

THE COUNCIL

STATED MEETING OF

WEDNESDAY, JANUARY 22, 2014

THE COUNCIL

*Minutes of the Proceedings for the
STATED MEETING
of
Wednesday, January 22, 2014, 1:47 p.m.*

The Public Advocate (Ms. James)
Acting President Pro Tempore and Presiding Officer

Council Members

Melissa Mark-Viverito, Speaker

Maria del Carmen Arroyo	Vanessa L. Gibson	I. Daneek Miller
Inez D. Barron	David G. Greenfield	Annabel Palma
Margaret S. Chin	Vincent M. Ignizio	Antonio Reynoso
Andrew Cohen	Corey D. Johnson	Donovan J. Richards
Costa G. Constantinides	Ben Kallos	Ydanis A. Rodriguez
Robert E. Cornegy, Jr.	Andy L. King	Deborah L. Rose
Elizabeth S. Crowley	Peter A. Koo	Helen K. Rosenthal
Laurie A. Cumbo	Karen Koslowitz	Ritchie J. Torres
Chaim M. Deutsch	Rory I. Lancman	Mark Treyger
Inez E. Dickens	Bradford S. Lander	Eric A. Ulrich
Daniel Dromm	Stephen T. Levin	James Vacca
Rafael L. Espinal, Jr.	Mark Levine	Paul A. Vallone
Mathieu Eugene	Alan N. Maisel	James G. Van Bramer
Julissa Ferreras	Steven Matteo	Mark S. Weprin
Daniel R. Garodnick	Carlos Menchaca	Jumaane D. Williams
Vincent J. Gentile	Rosie Mendez	Ruben Wills

Excused: Council Members Cabrera and Mealy.

The Public Advocate (Ms. James) assumed the Chair as the designated Acting President Pro Tempore and Presiding Officer.

After consulting with the City Clerk and Clerk of the Council (Mr. McSweeney), the presence of a quorum was announced by the Public Advocate (Ms. James).

There were 49 Council Members marked present at this Stated Meeting held in the Council Chambers of City Hall, New York, N.Y.

INVOCATION

The Invocation was delivered by Bishop Orlando Findlayter, New Hope Christian Fellowship, 1098 Utica Avenue, Brooklyn, NY 11203.

Shall we pray?
God of the Universe, we come before you today.
We pause to thank you.
We pause to acknowledge your goodness towards us.
We pause to thank you for this legislative body
and this great city of New York.

God, we ask your blessing upon the City Council as they deliberate, as they legislate.
We ask that you give them much wisdom.
We thank you for the Speaker.
We thank you for her leadership.
We ask that you'll guide her in all of her decision making.
We ask, oh God, that this body will always remember that they have been elected to do the bidding of the people, and so we ask, oh God, that you'll give them a heart for the people.
Bless this body. Bless our great City. Bless our Nation.
We thank you in advance for all that will come out of this body during this session and this year.
We bless your name.
Let the people say, Amen.
And Amen.

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

ADOPTION OF MINUTES

Council Member Van Bramer moved that the Minutes of the Stated Meeting of December 10, 2013 be adopted as printed.

MESSAGES & PAPERS FROM THE MAYOR

M -14

Communication from the Mayor - Submitting the name of Mark Peters to the Council for its advice and consent regarding his appointment as Commissioner of the Department of Investigation, pursuant to Section 31 of the New York City Charter.

January 16, 2014

The Honorable Melissa Mark-Viverito
Council Speaker
City Hall
New York, New York 10007

Dear Speaker Mark-Viverito:

Pursuant to Section 31 of the New York City Charter, I am pleased to present the name of Mark Peters to the City Council for advice and consent regarding his appointment as Commissioner of the Department of Investigation.

I send my thanks to you and to the Council for reviewing this appointment.

Sincerely,

Bill de Blasio
Mayor

Referred to the Committee on Rules, Privileges and Elections.

LAND USE CALL UPS

M-15

By Council Member Garodnick:

Pursuant to Rule 11.20b of the Council and §20-226 or §20-225 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 922 3rd Avenue, in the Borough of Manhattan, Community District 6, Application no. 20145204 TCM shall be subject to review by the Council.

Coupled on Call – Up Vote.

M-16

By the Chair of the Land Use Committee:

Pursuant to Rule 11.20(c) of the Council Rules 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 Review Procedure Application nos. C 140093 ZSM, C 140095 ZSM and C 140096 ZSM shall be subject to Council review. These items are related to Application nos. N 140092 ZRM which is subject to Council review pursuant to Section 197-d of the New York City Charter.

Coupled on Call – Up Vote.

M-17

By the Chair of the Land Use Committee:

Pursuant to Rule 11.20(c) of the Council Rules 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 Review Procedure Application no. C 090033 MMQ shall be subject to Council review. These items are related to Application nos. C 070194 ZMQ which is subject to Council review pursuant to Section 197-d of the New York City Charter.

Coupled on Call – Up Vote.

LAND USE CALL UP VOTE

The Public Advocate (Ms. James) put the question whether the Council would agree with and adopt such motions which were decided in the **affirmative** by the following vote:

Affirmative – Arroyo, Barron, Chin, Cohen, Constantinides, Cornegy, Crowley, Cumbo, Deutsch, Dickens, Dromm, Espinal, Eugene, Ferreras, Garodnick, Gentile, Gibson, Greenfield, Johnson, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Matteo, Menchaca, Mendez, Miller, Palma, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Torres, Treyger, Ulrich, Vacca, Vallone, Van Bramer, Weprin, Williams, Wills, Ignizio, and the Speaker (Council Member Mark-Viverito) – **49**.

At this point, the Public Advocate (Ms. James) declared the aforementioned items **adopted** and referred these items to the Committee on Land Use and to the appropriate Land Use subcommittee.

ROLL CALL ON GENERAL ORDERS FOR THE DAY

(Items Coupled on General Order Calendar)

There was no Roll Call on General Orders for the Day at this Stated Meeting.

INTRODUCTION AND READING OF BILLS

Int. No. 1

By Council Members Chin, The Speaker (Council Member Mark-Viverito), Cohen, Constantinides, Cornegy, Crowley, Cumbo, Dromm, Eugene, Ferreras, Johnson, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Menchaca, Miller, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Torres, Van Bramer, Barron, Espinal, Gibson, Palma, Dickens, Maisel, Mendez, Williams, Vacca and Cabrera (by request of the Mayor and the Manhattan Borough President).

A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to the provision of sick time earned by employees, and section 7 of local law number 46 for the year 2013, relating to such sick time, in relation to the effective date of such local law, and to repeal section 6 of local law number 46 for the year 2013, relating to a determination of the Independent Budget Office.

Be it enacted by the Council as follows:

Section 1. Subdivision (e) of section 2203 of the New York city charter, as added by local law number 46 for the year 2013, is amended to read as follows:

(e) The commissioner shall have all powers as set forth in chapter 8 of title 20 of the administrative code relating to the receipt, investigation, and resolution of complaints thereunder regarding earned sick time, *and the power to conduct investigations regarding violations of such chapter upon his or her own initiative.*

§ 2. Section 2203 of the New York city charter is amended by adding a new subdivision (i) to read as follows:

(i) *Notwithstanding any inconsistent provision of law, the mayor may designate an agency other than the department to enforce the provisions of chapter 8 of title 20 of the administrative code of the city of New York. Upon such designation, such agency shall be deemed to have all powers of the commissioner as set forth in this section in connection with the enforcement of such chapter.*

§ 3. Subdivisions d through r of section 20-912 of the administrative code of the city of New York are re-lettered e through s.

§ 4. Section 20-912 of the administrative code of the city of New York is amended by adding a new subdivision d to read as follows:

d. *"Department" shall mean the department of consumer affairs or such other agency as the mayor shall designate pursuant to section 20-925 of this chapter.*

§ 5. Subdivision i of section 20-912 of the administrative code of the city of New York, as added by local law number 46 for the year 2013 and as relettered by section 3 of this local law, is amended to read as follows:

i. "Family member" shall mean an employee's child, spouse, domestic partner, parent, *sibling (including a half sibling, step sibling, or sibling related through adoption), grandchild, grandparent,* or the child or parent of an employee's spouse or domestic partner.

§ 6. Subdivision a of section 20-913 of the administrative code of the city of New York, as amended by a local law for the year 2014 to amend the administrative code in relation to the provision of sick leave time earned by employees, as proposed in introductory number 1208-A, is amended to read as follows:

a. All employees have the right to sick time pursuant to this chapter.

1. All employers that employ [fifteen] *five* or more employees [except for any employer that is a business establishment classified in sector 31, 32 or 33 of the North American Industry Classification System,] and all employers of one or more domestic workers shall provide paid sick time to their employees in accordance with the provisions of this chapter [and the schedule set forth in section 7 of the local law which enacted this section].

2. All employees not entitled to paid sick time pursuant to this chapter shall be entitled to unpaid sick time in accordance with the provisions of this chapter [and the schedule set forth in section 7 of the local law which enacted this section].

[3. All employers that employ fifteen to nineteen employees, and all employers of one or more domestic workers, shall provide unpaid sick time in accordance with the provisions of this chapter and the schedule set forth in section 7 of the local law which enacted this section during any period in which, pursuant to the schedule set forth in section 7 of the local law which enacted this section, such employers are not required to provide paid sick time but employers that employ twenty or more employees, except for any employer that is a business establishment classified in sector 31, 32 or 33 of the North American Industry Classification System, are required to provide paid sick time.]

§ 7. Section 20-920 of the administrative code of the city of New York, as added by local law number 46 for the year 2013, is amended to read as follows:

§ 20-920 Employer records. Employers shall retain records documenting such employer's compliance with the requirements of this chapter for a period of [two] *three* years unless otherwise required pursuant to any other law, rule or regulation, and shall allow the department to access such records, with an appropriate notice and at a mutually agreeable time, in furtherance of an investigation conducted pursuant to this chapter.

§ 8. Subdivisions b and c of section 20-924 of the administrative code of the city of New York, as added by local law number 46 for the year 2013, are amended to read as follows:

b. Any person alleging a violation of this chapter shall have the right to file a complaint with the department within [270 days] *three years* of the date the person knew or should have known of the alleged violation. The department shall maintain

confidential the identity of any complainant unless disclosure of such complainant's identity is necessary for resolution of the investigation or otherwise required by law. The department shall, to the extent practicable, notify such complainant that the department will be disclosing his or her identity prior to such disclosure.

c. Upon receiving a complaint alleging a violation of this chapter, the department shall investigate such complaint and attempt to resolve it through mediation. The department shall keep complainants reasonably notified regarding the status of their complaint and any resultant investigation. If, as a result of investigation of a complaint or an investigation conducted upon its own initiative, the department believes that a violation has occurred, it shall issue to the offending person or entity a notice of violation. The commissioner shall prescribe the form and wording of such notices of violation. The notice of violation shall be returnable to the administrative tribunal authorized to adjudicate violations of this chapter.

§ 9. Title 20 of the administrative code of the city of New York is amended by adding a new section 20-925 to read as follows:

§ 20-925. a. The mayor may designate an agency other than the department of consumer affairs to enforce the provisions of this chapter. Upon such designation, such agency shall be deemed to have all powers as set forth in this chapter relating to the receipt, investigation, and resolution of complaints thereunder regarding earned sick time, and the power to conduct investigations regarding violations of such chapter upon its own initiative. Such agency, in the performance of such functions, shall be authorized to hold public and private hearings, administer oaths, take testimony, serve subpoenas, receive evidence, render decisions and orders, and to receive, administer, pay over and distribute monies collected in and as a result of actions brought for violations of this chapter, and to promulgate, amend and modify rules and regulations necessary to enforce the provisions of this chapter.

b. Notwithstanding any inconsistent provision of law, such agency shall be authorized, upon due notice and hearing, to impose civil penalties for the violation of the provisions of this chapter, and to order equitable relief for and payment of monetary damages in connection with enforcement of this chapter. All proceedings authorized pursuant to this section shall be conducted in accordance with rules promulgated by such agency.

c. Notwithstanding any inconsistent provision of law, powers conferred upon such agency by this section may be exercised by the office of administrative trials and hearings consistent with orders of the mayor issued in accordance with subdivisions two and three of section one thousand forty-eight of the charter.

§ 10. Section 6 of local law number 46 for the year 2013 is REPEALED.

§ 11. Section 7 of local law number 46 for the year 2013 is amended to read as follows:

§ 7. This local law shall take effect on April 1, 2014, [pursuant to the following schedule:

(1) If the December 16, 2013 Independent Budget Office ("IBO") determination shows that the most recent New York City Coincident Economic Index or similar successor index as published by the Federal Reserve Bank of New York (the "Index") is at or above its January 2012 level, then:

(a) All employers that employ twenty or more employees must comply with the provisions of this local law on April 1, 2014;

(b) all employers that employ fifteen to nineteen employees or a domestic worker must comply with the provisions of this local regarding paid sick time on October 1, 2015; and

(c) all employers with employees not entitled to paid sick time pursuant to chapter 8 of title 20 of the administrative code as added by section 3 of this local law, including those employers covered by paragraph 3 of subdivision a of section 20-913 of such code as added by section 3 of this local law during the period specified therein, must comply with the provisions of this local law on April 1, 2014.

(2) If on December 16, 2013, the Index is not at or above its January 2012 level, but on June 16, 2014, the Index is at or above its January 2012 level as determined by the IBO, then:

(a) All employers that employ twenty or more employees must comply with the provisions of this local law on October 1, 2014;

(b) all employers that employ fifteen to nineteen employees or a domestic worker must comply with the provisions of this local regarding paid sick time on April 1, 2016; and

(c) all employers with employees not entitled to paid sick time pursuant to chapter 8 of title 20 of the administrative code as added by section 3 of this local law, including those employers covered by paragraph 3 of subdivision a of section 20-913 of such code as added by section 3 of this local law during the period specified therein, must comply with the provisions of this local law on October 1, 2014.

(3) If on June 16, 2014, the Index is not at or above its January 2012 level, but on December 16, 2014, the Index is at or above its January 2012 level as determined by the IBO, then:

(a) All employers that employ twenty or more employees must comply with the provisions of this local law on April 1, 2015;

(b) all employers that employ fifteen to nineteen employees or a domestic worker must comply with the provisions of this local law regarding paid sick time on October 1, 2016; and

(c) all employers with employees not entitled to paid sick time pursuant to chapter 8 of title 20 of the administrative code as added by section 3 of this local law, including those employers covered by paragraph 3 of subdivision a of section 20-913 of such code as added by section 3 of this local law during the period specified therein, must comply with the provisions of this local law on April 1, 2015.

(4) If on December 16, 2014 the Index is not at or above its January 2012 level, then the IBO shall make a determination every June 16th and December 16th

of each year thereafter until such Index is at or above its January 2012 level, and the effective date of this local law for all employers shall be on the succeeding October 1 or April 1, respectively, after the first such determination that the Index is at or above its January 2012 level.

(5) Notwithstanding the preceding paragraphs (1) through (4),] provided that in the case of employees covered by a valid collective bargaining agreement in effect on [the effective date prescribed by such preceding paragraphs] such date, this local law shall take effect on the date of the termination of such agreement.

[(6) This local law shall take effect pursuant to the preceding paragraphs, and the commissioner of consumer affairs shall take such measures as are necessary for its implementation, including the promulgation of rules, prior to such effective date.]

§ 12. This local law shall take effect on April 1, 2014, provided that in the case of employees covered by a valid collective bargaining agreement in effect on such date, this local law shall take effect on the date of the termination of such agreement, and provided further that prior to April 1, 2014:

(1) the mayor may exercise the authority granted by subdivision a of section 20-925 of the administrative code of the city of New York, as added by this local law, to designate an agency other than the department of consumer affairs to enforce the provisions of chapter 8 of title 20 of the administrative code of the city of New York; and

(2) the department, as defined in subdivision d of section 20-912 of the administrative code of the city of New York, as added by this local law, shall take such measures as are necessary for the implementation of chapter 8 of title 20 of the administrative code of the city of New York, as added by local law 46 for the year 2013, and as amended by a local law for the year 2014 to amend the administrative code in relation to the provision of sick leave time earned by employees, as proposed in introductory number 1208-A, and as further amended by this local law, including the promulgation of rules.

Referred to the Committee on Civil Service and Labor.

At this point the Speaker (Council Member Mark-Viverito) made the following announcements:

ANNOUNCEMENTS:

Tuesday, January 28, 2014

Subcommittee on **ZONING & FRANCHISES****9:30 A.M.**
See Land Use Calendar
Committee Room – 250 Broadway, 16th Floor Mark Weprin, Chairperson

Subcommittee on **LANDMARKS, PUBLIC SITING & MARITIME USES**.....**11:00 A.M.**
See Land Use Calendar
Committee Room – 250 Broadway, 16th Floor Peter Koo, Chairperson

Subcommittee on **PLANNING, DISPOSITIONS & CONCESSIONS**..... **1:00 P.M.**
See Land Use Calendar
Committee Room – 250 Broadway, 16th FloorInez Dickens, Chairperson

Thursday, January 30, 2014

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.....David G. Greenfield, Chairperson

Committee on **RULES, PRIVILEGES & ELECTIONS**.....**10:30 A.M.**
M 14 - Communication from the Mayor - Submitting the name of Mark Peters to the Council for its advice and consent regarding his appointment as Commissioner of the Department of Investigation, pursuant to Section 31 of the New York City Charter.
AND SUCH OTHER BUSINESS AS MAY BE NECESSARY
Council Chambers – City Hall Brad Lander, Chairperson

Tuesday, February 4, 2014

Stated Council Meeting..... Agenda – 1:30 p.m.

Whereupon on motion of the Speaker (Council Member Mark-Viverito), the Public Advocate (Ms. James) adjourned these proceedings to meet again for the Stated Meeting on Tuesday, February 4, 2014.

MICHAEL M. McSWEENEY, City Clerk
Clerk of the Council