

ALA Council II
Tuesday, January 18, 2005, 9:15 a.m.-12:45 p.m.
John B. Hynes Convention Center Ballroom

Presiding: Michael Gorman, ALA President-Elect
Assisting: Carla D. Hayden, Immediate Past President
Secretary of Council: Keith Michael Fiels, ALA Executive Director
Parliamentarian: Eli Mina

Order of Business

****Time Allowance**

• **Call to Order**

10 mins

- Introductions and Announcements,
Michael Gorman, ALA President-Elect

- Establishing the Quorum, *(75 Councilors constitute quorum)*
Michael Gorman, ALA President-Elect

- Agenda Review, **Michael Gorman, ALA President-Elect,**
ALA CD#8.2 Revised

(New Items May be Introduced Here)

• **Reports of ALA/Council Committees**

- Policy Monitoring Committee Report, 10 mins.
Stephen L. Matthews, Chair, ALA CD#17

• **Reports of Officers**

- ALA Honorary Membership Nominations, 10 mins.
Carla D. Hayden, Immediate Past President

- ALA Treasurer's Report, 20 mins.
Teri R. Switzer, ALA Treasurer, ALA CD#13.1

- FY2006 Programmatic Priorities, 10 mins.
Terri R. Switzer, ALA Treasurer, ALA CD#13.4

OVER

****The estimated time allowance is for advisory purposes only. If additional time is needed for any item, it will be taken, subject to the wishes of Council.**

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colleagues, quite a large number, in fact, got together to reminisce, to pay tribute, to extend their sympathies. And it is a truism that sadness and loss brings people together in communities. But if you doubt that ALA is a community, all you had to do was to be at that, that gathering, and to experience both the togetherness in the loss and sadness, but also the appreciation of the many great qualities that our colleague Gordon Conable had.

If there are no objections, we will now take a 15 minute break. Seeing none, my watch says it's a little bit before 10:30. We will reconvene at 10:45.

(Break.)

(Gavel.)

>> PRES.-ELECT MICHAEL GORMAN: If Councilors will please take their seats, we will reconvene and get on with the business of Council II.

Thank you. Before we proceed to new business, I would like to remind those of you who know and inform those of you that do not that Judith Krug, the dedicated fighter for our intellectual freedom, will be receiving an honorary doctorate from the University of Illinois at Urbana, Champaign.

(Applause.)

(Standing ovation.)

As it's being said, it's all about values.

NEW BUSINESS

We will now take up new business. The items will be discussed in the order in which they were submitted.

ALA CD#38, RESOLUTION ON WORKPLACE SPEECH

I now refer you to ALA Council Document number 38, the resolution on workplace speech. Would Councilor Kagan please go to the microphone and read only the resolved clause of ALA Council Document number 38. Microphone number 2.

Do you have a second?

>> AL KAGAN: Second is Mark Rosenzweig.

>> PRES.-ELECT MICHAEL GORMAN: Have you given a copy to the projectionist?

>> AL KAGAN: It was submitted electronically. And I also would like to say that the reason that it looks so strange on the bottom is because it was submitted electronically. All of that shouldn't have been there.

ALA CD#38, RESOLUTION ON WORKPLACE SPEECH (CONTINUED)

The resolved clause. "Therefore, be it resolved that ALA Council amend policy 54, library personnel practices, by adding: 54.21. Workplace speech. Libraries should permit and encourage the full and free expression of views by staff on nonconfidential professional and policy matters."

And I would like to address the resolution.

>> PRES.-ELECT MICHAEL GORMAN: Please do so.

>> AL KAGAN: This resolution actually was written by Sandy Berman, who is an ALA honorary member, and asked SRRT to submit it to Council. It was on our agenda last meeting, but we never got to it. And some of you may know that Sandy Berman has some unfortunate personal experience on this matter.

There is a Q and A on the ALA website about workplace speech. And I think probably one of the most important things in there is that it says that workplace speech is not guaranteed by the First Amendment. It's also not guaranteed by the Library Bill of Rights. We did at one point try to include this in the Library Bill of Rights when Sandy was on the Council, and it was defeated.

So where can we get support for workplace speech? Well, if you have a union, you may get some there. A professional association, a staff association, some AAUP chapters in the academic setting. And of course there is the Leroy Merritt fund nationally. But, we don't have any strong impetus for ALA to support librarians on workplace speech. And since we are an organization that talks about freedom of expression all the time and it's so basic to what we do, we really ought to include this in our policies. So I urge you to adopt this resolution.

>> PRES.-ELECT MICHAEL GORMAN: Thank you. Is there any discussion of this resolution? Microphone number 6.

>> JUNE PINNELL-STEPHENS: Councilor-at-Large. It's my understanding that there is US Supreme Court case law on this specific issue, and I think we need to get advice from our counsel before we adopt policies that may be a problem for us.

>> PRES.-ELECT MICHAEL GORMAN: Thank you. Any further discussion? Microphone number 5?

>> CAROLYN CAYWOOD: IFRT Councilor. The Intellectual Freedom Round Table did endorse this resolution, believing that if the free market of ideas works for our public, it cannot help but improve our management.

ALA CD#38, RESOLUTION ON WORKPLACE SPEECH (CONTINUED)

>> ANN SPARANESE: Councilor-at-Large. I also speak in favor of this resolution. The Q and A on the ALA pages is very interesting because it cites some of these laws, rules and Regs. But the first question on it is: Since librarians have a special responsibility to protect intellectual freedom and freedom of expression, do librarians have a special responsibility to create a workplace that tolerates employee expression more than other professions? And the answer on that is yes. And it goes on to say we should demonstrate our commitment to free speech by encouraging it in the workplace.

I thought that maybe someone would say: Well, by having this policy it would require us to have a resolution every time workplace speech is violated on the part of a particular librarian. But I wanted to argue no, it wouldn't, even though that argument hasn't been made. Because we have a lot of policies in our policy manual that don't cause us to stand up and denounce libraries or managers every time one of them is violated, such as the policy on collective bargaining, the policy on permanent part-time employment, policy on institutional support of ALA members to attend ALA conferences. Things like that.

But what it does, and we have no ALA police to go out and enforce ALA policy as if it was law, but this type of statement in our policy manual would reflect our values. And it would give librarians the courage, perhaps, to engage in the kind of speech that, by the way, is involved in whistle blowing.

So I would say that we should pass this, just because it is an expression of our values.

>> PRES.-ELECT MICHAEL GORMAN: We note the absence of ALA police.

(Chuckles).

Microphone number 3.

>> JAMES CASEY: Councilor-at-Large. I've got to get this a bit higher here...

Well, I have to bend over. I think I'll just have to try to tough it out.

I've got some concerns about this resolution. It is important to me in a workplace environment as a manager to hear a lot of varying views on issues, and these issues sometimes are complex, require a great deal of input, and it's good management to get a variety of viewpoints to have individuals say that I don't know what I'm talking about, or this, that and the other thing can be helpful for a director. It's not often that a director wants to hear that, but you need to hear that.

ALA CD#38, RESOLUTION ON WORKPLACE SPEECH (CONTINUED)

On the other hand, when a decision is made by a Board of Trustees or by a management team, establishing a policy, a challenging of that policy publicly in a public forum, in a newspaper or on the floor of Council, for example, could be disruptive, could be detrimental to the mission of the library or of libraries in general. We have to at some point come together and at some point have consensus that is supported by the group.

You always have a right to speak out, but organizations, libraries, also have rights to enforce policies that require there to be some consensus established and maintained.

This is the concern that I have with this resolution. I understand the movers have some very legitimate concerns, I understand those, too. But these are my objections. Thank you.

>> PRES.-ELECT MICHAEL GORMAN: Thank you. Microphone number 5.

>> THADDEUS BEJNAR: New Mexico Chapter Councilor. As a manager and an attorney, when I first read this resolution I had a number of qualms about it. But as I thought long and hard, I realized that I had to weigh the relative harm of not having this versus any potential harm of having this. And it seems to me that this resolution does not give library employees license to say anything that comes to their mind. Professional ethics and personal philosophies still should and ought to restrict how and what they say. And the examples that Councilor Casey gives I think are appropriate to think about where and when you say things.

Nonetheless, from balancing the relative values, I think it's better to endorse free and full discussion than it is to fail to endorse it.

>> PRES.-ELECT MICHAEL GORMAN: Thank you. Microphone number 6.

>> JULIE CUMMINS: Councilor-at-Large. I support Councilor June Pinnell-Stephens's concern about this issue, so I move to postpone definitely until the 2005 annual conference to enable ALA legal counsel to review the language and its implications. And I have a second.

>> PRES.-ELECT MICHAEL GORMAN: We will now proceed to discuss this new motion. Any discussion of the proposed motion, postponement and referral? Microphone number 6.

>> DONNA DZIEDZIC: Councilor-at-Large. Does ALA have a practice of reviewing its policies, legally, either before or after their establishment?

ALA CD#38, RESOLUTION ON WORKPLACE SPEECH (CONTINUED)

>> PRES.-ELECT MICHAEL GORMAN: I'm informed that resolutions would look at any such proposal but only refer it to legal counsel if a question was called and, you know, the Council wished to refer it to legal counsel. Microphone number 4.

>> ELAINE HARGER: Councilor-at-Large. I speak against referring this for legal counsel or to legal counsel. It is odd to me that the referral would have been made. This is a motion and this would be a policy that reflects librarians' commitment to freedom of speech within our own workplaces. I can't imagine any legal problem with that. I know that, you know, in some workplaces, you know, the first -- the people do not enjoy protection from the First Amendment in a legal sense to protect their right to speak. I mean, that is why there are whistle blower -- that's why there exists whistle blower legislation, to actually provide some protection for people whose jobs are not protected legally by the First Amendment. However, this policy isn't a law. It's a reflection of our belief that the people who work in libraries should be able to speak their mind on, you know, whatever might come up in relationship to their work.

Now, I understand the kind of situation that Jim Casey described, I know that that can be a problem. However, this policy, whether we had it or not, wouldn't prevent, you know, the nuts who sometimes work in places that go out to the press and, you know, say all kinds of things. I mean, there are people like that. And some of them work in libraries. So that can be a problem.

But this, this is not a legal question. This is a reflection of our philosophy and of the values that we hold important. And it's just a statement that those values actually exist in the library workplace. So I'll vote against referring this to legal counsel.

>> PRES.-ELECT MICHAEL GORMAN: Thank you. Microphone number 6.

ALA CD#38, RESOLUTION ON WORKPLACE SPEECH (CONTINUED)

>> JANET SWAN HILL: Executive board. It's because I support the principles that this resolution speaks to that I am going to vote in favor of referring it. Because I want to make sure it says what it needs to say exactly as it needs to say it, and nothing that we don't intend and everything that we do.

I think that the last Councilor's comments about this might illustrate why this could be advisable, because she spoke about we are -- she spoke about the resolution being aimed at speech within the workplace. Yet the resolution does not say that.

So we need to know exactly what this resolution says, so that we can incorporate it in our policy manuals, and so that everybody who votes for it can be perfectly comfortable doing so.

>> PRES.-ELECT MICHAEL GORMAN: Microphone number 2. Thank you.

>> SUE KAMM: Councilor-at-Large. I rise in support of the motion to postpone definitely. For Councilor Harger's and other people's information, the cases in the Supreme Court were decided by -- involved public employee, not necessarily librarians. And I will be happy to dig out the citations and post them to the Council list so everyone can take a look at the Supreme Court opinion and decide whether this might apply to librarians or not. And I think that the other thing is there are many of us who are employed in the private sector, and it's very possible that the court decisions do not apply there. But I think we should take a look at -- have our legal counsel take a look at it and have us take a look at the cases that have been decided. Thank you.

>> PRES.-ELECT MICHAEL GORMAN: Thank you. Microphone number 3.

ALA CD#38, RESOLUTION ON WORKPLACE SPEECH (CONTINUED)

>> BERNIE MARGOLIS: Councilor-at-Large. I rise to speak in support of the motion to postpone, with a couple observations. First, I hope that in that time of postponement, the intellectual freedom committee might also take a chance to review the suggested wording, given the fact that this issue has been brought up before and we have been unable to come up with wording that satisfies everyone, this is another chance for that committee to weigh in and share their good counsel and advice with us.

The second observation is really a nuance of how we are structured. And that is, I would like to encourage the mover of the motion to massage the words a little bit to say that we are going to enable the ALA Executive Board to secure legal counsel review. The importance of that is that we have a management Board that engages our legal counsel, and I think it important that the Executive Board play a critical role as the gatekeeper for how legal services are consumed. So I want to urge and suggest that the mover and seconder modify this to reflect the actual process that would go on.

Thank you.

>> PRES.-ELECT MICHAEL GORMAN: Thank you. I'm informed by the parliamentarian that your second point is implied in the motion, that it's implied that it would go to ALA staff and the Executive Board for consultation with the legal counsel.

On your first point, are you proposing a friendly amendment to also refer it to the Intellectual Freedom Committee?

>> BERNIE MARGOLIS: If that indeed would be entertained by the chair and the movers. But I'm not satisfied with the parliamentarian's view of anything being implied in any of the work of this body. So...

(Laughter).

>> PRES.-ELECT MICHAEL GORMAN: If the mover of the motion wishes to revise the wording... I'm informed if there is no objection, then we can make those modifications, we will ask the mover to make the modifications along the lines suggested by Councilor Margolis.

Any further discussion? Microphone number 8. Microphone number 8.

ALA CD#38, RESOLUTION ON WORKPLACE SPEECH (CONTINUED)

>> AL KAGAN: SRRT Councilor. I'd like to oppose referral on this motion. I beg to differ with the speakers who have said that this is a legal question and want a legal opinion. This is not about law. This is about our values. This is about who we are. This is about what we want to do, how we want to work. And, in fact, it's just a guideline that comes out of ALA. And anyone can ignore it if they wish, use it if they wish, or something else. It's not a legal document. There are some cases where we need legal opinions. I don't believe this is one.

>> PRES.-ELECT MICHAEL GORMAN: Thank you. Any further discussion? Seeing none, would those in favor of the motion to postpone to the 2005 annual conference and to refer this through the appropriate agency to legal counsel, please indicate by raising one of their hands.

(Showing of hands.)

Those opposed?

(Showing of hands.)

My opinion, the motion carries.

Thank you. Please mark your ballots CD 38 postpone.

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ALA ANNUAL CONFERENCE
ALA COUNCIL 1

SUNDAY, JUNE 26, 2005 - 10:45 a.m. -- 12:30 p.m.
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>> PRES. BREY-CASIANO: Good morning again, Council, if
I could ask you to take your seats. The chair calls the
first meeting of the ALA Council to order. Would all
Council Members please take the reserved seats at the
front of the room?

If you want to speak at this meeting, please go to a
microphone, wait for recognition and then give your name
and indicate if you are a division Councilor, a chapter
Councilor, a Councilor-At-Large or a Round Table
Councilor.

Motion forms must be completed for all motions. For
your convenience, the motion forms are available at each
end of your table. Motion forms must be printed legibly,
signed by the motioner and seconder and given to the
projectionist before you go to the microphone. This will
insure that the overhead slide of your motion will be

CD#38, Resolution on Workplace Speech

We'll move to Unfinished Business now. And at the 2005 Midwinter Meeting in Boston, Council considered a resolution on workplace speech. ALA Council Document 38. The resolution asked Council to amend Policy 54, Library Personnel Practices, by adding the following statement, "Libraries should permit and encourage the full and free expression of views by staff or on non-confidential professional and policy matters."

After some discussion, Council voted to postpone action on the resolution until the 2005 Annual Conference to enable the ALA Executive Board to secure review by the Intellectual Freedom Committee on the implications of the proposed policy.

On March 5th, 2005, you may remember I emailed the ALA Council the response from the ALA Executive Board and IFC, which you now have as Council Document Number 55.

Is there any discussion on these two documents?
Microphone 7.

CD#38.1, Resolution on Workplace Speech

>> ALFRED KAGAN: SRRT Councilor. The document that you have before you should be number 38.1. And it's a substitute document. And we are moving to amend by substitution. And I'll explain why. The Social Responsibilities Round Table Action Council has consulted with the Intellectual Freedom Committee. And as you can see at the bottom, this document that you have now before you is endorsed by both bodies. So this is a collaborative document. And we ask for this substitution by amendment.

>> PRES. BREY-CASIANO: Okay. Is there any objection to substituting this document for the previous resolution? Hearing none, then, we'll declare it substituted. Thank you very much, Councilor Kagen. Any discussion on the -- would you like to read the resolved clause?

>> ALFRED KAGAN: Yes, thank you. So it's a renewed, revised clause, also.

"Resolved that ALA Council amend Policy 54, Library Personnel Practices, by adding 54.21, Workplace Speech, "Libraries should encourage discussion among librarians and library workers and with members of the library's administration of nonconfidential, professional and

policy matters about the operation of the library and matters of public concern within the framework of applicable laws."

And I would like to make just a few remarks.

>> PRES. BREY-CASIANO: Thank you. Please go ahead.

>> ALFRED KAGAN: I don't want to rehash the long debate that we had the last Council meeting or all the discussions we had on the Council listserve in between. Suffice it to say that there was a very large amount of discussion. And this document comes out of all these concerns that we have discussed. And I hope that we have some substantial agreement now so that we will take our intellectual freedom and freedom of free speech expressions all the time to heart and let us, as individuals in our jobs, in our daily lives, be able to express ourselves in the way that we think all citizens and people in this country should express themselves. Thank you.

>> PRES. BREY-CASIANO: Okay. Thank you. Microphone 8.

>> PETER MCDONALD: Councilor-At-Large. I just want to thank Ken Oliver and Judith Krug and everyone else from the committee, the ILF Committee, for being very proactive and helpful in rewording this. And I stand in favor of it and urge fellow Councilors to pass it.

>> PRES. BREY-CASIANO: Microphone 3.

>> LYNN STAINBROOK: The Illinois Chapter Councilor. In our profession, we built our collections based on certain criteria. We seek balance in our collection. We look for reliability, validity, accuracy in those items that we add to our collections. We don't build our collections by accepting every donation to the library. The self-published that might be inaccurate or the out-of-date materials that some patron has decided to clean out their garage with. We're very careful in assuring standards in our collection.

And, yet, this workplace freedom of speech resolution advocates that libraries allow any employee to say whatever they want to say. I appreciate that there has been an amendment, and this is better, but there are still no safeguards in here for accuracy, validity. There's no safeguards in here to sort of say "this person should not be speaking to the media. This should be an internal document."

ALA is really here to protect and to help to grow our

libraries, not encourage what could be possible lies, rumors, conjectures, any of those kinds of things to be spoken that could negatively impact our libraries. And I would invite Councilors to join me in voting against this resolution. It needs to be sent back again, and we need still more safeguards in here. Thank you.

>> PRES. BREY-CASIANO: Microphone 5.

>> JANET SWAN HILL: Executive Board. I apologize for what I'm about to do. It's a grammatical question.

(Laughter.)

But I am not the only person, I should say, who has a couple of grammatical questions about this.

The first one has to do with commas or absence thereof. And the question is: Is this discussion of nonconfidential, comma, professional, comma, and professional matters, or is this nonconfidential professional and policy matters?

>> PRES. BREY-CASIANO: Would the movers of the resolution respond to that? There are no commas.

>> JANET SWAN HILL: So nonconfidential modifies both professional and policy?

>> Yes.

>> JANET SWAN HILL: Thank you. Okay. The next question has to do with the "both." Is that both, one entity, libraries and library workers and the second entity members of the library's administration? And if so, why are members of the library's administration not considered library workers? Or is this -- I don't know what "both" replies to. I don't know what the two paired things are.

>> PRES. BREY-CASIANO: It appears to me, Council, that when we are talking -- when we say "both," librarians, library workers and library administration. But if I'm not interpreting that correctly, I would entertain any other discussion. The "both" is referring to librarians, library workers on the one hand and library administration on the one hand.

>> JANET SWAN HILL: So library administration is not considered library workers?

>> PRES. BREY-CASIANO: I believe so, but not in some circles, perhaps. So I think it's good to spell it out.

(Laughter.)

>> JANET SWAN HILL: Well since I "are" one, I have a little bit of a problem with not being considered a

library worker.

>> PRES. BREY-CASIANO: Thank you. Microphone 7.

>> CAROLYN CAYWOOD: IFRT Council. IFRT continues to support this resolution. The whole point of libraries is a trust in the ability of human beings to use reason, to learn and to think. And if we can't expect that of the people who work in our libraries, how the heck can we expect it for the public?

>> PRES. BREY-CASIANO: Microphone 7.

>> STEPHEN MATTHEWS: Councilor-at-Large and Chair of Policy Monitoring. I have an observation that this is coming, as 54.21, replacement is happening before it's actually a policy.

And the danger of that is when you put that forward and then if the body is changed in some way, it may or may not fit there.

We've had no communication with the movers of this. And my assumption is that this will go through the process. And this may be a perfectly wonderful place for this policy if it would be passed, but we will evaluate it in terms of the policy manual as we review it for placement.

>> PRES. BREY-CASIANO: I believe that's appropriate. Thank you.

Microphone 3.

>> SUE KAMM: Councilor-At-Large. I have another grammatical quibble. Where it says "Libraries should encourage discussion both among librarians and library workers", shouldn't it be "and other library workers?" Because the implication is that there is a class of library workers that are not librarians or are librarians, rather.

>> PRES. BREY-CASIANO: Microphone 5.

>> THADDEUS BEJNAR: New Mexico Chapter Councilor. I actually like the rewording on this. And I agree that it doesn't say anything about stopping people from going to the press. And I think the reason that it does not is it doesn't address communication outside of the library. That's a non-issue with respect to the way this resolution reads. This solely talks about communication within the library and with the library's administration. It doesn't address anything about outside communications. It doesn't encourage it or discourage it. So, therefore, it's narrowly drawn.

While it does allow and, in fact, encourage the workers to talk about matters of public concern, whether they have anything to do with the library or not, that might give some people pause. But I actually think that a well informed library staff is important to a well-run information resource and, therefore, it's entirely appropriate. Thank you.

>> PRES. BREY-CASIANO: Thank you. Microphone 3.

>> MELORA RANNEY NORMAN: Maine Chapter Councilor. And as regards to the kind of drawing of a connection between collection development and this resolution, I speak in support of this resolution. I believe that the collection development thing is not a really good parallel, the way it was stated, because to me collection development is proactive and inclusive and not reactive and exclusive. So in other words, this is consistent with our values.

>> PRES. BREY-CASIANO: Microphone 7.

>> JUNE L. STEVENS: I want to thank people for making changes. I would have hated from the bottom of my soul for anything that suppressed free speech, and this one does a much better job for me, thank you.

>> PRES. BREY-CASIANO: Microphone 3.

>> FRANCIS BUCKLEY: Member-at-Large. I really support the concept of what's being proposed here; however, I am troubled by the institutionalization of a separation between librarians, library workers and library administration by the wording of this. I am very dismayed at that, that it's implying some differences and recognizing or suggesting that administration is different from the rest of the library staff.

>> PRES. BREY-CASIANO: Seeing no one else at the microphones, we'll proceed with the vote. I'm sorry, Microphone 5.

>> TRINA MAJI: I realize I need to put this in writing and I will do so quickly. This is Trina Magi, Chapter Councilor from Vermont. I can offer a friendly amendment to change the wording to say "libraries should encourage discussion among library workers, including library administrators, of nonconfidential professional and policy matters" and so on.

>> PRES. BREY-CASIANO: Yes, would you please put that in writing and we'll get it up on the screen. Thank you.

>> MICHAEL GOLRICK: Point of personal privilege?

>> PRES. BREY-CASIANO: Microphone 7.

>> MICHAEL GOLRICK: Member of the Executive Board.

While we're taking this moment to get the right words up on the screen, it occurs to me that this might be an occasion to remind my fellow members of this body of the importance of getting items in writing and to the projectionists prior to arrival at the microphone. It has occurred at times in the past. And I know that Trina is doing her very best on this occasion. But it just drives home that point about being prepared and having the documents to those projectionists.

>> PRES. BREY-CASIANO: All right, thank you, Michael. Your point is well taken. We do have limited time this morning.

Okay. I believe we have the new wording on the screen. Yes, it is there. Is there any objection to the change in wording as proposed? Microphone 8, is there an objection?

>> No. Procedural.

>> PRES. BREY-CASIANO: Any other objection, let me clarify that first and then we will go ahead. We will move ahead with the resolution as amended. Microphone 8.

>> Procedural question. This will go to Policy Monitoring? Is that the procedure?

>> PRES. BREY-CASIANO: If this is approved, yes, that's where it would go. Okay. We're now ready to move to the vote. All those in favor of the resolution as amended, please raise your hands? (Raise of hands.)

Thank you. Will all those opposed please raise your hands? And the motion passes.

Council, please mark your ballot CD Number 38.1 Amended.

All right. We will now take up New Business. These items will be discussed in the order in which they were submitted.