an increase of 167 percent, while White unemployment went up less than 1 percentage point from 3.0 percent to 3.7 percent; and

Whereas, Data of the Community Service Society indicates that among the job sectors hardest hit by the recession are construction, manufacturing, and the retail trade, fields where many low-wage, Black workers have historically found work; and

Whereas, Government jobs have traditionally been a source of stable work for Black New Yorkers, but falling tax revenue has forced the City to cut back on its budget, impacting the number of jobs available and in some cases resulting in layoffs; and

Whereas, Advocates indicate that unemployment statistics mask the real extent of the problem because the government does not count as unemployed those people who have given up looking for work after the administration of the prior unemployment survey, which is conducted every month, nor does it include those who are long-time jobless; and

Whereas, Factors contributing to unemployment and joblessness include education strength and accessibility to training and retooling opportunities; and

Whereas, Although the City has some policies in place to address unemployment and joblessness factors in the City, such policies should be strengthened and expanded to specifically address skyrocketing Black unemployment rates; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the Mayor of the City of New York to examine how the City's economic policies can be strengthened to address the disparate unemployment rate and joblessness of black New Yorkers which have increased due to the current recession.

Referred to the Committee on Civil Service and Labor.

Int. No. 1075

By Council Members Gennaro, Barron, Gonzalez, James, Palma, Sanders, Mark-Viverito and Mendez.

A Local Law to amend the administrative code of the city of New York, in relation to requiring retail stores to have lights off when closed.

Be it enacted by the Council as follows:

Section 1. Chapter 7 of title 20 of the administrative code of the city of New York is amended by adding a new section 20-911 to read as follows:

§20-911 Requiring stores to have lights off when closed a. For purposes of this section, "store" shall mean any store other than a "small store" as defined in subdivision a of section 20-910 of this chapter.

b. All stores shall have the interior lights of such store off during times when no individuals are present within such store. However, this section shall not apply to exit or emergency lighting or any lights required specifically to prevent the spoilage of merchandise.

c. Any stores found to have violated such section shall be subject to a civil penalty recoverable at the environmental control board of one thousand dollars for each violation.

§2. This local law shall take effect immediately upon enactment.

Referred to the Committee on Environmental Protection.

Res. No. 2169

Resolution calling upon the New York State Legislature to pass and the Governor to sign A.1255/S.1735, which authorizes homeowners and not-for-profit agencies in New York City to receive an abatement of real property taxes up to two thousand dollars for the cost of installing sewer improvement check valve devices on certain dwellings.

By Council Members Gennaro, Barron, Brewer, Comrie, Fidler, Gentile, James, Palma, Sanders, Seabrook, Stewart, Weprin, Gerson, Nelson and Mendez.

Whereas, Backflow is the undesirable reversal of flow of non-potable water (industrial wastewater, rainwater, and street runoff) through a cross connection and into the piping of a public water system or a consumer's potable (drinking) water system; and

Whereas, Backflow occurs when pollutants or contaminants enter into the safe drinking water system through an uncontrolled cross connection; and

Whereas, A cross connection exists whenever the drinking water system is, or could be, connected to any non-potable source (i.e. plumbing fixture, or any equipment used in a plumbing system); and

Whereas, To control these cross-connections and prevent backflow, a sewer improvement check valve, or “backflow device”, must be installed at the point of the cross connection; and

Whereas, Approximately 70% of the City’s sewers operate on a combined sewer system, where potable and non-potable water are collected in the same sewers and then conveyed together to the City’s treatment plants; and

Whereas, During periods of heavy rain and snow, when the groundwater is high, and the capacity of the system is exceeded, combined sewers fill to capacity and are unable to carry the combined potable and non-potable water to the plants; and

Whereas, If the water cannot flow to the plants, then the mix of storm water and untreated water may flow through residential sink drains, and flood drains on lower levels, such as basements; and

Whereas, On July 18, 2007 and August 8, 2007, New York City experienced such extreme flooding caused by torrential rain that the Federal Emergency Management Agency deemed many homeowners and not-for-profit groups, who suffered major property damage, eligible for “disaster” assistance; and

Whereas, Backflow devices allow water to flow away from the sinks, drains, and basements of homeowners and not-for-profit groups, thereby preventing sewage from backing up into their basement and sink drains; and

Whereas, Such devices will help prevent homeowners and not-for-profit groups from enduring severe financial hardship from property damage and cleaning expenses due to backflow; and

Whereas, The high cost of backflow devices, which can range from \$1,400 to \$3,000 in New York City, may deter homeowners and not-for-profit groups from purchasing and installing the device; and

Whereas, Allowing homeowners and not-for-profit groups to receive a property tax abatement of up to 50% of the cost to install a backflow device (up to \$2,000) will allow them to take a proactive measure to protect their property against flooding; and

Whereas, Until the City makes the massive infrastructure improvements necessary to solve this problem, homeowners and not-for-profit groups can prevent raw sewage backflow by installing a sewer line check valve; and

Whereas, A tax abatement is necessary to make the check valve affordable; and

Whereas, In the 2009 New York State legislative session, the State Legislature introduced A.1255/S.1735; and

Whereas, These bills would amend the Real Property Tax law to provide homeowners and nonprofit institutions in New York City with an abatement equal to fifty percent (up to two thousand dollars) towards the cost of installing a sewer line check valve to prevent sewage backflow; and

Whereas, For homeowners the abatement will be a credit against their property tax, while for nonprofit organizations the abatement will be a credit against their sewer and water bill; now, therefore be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass and the Governor to sign A.1255/S.1735, which authorizes homeowners and not-for-profit agencies in New York City to receive an abatement of real property taxes up to two thousand dollars for the cost of installing sewer improvement check valve devices on certain dwellings.

Referred to the Committee on Finance.

Int. No. 1076

By Council Members Gentile, Vacca, Vallone Jr., Comrie, Dilan, Felder, Fidler, Gonzalez, James, Koppell, Palma, Sanders, Seabrook, Stewart, Weprin, Gerson, Nelson and Mendez.

A Local Law to amend the administrative code of the city of New York, in relation to notification of changes in parking meter regulations.

Be it enacted by the Council as follows:

Section 1. Subchapter 2 of chapter one of title 19 of the administrative code of the city of New York is amended by adding a new section 19-175.2 to read as follows:

§19-175.2 Notification of changes in parking meter regulations. No change in parking meter regulations made by the department shall go into effect until sixty days after written notice of such change has been provided to the community board and council member of the district in which area affected by such change is located. Such notice shall, at a minimum, state the proposed change in the parking meter regulation and state the date such change will go into effect.

§2. This law shall take effect immediately upon its enactment.

Referred to the Committee on Transportation.

Int. No. 1077

By Council Members Gentile, Vacca, Brewer, Comrie, Dilan, Fidler, James, Koppell, Palma, Sanders, Seabrook, Stewart, Weprin, Gerson and Mendez.

A Local Law to amend the administrative code of the city of New York, in relation to community board review of transportation pilot projects.

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 19 of the administrative code of the city of New York is amended by adding a new section 19-101.2 to read as follows:

§19-101.2 Community board review of pilot projects. a. For the purposes of this section, the following term “affected community board” shall mean the community board or boards in whose district a pilot project is to be located, in whole or in part.

b. At least sixty days before the implementation of a pilot program, the department shall present its plans for such pilot at the regularly scheduled monthly meeting of each respective affected community board. Such presentation shall include, at a minimum, the cost of such project, a map showing the streets affected by such project, all traffic studies related to such project and the projected start and end dates for such project.

c. After such presentation(s), the affected community board may make recommendations or comments on such pilot project.

d. The department shall consider such recommendations and comments and may incorporate changes, where appropriate, into its pilot project plan.

e. The department shall forward to the affected community board either an amended pilot project plan or notice that it will proceed with its original pilot project plan at least thirty days before implementing such pilot program.

§2. This local law shall take effect sixty days after it is enacted into law.

Referred to the Committee on Transportation.

Int. No. 1078

By Council Members Gerson, James, Koppell, Lappin, Mealy, Nelson, Palma, Seabrook and Mendez.

A Local Law to amend the administrative code of the city of New York, in relation to requiring exterior lighting to contain fully shielded fixtures.

Be it enacted by the Council as follows:

Section 1. Article 17 of subchapter 7 of chapter 1 of title 27 of the administrative code of the city of New York is amended by adding a new section 27-505.1 to read as follows:

§27-505.1 Requirement that exterior lighting have fully shielded light fixtures. a. For purposes of this section, the following terms shall have the following meanings:

1. “Exterior light fixture” shall mean light generated from an indoor or outdoor source that provides illumination to a surface, building, structure, device, or other outdoor feature.

2. “Fully shielded” shall mean a fixture designed, constructed and installed in a fixed position in such a manner that all light emitted is projected below the horizontal plane through the fixture’s lowest light emitting part.

3. “Lighting” shall mean equipment and effects of lighting produced by artificial means.

4. “Lumens” shall mean the unit of measurement used to quantify the amount of light produced by a light bulb or emitted from a fixture.

b. Unless otherwise provided for in this section, all new and replacement exterior light fixtures that are rated to emit 1800 lumens or greater shall be installed and be maintained as fully shielded light fixtures.

c. This section shall not apply to the following:

1. Lighting regulated pursuant to any other provision of law.

2. Underwater lighting;

3. Lighting used to illuminate a structure located on public property;

4. Lighting used to illuminate a flag;

5. Within the theater subdistrict, as such subdistrict is defined in the zoning resolution.

d. Any person who violates the provisions of this section shall be liable for a civil penalty of not less than two hundred dollars nor more than one thousand dollars for each day that such violation exists.

§2. This local law shall take effect immediately upon enactment.

Referred to the Committee on Housing and Buildings.

Int. No. 1079

By Council Members Gerson, Seabrook and Stewart.

A Local Law to amend the administrative code of the city of New York, in relation to licensing newsstands.

Be it enacted by the Council as follows:

Section 1. Section 20-231 of Chapter 2 of title 20 of the administrative code of the city of New York is hereby amended by adding a new subdivision 1, to read as follows:

1. *Notwithstanding any other provision of this section, a new license may be granted for the operation of a newsstand that is attached to or is abutting a building, and was in continuous operation from November 1, 1979 to October 29, 2003 provided that all of the following conditions are met prior to the grant of such license :* (i) *such newsstand complies with the existing Fire Code:*

(ii) *such newsstand does not extend further into the street than stooplins of such adjoining or abutting building or stooplins that are within twenty-five feet of such newsstand;*

(iii) *the Department of Transportation and a franchisee have consented to the inclusion of such newsstand in a franchise.*

§2. This local law shall take effect immediately.

Referred to the Committee on Consumer Affairs.

Int. No. 1080

By Council Members James, Barron, Fidler, Foster, Gonzalez, Mealy, Palma, Sanders, Seabrook, Stewart, Mark-Viverito, Nelson, Mendez and White.

A Local Law to amend the administrative code of the city of New York, in relation to requiring the commissioner of the department of correction to report on race and ethnicity, zip code of residence, precinct of arrest and charged offense of adolescents admitted to city jails.

Be it enacted by the Council as follows:

Section 1. Subdivision b of section 9-130 of Chapter 1 of title 9 of the administrative code of the city of New York is amended to read as follows:

b. The commissioner of correction shall post a report on the department website within fifteen days of the beginning of each fiscal year quarter containing information pertaining to adolescents in city jails for the prior quarter, unless a different time period is specified for a particular indicator. Such quarterly report shall indicate the average daily adolescent population for the reporting period and the prior fiscal year total for each indicator. The report shall include information regarding census data and security indicators for city jails, as follows:

1. Census data. The report shall include, on an annual basis, separate indicators for: (i) the total number of adolescent admissions to city jails disaggregated by age, [and] gender, *race and ethnicity, zip code of residence, charged offense and precinct where arrest occurred;* and (ii) the percentage of those admitted who were previously admitted to a facility operated by the department; and (iii) the percentage of those admitted who within the last year were admitted to a facility under the jurisdiction of the department of juvenile justice. Such annual report shall indicate the percentage change for each census data indicator from the prior year.

§2. This local law shall take effect sixty days after enactment.

Referred to the Committee on Fire and Criminal Justice Services.

Int. No. 1081

By Council Members James, Barron, Brewer, Comrie, Dickens, Fidler, Foster, Gentile, Koppell, Mealy, Palma, Sanders, Seabrook, Stewart, Weprin, Gerson, Nelson, Mendez and White.

A Local Law to amend the administrative code of the city of New York, in relation to establishing a temporary task force to review outsourcing by City agencies.

Be it enacted by the Council as follows:

Section 1. Chapter one of title six of the administrative code of the city of New York is amended by adding a new section 6-130 to read as follows:

§ 6-130 *Temporary task force to review outsourcing by City agencies. a. Definitions. For purposes of this section, the following terms shall have the following meanings:*

1. "Agency" shall mean a city, county, borough, or other office, position, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the city treasury.

2. "Client services" shall mean services contracted for by the City of New York on behalf of third-party clients, including social services, health or medical services, housing and shelter assistance services, legal services, employment assistance services, and vocational, educational, or recreational programs.

3. "Construction services" shall mean services in connection with the construction, reconstruction, demolition, excavation, renovation, alteration, improvement, rehabilitation, or repair of any building, facility or real property, not including construction management services.

4. "Professional services" shall mean services that require specialized skills and the exercise of judgment, including but not limited to accountants, lawyers, doctors, computer programmers and consultants, architectural and engineering services, and construction management services.

5. "Standard services" shall mean services other than client, construction and professional services.

b. There is hereby established a temporary task force to analyze whether or not contracting out the performance of standard and professional services by city agencies to private companies is more cost effective than having the services performed by city employees and to provide a report with recommendations based on its analysis. The analysis shall not include a review of contracts for client services or construction services. At a minimum, the task force's research in connection with its work shall include review and analysis of the following:

1. The total value of contracts for standard and professional services entered into by city agencies in each of the last five fiscal years;

2. Whether or not cost savings were realized as a result of city agencies contracting out standard and professional services in each of the last five fiscal years;

3. Analysis of any trend or pattern of contract spending by city agencies for standard and professional services in the last five fiscal years;

4. The processes that agency contracting personnel utilize to determine whether or not to contract out standard and professional services; and

5. Training programs for all agency contracting personnel regarding the process utilized to determine whether or not to contract out standard and professional services to private companies.

c. The task force shall consist of seven members as follows:

1. Four members shall be appointed by the mayor, provided that at least one member shall be a representative from a municipal labor union;

2. Three members shall be appointed by the speaker of the council, provided that at least one member shall be a representative from an independent good government group or organization; and

3. The director of the independent budget office shall serve *ex officio*.

d. At its first meeting, the task force shall select a chairperson from among its members by majority vote of the task force. Membership on the task force shall not constitute the holding of a public office and members of the task force shall not be required to take and file oaths of office before serving on the task force.

e. No person shall be ineligible for membership on the task force because such person holds any public office, employment or trust, nor shall any person be made ineligible for or forfeit such person's right to any public office, employment or trust by reason of such appointment.

f. The task force may request and may receive information from any agency as may be necessary to carry out the provisions of this section, in accordance with applicable laws, rules and regulations. Nothing in this section shall be construed as limiting any right or obligation of agencies pursuant to the public officers law, including the exceptions to disclosure of agency records contained in such law, with respect to access to or disclosure of records or portions thereof. The task force also may request information from any organization with knowledge concerning public contracting or the personnel cost of providing standard and professional services by city employees as necessary to carry out the provisions of this section. Subject to appropriation, the mayor shall make available adequate resources for a thorough and complete review of the matters set forth by this section, including proper staffing of the task force.

g. No later than twelve months from the date all seven members of the task force are appointed, the task force shall submit to the mayor and the speaker of the council a report that shall include the findings, legislative and policy recommendations of the task force based upon its review.

h. The task force shall dissolve upon submission of the report required by subdivision g of this section.

§. 2. This local law shall take effect in 60 days provided that it shall be deemed repealed on the day that the report required by subdivision g is submitted.

Referred to the Committee on Contracts.

Int. No. 1082

By Council Members Lappin, Barron, Brewer, Fidler, James, Koppell, Palma, Nelson, Mendez and Mark-Viverito.

A Local Law to amend the administrative code of the city of New York, in relation to requiring containers for foods packaged on premises to be made of recyclable material.

Be it enacted by the Council as follows:

Section 1. Chapter 3 of title 16 of the administrative code of the city of New York is amended by adding a new section 16-310.1 to read as follows:

Sec. 16-310.1 Food containers. All establishments which sell food in the city shall only use or offer for use containers for packaging food composed of a material that has been designated as a recyclable by the commissioner pursuant to section 16-314 of this chapter, where foods are packaged (a) on the premises of the establishment where they are sold; or (b) in a manner determined by an entity situated in the city.

§2. This local law shall take effect on January 1, 2010.

Referred to the Committee on Sanitation and Solid Waste Management.

Res. No. 2170

Resolution calling upon the New York City Department of Education to ensure the strict enforcement of all current laws and regulations regarding the sale of foods and beverages which are not part of the school nutrition program, follow all recommendations contained in the State Comptroller's report on New York City Department of Education School Nutrition, and monitor carefully the content and accessibility of school vending machines.

By Council Members Lappin, Barron, Brewer, Foster, James, Palma, Seabrook, Weprin, Gerson, Nelson and Mendez.

Whereas, The New York City Department of Education (DOE) is responsible for educating approximately one million public school children; and

Whereas, DOE participates in the National School Lunch program, which is a federal program that sets nutritional guidelines for meals served in schools; and

Whereas, DOE's Office of School Food administers the school meals program for the City's public schools; and

Whereas, Schools participating in the National School Lunch program are required to develop a wellness policy that promotes nutritional education in schools; and

Whereas, Schools participating in the National School Lunch program must also meet federal nutritional guidelines outlined in the Department of Health and Human Services (DHHS) dietary guidelines; and

Whereas, According to the DHHS guidelines, no more than 30% of an individual's calories should come from fat and less than 10% should come from saturated fat; and

Whereas, The Chancellor's Regulations ("Regulations") state that good nutrition plays an essential role in the health and development of young people and helps them do well in school; and

Whereas, Section A-812 of the Regulations limits the sale of approved snack items during the school day and prohibits the sale of non-approved items at any time between the time school opens and six o'clock pm, with the exception of sales in connection with Parent Association and Parent Teacher Association fundraising activities; and

Whereas, The Regulations also require schools to use vending machines equipped with timers, and that such timers be set to lock the machines during the breakfast meal and then again during the lunch periods; and

Whereas, According to the Regulations, school stores must not sell food items during breakfast and from the beginning of the first lunch period until the end of the last lunch period; and

Whereas, DOE SchoolFood Food Services Managers are responsible for monitoring the food and beverage content in vending machines and school stores to ensure that only acceptable items are available for sale to students; and

Whereas, Principals are expected to ensure compliance with all federal, state, and local regulations pertaining to the sale of food and beverages in school; and

Whereas, The New York State Comptroller audited the DOE's school nutrition program and issued a report in June 2009 entitled "New York City Department of Education School Nutrition" ("Report"), which listed several recommendations for improving the school nutrition program; and

Whereas, Among its recommendations, the Report suggests that DOE direct schools to immediately stop the sale of competitive foods in school stores prior to the end of the last school lunch period and ensure that bake sales do not exceed the once per month limit; and

Whereas, The Report further recommends ensuring the installment of electronic timers that turn off vending machines until the last lunch period has ended, in compliance with the Regulations; and

Whereas, The Report also suggests that DOE establish central contracts containing specified nutritional requirements for all food and beverages sold in school vending machines and school stores, and that DOE modify its listing of approved snack items to include the product serving size; and

Whereas, Additionally, the Report recommends that DOE develop a mechanism for reporting schools that are not in compliance with food and beverage guidelines and that DOE provide training to all principals and SchoolFood employees regarding the requirements in Chancellor's regulation A-812 and the DOE wellness policy; now, therefore, be it

Resolved, That the Council of City of New York calls upon the New York City Department of Education to ensure the strict enforcement of all current laws and regulations regarding the sale of foods and beverages which are not part of the school nutrition program, follow all recommendations contained in the State Comptroller's report on New York City Department of Education School Nutrition, and monitor carefully the content and accessibility of school vending machines.

Referred to the Committee on Education.

Int. No. 1083

By Council Member Mark-Viverito, Avella, Jackson, Barron, Brewer, Dickens, James, Koppell, Lappin, Palma, Sanders, Seabrook, Nelson, Foster, Ferrara, Vann and Mendez.

A Local Law to amend the administrative code of the city of New York, in relation to requiring local representation on park conservancies.

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 18 of the administrative code of the city of New York is amended by adding a new section 18-137 to read as follows:

§18-137 Representation on park conservancies. a. For purposes of this section, the following terms shall have the following meanings:

1. "Conservancy" shall mean any not-for-profit entity that operates or maintains any park or portion of any park under the jurisdiction of the commissioner, pursuant to a conservancy arrangement.

2. "Conservancy arrangement" shall mean any license or other authorization allowing a conservancy to operate or maintain any park or portion of any park under the jurisdiction of the commissioner.

b. Any conservancy arrangement entered into, renewed or otherwise granted or executed on or after the effective date of this section shall require that at least one individual who resides within a council district in which such park is located be a voting member of the board of directors or other similar body of such conservancy. Conservancy arrangements regarding a park which is located within more than one council district need only provide for one board member who resides in any of such council districts.

§2. This local law shall take effect immediately upon enactment.

Referred to the Committee on Parks and Recreation.

Int. No. 1084

By Council Members Nelson, Foster, James, Koppell, Stewart and Gerson.

A Local Law to amend the administrative code of the city of New York, in relation to the location of concessions within a park.

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 18 of the administrative code of the city of New York is amended by adding a new section 18-136 to read as follows:

§18-136 Locations of concessions in parks. a. Every concession under the jurisdiction of the commissioner shall have specific boundaries which shall be indicated on a map of the park in which such concession is located, with the precise location of such concession indicated on such map to the nearest foot. Such maps shall be publicly accessible on the city of New York's website. The boundaries of each concession shall be prominently marked on the ground by the owner of such concession where such concession is situated at all times. No such concession shall extend beyond the boundaries indicated on such map. This subdivision shall not apply to any concessions occupying a ground space of less than seventy five square feet.

b. Any person who violates the provisions of subdivision a of this section shall be liable for a civil penalty of not less than two hundred dollars nor more than one thousand dollars for each such violation, except that no civil penalties may be imposed that are inconsistent with any penalty provisions of any concession agreement in effect at the time of enactment of this section.

§2. This local law shall take effect ninety days after enactment, except that the commissioner of parks and recreation shall take such actions as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

Referred to the Committee on Parks and Recreation.

Int. No. 1085

By Council Members Rivera, Barron, Comrie, Gentile, Koppell, Seabrook, Stewart and Nelson.

A Local Law to amend the administrative code of the city of New York in relation to permissible parking of vehicles when alternate side of the street rules are in effect for purposes of street cleaning.

Be it enacted by the Council as follows:

Section 1. Section 19-162 of title nineteen of the administrative code of the city of New York is amended by adding a new paragraph 3 to read as follows:

3. (a) For the purposes of this section, the term "double park" shall mean to stop, stand or park a vehicle on the roadway side of any vehicle stopped, standing or parked at the edge or curb of a street.

(b) Notwithstanding any contradictory law or rule, when alternate side of the street parking restrictions are in effect for purposes of street cleaning, it shall be permissible to double park a vehicle on the roadway on the side opposite from that which is being cleaned, provided that such roadway has a minimum width of thirty-five feet.

(c) The operator of a vehicle double-parked under the provisions of this section shall be required to conspicuously post on such vehicle's dashboard the name, address and phone number where an operator of such vehicle can be reached by the operator of a lawfully parked vehicle blocked by the double-parked vehicle. The failure by the operator of a double-parked vehicle to post the required information, shall be a violation of this section. A violation of this section shall be punishable by the monetary fine authorized for a violation of the rules of the commissioner in paragraph one of subdivision a of section twenty nine hundred and three of the New York city charter and the vehicle may be removed in accordance with section 19-169 of the code.

(d) The operator of the double-parked vehicle shall be required to move the vehicle within ten minutes of notification by the operator of a lawfully parked vehicle blocked by the double-parked vehicle. If the operator fails to move the double-parked vehicle within ten minutes of notification, such failure shall be a violation of this section and shall be punishable by the monetary fine authorized for a violation of the rules of the commissioner in paragraph one of subdivision a of section twenty nine hundred and three of the New York city charter and the operator of a parked vehicle that is blocked by a double-parked vehicle may arrange for the removal of any such unlawfully parked vehicle in accordance with section 19-169 of the code.

§2. The title of section 19-169 of the administrative code of the city of New York and subdivisions a and b and subparagraphs 1 and 10 of subdivision c of such section are amended to read as follows:

§19-169 Removal of vehicles parked in front of a private driveway and double-parked vehicles blocking lawfully parked vehicles.

a. Subject to the provisions of this section an owner of a lot containing no more than two dwelling units, or his or her lessee, may cause any vehicle which is parked in front of his or her private driveway and which blocks the entry or egress of a vehicle from such property to be removed and the operator of a lawfully parked vehicle may cause any vehicle which is double parked pursuant to the provisions of section 19-162 of the code and which blocks the operator from moving his or her vehicle in violation of such provision to be removed by a person licensed to engage in towing pursuant to subchapter thirty-one of chapter two of title twenty of the code, where a person authorized to issue a notice of parking violation has issued such a notice and affixed it to such unlawfully parked vehicle; the issuance of such notice shall constitute authorization to the owner of such property, or his or her lessee, or the operator of a lawfully parked vehicle blocked by such double-parked vehicle, to arrange for removal of such unlawfully parked vehicle, and such removal shall be deemed to be at the request of the person who issued the notice.

b. Where the owner of such property, or his or her lessee, or the operator of a lawfully parked vehicle blocked by a double-parked vehicle parked pursuant to the provisions of section 19-162 of the code, requests a police officer to arrange for the removal of any such unlawfully parked vehicle, such vehicle shall be removed at the direction of the police department by the next available towing company participating in the rotation tow program established pursuant to section 20-519 of the code. Nothing in this section shall be construed to preclude an owner of such property, or his or her lessee, or the operator of a lawfully parked vehicle blocked by a double-parked vehicle, acting pursuant to this section, from arranging for the removal of such unlawfully parked vehicle by a tow operator of such person's choice. The commissioner of consumer affairs shall promulgate a regulation

establishing performance standards for licensees in order to insure that vehicles summonsed under this section are towed as expeditiously as possible.

c. 1. No vehicle may be removed pursuant to this section without the express written authorization issued to a person licensed to engage in towing pursuant to subchapter thirty-one of chapter two of title twenty of the code by the owner of such property, or his or her lessee, or the operator of a vehicle lawfully parked at the curb. Such authorization shall include the location of the vehicle to be removed, the make, model, color and license plate number of such vehicle and a statement that such vehicle was removed pursuant to a notice of a parking violation and shall be signed by the owner of such property, or his or her lessee, or the operator of a vehicle lawfully parked at the curb, prior to removal.

10. When an owner of property, or his or her lessee, or the operator of a vehicle lawfully parked at the curb, improperly causes a vehicle to be removed, such person shall be liable to the owner or other person in control of the vehicle for the cost of removal, transportation and storage and for any damage resulting from the removal, transportation and storage of the vehicle.

§3. The title of section 20-519 of the administrative code of the city of New York and paragraphs 1 and 2 of subdivision a of such section, are amended to read as follows:

§20-519 Removal of stolen, abandoned and evidence vehicles, vehicles blocking a private driveway [and], vehicles with certain alarm devices and double-parked vehicles blocking a lawfully parked vehicle. a. 1. The commissioner shall establish a program to be known as the "rotation tow program" for the purpose of removing evidence vehicles, vehicles suspected of having been stolen or abandoned other than vehicles described in subdivision two of section twelve hundred twenty-four of the vehicle and traffic law, [and] the removal pursuant to section 19-169 of the code of vehicles blocking a private driveway[and], the removal pursuant to section 24-221 of the code of vehicles with certain alarm devices and the removal pursuant to section 19-162 of the code of double parked vehicles that are blocking a lawfully parked vehicle.

2. The commissioner, after consultation with the police commissioner, shall divide the city into zones and shall create for each zone a list in random order of persons licensed to engage in towing who have been approved by the commissioner for participation in the rotation tow program. The commissioner may in his or her discretion create from such list separate lists for the removal of evidence vehicles, stolen and abandoned vehicles, the removal pursuant to section 19-169 of the code of vehicles blocking a private driveway, [and] the removal pursuant to section 24-221 of the code of vehicles with certain alarm devices and the removal pursuant to the provisions of section 19-162 of the code of double-parked vehicles that are blocking a lawfully parked vehicle, respectively. At any time subsequent to the initial establishment of zones and lists, the commissioner may, after consultation with the police commissioner, modify the zones and reformulate the lists to ensure sufficient towing services throughout the city. Where more than one towing company has been placed on a list of towing companies authorized to remove vehicles in a particular zone, the police department shall summon towing companies from such list on a rotating basis. Any towing company approved for participation in such program after such lists are initially established shall be placed on any such list at the point immediately preceding the last towing company summoned by the police department pursuant to this section. Such lists shall be available at the department for public inspection.

§4. Paragraph 1 of subdivision b of section 20-519 of the administrative code of the city of New York is amended to read as follows:

b. 1. Any vehicle that is suspected of having been stolen or abandoned other than vehicles described in subdivision two of section twelve hundred twenty-four of the vehicle and traffic law, any vehicle that is blocking a private driveway and is subject to removal pursuant to section 19-169 of the code, any double-parked vehicle parked pursuant to section 19-162 of the code that is blocking a lawfully parked vehicle which is subject to removal pursuant to section 19-169 of the code and any vehicle with certain alarm devices which is subject to removal pursuant to section 24-221 of the code shall be removed by a tow truck of the towing company participating in the rotation tow program when directed to do so by the police department. If such vehicle appears to have a missing or altered vehicle identification number, the police may direct its removal to the police property clerk. All other vehicles shall be towed to the storage facility of such responding company which meets such specifications as the commissioner shall establish by rule, and shall at times be stored within such storage facility while the vehicle is in the custody of the towing company. Such storage facility shall be the premises listed on the license of the towing company responding to the police department's direction to remove a vehicle or the premises approved by the commissioner for use by such towing company. Such premises shall be owned, operated or controlled by such towing company and shall not be used by any other towing company. The police department shall expeditiously make every reasonable effort to notify the owner and the national automobile theft bureau or the insurer, if any, of any vehicle that is suspected of having been stolen or abandoned of the vehicle's location and the procedure for retrieval. During the period commencing on the eighth day after the vehicle is removed to such storage facility and ending on the thirtieth day after such removal, such towing company shall transfer any vehicle which has not been claimed into the custody of the police department property clerk.

§5. Paragraph 3 of subdivision b of section 20-519 of the administrative code of the city of New York is amended to read as follows:

3. No tow truck operator shall knowingly remove a vehicle suspected of having been stolen or abandoned or an evidence vehicle without authorization by the police department. No tow truck operator shall knowingly remove a vehicle blocking a private driveway subject to removal pursuant to section 19-169 of the code or a double-parked vehicle parked pursuant to section 19-162 of the code that is blocking

a lawfully parked vehicle and which is subject to removal pursuant to section 19-169 of the code except as authorized in such section. No tow truck operator shall knowingly remove a vehicle with certain alarm devices subject to removal pursuant to section 24-221 of the code except as authorized in such section.

§6. Paragraph 1 of subdivision c of section 20-519 of the administrative code of the city of New York is amended to read as follows:

c. 1. Notwithstanding any other provision of law, the towing company shall be entitled to charge the owner or other person claiming a vehicle that is suspected of having been stolen or abandoned or a vehicle with certain alarm devices subject to removal pursuant to section 24-221 of the code which was directed to be towed by the police department pursuant to this section and which is claimed before the end of the thirtieth day after such vehicle is removed by such towing company amounts not in excess of the following: seventy dollars for the towing of a vehicle registered at a weight of ten thousand pounds or less; one hundred and twenty-five dollars for the towing of a vehicle registered at a weight of more than ten thousand pounds; fifteen dollars per day for the first three days and seventeen dollars for the fourth day of storage and each day thereafter. Upon the transfer of an unclaimed vehicle into the custody of the police department property clerk, the towing company shall be entitled to charge the police department amounts not in excess of the following: sixty dollars plus tolls for the towing of a vehicle suspected of having been stolen or abandoned, a vehicle that was blocking a private driveway and was removed pursuant to section 19-169 of the code, a double-parked vehicle parked pursuant to section 19-162 of the code that was blocking a lawfully parked vehicle and was removed pursuant to section 19-169 of the code, or a vehicle with certain alarm devices that was removed pursuant to section 24-221 of the code, to a storage facility and subsequent transfer of such vehicle into the custody of such property clerk during the period of time specified in paragraph one of subdivision b of this section; five dollars per day for the first three days of storage of such vehicle and eight dollars for the fourth day of storage and each day thereafter, provided that in no event shall any towing company be entitled to charge the police department for storage charges incurred after the tenth day of storage. The towing company shall be entitled to charge the police department an amount not in excess of sixty dollars plus tolls for the towing of an evidence vehicle to a location designated by a police officer.

§7. Paragraph 2 of subdivision c of section 20-519 of the administrative code of the city of New York is amended to read as follows:

2. The police department shall be entitled to charge an owner or other person who claims a vehicle that is suspected of having been stolen or abandoned, or a vehicle that was blocking a private driveway and was removed pursuant to section 19-169 of the code, or a double-parked vehicle parked pursuant to section 19-162 of the code that was blocking a lawfully parked vehicle and was removed pursuant to section 19-169 of the code or a vehicle with certain alarm devices that was removed pursuant to section 24-221 of the code, which is in the custody of the police department property clerk the charges for towing and storage permitted to be charged by the towing company pursuant to paragraph one of this subdivision, plus tolls, in addition to the fees for storage with the police department property clerk provided by subdivision i of section 14-140 of the code. No vehicle which is in the custody of the police department property clerk which had blocked a private driveway and was removed pursuant to section 19-169 of the code or a double-parked vehicle parked pursuant to section 19-162 of the code that was blocking a lawfully parked vehicle and was removed pursuant to section 19-169 of the code, shall be released to the owner or other person claiming such vehicle unless such owner or other person shall, in addition to paying such charges to the police department property clerk as provided for in this subdivision, present to such property clerk a receipt from the towing company which removed the vehicle indicating payment to such company of the following amount: the charges for towing and storage which would have been due to the tow company pursuant to paragraph eight of subdivision c of section 19-169 of the code had such owner or other person claimed the vehicle from such tow company less the amount paid to the police department for the towing and storage of such vehicle by such company.

§8. This local law shall take effect sixty days after it is enacted into law.

Referred to the Committee on Transportation.

Res. No. 2171

Resolution calling on the New York State Legislature to amend the New York State Labor Law in relation to apprenticeship training programs, to enable the City of New York to reverse chronic long term unemployment in certain neighborhoods.

By Council Members Seabrook, Barron, Comrie, Dickens, Foster, James, Palma, Sanders, Stewart, Mark-Viverito, Mendez and White.

Whereas, Section 810, Article 23 of the New York State Labor Law points out that apprenticeship programs, through supervised training and education, develop skilled craftsmen and help meet the increasing needs for such workers in the State's labor force; and

Whereas, The same statute states that continued development of skilled manpower is essential for individual self-realization and for an expanding industrial economy; and

Whereas, Section 810, Article 23 of the New York State Labor mandates as a matter of public policy, that the State develop sound apprenticeship training standards and encourage industry and labor to institute apprenticeship training programs; and

Whereas, The New York State Labor Law should be amended to enable the City of New York to reverse the pattern of chronic long term unemployment in certain neighborhoods; and

Whereas, These amendments should link apprenticeship training programs to conservation, renewable energy, broadband installation and construction work efforts inherent in the American Recovery and Reinvestment Act; and

Whereas, Amendments should require that pre-apprenticeship and apprenticeship programs in New York City enroll a defined significant percentage of trainees from neighborhoods suffering from long term chronic unemployment, and

Whereas, In addition, these amendments should authorize the operation of year round pre-apprenticeship and apprenticeship programs within schools, including those under the jurisdiction of the New York City Department of Education; and

Whereas, Furthermore, the statute should include enhanced equal employment opportunity mandates to be monitored by compliance officers to improve access to union jobs and to better enable the City to reverse the chronic long term unemployment which disproportionately effect communities of color; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to amend the New York State Labor Law in relation to apprenticeship training programs, to enable the City of New York to reverse chronic long term unemployment in certain neighborhoods.

Referred to the Committee on Civil Service and Labor

Res. No. 2172

Resolution calling upon the United States Congress to pass the Uniting American Families Act of 2009 (H.R.1024/S. 424) or other legislation which would provide a mechanism under the Immigration and Nationality Act to allow United States citizens and legal permanent residents in binational same-sex relationships to sponsor their foreign-born partners for lawful permanent resident status in a manner consistent with the legal requirements and rights currently enjoyed by opposite-sex couples.

By Council Members Stewart, The Speaker (Council Member Quinn) and Council Members Arroyo, Jackson, Palma, Barron, Brewer, Dickens, Ferreras, Fidler, Foster, Koppell, Seabrook, Weprin, Gerson, Avella, Mark-Viverito, Nelson and Mendez.

Whereas, The principle of "family unification," by which United States citizens are entitled to sponsor immediate family members for legal immigration, is purported to be the sacred cornerstone of United States immigration law, intended to protect and promote the sanctity of family; and

Whereas, Current United States immigration law grants married opposite-sex partners full consideration and highest priority for the foreign partner's permanent resident status but does not recognize the legitimacy or validity of same-sex lesbian, gay, bisexual, or transgender (LGBT) relationships; and

Whereas, As of the 2000 United States Census, there were 35,820 same-sex, binational couples in the United States whose relationships were not recognized under United States immigration law; and

Whereas, These couples have often established stable homes together, developed joyful loving bonds and, in many cases raised children together, shared dreams together, celebrated anniversaries together, mourned losses together, built lives together, and created in every way a family; and

Whereas, Regardless of length of cohabitation, of investment in their communities, of state-sanctioned domestic partnership, civil union, or marriage, these couples are not a "family" by United States immigration law definition; and

Whereas, These couples live each day in a chronic state of fear, facing the constant specter of eventual deportation and decimation of their cherished family unit because their same-sex status denies them protections under immigration law; and

Whereas, Many such couples, because of their same-sex partnership, have been both physically and emotionally torn apart, or have chosen to leave the United States as a family in order to avoid their own nation's discriminatory immigration policy; and

Whereas, Forcing American citizens and legal permanent residents to make inhuman choices such as deserting their own homeland, families and friends is contrary to American immigration policy's professed reverence of family unification, as well as the profoundly American principle of equal treatment under the law; and

Whereas, During a September 2006 New York City Council hearing on the Uniting American Families Act, there was testimony from Ms. Asimoula Marresia, a first-generation American and New Yorker who had been in a 10-year relationship with her Spanish partner; and

Whereas, At the time of the hearing, Ms. Marresia stated that she had already left her job as a New York City public school teacher and was planning to leave the

United States, because she did not feel wanted, so that she could move to Spain in order to be with her partner; and

Whereas, Ron Gold, a 79 year-old New Yorker, has been in a relationship for over 12 years with his partner, Ali, a native of Bangladesh, but has never been able to share a home in New York City with Ali because of current immigration laws; and

Whereas, Rather than persisting with such discriminatory behavior, the United States should further the international pursuit of human rights, joining with the progressive policies of leading democracies worldwide, including Australia, Belgium, Brazil, Canada, Denmark, Finland, France, Germany, Iceland, Israel, the Netherlands, New Zealand, Norway, Portugal, South Africa, Spain, Sweden, Switzerland and the United Kingdom, all of which recognize and celebrate same-sex partners' rightful claim to be considered "family" in terms of legal immigration; and

Whereas, In order to eliminate discrimination in immigration, New York Representative Jerrold Nadler and Vermont Senator Patrick Leahy have introduced the Uniting American Families Act (H.R.1024/S.424) in the 111th Congress; and

Whereas, If enacted, the Uniting American Families Act would expand the Immigration and Nationality Act to define a "permanent partner" in such a way that includes same-sex couples and would allow them protections under the Immigration and Nationality Act (INA) as provided to married opposite sex couples; and

Whereas, In order to qualify as a "permanent partner" under the Uniting American Families Act, an individual 18 years of age or older must establish (i) that he or she is in a committed, intimate relationship with another adult in which both parties intend a life long commitment; (ii) that there is financial interdependence, (iii) that neither party is married or in a permanent partnership with another person, and (iv) that he or she is unable to enter in a marriage in a manner that is recognized under the INA; and

Whereas, New Yorkers rely upon the wisdom of their elected legislators in the United States House of Representatives and Senate to develop and pursue reasoned, fair, and just legislation reflecting our ideals as New Yorkers, as American citizens, and as citizens of the world with an unqualified, vested interest in the promotion of human rights; and

Whereas, In the words of the Rev. Dr. Martin Luther King Jr., "Where there is injustice for one, there is injustice for all;" now, therefore, be it

Resolved, That the Council of the City of New York calls upon the United States Congress to pass the Uniting American Families Act of 2009 (H.R.1024/S.424) or other legislation which would provide a mechanism under the Immigration and Nationality Act to allow United States citizens and legal permanent residents in binational same-sex relationships to sponsor their foreign-born partners for lawful permanent resident status in a manner consistent with the legal requirements and rights currently enjoyed by opposite-sex couples.

Referred to the Committee on Immigration.

Int. No. 1086

By Council Members Vallone Jr., James, Koppell, Weprin and Gerson.

A Local Law to amend the administrative code of the city of New York, in relation to prohibiting the sale or installation of a motorcycle exhaust device without federal EPA required labeling.

Be it enacted by the Council as follows:

Section 1. Subchapter six of chapter two of title 24 of the administrative code of the city of New York is amended by adding a new section 24-236.2 to read as follows:

§24-236.2 *Prohibition on the sale or installation of a motorcycle exhaust device without United States environmental protection agency required labeling.* a. *Definitions.* For the purposes of this section, "motorcycle" shall mean every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.

b. *No person shall sell or install a motorcycle exhaust device that is not equipped with an exhaust muffler bearing the United States environmental protection agency required labeling applicable to the motorcycle's model year, as required by section 205.169 of title 40 of the code of federal regulations, nor shall any person sell a motorcycle without an exhaust muffler bearing such labeling.*

c. *Any person who violates subdivision b of this section shall be liable for a civil penalty of not less than five hundred dollars nor more than one thousand dollars for a first violation thereof; not less than one thousand dollars nor more than two thousand five hundred dollars for a second violation thereof; and not less than two thousand five hundred dollars nor more than five thousand dollars for a third or subsequent violation thereof. Such civil penalties may be recovered in a proceeding before the environmental control board.*

§2. This local law shall take effect immediately upon enactment.

Referred to the Committee on Environmental Protection.

Res. No. 2173

Resolution calling upon the United States Congress to pass and the President to sign H.R.1549/S.619, the Preservation of Antibiotics for Medical Treatment Act of 2009, legislation that would prohibit the routine use of certain types of antibiotics in farm animals in an effort to reduce the spread of dangerous bacteria in humans.

By Council Members Vallone Jr., Barron, James, Weprin and Gerson.

Whereas, For the past sixty years, the use of antibiotic drugs has turned bacterial infections into treatable conditions, rather than the life-threatening episodes they once were; and

Whereas, Physicians depend upon antibiotics such as penicillin, tetracycline, and erythromycin to treat many illnesses caused by bacteria, including ear and skin infections, pneumonia, food poisoning, meningitis, and other life-threatening infections; and

Whereas, Antibiotics are also crucial in treating infections that may result from medical procedures such as surgery, chemotherapy and transplants; and

Whereas, However, the United States Centers for Disease Control and Prevention (CDC) has reported that doctors are treating an increasing number of bacterial infections that fail to respond to routine antibiotic treatment; and

Whereas, The CDC believes that the widespread, excessive and inappropriate use of antibiotics increases the likelihood that bacteria will become resistant to the antibiotic; and

Whereas, While an individual may be killing infectious bacteria each time he or she consumes an antibiotic, the likelihood that resistant germs may be left to grow and multiply increases when an antibiotic is repeatedly used; and

Whereas, For instance, one out of six cases of Campylobacter infection, the most common cause of food poisoning, is resistant to fluoroquinolones, the drug most often used to treat severe food-borne illness; and

Whereas, However, the resistance exhibited by Campylobacter infection to fluoroquinolones was negligible prior to the drug being approved for use in poultry; and

Whereas, The Union of Concerned Scientists, a national non-profit science advocacy organization, has estimated that as much as 70 percent of antibiotics used in the United States is given to healthy chickens, pigs and cattle to encourage their growth or to prevent illnesses; and

Whereas, According to the CDC, antibiotics routinely given to healthy livestock and poultry include many that are identical, or nearly so, to drugs used in treating humans; and

Whereas, Therefore, the excessive use of antibiotics given to healthy livestock and poultry enhances the potential development of antibiotic-resistant bacteria and thus can negatively effect the human population; and

Whereas, Additionally, antibiotic-resistant bacteria also lead to higher health care costs as individuals will often require more expensive drugs and extended hospital stays; and

Whereas, The issue of antibiotic resistance is of particular concern for children, who have both the highest rates of antibiotic use and the highest rates of infections caused by antibiotic-resistant pathogens; and

Whereas, On March 17, 2009, Congresswoman Louise M. Slaughter introduced H.R.1549, in an attempt to ensure that the effectiveness of antibiotics is preserved for the treatment of human and animal diseases; and

Whereas, This legislation would eliminate the non-health related use in livestock of medically important antibiotics and would increase the level of scrutiny for new antibiotics that would be used to treat animals, but would not restrict the use of antibiotics to treat sick animals; and

Whereas, Farm organizations such as the National Pork Producers Council, an association of 43 state pork producer organizations representing more than 67,000 individuals, oppose the legislation because they maintain the bill would ban the use of health products used to prevent diseases among livestock and poultry, while also requiring all "critical anti-microbial animal drugs" to go through a second Food and Drug Administration (FDA) approval process; and

Whereas, However, the emerging health crisis of antibiotic resistance has lead several associations and organizations, including the American Medical Association, American College of Preventive Medicine, the American Public Health Association, the Council of State and Territorial Epidemiologists, and the World Health Organization to support the legislation and oppose the use of antibiotics in healthy farm animals; and

Whereas, On July 13, 2009, Dr. Joshua Sharfstein, the Principal Deputy Commissioner of the FDA, expressed the Obama administration's support for limitations on the use of antibiotics in livestock contending that the use of antimicrobials should be limited to those situations where human and animal health are protected; and

Whereas, It is critical that the Country take every necessary step to protect humans from antibiotic-resistant bacteria; now, therefore, be it

Resolved, That the Council of the City of New York calls upon United States Congress to pass and the President to sign H.R.1549/S.619, the Preservation of Antibiotics for Medical Treatment Act of 2009, legislation that would prohibit the routine use of certain types of antibiotics in farm animals in an effort to reduce the spread of dangerous bacteria in humans.

Referred to the Committee on Health.

Res. No. 2174

Resolution concerning the extension of the Times Square Business Improvement District in the Borough of Manhattan and setting the date, time and place for the public hearing to hear all persons interested in the extension of such district.

By Council Members Weprin and Comrie.

WHEREAS, pursuant to the authority granted by chapter 4 of title 25 of the Administrative Code of the City of New York (the "Law"), the Board of Estimate of the City of New York, by a resolution dated July 19, 1990 (Cal. No. 322), provided for the preparation of a district plan (the "Original Plan") for the Times Square Business Improvement District (the "District") in the Borough of Manhattan; and

WHEREAS, pursuant to Local Law No. 82 for the year 1990, the City Council assumed responsibility for adopting legislation extending Business Improvement Districts; and

WHEREAS, pursuant to section 25-405 (c) of the Law, the New York City Department of Small Business Services ("SBS") submitted an amended District Plan (the "Amended Plan") for the Times Square Business Improvement District to the City Planning Commission (the "CPC") on March 3, 2009; and

WHEREAS, pursuant to section 25-405 (c) of the Law, the CPC submitted the Amended Plan to the City Council on March 9, 2009; and

WHEREAS, pursuant to section 25-405 (c) of the Law, the CPC submitted the Amended Plan to the Council Member representing the council district in which the proposed extended district is located on March 9, 2009; and

WHEREAS, pursuant to section 25-405 (c) of the Law, the CPC submitted the Amended Plan to the community boards (Manhattan Community Board Number 4 and 5, hereinafter the "Community Boards") for the community districts in which the proposed extended district is located on March 9, 2009; and

WHEREAS, pursuant to section 25-405 (c) of the Law, the Community Board 4 notified the public of the Amended Plan in accordance with the requirements established by the CPC; and

WHEREAS, pursuant to section 25-405 (c) of the Law, Community Board 4 conducted a public hearing on April 1, 2009; and

WHEREAS, on April 1, 2009, the Community Board voted to approve the extension of the District; and

WHEREAS, pursuant to section 25-405 (c) of the Law, the CPC reviewed the Amended Plan, held a public hearing and prepared a report certifying its unqualified approval of the Amended Plan; and

WHEREAS, pursuant to section 25-405 (c) of the Law, the CPC submitted its report to the Mayor, to the affected Borough President, to the City Council and to the Council Member representing the council district in which the proposed extended district is located; and

WHEREAS, pursuant to section 25-405 (c) of the Law, a copy of the CPC's report, together with the Original and Amended Plans, was transmitted for filing with the City Clerk on May 20, 2009; and

WHEREAS, pursuant to section 25-406 (a) of the Law, a copy of the Amended Plan and the CPC's report are annexed hereto and are made part of this Resolution; and

WHEREAS, pursuant to section 25-406 (a) of the Law, the Amended Plan is on file for public inspection in the Office of the City Clerk, Municipal Building, Room 265, New York, New York; and

WHEREAS, pursuant to Section 25-406 (b) of the Law, any owner of real property, deemed benefited and therefore within the extended District, objecting to the Amended Plan must file an objection at the Office of the City Clerk within thirty days of the conclusion of the hearing held by the City Council, notice of which is provided by this Resolution, on forms made available by the City Clerk; and

WHEREAS, pursuant to Section 25-406 (b) of the Law, if owners of at least fifty-one percent of the assessed valuation of all the benefited real property situated within the boundaries of the District proposed for extension, as shown upon the latest completed assessment roll of the City, or at least fifty-one percent of the owners of benefited real property within the area included in the District proposed for extension, file objections to the Amended Plan with the City Clerk within the thirty-day objection period, the District will not be extended; now, therefore, be it

RESOLVED, that the Council of the City of New York, pursuant to Section 25-406 of the Law, hereby directs that:

(i) September 30, 2009 is the date and 11:00 a.m. is the time and the City Council Committee Meeting Room, 2nd Floor, City Hall is the place for a public hearing (the "Public Hearing") to hear all persons interested in the extension of the District;

(ii) the Times Square District Management Association shall, not less than ten nor more than thirty days before the date of the Public Hearing, mail a copy of this Resolution or a summary thereof to each owner of real property within the proposed extended district at the address shown on the latest City assessment roll, to such other persons as are registered with the City to receive tax bills concerning real property within the proposed extended district, and to the tenants of each building within the proposed extended district;

(iii) SBS shall arrange for the publication of a copy of this Resolution or a summary thereof at least once in the City Record or a newspaper in general circulation in the City, the first publication to be not less than ten nor more than thirty days before the date of the Public Hearing; and

(iv) in the event that the Times Square District Management Association, Inc. mails, or SBS arranges for the publication of, a summary of this Resolution, such summary shall include the information required by section 25-406 (c) of the Law.

Adopted by the Council (preconsidered and approved by the Committee on Finance.)

Res. No. 2175

Resolution concerning an amendment to the District Plan of the Times Square Business Improvement District that provides for a change in the method of assessment upon which the district charge is based, and setting the date, time and place for the public hearing of the local law authorizing a change in the method of assessment upon which the district charge in the Times Square Business Improvement District is based.

By Council Members Weprin and Comrie.

Whereas, pursuant to the authority formerly granted to the Board of Estimate by chapter 4 of title 25 of the Administrative Code of the City of New York (the "Law"), the Board of Estimate, by a resolution dated July 19, 1990 (Cal. No. 322), provided for the preparation of a district plan (the "Original Plan") for the Times Square Business Improvement District (the "District") in the Borough of Manhattan; and

Whereas, pursuant to Local Law No. 82 for the year 1990, the City Council assumed responsibility for adopting legislation relating to Business Improvement Districts; and

Whereas, pursuant to Section 25-410(b) of the Law, an amendment to the District Plan that provides for any change in the method of assessment upon which the district charge is based may be adopted by local law, provided that the City Council determines, after a public hearing, that it is in the public interest to authorize such change and that the tax and debt limits prescribed in Section 25-412 of the BID Law will not be exceeded by such change; and

Whereas, the Times Square Business Improvement District wishes to amend the District Plan in order to provide for changes in the method of assessment upon which the district charge is based; and

Whereas, pursuant to Section 25-410(b) of the BID Law, the City Council is required to give notice of the public hearing by publication of a notice in at least one newspaper having general circulation in the district specifying the time when and the

place where the hearing will be held and stating the proposed change in the method of assessment upon which the district charge in the Times Square Business Improvement District is based; now, therefore, be it

Resolved, that the Council of the City of New York, pursuant to Section 25-410(b) of the BID Law, hereby directs that:

(i) September 30, 2009 is the date and the City Council Committee Meeting Room, 2nd floor, City Hall, is the place and 11:00 a.m. is the time for a public hearing (the "Public Hearing") to hear all persons interested in the legislation that would authorize a change in the method of assessment upon which the district charge in the Times Square Business Improvement District is based; and

(ii) On behalf of the City Council and pursuant to Section 25-410(b) of the BID Law, the District Management Association of the Times Square Business Improvement District is hereby authorized to publish in a newspaper of general circulation in the district, not less than ten (10) days prior to the Public Hearing, a notice stating the time and place of the Public Hearing and stating the proposed change in the method of assessment upon which the district charge in the Times Square Business Improvement.

Adopted by the Council (preconsidered and approved by the Committee on Finance.)

L.U. No. 1197

By Council Member Weprin:

Parkview Senior Citizens Apartments Block 3044, Lot 17, Bronx, Council District No. 15

Adopted by the Council (preconsidered and approved by the Committee on Finance.)

L.U. No. 1198

By Council Member Weprin:

Sebco Houses for the Elderly Block 2746, Lot 30 Bronx, Community District No. 2, Council District No. 17.

Adopted by the Council (preconsidered and approved by the Committee on Finance.)

L.U. No. 1199

By Council Member Weprin:

United Odd Fellows Section 202 Housing Program for the Elderly 1040 Havemeyer Avenue Bronx, Council District No. 18

Adopted by the Council (preconsidered and approved by the Committee on Finance.)

L.U. No. 1200

By Council Member Weprin:

Findlay Plaza, Block 2435, Lot 45, Bronx, Council District No. 16

Adopted by the Council (preconsidered and approved by the Committee on Finance.)

L.U. No. 1201

By Council Member Weprin:

Section 577 of Private Housing Finance Law, Impac Houses, 1428 Fifth Avenue, a/k/a 2-24 West 117th Street Block 1600, Lot 20 New York, Community District No. 10 Council District No. 9

Adopted by the Council (preconsidered and approved by the Committee on Finance.)

L.U. No. 1202

By Council Member Katz:

Application no. 20105018 HKM (N 100003 HKM), pursuant to §3020 of the Charter of the City of New York, concerning the designation (List No.414, LP-2327) by the Landmarks Preservation Commission of the John Pierce Residence, (Block 1287, Lot 10) as an historic landmark, Council District no. 3.

Adopted by the Council (preconsidered and approved by the Committee on Land Use and the Subcommittee on Landmarks, Public Siting and Maritime Uses.)

L.U. No. 1203

By Council Member Katz:

Application no. 20105019 HKM (N 100004 HKM), pursuant to §3020 of the Charter of the City of New York, concerning the designation (List No.414, LP-2320) by the Landmarks Preservation Commission of the Mount Olive Fire Baptized Holiness Church, located at 308 West 122nd street (aka 304-308 West 122nd Street) as an historic landmark, Council District no. 9.

Adopted by the Council (preconsidered and approved by the Committee on Land Use and the Subcommittee on Landmarks, Public Siting and Maritime Uses.)

L.U. No. 1204

By Council Member Katz:

Application no. 20105021 HKK (N 100002 HKK), pursuant to §3020 of the Charter of the City of New York, concerning the designation (List No.414, LP-2314) by the Landmarks Preservation Commission of Prospect Heights as a historic district, Council District no. 35.

Adopted by the Council (preconsidered and approved by the Committee on Land Use and the Subcommittee on Landmarks, Public Siting and Maritime Uses.)

L.U. No. 1205

By Council Member Katz:

Application no. N 090364 ZRY, submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, establishing two new zoning districts: C6-3D and R9D and modifying related regulations.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1206

By Council Member Katz:

Application no. N 090365 ZMX, submitted by the Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map of the City of New York, Section Nos. 3b and 6a.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1207

By Council Member Katz:

Uniform land use review procedure application no. C 090379 HAK, an Urban Development Action Area Designation and Project, located at 640 Broadway and the disposition of such property, Borough of Brooklyn, Council District no. 33.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 1208

By Council Member Katz:

Application no. 20105020 HKM (N 100001 HKM), pursuant to §3020 of the Charter of the City of New York, concerning the designation (List No.414, LP-2218) by the Landmarks Preservation Commission of 94 Greenwich Street (aka 14-18 Rector Street), (Block 53, Lot 41) as an historic landmark, Council District no. 1.

Referred to the Committee on Land Use and the Subcommittee on Landmarks, Public Siting and Maritime Uses.

L.U. No. 1209

By Council Member Katz:

Application no. 20095528 TCX, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of Jasper's Pizza & More, LLC d/b/a Jasper's Italian Cuisine, to establish, maintain and operate an unenclosed sidewalk café at 3535 Riverdale Avenue, Borough of the Bronx, Council District no. 11.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1210

By Council Member Katz:

Application no. C 090441 ZMK, submitted by Atara Vanderbilt, LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map, Section No. 16c.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1211

By Council Member Katz:

Application no. N 090442 ZRK, submitted by Atara Vanderbilt, LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Article II, Chapter 3 (Bulk regulations for Residential Buildings in Residence Districts), Section 23-90, relating to the application of the Inclusionary Housing Program to R9A districts.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1212

By Council Member Katz:

Application no. C 090443 ZSK, submitted by Atara Vanderbilt, LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for a special permit pursuant to Section 74-743 (a) of the Zoning Resolution to modify requirements of Section 23-145, Section 23-852 and Section 35-24 to facilitate a mixed use development on property located at 470 Vanderbilt Avenue (Block 2009, Lots 1, 19, 20, 23, 26, 31-44). This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and §20-226(g) of the New York City Administrative Code.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1213

By Council Member Katz:

Application no. C 060551 ZMQ, submitted by Briarwood Organization LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map, Section No. 11a., by establishing within an existing R4 District a C2-2 District..

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1214

By Council Member Katz:

Application no. N 090444 ZMK, submitted by the Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map of the City of New York, Section No 12d.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1215

By Council Member Katz:

Application no. C 090445 ZSK, submitted by the Department of Housing Preservation and Development, pursuant to Sections 197-c and 201 of the New York City Charter, for a special permit pursuant to Section 78-312 (d) of the Zoning Resolution to modify requirements of Section 23-632 to facilitate construction of a mixed use development on property located at 136-50 Flushing Avenue(Block 2033, Lot 1).

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1216

By Council Member Katz:

Uniform Land Use Review Procedure application no. N 090446 HAK, submitted by the Department of Housing Preservation and Development, an Urban Development Action Area Designation and Project, located at 136-50 Flushing Ave, Borough of Brooklyn, Council District no. 35. This matter is subject to council Review and action pursuant to § 197-c and § 197-d of the New York City Charter and Article 16 of the General Municipal Law.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises

L.U. No. 1217

By Council Member Katz:

Application no. 20095244 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of 114 Kenmare Associates LLC d/b/a Corner Deli, to continue to maintain and operate an unenclosed sidewalk café at 106 Kenmare Street, Borough of Manhattan, Council District no. 1. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and §20-226(g) of the New York City Administrative Code.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1218

By Council Member Katz:

Application no. 20085246 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of Fabrizio Cavallacci d/b/a Café Reggio, to continue to maintain and operate an unenclosed sidewalk café at 119 Macdougall Street, Borough of Manhattan, Council District no. 3. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and §20-226(g) of the New York City Administrative Code.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1219

By Council Member Katz:

Application no. C 090431 ZSM, submitted by W2005/Hines West Fifty-Third Realty, LLC pursuant to Sections 197-c and 201 of the New York City Charter, for a special permit pursuant to Sections 81-212 and 74-79 of the Zoning Resolution to allow the transfer of 136,000 square feet of floor area to facilitate the development of an 85-story mixed use building in Council District 3. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and §20-226(g) of the New York City Administrative Code.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1220

By Council Member Katz:

Application no. C 090432 ZSM, submitted by W2005/Hines West Fifty-Third Realty, LLC pursuant to Sections 197-c and 201 of the New York City Charter, for a special permit pursuant to Sections 74-711 and 81-277 of the Zoning Resolution to facilitate the development of an 85-story mixed use building on property located at 53 West 53rd Street (Block 1269, Lots 5,6,7,8,9,11,12, 13,14, 20, 30, 58,66, 69 and 165). This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and §20-226(g) of the New York City Administrative Code.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1221

By Council Member Katz:

Application no. 20105058 HAK, an Urban Development Action Area Project located at 480-482 Warwick Street, Council District no. 42 Borough of Brooklyn. This matter is subject to Council review and action pursuant to Article 16 of the New York General Municipal Law, at the request of the New York City Department of Housing Preservation and Development, and pursuant to Section 696 of the General Municipal Law for an exemption from real property taxes.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 1222

By Council Member Katz:

Application no. 20105059 HAM, an Urban Development Action Area Project located at 46-48 East 129th Street, Council District no. 9 Borough of Manhattan. This matter is subject to Council review and action pursuant to Article 16 of the New York General Municipal Law, at the request of the New York City Department of Housing Preservation and Development, and pursuant to Section 577 of the Private Housing Finance Law for an exemption from real property taxes.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 1223

By Council Member Katz:

Application no. 20105060 HAM, an Urban Development Action Area located at 3603-3605 Broadway, Council District no. 7 Borough of Manhattan. This matter is subject to Council review and action pursuant to Article 16 of the New York General Municipal Law, at the request of the New York City Department of Housing Preservation and Development, and pursuant to Section 577 of the Private Housing Finance Law for an exemption from real property taxes.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

At this point the Speaker (Council Member Quinn) made the following announcements:

ANNOUNCEMENTS:

Monday, September 21, 2009

★ Addition

Committee on **HOUSING AND BUILDINGS****10:00 A.M.**
Int 1015 - By Council Members Garodnick, Brewer, Lappin, Gentile, James, Mealy, Nelson, Palma, Sanders Jr. and Seabrook (in conjunction with the Mayor) - A Local Law to amend the administrative code of the city of New York, in relation to the safety and security of construction sites at which permitted work has been suspended.
Committee Room – City Hall Erik Martin-Dilan, Chairperson

★ Addition

Committee on **CONSUMER AFFAIRS** jointly with the
Committee on **TRANSPORTATION****10:00 A.M.**
Oversight – Sightseeing Buses in New York City
Int 742 - By Council Members Gerson, Brewer, James, Liu and Palma - Local Law to amend the administrative code of the city of New York, in relation to sound reproduction devices on sight-seeing buses.
Int 836 - By Council Members Gerson, Brewer, James, Mealy, Sanders Jr., Stewart, Weprin and Lappin - A Local Law to amend the administrative code of the city of New York in relation to requiring sight-seeing buses to submit operation plans.
Int 1066 - By Council Members Lappin, Brewer, Comrie, Gerson, James and Stewart - A Local Law to amend the administrative code of the city of New York, in relation to allocation of bus stops to private bus companies.
Council Chambers – City HallLeroy Comrie, Chairperson

★ Deferred

Committee on ~~CULTURAL AFFAIRS, LIBRARIES &~~

INTERNATIONAL INTERGROUP RELATIONS..... 1:00 P.M.

Agenda to be announced

Committee Room — City Hall Domenic M. Recchia Jr., Chairperson

Committee on **ECONOMIC DEVELOPMENT** **1:00 P.M.**
 Oversight - Reporting Requirements Relating to Economic Development Benefit Programs
 Hearing Room – 250 Broadway 14th Floor Thomas White , Chairperson

★ *Continuation of Recessed Meeting*

Committee on **LOWER MANHATTAN REDEVELOPMENT**..... **1:00 P.M.**
 Oversight - Update on Rebuilding of the World Trade Center site
 Council Chambers – City Hall Alan Gerson, Chairperson

Tuesday, September 22, 2009

Subcommittee on **ZONING & FRANCHISES** **9:30 A.M.**
 See Land Use Calendar Available, Thursday, September 17, 2009 in Room 5 City Hall
 Committee Room – City Hall Tony Avella, Chairperson

Committee on **FIRE AND CRIMINAL JUSTICE SERVICES**..... **10:00 A.M.**
 Oversight – Examining the FDNY’s 2009-2010 Strategic Plan
 Council Chambers – City Hall James Vacca, Chairperson

Subcommittee on **LANDMARKS, PUBLIC SITING & MARITIME USES**..... **11:00 A.M.**
 See Land Use Calendar Available, Thursday, September 17, 2009 in Room 5 City Hall
 Committee Room – City Hall Jessica Lappin, Chairperson

★ *Addition*

Committee on **SMALL BUSINESS** **12:00 P.M.**
 Tour: SUNY Downstate’s Biotechnology Incubator
 Location: 450 Clarkson Avenue
 Brooklyn NY 11226
 Details Attached..... David Yassky, Chairperson

Subcommittee on **PLANNING, DISPOSITIONS & CONCESSIONS**.... **1:00 P.M.**
 See Land Use Calendar Available, Thursday, September 17, 2009 in Room 5 City Hall
 Committee Room – City Hall Daniel Garodnick, Chairperson

★ *Deferred*

Committee on **WATERFRONTS**..... **1:00 P.M.**
 Agenda to be announced
 Council Chambers – City Michael Nelson, Chairperson

★ *Deferred*

Committee on **COMMUNITY DEVELOPMENT** **1:00 P.M.**
 Oversight – Update on the Center for Economic Opportunity
 Hearing Room – 250 Broadway 16th Floor Albert Vann, Chairperson

★ *Addition*

Committee on **SANITATION AND SOLID WASTE MANAGEMENT** **1:00 P.M.**
 Oversight - Department of Sanitation’s street cleaning program and the Operation Scorecard program run by the Mayor’s Office of Operations
 Hearing Room – 250 Broadway 14th Floor..... Simcha Felder, Chairperson

Wednesday, September 23, 2009

Committee on **CONTRACTS** jointly with the
 Committee on **GOVERNMENTAL OPERATIONS** **10:00 A.M.**
 Oversight - A Review of the City of New York’s Environmentally Preferable Procurement Policies and the Department of Citywide Administrative Services’ Environmental Procurement Practices, the Department’s Sustainable Building Management Programs and Goal to Improve the Emissions Profile of the City’s Vehicle Fleet.
 Committee Room – City Hall Letitia James, Chairperson
 Helen Sears, Chairperson

Committee on **GENERAL WELFARE**..... **10:00 A.M.**
 Res 2145 - By Council Members Mendez, the Speaker (Council Member Quinn), Barron, Brewer, Comrie, Fidler, Foster, Gerson, James, Koppell, Liu and Sanders - Resolution calling upon the New York State Assembly to pass A. 2565 and the Governor to sign A. 2565 and its companion bill, S. 2664, legislation that would amend the Social Services Law to provide that persons living with clinical/symptomatic HIV/AIDS, and who are receiving shelter assistance or an emergency shelter allowance, shall not be required to pay more than 30% of their household’s monthly income towards shelter costs, including rent and utilities.
 Council Chambers – City Bill de Blasio, Chairperson

★ *Note Location Change*

Committee on **WOMEN’S ISSUES** jointly with the
 Committee on **VETERANS** **1:00 P.M.**
 Oversight - Providing Services for Veterans and their Families Struggling with Domestic Violence and Post Traumatic Stress Disorder
 ★ Hearing Room – 250 Broadway, 16th Floor Darlene Mealy, Chairperson
 James Sanders, Chairperson

★ *Note Committee Addition*

Committee on **HEALTH** jointly with the
 ★ Committee on **YOUTH SERVICES**..... **1:00 P.M.**
 Oversight - HIV/AIDS among Young Men Ages 13-17 Who Have Sex with Men
 Council Chambers – City Hall Joel Rivera, Chairperson
 ★ Lewis A. Fidler, Chairperson

★ *Deferred*

Committee on **SMALL BUSINESS** **1:00 P.M.**
 Agenda to be announced
 Hearing Room – 250 Broadway, 14th Floor David Yassky, Chairperson

★ *Addition*

Committee on **EDUCATION** **1:00 P.M.**
 Oversight - DOE’s Implementation of the New School Governance law
 Int 951 - By Council Members Ignizio, Brewer, Comrie, Fidler, Gonzalez, Jackson, James, Liu and Palma - Local Law to amend the New York city charter, in relation to requiring the New York city department of education to provide the metropolitan transportation authority with certain student enrollment information.
 Committee Room – City Hall Robert Jackson, Chairperson

Thursday, September 24, 2009

Committee on **LAND USE**..... **10:00 A.M.**
 All items reported out of the subcommittees
 AND SUCH OTHER BUSINESS AS MAY BE NECESSARY
 Committee Room – City Hall Melinda R. Katz, Chairperson

★ *Deferred*

Committee on **EDUCATION** **10:00 A.M.**
 Oversight – DOE’s Implementation of the New School Governance law
 Int 951 – By Council Members Ignizio, Brewer, Comrie, Fidler, Gonzalez, Jackson, James, Liu and Palma – Local Law to amend the New York city charter, in relation to requiring the New York city department of education to provide the metropolitan transportation authority with certain student enrollment information.
 Council Chambers – City Hall Robert Jackson, Chairperson

Committee on **TECHNOLOGY IN GOVERNMENT** **10:00 A.M.**
 Oversight – Enhanced 311
 Hearing Room – 250 Broadway, 14th Floor Gale Brewer, Chairperson

★ *Deferred*

Subcommittee on **PUBLIC HOUSING**..... **10:00 A.M.**
 Agenda to be announced
 Hearing Room – 250 Broadway, 16th Floor..... Rosie Mendez, Chairperson

★ *Addition*

Committee on **CULTURAL AFFAIRS, LIBRARIES & INTERNATIONAL INTERGROUP RELATIONS**..... **1:00 P.M.**
 Oversight - Procedures for Filming and Photographing in Neighborhoods throughout New York City Council Chambers – City Hall
 Domenic M. Recchia Jr., Chairperson

★ *Deferred*

Committee on **IMMIGRATION** **1:00 P.M.**
 Agenda to be announced
 Committee Room – City Hall Kendall Stewart, Chairperson

Committee on **TRANSPORTATION** **1:00 P.M.**
 Oversight - Have Line Managers Improved Subway Service For Riders?
 Hearing Room – 250 Broadway, 14th Floor John C. Liu, Chairperson

Committee on **PARKS AND RECREATION**..... **1:00 P.M.**
 Int 1047 - By Council Members Foster, Comrie, Fidler, Gonzalez, James, Koppell, Lappin, Palma, Recchia Jr., Seabrook, Stewart, Gerson, Avella and Nelson - A Local Law to amend the administrative code of the city of New York, in relation to replacement of trees.
 Hearing Room – 250 Broadway, 16th Floor Helen Foster, Chairperson

Friday, September 25, 2009

★ *Addition*

Committee on **JUVENILE JUSTICE**.....**10:00 A.M.**
 Oversight - Examining the Application and Effects of the Risk Assessment Instrument
 Hearing Room – 250 Broadway, 14th Floor Sara M. Gonzalez, Chairperson

★ *Addition*

Committee on **HIGHER EDUCATION**..... **1:00 P.M.**
 Oversight - The Escalating Costs of Textbooks for CUNY students
 Council Chambers – City Charles Barron, Chairperson

★ *Addition*

Committee on **COMMUNITY DEVELOPMENT** **1:00 P.M.**
 Oversight – Update on the Center for Economic Opportunity
 Hearing Room – 250 Broadway 14th Floor Albert Vann, Chairperson

Tuesday, September 29, 2009

★ *Deferred*

Committee on **YOUTH SERVICES** **10:00 A.M.**
 Agenda to be announced
 Committee Room – City Hall Lewis A. Fidler, Chairperson

Committee on **SANITATION AND SOLID WASTE MANAGEMENT****10:00 A.M.**
 Agenda to be announced
 Council Chambers – City Hall Simcha Felder, Chairperson

Committee on **AGING****10:00 A.M.**
 Oversight - An Update to the Modernization of DFTA’s Case Management Services
 Hearing Room – 250 Broadway, 16th Floor
 Maria del Carmen Arroyo, Chairperson

Committee on **CIVIL RIGHTS** jointly with the
 Committee on **IMMIGRATION****10:00 A.M.**
 Res 2172 - By Council Members Stewart and The Speaker (Council Member Quinn) - Resolution calling upon the United States Congress to pass the Uniting American Families Act of 2009 (H.R.1024/S. 424) or other legislation which would provide a mechanism under the Immigration and Nationality Act to allow United States citizens and legal permanent residents in binational same-sex relationships to sponsor their foreign-born partners for lawful permanent resident status in a manner consistent with the legal requirements and rights currently enjoyed by opposite-sex couples.
 Hearing Room – 250 Broadway, 14th Floor Larry Seabrook, Chairperson
 Kendall Stewart, Chairperson

Committee on **ENVIRONMENTAL PROTECTION**..... **1:00 P.M.**
 Agenda to be announced
 Hearing Room – 250 Broadway, 14th Floor..... James F. Gennaro, Chairperson

★ *Deferred*

Committee on **HIGHER EDUCATION**..... **1:00 P.M.**
 Agenda to be announced
 Committee Room – City Hall Charles Barron, Chairperson

Committee on **MENTAL HEALTH, MENTAL RETARDATION, ALCOHOLISM, DRUG ABUSE AND DISABILITY SERVICES**..... **1:00 P.M.**
 Oversight - An Update Regarding Crystal Methamphetamine Usage, Education and Prevention Efforts, and Treatment in New York City
 Council Chambers – City Hall G. Oliver Koppell, Chairperson

Committee on **HOUSING AND BUILDINGS**..... **1:00 P.M.**
 Int 1061 - By Council Members Dilan, Lappin, Recchia Jr., Brewer, Comrie, Fidler, Gentile, Gerson, Gonzalez, Nelson, Stewart and Weprin (in conjunction with the Mayor) - A Local Law to amend the administrative code of the city of New York, in relation to crane safety.
 Hearing Room – 250 Broadway, 16th Floor Erik Martin-Dilan, Chairperson

★ *Addition*

Committee on **WATERFRONTS**..... **1:00 P.M.**
 Res 1816 - By Council Members Nelson, Brewer, Fidler, Gerson, James, Liu, White and Crowley - Resolution urging the State to reclassify clean or processed dredged sediment from a “solid waste” to a “beneficial use” in order to increase its potential for beneficial reuse.
 Committee Room – City Michael Nelson, Chairperson

Wednesday, September 30, 2009

Committee on **FINANCE**.....**11:00 A.M.**
 Int 1057 - By Council Members Weprin and Comrie (by request of the Mayor) - A Local Law to amend the administrative code of the city of New York, in relation to the extension of the Times Square business improvement district.
 Int 1058 - By Council Members Weprin and Comrie (by request of the Mayor) - A Local Law to amend the administrative code of the city of New York, in relation to amending the district plan of the Times Square business improvement district to change the method of assessment upon which the district charge is based.
AND SUCH OTHER BUSINESS AS MAY BE NECESSARY
 Committee Room – City Hall David Weprin, Chairperson

Stated Council Meeting..... *Ceremonial Tributes – 1:00 p.m.*
 *Agenda – 1:30 p.m.*

MEMORANDUM

September 11, 2009

TO: ALL COUNCIL MEMBERS

RE: TOUR BY THE COMMITTEE ON SMALL BUSINESS

Please be advised that all Council Members are invited to attend a tour:

**SUNY Downstate’s Biotechnology Incubator
 450 Clarkson Avenue
 Brooklyn NY 11226**

The tour will be on **Tuesday, September 22, 2009 beginning at 12:00 p.m.** A van will be leaving City Hall at **11:30 a.m. sharp.**

Council Members interested in riding in the van should call Kristoffer Sartori, at **212-788-9075.**

David Yassky, Chairperson
 Committee on Small Business

Christine C. Quinn
 Speaker of the Council

Whereupon on motion of the Speaker (Council Member Quinn), the President Pro Tempore (Council Member Rivera) adjourned these proceedings to meet again for the Stated Meeting on Wednesday, September 30, 2009.

MICHAEL M. McSWEENEY, City Clerk
Clerk of the Council

Editor's Local Law Note: Int No. 598 (adopted by the Council at the Stated Council Meeting of July 29, 2009) became Local Law No. 54 of 2009 on August 29, 2009 pursuant to the mandates of the City Charter due to the lack of Mayoral action within the Charter-prescribed thirty day time period (returned unsigned). Int Nos. 859-A, 890-A, 993-A, 994-A, 999-A, and 1000-A (all adopted by the Council at the Stated Council Meeting of August 20, 2009) were signed by the Mayor into law on September 3, 2009 as, respectively, Local Law Nos. 55, 56, 57, 58, 59, and 60 of 2009.

Editor's Note: Correction to Previous Vote – Int No. 1010-A was adopted by the Council at the Stated Council Meeting of June 10, 2009 held on June 19, 2009 by the vote of 44-7-0. . Upon review of the official Transcript of that Recessed Meeting, it was determined that Council Member Felder actually voted in the negative regarding Int No. 1010-A while Council Member Fidler voted in the affirmative for this same item. Future copies of the relevant Proceedings of the Council volumes will display the correct vote cast on Int 1010-A -- we regret this inadvertent error.

