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3 PUBLIC MEETING

4 FRANCHISE and CONCESSION REVIEW COMMITTEE

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7 156 Williams Street

8 New York, New York

9

10 Monday, June 6, 2011

11 2:47 p.m.

12

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14 APPEARANCES:

15 Mayor: Primary, Bill Heinzen
Office of the Mayor: 2nd Alternate, Brian Geller
16 Corporation Counsel: Alternate, Howard Friedman
Office of Management and Budget: Alternate, Sara

Harris

17 Comptroller: Alternate, Tony Dell'Olio
Bronx BP: Alternate, Tom Lucania
18 Brooklyn BP: Primary, Jason Otano
Manhattan BP: Primary, Jimmy Yan
19 Queens BP: Primary, Marc McMillan
Staten Island BP: Primary, Lee Covino
20 Clerk: Primary, Adam Buchanan

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1 Franchise and Concession Review Committee

2 MR. HEINZEN: Let me know if you can't
3 hear me, I don't have a microphone. Good
4 afternoon. The public hearing will now come
5 to order. Will the Clerk please call the
6 roll.

7 THE CLERK: Mayor.

8 MR. HEINZEN: Here.

9 THE CLERK: Office of the Mayor.

10 MR. GELLER: Here.

11 THE CLERK: Comptroller.

12 MR. DELL'OLIO: Here.

13 THE CLERK: Corporation Counsel.

14 MR. FRIEDMAN: Here.

15 THE CLERK: Office of Management and
16 Budget.

17 MS. HARRIS: Here.

18 THE CLERK: President, Borough of the
19 Bronx.

20 MR. LUCANIA: Here.

21 THE CLERK: President, Borough of
22 Brooklyn.

23 MR. OTANO: Here.

24 THE CLERK: President, Borough of
25 Manhattan.

1 Franchise and Concession Review Committee

2 MR. YAN: Here.

3 THE CLERK: President Borough of
4 Queens.

5 MR. MCMILLAN: Here.

6 THE CLERK: President, Borough of
7 Staten Island

8 MR. COVINO: Here.

9 MR. HEINZEN: Welcome to this Public
10 Hearing of the Franchise and Concession Review
11 Committee. The hearing being conducted today
12 has been publicly advertised in accordance
13 with the New York City Charter and Concession
14 Rules of the City of New York.

15 We have a lot of people here today. I
16 think most of you are here for the Union
17 Square item. That will be the third and last
18 item. We have two other items before that,
19 this will probable go fairly quickly. Anyone
20 desiring to speak should fill out a request
21 slip from the Clerk right here slip this in.
22 I know most of you have submitted written
23 testimony which we have and will make part of
24 the record. When you testify please give your
25 name and affiliation, if any.

1 Franchise and Concession Review Committee

2 We want to be sure that anyone desiring
3 to be heard has an opportunity to do so. All
4 persons wishing to speak must fill out a
5 request slip, which may be obtained from the
6 Clerk. Each speaker will be allotted three
7 minutes. When you testify, please state your
8 name and affiliation, if any. Will the Clerk
9 please call the first calendar item.

10 THE CLERK: New York City Mayor's
11 Office of Contract Services, Calendar Item
12 Number 1: In the matter of a public hearing on
13 Agency Concession Plans for Fiscal Year 2012,
14 pursuant to Section 1-10 of the Concession
15 Rules of the City of New York. At this public
16 hearing, the Franchise and Concession Review
17 Committee is also soliciting comments about
18 the provisions of the Concession Rules of the
19 City of New York from vendor community, civic
20 groups and the public at large.

21 MR. HEINZEN: Is there anyone who
22 wishes to testify?

23 (No response.)

24 MR. HEINZEN: No one wishes to testify,
25 Adam, call the second item.

1 Franchise and Concession Review Committee

2 THE CLERK: New York City Department of
3 Transportation, Calendar Item Number 2. In
4 the matter of the intent to seek Franchise and
5 Concession Review Committee approval of a
6 franchise agreement with Private
7 Transportation Corporation for a non-exclusive
8 franchise providing the right to maintain and
9 operate an unsubsidized bus line providing
10 common carrier bus service to passengers for
11 local service to operate along designated
12 routes between Williamsburg and Borough Park
13 in the Borough of Brooklyn.

14 MR. HEINZEN: Does anyone wish to
15 testify on this item? No one wishes to
16 testify. All right, Adam, would you please
17 call the third item.

18 THE CLERK: New York City Department of
19 Parks and Recreation, Calendar Item Number 3.
20 In the matter of the intent to award as a
21 concession the operation and maintenance of a
22 seasonal cafe and the development, operation
23 and maintenance of a year-round satellite
24 kiosk at Union Square Park, Manhattan, for one
25 fifteen-year term, to O-V Hospitality Group,

1 Franchise and Concession Review Committee
2 LLC.

3 MR. HEINZEN: We have several people
4 who have signed the forms stating that they
5 wish to testify. Again, if you wish to
6 testify you must sign in. We ask that you
7 come up and please sign in from this desk
8 right over here. The first name on the list
9 is Edith Shanker. Is Edith Shanker here?

10 MR. SHANKER: I want to thank the
11 Commissioner and committee members for giving
12 the public the opportunity to speak here --

13 THE CLERK: Just speak into the
14 microphone.

15 MR. SHANKER: I want to call your
16 attention to financial aspects of the Parks
17 Department proposed license for the
18 established restaurant in the pavilion.
19 First, I object to this being filed with your
20 committee instead of it being for review and a
21 resolution from Manhattan's Community Board 5
22 which represents the area and the park. The
23 public has only had a few days to read the
24 proposal and only here the opportunity to
25 comment on it. It's just wrong to bypass

1 Franchise and Concession Review Committee
2 Community Board 5's review of such an
3 important proposal.

4 Clearly, money should be a matter in
5 Parks Department transactions. As such, you
6 should certainly question if their fees are
7 too low to get much return compared with other
8 ways of raising monies by the Department.
9 USCC, Union Square Community Coalition, urges
10 you to weigh the value of giving away such
11 public space in historic Union Square Park's
12 pavilion, and to realize that once such a
13 prize is taken for commercial use, it will be
14 gone forever from use for real needs and wants
15 determined by the community itself.

16 The department's own history of leasing
17 and licensing commercial ventures around the
18 park indicates that this proposal is not a
19 good deal money wise nor for the community's
20 use of a pavilion. Attached is FOIL
21 information -- you have that information, I
22 submitted that -- for the years 2002 through
23 2004, which clearly indicates that in 2004 the
24 total fees the Department received for few
25 newsstands at the out -- and the outdoor

1 Franchise and Concession Review Committee
2 terrace cafe were \$438,937. And those fees
3 were charged for space without any great
4 infrastructure change or use of the pavilion
5 at all. Now six years later, when business
6 rental space is sky high, and city agency
7 budgets are being cut, the Department's fee
8 for the first year will be only \$400,000 or
9 \$35,500 per month.

10 Moreover, the total space allotted for
11 the cafe license is huge. There is much more
12 space for fees to be paid under this proposal
13 than there were for three concessions in 2004.
14 For example, there will be about 2,000 square
15 feet on the main floor of the pavilion to be
16 used as a cafe, quote unquote, for the six
17 warmest months, May through October, a time
18 when the community's needs for the pavilion
19 are the greatest. And use by the community
20 will be through the coldest months, November
21 through April, for an open pavilion with
22 overhead heaters. Folks under them will have
23 hot heads and very cold feet. This truly
24 privileges the cafe use over the needed by
25 local residents.

1 Franchise and Concession Review Committee

2 There will be an 1,800 foot underground
3 kitchen to be used year-round for the cafe in
4 the warm weather and for food preparation and
5 storage for the kiosk year-round.

6 There will be a renovated kiosk in
7 operation year-round.

8 There will be a 17 foot stretch in the
9 North Plaza from the north side of the
10 pavilion for the cafe, which is the place for
11 free-speech demonstrations and where large
12 rallies have been held. Now all along the
13 whole north side of the pavilion the proposal
14 indicates there will be table for outdoor
15 dining and a temporary mobile bar.

16 This is not a good deal for the City
17 nor for the residence of our community. But,
18 if license fees are higher, the cafe will be
19 high-end, exclusive and a high-priced
20 destination spot mostly for tourist. No
21 matter how high or how low the license fee, we
22 don't want commercialization of our pavilion
23 at any price. Thank you.

24 MR. HEINZEN: Okay, we have Manhattan
25 Borough Board President Scott Stringer present

1 Franchise and Concession Review Committee
2 who wishes to give testimony. If you prefer
3 the microphone?

4 MR. STRINGER: As Borough Board
5 President I have a seat with my fellow
6 presidents on FCRC. But, today I wanted to
7 come by, even though Jimmy Yan does a great
8 job representing me, I want to talk about two
9 issues, if I may.

10 The first is, I want to talk about the
11 issue relating to Union Square Park. The
12 issue of the pavilion has long been near and
13 dear to my heart as well as many people in the
14 community. For many years I fought along
15 community activists on the issues for and I'd
16 like to consider some of the issues here.

17 The first issue to consider is whether
18 a restaurant is an appropriate use of the
19 historical pavilion in Union Square. I am one
20 of the many who believe it is not appropriate.
21 Union Square has many public spaces and eating
22 establishments within steps from the park.
23 With over 150 eating establishments, bars and
24 markets within a two-block radius the
25 neighborhood is heavily saturated with

1 Franchise and Concession Review Committee
2 restaurants. It has limited open spaces and
3 only two existing playgrounds, a restaurant is
4 clearly not needed as an amenity. However, we
5 must also consider the larger issues at stake.
6 The City is prepared to turn over precious
7 park land for private use. This is a
8 troubling pattern which we see time and time
9 again under this administration. Public
10 parkland is being swiftly privatized without
11 further consideration of alternative sources
12 of revenue for the City or community concern.

13 Similar to the Parks Department
14 unsuccessful attempt to hand over the
15 Randall's Island ball field to private
16 schools, a restaurant in the pavilion
17 demonstrates another instance of privatizing
18 public interests over community needs. Each
19 time a protest permit is rejected for the
20 community for recreational space, the City
21 will be reaffirming the parkland is for sale
22 to the highest bidder.

23 I think it's very important that we
24 recognize that we're going to have a slippery
25 slope and I think the FCRC should continue to

1 Franchise and Concession Review Committee
2 look at this issue because I think it sends a
3 very bad message.

4 The other thing I want to also mention
5 today. I want to come back again to the
6 Central Park Boathouse because numerous
7 charges have been filed with the National
8 Labor Relations Board --

9 MR. HEINZEN: Sir, with respect, we
10 have a lot of people waiting to testify today
11 about the Union Square so we're going to ask
12 you to be brief on this.

13 MR. SCOTT: May I continue?

14 MR. HEINZEN: You may.

15 MR. SCOTT: I'm going to be brief.
16 Like I said, numerous charges have been filed
17 with the National Labor Relations Board by the
18 Central Park Boathouse Workers against Dean
19 Paul for various labor violations. A number
20 of those violations include retaliation,
21 intimidation and even the firing of employees
22 for exercising their rights to unionize.
23 There have been allegations that include
24 cheating workers out of thousands of dollars
25 in overtime pay, violating minimum wage laws

1 Franchise and Concession Review Committee
2 and 32 Boathouse workers have filed suit
3 against the restaurant for illegally
4 confiscating their gratuity. A 2007 order by
5 the City found that the Central Park Boathouse
6 owes the City hundreds of thousands of dollars
7 as a result of misreported revenue. Lastly,
8 we've also heard a complaint about management
9 using racial slurs and sexually harassing
10 workers. I do not believe the City should be
11 doing business with an establishment that
12 would allow this kind of work environment that
13 has mistreated workers. I do think we should
14 revisit this. I sent a letter today to
15 Commissioner Benepe urging him to terminate
16 the City's contract and I wanted to submit
17 this for the record. I don't mean to take up
18 more of your time. I have respect for your
19 process as somebody who comes to the FCRC
20 meetings from time to time but I wanted to
21 give you those two thoughts on two different
22 issues and thank you for hearing me out and
23 thank you all very much.

24 MR. HEINZEN: Next speaker is Marie
25 Lugano. No, okay. Does Edith Charlton wish

1 Franchise and Concession Review Committee
2 to give testimony?

3 MS. CHARLTON: Yes.

4 MR. HEINZEN: Good afternoon, we also,
5 I think, have a written statement from you.

6 MS. CHARLTON: Yes, you do. My name is
7 Edith Charlton and I am the Chairperson of the
8 Union Square Community Coalition.

9 USCC has initiated a lawsuit against
10 the Department of Parks and Recreation. Our
11 reason is a simple one. We want to save our
12 public park for the public. In other words,
13 prevent the giveaway of a public facility for
14 private gain.

15 As it stands now, a seasonal
16 restaurant, certainly not for the masses, will
17 be installed in the Women's and Children's
18 Pavilion. It will be accessible only to those
19 who can afford it, an upscale restaurant. In
20 addition, there will be an outdoor bar. The
21 teenagers who skateboard there will no longer
22 be welcome.

23 A park offers space and tree-lined
24 paths, not a seasonal cafe. The usurpation of
25 a public building, for commercial use, is not

1 Franchise and Concession Review Committee

2 what a park should offer. Now the northern
3 space will be cluttered with tables, chairs,
4 planters and noise, possibly until 4 a.m.

5 Their rent almost doubles in 15 years
6 from \$400,000 to \$754,260. A
7 moderately-priced menu, as promised, cannot
8 possibly cover this overhead, you must agree.

9 There are but two parks in Community
10 Board 5 and that Board has yet to hear from
11 the Parks Department regarding this issue.
12 The importance here is we are inundated with
13 140 food and drink establishments around and
14 near the public park. Can anyone honestly
15 declare that a restaurant, occupying park
16 space, is a necessity.

17 Union Square Park has been improved,
18 it's true, but at what cost to the public.
19 Must it be at the cost of losing public space,
20 I think not.

21 Our children and our community need the
22 use of the pavilion in the summer, when school
23 is not in session, not shunted aside to winter
24 months so an upscale restaurant can benefit
25 from the summer months.

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2 If you approve this plan for a
3 commercial use of the pavilion, you are
4 condoning privatization, further
5 privatization, of our parks. The public loses
6 public space to a private for profit pavilion
7 and its environs.

8 As you may know, USCC is responsible
9 for the existing size of the children's
10 playground. Now we stand to lose pavilion
11 space that rightfully belongs to children and
12 community year round.

13 Privatization is not the solution to
14 the economic problems faced by the park when
15 it means losing a pavilion with a long history
16 of public use, both as a site for free-speech
17 events and for recreational use. Thank you.

18 MR. HEINZEN: Next is Lee Bartell. I
19 think you're giving comments on behalf of
20 Carol Greitzer.

21 MR. BARTELL: My name is Lee Bartell
22 but I am reading something else.

23 "My name is Carol Greitzer. I formerly
24 represented Union Square Park and surrounding
25 areas in the City Council, and I'm on the

1 Franchise and Concession Review Committee
2 advisory board of the Union Square City
3 Council. I live a few blocks away and have
4 occasion to use the park several times a week.
5 You have heard about the labor and free
6 speech tradition of the north plaza and
7 pavilion a record that made the Square a
8 National Historic Landmark. But Union Square
9 is also a unique neighborhood park -- unique
10 because it lies in the confluence of five
11 neighborhoods -- Chelsea, Flatiron, Gramercy
12 Park, Greenwich Village and East Village.
13 This small three and a half acre park is one
14 of only three parks in Community Board 5's
15 district. Located in a busy commercial area
16 and at a transportation hub, it serves
17 shoppers and others in addition to the
18 adjacent residential population. Crowded as
19 this park is, it still must bear the burden of
20 temporary takeovers of space in both the north
21 and south plazas by business and other groups.
22 Tents and displays pop up virtually every
23 week, even, on one occasion, causing
24 Greenmarket farmers to be relocated. There is
25 also a holiday market occupying the entire

1 Franchise and Concession Review Committee
2 south plaza for several weeks. This month,
3 alone, three Union Square Park commercial
4 launchings appeared on the Community Board 5
5 Park's Committee agenda, although the Parks
6 Department apparently did not see fit to refer
7 today's hearing to that community board.

8 We recognize that the introduction of a
9 cafe amenity might be appropriate in some
10 parks, but Union Square is the very last park
11 in all New York City where this would be
12 deemed necessary. There are 18 food services
13 establishments right on union the square, and
14 about 150 restaurants within a couple of
15 blocks.

16 Speaking as a founder of two city-wide
17 park organizations, I deplore the fact that
18 the Parks Department seeks to abrogate -- even
19 deny -- the traditional use of the facility as
20 a recreation facility. We personally know
21 mothers, fathers and their now grown children
22 who can attest to the year-round use of the
23 pavilion for kids' activities before the
24 Department allowed deterioration to take over,
25 effectively banishing children and relegating

1 Franchise and Concession Review Committee
2 the pavilion to a garbage storing area. Just
3 as the City's only other pavilion, at Columbus
4 Park, was renovated for successful community
5 use, so should the Union Square pavilion be
6 utilized as a sheltered recreation space...not
7 just in winter months, but during the crowded
8 summer season when kids are out of school. It
9 should also be pointed out that the renovated
10 playground, located just below the pavilion,
11 serves not only local youngsters --

12 THE CLERK: Excuse me, miss, that's
13 beyond three minutes, would you mind wrapping
14 up.

15 MR. BARTELL: You got the point.

16 MR. HEINZEN: Phyllis Andrews. Is
17 Phyllis Andrews here?

18 MS. ANDREWS: Yes, I'm coming up.

19 MR. HEINZEN: Good afternoon.

20 MS. ANDREWS: Good afternoon. Thanks
21 for the opportunity to testify. My name is
22 Phyllis Andrews and I'm a longtime member of
23 the Union Square Park Community -- Union
24 Square Community Coalition. I'm going to read
25 from Marjorie Berke who is a member of the

1 Franchise and Concession Review Committee

2 Board but she was not able to be here:

3 "I am very disturbed by the Parks
4 Department and the BID/USP plans for the Union
5 Square Park. The group chosen to run the
6 seasonal restaurant and nearby food kiosk in
7 Union Square Park is being given a
8 fifteen-year lease. The previous temporary
9 cafe, which was outdoors, was given only a
10 one-year lease at a time -- the proposed new
11 restaurant, besides monopolizing the indoor
12 pavilion area, would spread out into the north
13 plaza with tables, awnings and planters. The
14 north plaza has been the traditional area in
15 New York City for all kinds of protests and
16 celebrations. It is where the first Labor Day
17 parade was held in the United States, in 1882,
18 which eventually led to a national Labor Day.
19 It is in recognition of numerous rallies and
20 commemorations held in the north plaza, and
21 view from the pavilion, that Union Square Park
22 was designated a National Historic Landmark in
23 1997. This is the highest recognition given
24 to historic site by the United States.

25 Not only will the public space be

1 Franchise and Concession Review Committee
2 unavailable for historic functions, the
3 pavilion itself will lose, not only its
4 historicity, but also its classical
5 appearance. The facade will be greatly
6 changed by the proposed curtains and drapery
7 on the sides of every opening and entrance.
8 Along with the long awnings draped from the
9 north facade, to shave those eating and
10 drinking, the whole architectural presence of
11 this pavilion will be destroyed.

12 What does a National Historic Landmark
13 designation signify if the Parks Department
14 can totally ignore it.

15 Union Square Park is relatively small
16 (slightly over three acres) and extremely
17 crowded, surrounded by 140 food and drink
18 establishments. There are playgrounds for
19 toddlers and young children, but none for
20 middle-schoolers and teenagers. They use the
21 north plaza for skateboarding and other
22 activities in the early evenings and on
23 available afternoons. They would no longer
24 have any recreational outlet in the park if
25 the restaurant and bar patrons occupy this

1 Franchise and Concession Review Committee
2 area.

3 Also, people sitting or standing and
4 drinking late every night would create an
5 unwelcome noise for the many residents whose
6 windows face the park. There seems to be no
7 benefit for the neighborhood and the users of
8 Union Square Park from the current plans;
9 instead, with a different focus, this space
10 could be well used and enjoyed by the whole
11 community. Thank you for giving consideration
12 to these issues."

13 MR. HEINZEN: We're trying to fix the
14 issue with the microphone that's creating the
15 knocking. The next person is Reed Super. I'm
16 not clear if you wanted to testify in addition
17 to your written testimony.

18 MR. SUPER: Yes. Good afternoon, my
19 name is Reed Super of Super Law Group, LLC.
20 and along with Alex Cluxel we represent Union
21 Square Community Coalition with respect to
22 this matter. I'd like to make five points
23 that are amplified in my written submittal.

24 First, Union Square Park is National
25 Historic Landmark recognized for its role in

1 Franchise and Concession Review Committee
2 the American Labor Movement as a public
3 meeting, rallying and social protest space.
4 The original pavilion and north plaza appear
5 in period lithographs in the first Labor Day
6 parade in 1882. That pavilion and the current
7 colonnaded one have served as a dais for
8 speakers such as Emma Goldman and Paul
9 Robeson, and perhaps most importantly as
10 covered children's play space for more than
11 one hundred years.

12 Second, because of that history and the
13 listing on the National Register of Historic
14 Places, the proposed concession agreement is a
15 take-one action which requires preparation of
16 environmental impact statements to comply with
17 the state and city SEQR laws -- SEQR is
18 S-E-Q-R and also C-E-Q-R -- because in the
19 IS's required the rules of the City of New
20 York also require the Concession to go through
21 ULURP and receive City Council approval.
22 Because there has been no EIS and no ULURP the
23 Concession should not be awarded until those
24 requirements have been fulfilled.

25 Third, the closed concession is an

1 Franchise and Concession Review Committee
2 alienation of public parkland which is illegal
3 in State Legislative approval which it has not
4 received and is not likely to receive. In
5 2008 we filed suit to prevent use of the
6 pavilion for private commercial restaurant
7 purposes and the Supreme Court preliminarily
8 enjoined the City from operating a restaurant
9 in the pavilion or allowing someone else to
10 operate a restaurant or offering a concession
11 or to operate a restaurant in the pavilion.
12 The Court found that our argument that
13 approval by the New York State Legislature
14 ultimately will be required, is persuasive and
15 may well succeed when right. Although the
16 Courts also found our claims to be premature
17 at that time, because there was no concession
18 agreement yet, if the administrative process
19 concludes now with the award of concession
20 then our claims will become ripe. The
21 alienation arguments seemed persuasive before
22 will be timely and the concessions may be
23 permanently enjoined.

24 Fourth, it does not appear that notice
25 of this hearing has been given to each affected

1 Franchise and Concession Review Committee
2 community board which includes CB5 as well as
3 CB2 in which the southern portion of the park
4 sits. Further, no presentation on the
5 concession has been made to any community
6 board, as I understand, was promised by the
7 Parks Department.

8 Finally, it bears mentioning here that
9 contrary to the claims of some components of
10 this project, neither Luna Park, the temporary
11 outdoor bar and grill that operated south of
12 the building started in 1994 or so pursuant to
13 an annual permit, nor the four-day a week
14 Greenmarket demonstrated that the restaurant
15 currently proposed for the pavilion is either
16 legal or appropriate. The pavilion proposals
17 significantly and materially different from
18 those uses in many respects and would be
19 unprecedented and unwarranted use of the
20 pavilion.

21 MR. HEINZEN: Sir, please wrap it up.

22 MR. SUPER: I am wrapping it up. In
23 closing, we ask that you reject the proposed
24 concession and preserve community use of this
25 important public space.

1 Franchise and Concession Review Committee

2 MR. HEINZEN: Next is Peter Benjamin.

3 MR. BENJAMIN: I'm a member of the
4 Board of the Union Square Community Coalition.
5 I'm here to read Jack Taylor's testimony:

6 "Dear members of the Committee. I
7 speak as an individual who is a Public Member
8 of Manhattan Community Board 5, serving on its
9 Parks Committee, and as a board member of the
10 Union Square Community Coalition. I take
11 strong exception to the manner in which this
12 application has been filed for the
13 consideration of your Committee.

14 "The plans by the Department of Parks
15 and Recreation for the proposed operation of a
16 seasonal restaurant in the pavilion and in a
17 portion of the North Plaza of Union Square
18 Park, which lies entirely within the
19 jurisdiction of Manhattan Community Board 5,
20 have not been presented to that board for
21 review.

22 "This lack of transparencies by a
23 municipal agency flies in the face of mandated
24 consideration by the public and should be
25 rejected by the Franchise and Concession

1 Franchise and Concession Review Committee
2 Review Committee until such time as Community
3 Board 5 has submitted its resolution on the
4 matter. Thank you.

5 MR. HEINZEN: Thank you. Sarah
6 Malloy-Good here to testify on behalf of
7 Assembly Member Glick and Senators Duane and
8 Gottfried.

9 MS. MALLOY-GOOD: Hi, I'm Sarah
10 Malloy-Good. I will be reading the abridged
11 version of the joint testimonies, the full
12 version will be submitted.

13 This is the testimony of State Senator
14 Thomas Duane, Assembly Member Deborah Glick
15 and Richard Gottfried who represent Union
16 Square Park and the neighborhood:

17 Thank you for the opportunity to
18 testify today. We regret that we are unable
19 to attend today's hearing due to the
20 legislative session in Albany. We do not
21 expect the Franchise and Concession Review
22 Committee to disagree with the City
23 Administration; nonetheless, it is our
24 obligation as elected officials to speak out
25 for the communities we represent and continue

1 Franchise and Concession Review Committee
2 to remind the City Administration that this
3 proposal is a privatization of a public park
4 space, and we oppose it. These areas of the
5 park's pavilion will be taken from public use
6 and the area on the north side of the
7 pavilion.

8 We oppose much of the Parks
9 Department's \$20 million redevelopment
10 proposal for the northern plaza in Union
11 Square Park, in particular the loss of tables
12 and chairs to private use is unacceptable.
13 The Parks Department has maintained that
14 without an expanded private concession it
15 would be impossible to raise the funds to pay
16 for renovating the pavilion, but it is wrong
17 to insist that this is the only option.

18 The increasing privatization of our
19 parkland is an application of the State's
20 responsibility to maintain and improve our
21 parks and to prevent the harm that
22 commercialization brings. It is not right for
23 the public to be asked to accept tradeoffs
24 like this in exchange for park improvements.
25 Parks should be supported by the City. We

1 Franchise and Concession Review Committee
2 should not have to sell off pieces of our
3 parks in order to pay for them. What the
4 Park's Department is proposing would
5 constitute alienating the parkland and would
6 therefore require approval by the State
7 Legislature. Assembly Members Deborah Glick,
8 Richard Gottfried and Senator Thomas Duane
9 would oppose this. We are here to reject the
10 proposed plan to award as a concession the
11 operation and maintenance of a seasonal cafe
12 as a development operation and maintenance of
13 a year-round satellite kiosk in Union Square
14 Park.

15 MR. HEINZEN: Jeffrey Croft.

16 MR. CROFT: "Parks should be foremost,
17 for the children." That's on our City's Parks
18 Department website. Good afternoon. My name
19 is Jeffrey Croft. I am the president and
20 founder of New York City Park Advocates.

21 New York City Park Advocates is
22 strongly opposed to the Union Square
23 Partnership/City plan to install a seasonal
24 restaurant in the northern plaza of Union
25 Square Park. Their plan does not begin to

1 Franchise and Concession Review Committee
2 meet the needs and desires of the community.
3 Despite vehement public opposition for more
4 than six years, the Mayor continues to ignore
5 the needs of the community.

6 It is shameful that a children's
7 playground, recreational facilities and
8 community space continues to be held hostage
9 for the business district's business agenda.
10 Parks are supposed to be foremost for the
11 children.

12 The area around the park has the
13 highest concentration of restaurants in the
14 City yet the lowest amount of playground space
15 in the entire City. In Community Board 5,
16 there are two playgrounds. However, within
17 just a two square block radius of the park,
18 there are over 150 restaurants/bars, cafes
19 and market/delis representing 1.4 million
20 square feet of commercial retail food space.
21 Despite this, and the scarcity of park space
22 in the community, the City and the BID are
23 insisting that a restaurant be built inside an
24 already crowded park.

25 It's also very important to point out

1 Franchise and Concession Review Committee
2 that their plan would also contribute to
3 reduction of assembly space, a use that has
4 played an integral part in the nation's
5 history of labor and social activism.

6 The area around the park has changed
7 dramatically over the last 25 years. And
8 while the amount of residential and commercial
9 space has grown enormously and will continue
10 to grow, the amount of park space, and in
11 particular, areas specifically designed for
12 children, has not compared to the need.
13 People from all over the City use this
14 playground, and as any parent, teacher or
15 nanny will be able to tell you, it is woefully
16 inadequate for the amount of users. It is
17 simply not enough.

18 The restaurant will take away thousands
19 of square feet of public parkland for
20 exclusive private commercial use from April
21 through October when the public's need and use
22 is the greatest. To accommodate a restaurant
23 the plan would take away the historic pavilion
24 building, which the City allowed to
25 deteriorate, from the public to exclusive

1 Franchise and Concession Review Committee
2 private commercial use. Park users would now
3 have to pay for access to this public
4 property. A children's pavilion for instance,
5 with picnic tables where shade would provide
6 relief from the oppressive summer heat and a
7 place for play activities to be organized and
8 for community space for local organizations,
9 these are the things that the community wants.
10 The City's plan is to put children under
11 heating lamps during the non-restaurant
12 seasons -- you can't make this stuff up.

13 Our government should not be allowing
14 BIDS to dictate land usage for our precious
15 public parks in exchange for desperately
16 needed revenue. Instead our parks should be
17 funded properly. Again, in closing, the
18 community is fervently against a restaurant in
19 the pavilion. Every inch that is used to
20 accommodate a restaurant is an inch taken away
21 from the children and community, they deserve
22 more. Once this part of the park is auctioned
23 off to the highest bidder it will be gone
24 forever. Now is the time to come together to
25 stop this. Please help us preserve this

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2 National Historic Landmark part for future
3 generation and please stop the Mayor from
4 continuing to use our parks as cash cows.
5 Thank you.

6 MR. HEINZEN: Thank you, Mr. Croft.

7 At this time I have a few more people
8 who wish to testify but they want to testify
9 about the first calendar item, particularly
10 the Boathouse. Are there any more people who
11 want to testify about the third calendar item,
12 the Union Square item? Okay, I'd like to call
13 Mr. -- I apologize if I can't --

14 MS. HALL: I'm Charlotte Hall, can I
15 actually go first?

16 MR. HEINZEN: Sure.

17 MS. HALL: Hello, thank you for the
18 opportunity to testify. My name is Charlotte
19 hall. I'm the organizing supervisor of the
20 New York Hotel Trades Council. I'm here to
21 speak to the members of the committee about
22 the Parks Concessions at the Boathouse. The
23 operator is a man named Dean Paul. He has the
24 privilege of operating one of the City's most
25 lucrative restaurants. It's in one of the

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2 most beautiful places, I think, in the United
3 States. Here is a man who has repeatedly
4 violated federal, state and local laws as well
5 as the City's license to operate the property.

6 He fails to comply with wage and hour
7 laws. He has fired more than 24 of the
8 workers who have been exercising their legal
9 right to form a union. He discriminates
10 against women who are working while pregnant.
11 He condones sexual harassment -- he does
12 nothing, I'm sorry, to stop his managers from
13 sexually harassing and taking advantage of
14 female employees.

15 He's reported to have stolen more than
16 half a million dollar from New York City and
17 its tax payers. I'm here along with workers
18 from the restaurant to say we want the City to
19 do something about this. This is a serious
20 violation of these worker's rights. As a tax
21 payer in this City I think that parks should
22 be a place where hard working people can
23 relax, it shouldn't be a place where we let
24 operators take advantage of workers in New
25 York City.

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2 We have countless charges filed at the
3 National Labor Relations Board; we're waiting
4 for a decision. We also have six workers who
5 filed claims with the EEOC and the human
6 rights division. We have 23 workers who are
7 in a class action lawsuit to reclaim \$1.5
8 million in stolen gratuities. What I'm here
9 to say is hold this man accountable or revoke
10 his license. Thank you.

11 MR. HEINZEN: Did the three men who are
12 with you, did each of them want to speak as
13 well?

14 MS. HALL: Yes.

15 MR. HEINZEN: Frankie Palaguachi.

16 MR. PALAGUACHI: Good afternoon. I'm
17 working from the Boathouse. I used to be a
18 waiter for Mr. Paul. He has illegally fired
19 16 of us for supporting the union. He has
20 stolen millions of dollars in gratuity. He
21 hasn't paid over time to his workers and has
22 intimidated his employees by telling them that
23 the place is going to close down if they keep
24 on supporting the union. Also, we have seen
25 this man get away from everything that -- from

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2 firing us and also not paying us right. So
3 this man has been getting away and nothing has
4 been done to stop him so we're asking for your
5 help and we're pleading for just some justice.
6 Thank you.

7 MR. HEINZEN: George Xhumari.

8 MR. XHUMARI: Good afternoon. My name
9 is George Xhumari. I am one of the workers
10 who got terminated from Boathouse Central Park
11 by Dean Paul on January 26, 2011 of this year.
12 Because I wanted the place when I worked to
13 get unionized. The reason why I and my
14 coworkers wanted the union was because all of
15 us had the right to protect ourselves from
16 angry management. I do believe that many of
17 you do have idea where the pretty place called
18 the Boathouse is located, but many bad and
19 dirty things have happened in there. Myself
20 and so many others being treated unfairly.
21 Our co-workers were sexual harassed in that
22 place. The condition of the Boathouse were
23 very badly. And I do remember my friend,
24 Jose, who did burn his arm just because the
25 owner, Dean Paul, didn't want to invest in the

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2 new equipment. We did so many times -- and
3 actually even the people who party with us
4 because I was a banquet server -- coming in
5 there in management with envelopes, but we
6 never saw a dime of it. That's why I come
7 here today to protest for unfair treatment and
8 to say to you that in January 26th Dean Paul
9 and his part owner, Anthony Walton, said to us
10 we are replacing you as old chairs. What I do
11 believe is that in the place, the Boathouse
12 which belongs to the City and State of New
13 York people should not be treated in that way,
14 and we all are citizens. We should be treated
15 definitely a lot better. None of us deserve
16 to get terminated because none of us had even
17 a write up. In December what we had he came
18 to us and give a party for us and said thank
19 you guys for your work, we'll see you in
20 January. We were waiting for him to call
21 where actually he called us and said we all
22 are terminated as old chairs because this is
23 how we think about it.

24 We all are citizens, we all paying the
25 taxes to the City and State of New York and no

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2 one deserves to be treated in the same way.

3 Thank you, very much.

4 MR. HEINZEN: Next, Yessid Nijim.

5 MR. NIJIM: Good afternoon. Hello,
6 thank you for allowing me to testify. My name
7 is Yessid Nijim. I am one of the workers
8 fired along with 16 others. The reason why
9 I'm coming here is to tell you guys that Dean
10 Paul shouldn't be the man who is running the
11 restaurant because of the illegal things he
12 does over there. As you already know he fired
13 many of us. He didn't give us a reason he
14 just did because he thought that was the right
15 thing just because we were supporting the
16 union. That was something that we believed
17 that we should have done for our rights. He
18 also -- there was a lot of sexual harassments
19 with our co-workers and they didn't do
20 anything about it. We did talk about it. We
21 tried to talk to management and there was
22 nothing -- didn't do anything about it.
23 Please do something about it, I mean, get our
24 job back. Thank you, very much.

25 MR. HEINZEN: Does anyone else wish to

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2 testify today? Does anyone have any comments?

3 Betsy Smith is on the Department of Parks, is

4 there anything you want to address today?

5 MS. SMITH: Speaking on behalf of the
6 Parks Department I would say we feel that this
7 is an appropriate use of parkland that we
8 had --

9 MR. HEINZEN: They cannot hear in the
10 back, would you speak into the microphone.

11 MS. SMITH: I just wanted to make a
12 statement that the City has considered this an
13 appropriate use of parkland; that we thought
14 that the community review was extensive and
15 complete and that, you know, we felt that we
16 have handled the concerns of the community in
17 a responsive way.

18 MR. HEINZEN: Okay. If no one else
19 wishes to speak then that concludes today's
20 hearing. I ask that the reporter make the
21 entire Public Hearing Agenda, which was made
22 publicly available and distributed at this
23 hearing, part of the final record of the
24 proceeding. Thank you very much.

25 (Time noted: 3:34 p.m.)

1 Franchise and Concession Review Committee

2 C E R T I F I C A T E

3 I, MICHAEL MCINTOSH, a shorthand
4 reporter and Notary Public within and for the
5 State of New York, do hereby certify:

6 That the witness(es) whose testimony is
7 hereinbefore set forth was duly sworn by me,
8 and the foregoing transcript is a true record
9 of the testimony given by such witness(es).

10 I further certify that I am not
11 related to any of the parties to this
12 action by blood or marriage, and that I am
13 in no way interested in the outcome of this
14 matter.

15

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MICHAEL MCINTOSH

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