

Tuesday, June 28, 2011

hey all

Just a quick note to thank you for having BANG reps at your meeting the other night... sorry to those of you not able to make it.

Of course we would love to have WSM join BANG, and I hope there were two basic takeaways from the meeting about why Bears, 6/15 and GreenSpace@Pres have chosen to go with BANG.

One, stay local.

We want to be part of a group of gardens whose memberships have a chance to interact rather than one spread out to neighborhoods our members may never visit. It makes event planning, meeting planning and fund raising simpler and more efficient.

Two, direct representation.

We want a direct connection to the decisions being made by the organization holding the deed to our garden. Outside resource people may be brought in to the committees we create, but the BANG board of directors will be made up entirely of elected representatives from each of the BANG gardens. Issues where decisions need to be made will be discussed at one meeting, brought back to the memberships for discussion, then voted on at the next meeting (probably quarterly). It's a membership-up, not a board-of-directors-down organization... it's in our bylaws and fits in with our Values and Goals (see attached).

Again, thanks lots, let me or Sheila (cc'd here) know if you have any more questions, and we look forward to hearing how things go.

Jon Crow



BROOKLYN ALLIANCE OF NEIGHBORHOOD GARDENS LAND TRUST

MISSION

The mission of the **Brooklyn Alliance of Neighborhood Gardens (BANG) Land Trust** is to forever conserve, create, and empower community managed greenspace through education, advocacy, and grassroots organizing

GOALS

1. **Conserve Land**— pursue the core business of the Land Trust and achieve it through targeted planning, programs and projects
2. **Create a Community of Greenspaces** — unite Members through communication, outreach, and events; share successful stewardship practices; and encourage broad community participation
3. **Educate, Engage and Inform**— provide and promote environmental education, cultural programming and recreational activities for Members and their Greenspace Communities
4. **Engage Government, Institutions and Individuals**— promote cooperation, collaboration, consultation and advocacy with relevant organizations and individuals
5. **Build the Organization** — create the structure and acquire the resources to carry out the Mission
6. **Become a Facilitator of Land Conservation**

VALUES

Access to Land — We believe that neighborhood rejuvenation, environmental justice, food security, and civic participation are strengthened when community members have access to land held in trust for public use.

Sustainable Environments — We value eco-friendly, sustainable growing and living practices as essential to our role in the restoration and preservation of our urban ecosystem. We believe in the benefits of organic horticultural and agricultural methods. We encourage the appropriate use of passive technology and a reliance on renewable resources to nurture peaceful, harmonious, healthy and sustainable environments.

Community — We believe that when people work together to re-connect with the land, communities grow strong, hopeful, confident and healthy.

Governance — We value the autonomy of each Member Greenspace to create physical and social environments that best serve their communities. We encourage operating and self-governance structures and processes that are guided by transparency, honesty, diversity, mutual respect, openness, on-going evaluation, celebration, and a commitment to Member participation.

Education — We value learning through gardening and community participation, a process rooted in observation, reflection and action, that deepens our understanding of the communities in which we live, work and play.

Collaboration — We value local knowledge, experience, and community dialogue. We believe that through open collaboration we will overcome barriers to sharing power and resources among community members and partner organizations to nurture healthy, powerful communities.

BY-LAWS
OF
BROOKLYN ALLIANCE OF NEIGHBORHOOD GARDENS LAND TRUST, INC.
(formed under the New York Not-for-Profit Corporation Law)

ARTICLE I – Offices

Section 1.1. Location. The principal office of the Corporation within the State of New York shall be located at 540 President Street, Apartment 1C, Brooklyn, New York 11215, or at such place within the State of New York as the Board of Directors may from time to time determine. The Corporation may also maintain additional offices at such other places within or outside the State of New York as the Board of Directors may from time to time determine.

ARTICLE II – Purpose of Corporation

Section 2.1. Purpose. The purposes for which the Corporation is formed are to conserve, create and empower community managed greenspace through land conservation, community outreach programs and promotion of environmental education and cultural programming.

ARTICLE III – Board of Directors

Section 3.1. Power of Board and Qualifications of Directors. The Corporation shall be managed by its Board of Directors. The Corporation shall have no members and all corporate powers shall vest in the Board of Directors. Each director shall be at least eighteen years of age.

Section 3.2. Number of Directors. The initial directors shall be Jon Crow, Judy Janda, Jessica Katz, Patrick S. McCarty, Sheila McDevitt and Jon Pope. The number of directors constituting the entire Board of Directors shall be not less than three. Subject to such limitation, upon the termination of the term of the initial directors, the entire Board shall consist of such number as shall equal (i) one director for each community garden organization affiliated with a deed of land held by the Corporation (each such deeded land hereinafter a “Deeded Garden”) and (ii) one director for each community garden organization affiliated with a deed of land not held by the Corporation whose governing body, by duly authorized decision, has agreed to take all necessary action to have legal title to its affiliated land conveyed to the Corporation (each such community garden organization hereinafter a “Pledged Garden”). The number of directors may be increased or decreased at any time and from time to time upon conveyance or receipt by the Corporation of a deed of land or of a duly authorized resolution of a community garden organization. The conveyance by the Corporation of a deed, or the receipt by the Corporation of a duly authorized resolution from the governing body of a community garden organization affiliated with a deed of land not held by the Corporation that it no longer desires to have legal title to its affiliated land conveyed to the Corporation shall result in the immediate removal of the director connected with such Deeded Garden or such Pledged Garden, as applicable. Notwithstanding the foregoing, if there shall be fewer than three directors serving at any time,

the directors then in office shall promptly by unanimous vote name at least such number of directors as shall be necessary to have three directors in office.

Section 3.3. Election and Term of Directors. Each initial director shall hold office for a term of one year until the next annual meeting of the Board of Directors and until his or her successor has been elected and qualified. The first Board of Directors to act upon termination of the term of the initial directors shall be divided into two classes by majority decision of the initial directors with the first class to act for one-year terms and the second class to act for two-year terms. Thereafter, each director shall hold office for a term of two years and until his or her successor has been elected and qualified or until his or her earlier death, resignation or removal as hereinafter provide.

Each Deeded Garden and each Pledged Garden shall have the right to appoint one director to the Board of Directors by such method and vote determined by such community garden organization, which directors shall continue to serve only at the pleasure of the respective appointing community garden organization. In the event of the death, resignation or removal of a director as hereinafter provided, his or her successor shall be appointed by his or her respective appointing community garden organization by such method and vote determined by such community garden organization.

Section 3.4. Quorum of Directors and Action by the Board. Unless a greater proportion is required by law, by the Certificate of Incorporation, or by these By-Laws, one-third of the entire Board of Directors shall constitute a quorum for the transaction of business or of any specified item of business, and, except as otherwise provided by law or by the Certificate of Incorporation or these By-Laws, the vote of a majority of the directors present at the meeting at the time of such vote, if a quorum is then present, shall be the act of the Board. Notwithstanding any other provision herein to the contrary, a director may delegate a proxy to act for him or her at any meeting of the Board.

The Certificate of Incorporation or these By-Laws may be amended to provide for a greater quorum or to provide for a greater number of directors that shall be necessary for the transaction of business or any specified item of business, provided such amendment is authorized by vote of two-thirds of the entire Board.

Section 3.5. Meetings of the Board. An annual meeting of the Board of Directors shall be held for the appointment of officers and confirmation of the appointment of newly elected Directors and the transaction of such other business as may properly come before the meeting on a date to be determined annually by the Board.

Regular meetings of the Board shall be held at such times as may be fixed by the Board. Special meetings of the Board may be held at any time whenever called by the President or other corporate officer.

Meetings of the Board of Directors may be held at such places within the State of New York as may be fixed by the Board for annual and regular meetings and in the notice of meeting for special meetings.

Notice of each meeting of the Board shall be given to each director either by email or mail not later than noon, New York time, on the thirtieth business day prior to any regular meeting or on the tenth business day prior to any special meeting, or by written message hand-delivered to the director not later than noon, New York time, on the twenty-fifth business day prior to any regular meeting or on the fifth business day prior to any special meeting. Notices shall include an agenda for the meeting, and no business or other matters shall be discussed at the meeting which was not reasonably disclosed on such agenda; provided, however, that a director may add additional items to the agenda if notice of such additional agenda items is delivered as provided in the preceding sentence. Notices shall be deemed to have been given by mail when deposited in the United States mail, and by messenger at the time of delivery by the messenger. Notices by mail or messenger shall be sent to each director at the address designated by him or her for that purpose, or, if none has been so designated, at his or her last known residence or business address. Oral or telephonic notices of meetings shall not be permitted.

Notice of a meeting of the Board of Directors need not be given to any director who submits a signed waiver of notice whether before or after the meeting or who attends the meeting without protesting, either prior to or at the commencement of such meeting, the lack of notice to him or her.

A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place or may agree to defer the vote of any agenda item until a later meeting. Notice of any adjournment of a meeting to another time or place or of a deferral of the vote on any agenda item shall be given in the manner described above to the directors who were not present at the time of the adjournment and, unless such time and place of the later meeting are announced at the meeting, to the other directors.

Section 3.6. Informal Action by Directors; Meetings by Conference Telephone. Unless otherwise restricted by the Certificate of Incorporation or these By-Laws, any action required or permitted to be taken by the Board may be taken without a meeting if all directors consent in writing to the adoption of a resolution authorizing the action. The resolution and the written consents thereto by the directors shall be filed with the minutes of the proceedings of the Board.

Any one or more of the directors may participate in a meeting of the Board by means of conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Such participation shall constitute presence in person at a meeting.

Section 3.7. Resignations. Any director of the Corporation may resign at any time by giving written notice to the Board of Directors or to the President or to the Secretary of the Corporation and to his or her respective appointing community garden organization, if any. Such resignation shall take effect at the time specified therein, and unless otherwise specified therein no acceptance of such resignation shall be necessary to make it effective.

Section 3.8. Removal of Directors. Any one or more of the directors may be removed with cause by action of two-thirds of the entire Board of Directors. Any one or more of

the directors may be removed without cause by unanimous vote of all of the Board of Directors other than the director to be removed.

Section 3.9. Purchase, Sale, Mortgage or Lease of Real Property. No purchase of real property shall be made by the Corporation, and the Corporation shall not sell, mortgage, accept the conveyance by gift or otherwise of or lease real property, unless authorized by the vote of two-thirds of the entire Board of Directors.

Section 3.10. Annual Report. The Board of Directors shall direct the President and Treasurer of the Corporation to present at the annual meeting of the Board a report, verified by the President and Treasurer, or certified by an independent or certified public accountant or a firm of such accountants selected by the Board, showing in detail the following:

(1) the assets and liabilities, including the trust funds, of the Corporation as of the end of a twelve-month fiscal period terminating not more than six months prior to said meeting;

(2) the principal changes in assets and liabilities, including trust funds, during said fiscal period;

(3) the revenue or receipts of the Corporation, both unrestricted and restricted to particular purposes, during said fiscal period; and

(4) the expenses or disbursements of the Corporation, for both general and restricted purposes, during said fiscal period.

The annual report shall be filed with the records of the Corporation, and a copy or abstract thereof entered in the minutes of the proceedings of the annual meeting of the Board.

ARTICLE IV – Committees

Section 4.1. Executive Committee and Other Standing Committees. The Board of Directors, by resolution adopted by a majority of the entire Board, may designate from among its members an Executive Committee and other standing committees, each consisting of three or more directors, and each of which, to the extent provided in the resolution, shall have all the authority of the Board, except that no such committee shall have authority as to the following matters:

(1) filling vacancies in the Board of Directors or in any committee;

(2) amending or repealing the By-Laws or adopting new By-Laws;

(3) amending or repealing any resolution of the Board which by its terms cannot be amended or repealed; or

(4) removing directors.

The Board may designate one or more directors as alternate members of any standing committee who may replace any absent member or members at any meeting of such committee.

Section 4.2. Additional Special Committees. The Board of Directors may create such special committees as it deems desirable, the members thereof to be appointed by the Chairman of the Board or the President of the Corporation if there is no Chairman of the Board, with the consent of the Board. Special committees shall have only the powers specifically delegated to them by the Board and in no case shall have powers which are not authorized for standing committees.

Section 4.3. Committees Other Than Standing or Special. Committees other than standing or special committees of the Board shall be committees of the Corporation. Such committees may be elected or appointed in the same manner as officers of the Corporation. Provisions of these By-Laws and the Not-for-Profit Corporation Law applicable to officers generally shall apply to members of such committees.

Section 4.4. Committee Rules. Unless the Board of Directors otherwise provides, each committee designated by the Board may make, alter and repeal rules for the conduct of its business.

In the absence of a contrary provision by the Board of Directors or in rules adopted by such committee, a majority of the entire authorized number of members of each committee shall constitute a quorum for the transaction of business, the vote of a majority of the members of a committee present at a meeting at the time of such vote if a quorum is then present shall be the act of such committee, and each committee shall otherwise conduct its business in the same manner as the Board of Directors conducts its business under Article III of these By-Laws.

Section 4.5. Informal Action by Committees. Unless otherwise restricted by the Certificate of Incorporation or these By-Laws, any action required or permitted to be taken by a committee may be taken without a meeting if all members of such committee consent in writing to the adoption of a resolution authorizing the action. The resolution and the written consents thereto by the members of the committee shall be filed with the minutes of the proceedings of such committee.

Any one or more members of any committee may participate in a meeting of such committee by means of conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Such participation shall constitute presence in person at a meeting.

Section 4.6. Service of Committees. Each committee of the Board shall serve at the pleasure of the Board. The designation of any such committee and the delegation thereto of authority shall not alone relieve any director of his or her duty under the law to the Corporation.

ARTICLE V – Officers

Section 5.1. Officers. The Board of Directors shall elect a President, a Secretary and a Treasurer, and it may, if it so decides, choose a Vice-Chairman of the Board from among its members. The Board may also elect one or more Vice-Presidents, Assistant Vice-Presidents, Assistant Secretaries, Assistant Treasurers and other officers and may give any of them such further designation or alternate titles as it considers desirable. Any two or more offices may be held by the same person, except the offices of President and Secretary, or the offices corresponding thereto.

Section 5.2. Term of Office and Removal. Each officer shall hold office for the term for which he or she is elected and until his or her successor has been elected or appointed and qualified. All officers shall be elected annually.

Any officer elected or appointed by the Board may be removed by the Board of Directors with or without cause at any time. Removal of an officer without cause shall be without prejudice to his or her contract rights, if any, and the election or appointment of an officer shall not of itself create contract rights.

Section 5.3. Powers and Duties of Officers. The duties and powers of the officers shall be as follows:

President

The President shall be the chief executive officer of the Corporation and shall be responsible for the administration and operation of the business and affairs of the Corporation. The President, or any other proper officer of the Corporation thereunto authorized by the Board of Directors, may sign any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these By-Laws to some other officer or agent of the Corporation, or shall be required by law to be otherwise signed or executed, and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the Board of Directors from time to time. In the absence of a Chairman of the Board, the President shall preside at all meetings of the Board of Directors and, subject to the supervision of the Board, shall perform all duties customary to that office and shall supervise and control all of the affairs of the Corporation in accordance with policies and directives approved by the Board.

Vice-President

In the absence of the President or in the event of his or her inability or refusal to act, the Vice-President shall perform the duties of the President, and, when so acting, shall have all the powers of and be subject to all the restrictions upon the President. The Vice-President shall perform such other duties and have such other powers as the Board of Directors may from time to time prescribe by standing or special resolution, or as the President may from time to time provide, subject to the powers and the supervision of the Board.

Secretary

The Secretary shall: (a) keep the minutes of the meetings of the Board of Directors and committees of directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law; (c) be custodian of the corporate records and of the seal of the Corporation (if any) and see that the seal of the Corporation is affixed to all documents, if necessary, the execution of which on behalf of the Corporation under its seal, if necessary, is duly authorized in accordance with the provisions of these By-Laws; and (d) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him or her by the President or by the Board of Directors.

Treasurer

The Treasurer shall have the custody of, and be responsible for, all funds and securities of the Corporation. He or she shall keep or cause to be kept complete and accurate accounts of receipts and disbursements of the Corporation, and shall deposit all monies and other valuable property of the Corporation in the name and to the credit of the Corporation in such banks or depositories as the Board of Directors may designate. Whenever required by the Board, the Treasurer shall render a statement of accounts. He or she shall at all reasonable times exhibit the books and accounts to any officer or director of the Corporation, and shall perform all duties incident to the office of Treasurer, subject to the supervision of the Board, and such other duties as shall from time to time be assigned by the Board. The Treasurer shall, if required by the Board, give such bond or security for the faithful performance of his or her duties as the Board may require.

Assistant Secretaries and Assistant Treasurers

The Assistant Treasurers and Assistant Secretaries, in general, shall perform such duties and have such powers as the Board of Directors may from time to time prescribe by standing or special resolution, or as the Treasurer or the Secretary, respectively, may from time to time provide, subject to the powers and the supervision of the Board.

Section 5.4. Agents and Employees. The Board of Directors may appoint agents and employees who shall have such authority and perform such duties as may be prescribed by the Board. The Board may remove any agent or employee at any time with or without cause. Removal without cause shall be without prejudice to such person's contract rights, if any, and the appointment of such person shall not itself create contract rights.

Section 5.5. Compensation of Officers, Agents and Employees. The Corporation shall not pay any compensation to officers for services rendered to the Corporation, except that officers may be reimbursed for expenses incurred in the performance of their duties to the Corporation, in reasonable amounts as approved by a majority of the entire Board.

The compensation of agents and employees appointed by the Board shall be fixed by the Board, but this power may be delegated to any officer, agent or employee as to persons under that person's direction or control. The Board may require officers, agents or employees to give security for the faithful performance of their duties.

ARTICLE VI – Indemnification and Insurance

Section 6.1. Indemnification. The Corporation shall indemnify each person made, or threatened to be made, a party to any action or proceeding, other than one by or in the right of the Corporation to procure a judgment in its favor, whether civil or criminal, by reason of the fact that such person or such person's testator or intestate is or was a director or officer of the Corporation, or serves or served at the request of the Corporation any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise in any capacity, against judgments, fines, penalties, amounts paid in settlement and reasonable expenses, including reasonable attorneys' fees, actually and necessarily incurred as a result of such action or proceeding, or any appeal therein, provided that such officer or director acted in good faith for a purpose which he or she reasonably believed to be in (or, in the case of service to any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, not opposed to) the best interests of the Corporation, and, in criminal actions or proceedings, in addition, had no reasonable cause to believe that his or her conduct was unlawful; and provided further that no such indemnification shall be required with respect to any settlement or other non-adjudicated disposition of any threatened or pending action or proceeding unless the Corporation has given its prior consent to such settlement or other disposition.

The Corporation shall indemnify any person, as above provided, in connection with an action by or in right of the Corporation to procure a judgment in its favor, except that no such indemnification shall be made in respect of (i) a threatened action or a pending action which is otherwise disposed of, or (ii) any claim, issue or matter as to which such person shall have been adjudged liable to the Corporation, unless, and only to the extent that, the court in which the action was brought or, if no action was brought, any court of competent jurisdiction determines upon application that, in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnity for such portion of the settlement amount and expenses as the court deems proper.

The Corporation shall advance or promptly reimburse, upon request, any person entitled to indemnification hereunder for all expenses, including reasonable attorneys' fees, reasonably incurred in defending any action or proceeding in advance of the final disposition thereof upon receipt of any undertaking by or on behalf of such person to repay such amount if such person is ultimately found not to be entitled to indemnification or, where indemnification is granted, to the extent the expenses so advanced or reimbursed or allowed by the court exceed the amount to which such person is entitled; provided, however, that such person shall cooperate in good faith with any request by the Corporation that common counsel be utilized by the parties to an action or proceeding who are similarly situated unless to do so would be inappropriate because of actually or potentially differing interests between or among such parties.

Nothing herein shall limit or affect any right of any person otherwise than hereunder to indemnification or expenses, including attorneys' fees, under any statute, rule, regulation, certificate of incorporation, by-law, insurance policy, contract or otherwise.

In case any provision in this Article shall be determined at any time to be unenforceable in any respect, the other provisions shall not in any way be affected or impaired thereby, and the affected provision shall be given the fullest possible enforcement in the

circumstances, it being the intention of the Corporation to afford indemnifications and advancement of expenses to its directors and officers, acting in such capacities or in the other capacities mentioned herein, to the fullest extent permitted by law.

A person who has been successful, on the merits or otherwise, in the defense of a civil or criminal action or proceeding of the character described in the first two paragraphs of this Article shall be entitled to indemnification as authorized in such paragraphs. Except as provided in the preceding sentence and unless ordered by a court, any indemnification under this Article shall be made by the Corporation if, and only if, authorized in the specific case:

(1) By the Board of Directors acting by a quorum consisting of directors who are not parties to such action or proceeding (“disinterested directors”) upon a finding that the director or officer has met the standard of conduct set forth in the first, and pursuant to the second, paragraph of this Article, or,

(2) If such a quorum is not obtainable or, even if obtainable, a quorum of disinterested directors so directs:

(a) By the Board of Directors upon the opinion in writing of independent legal counsel that indemnification is proper in the circumstances because the standard of conduct set forth in this Article has been met by such director or officer, or

(b) By the members upon a finding that the director or officer has met the applicable standard of conduct set forth in this Article.

Section 6.2. Insurance. The Corporation shall have the power to purchase and maintain insurance (i) to indemnify the Corporation for any obligation which it incurs as a result of the indemnification of directors and officers under the provisions of Section 6.1, (ii) to indemnify directors and officers in instances in which they may be indemnified by the Corporation under the provisions of Section 6.1, and (iii) to indemnify directors and officers in instances in which they may not otherwise be indemnified by the Corporation under the provisions of Section 6.1, provided that, in this latter case, all legal requirements be met with regard to the contract of insurance.

No insurance so purchased and maintained may provide for any payment, other than the cost of defense, to or on behalf of any director or officer (i) if a judgment or other final adjudication adverse to the insured director or officer establishes that his or her acts of active and deliberate dishonesty were material to the cause of action so adjudicated, or that the person personally gained in fact a financial profit or other advantage to which he or she was not legally entitled, or (ii) in relation to any risk the insurance of which is prohibited under New York insurance law.

Section 6.3. Conditions for Indemnification and Insurance. Notwithstanding anything herein to the contrary, in no case shall the Corporation indemnify, reimburse, or insure any person for any taxes imposed on such individual under Chapter 42 of the Internal Revenue Code of 1986, as amended (the “Code”). Further, if at any time the Corporation is deemed to be a private foundation within the meaning of section 509 of the Code, then, during such time, no

payment shall be made under this Article if such payment would constitute an act of self-dealing or taxable expenditure, as defined in Section 4941(d) or 4945(d), respectively, of the Code. Moreover, the Corporation shall not indemnify, reimburse, or insure any person in any instance where such indemnification, reimbursement, or insurance is inconsistent with Section 4958 of the Code, any other provision of the Code applicable to corporations described in Section 501(c)(3) of the Code, the New York Not-for-Profit Corporation Law, or any other applicable law.

ARTICLE VII – Provisions Affecting Directors and Officers

Section 7.1. Interested Directors and Officers. No contract or other transaction between the Corporation and one or more of its directors or officers, or between the Corporation and any other corporation, firm, association or other entity in which one or more of its directors or officers are directors or officers, or have a substantial financial interest, shall be either void or voidable for this reason alone, irrespective of whether such interested director or directors or officer or officers are present at a meeting of the Board of Directors, or of a committee thereof, which authorizes such contract or transaction and irrespective of whether his, her or their votes are counted for such purpose. In the absence of fraud any such contract or transaction may be conclusively authorized or approved as fair and reasonable by the Board of Directors or a duly empowered committee thereof by vote sufficient for such purpose without counting the vote or votes of such interested director or officer (although he, she or they may be counted in determining the presence of a quorum at the meeting which authorizes or approves such contract or transaction), if the material facts as to such director's or officer's interest in such contract or transaction and as to any such common directorship, officership or financial interest are disclosed in good faith or known to the Board or committee as the case may be.

If there was no such disclosure or knowledge, or if the vote of such interested director or officer was necessary for the authorization of such contract or transaction at a meeting of the Board of Directors or committee at which it was authorized, the Corporation may void the contract or transaction unless the party or parties thereto establish affirmatively that the contract or transaction was fair and reasonable as to the Corporation at the time it was authorized by the Board of Directors.

Section 7.2. Loans to Directors and Officers. No loans, other than through the purchase of bonds, debentures or similar obligations of the type customarily sold in public offerings, or through ordinary deposit of funds in a bank, shall be made by the Corporation to its directors or officers, or to any other corporation, firm, association or other entity in which one or more of its directors or officers are directors or officers or hold a substantial financial interest, except that the Corporation may make a loan to any corporation which is a Type B corporation under the Not for Profit Corporation Law of the State of New York. A loan made in violation of this paragraph shall be a violation of the duty to the Corporation or of the directors or officers authorizing it or participating in it, but the obligation of the borrower with respect to the loan shall not be affected thereby.

Section 7.3. Conditions for Loans or Other Transactions. This Article shall, in no event, be construed to authorize any act of self dealing within the meaning of Section 4941

of the Code, or any other act expressly prohibited by the Code, the New York Not for Profit Corporation Law, or any other applicable law.

ARTICLE VIII – Miscellaneous

Section 8.1. Fiscal Year. The fiscal year of the Corporation shall be the calendar year or such other period as may be fixed by the Board of Directors.

Section 8.2. Corporate Seal. The corporate seal, if any, shall have the name of the Corporation inscribed thereon and shall be in such form as may be approved from time to time by the Board of Directors.

Section 8.3. Books and Records to be Kept. The Corporation shall keep at its principal office in the State of New York: (a) correct and complete books and records of account, (b) minutes of the proceedings of the Board of Directors and any committee of the Corporation, and (c) a current list of the directors and officers of the Corporation and their residence addresses. Any of the books, minutes and records of the Corporation may be in written form or in any other form capable of being converted into written form within a reasonable time.

Section 8.4. Amendment to the Certificate of Incorporation and By-Laws. The Certificate of Incorporation may be amended or changed by vote of two-thirds of the entire Board pursuant to Section 802 of the Not-for-Profit Corporation Law. The By-Laws of the Corporation may be adopted, amended or repealed by vote of two-thirds of the entire Board of Directors. The By-Laws of the Corporation shall be reviewed by the Board of Directors at the first annual meeting that shall occur after the one year anniversary of the date of the adoption of these By-Laws and shall be reviewed by the Board of Directors every second anniversary thereafter.