

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON HEALTH
COMMITTEE ON TRANSPORTATION

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April 17, 2013
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HELD AT: Council Chambers
City Hall

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MARIA DEL CARMEN ARROYO
JAMES VACCA
Chairpersons

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Mathieu Eugene
Julissa Ferreras
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Rosie Mendez
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Michelle Birnbaum
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Andrew Boso
Carpe Donut NYC

Lo van der Valk
President
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2 CHAIRPERSON ARROYO: Good morning
3 everyone. Thank you for joining us. My name is
4 Maria del Carmen Arroyo, chair of the Committee on
5 Health. Today the Committee on Health and the
6 Committee on Transportation will be conducting a
7 joint oversight hearing entitled Food Truck
8 Vendors: Examining an Emerging Industry. The
9 Committee will also hear testimony and opinion on
10 Introduction number 1025, a local law in relation
11 to creating designated mobile food truck locations
12 throughout the city. I want to thank Council
13 Member Vacca, my colleague from the Bronx for
14 joining us today in this joint hearing and his
15 Committee on Transportation as well as Council
16 Member Dan Garodnick, who is the author of the
17 bill we will be considering today. While food
18 trucks have been around for some time in our city,
19 the modern food truck movement, no pun intended,
20 is a relatively new movement in our city. There
21 is no doubt that food trucks have become a part of
22 the fiber of the eating and dining experience in
23 our city. New York City is built on small
24 businesses and food trucks like other street
25 vendors are an incredibly good example of the

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2 small business in our city. Individuals who have
3 an idea start small and however small it is still
4 a risk that they take to launch a business that
5 helps them take care of themselves and their
6 families and employ other individuals in our city.
7 Unfortunately current regulations make it very
8 challenging for these businesses to get around and
9 their business of the ground and operate
10 successfully. For example, food trucks cannot
11 vendor from a metered parking space or at no
12 standing zones. Practically speaking, it leaves
13 very little room for them to operate successfully
14 without violating some traffic rule in the city.
15 Council Member Garodnick's bill takes a step in
16 the direction of addressing the limited options
17 that are available and I commend him for proposing
18 this legislation, which I believe will set us on a
19 path for a conversation in seeking solutions to
20 this problem. I look forward to hearing the
21 conversation in particular members of the public
22 and the administration, all of whom have presented
23 issues and concerns around this problem in our
24 city. Together, I believe we can find a solution
25 that works best for all of us. Before I turn it

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2 over to my colleague and then Council Member
3 Garodnick I urge the administration and
4 representatives from the agencies here to stay
5 throughout the hearing so that you can hear the
6 public portion of the testimony. We often hear
7 two different stories--one presented by the
8 administration and the agencies and a different
9 one presented by the public when they share their
10 experiences around whatever the issue we may be
11 discussing and although we are here and we take
12 notes and we work with the administration to
13 resolve the issues the public present. I think it
14 is important that the administration hear directly
15 from the advocates. I want to remind the public,
16 which is what the sergeant was referencing, if you
17 are here to testify and you have not filled out
18 one of these forms, we will not know that you are
19 here and want to say something, and we certainly
20 want to hear your comments. I want to thank the
21 staff from my committee, who have worked
22 incredibly hard on preparing for this hearing--Dan
23 Hayfitz [phonetic] to my right, he is the attorney
24 for the committee, Crystal Goldpon is always in
25 the background somewhere--wave your hand--she

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2 works really hard, and Krillian Francisco
3 [phonetic], who is the fiscal analyst for the
4 committee. Council Member Vacca?

5 CHAIRPERSON VACCA: Thank you,
6 Chair Arroyo. Thank you everyone for coming. I
7 am James Vacca. I am chair of the Transportation
8 Committee of the Council, and it is my pleasure to
9 co-chair the hearing today with Council Member
10 Arroyo. In busy commercial districts across the
11 five boroughs, there has been a proliferation of
12 mobile food vendors curbside businesses that offer
13 varied and affordable selections of food. A
14 proportion of these vendors are food trucks, which
15 must be parked on city streets in order to
16 operate. Left with virtually nowhere else to go
17 except residential streets to vend legally, these
18 trucks often times park in violation of traffic
19 and parking rules hindering pedestrian and
20 vehicular traffic flow. In a city where parking
21 is at a premium loading zone regulations are in
22 place to allow for brick and mortar businesses to
23 receive vital deliveries. When you have those two
24 situations existing, the problem we have has to be
25 dealt with. Food trucks their ever increasing

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2 presence in our streets has elicited strong
3 opinions from public stakeholders, who have
4 charged that these vendors clog up traffic,
5 produce litter and pollution, take business away
6 from brick and mortar restaurants and operate with
7 little regulation. Despite anyone's opinion on
8 the matter, one thing is for sure--food trucks are
9 here to stay. The issue we hope to address today
10 is how to reach a compromise by which these
11 licensed businesses can park legally and without
12 compromising public safety or the traffic flow of
13 our ever moving city. Intro 1025 of 2013
14 sponsored by Council Member Garodnick is a bill
15 aimed at addressing this issue. Its purpose is to
16 amend the administrative code of the city of New
17 York in relation to creating designated mobile
18 food truck locations. We will hear today from
19 stakeholders, from those interested in this issue
20 throughout the city of New York. I look forward
21 to hearing that testimony, and I thank you all for
22 coming.

23 CHAIRPERSON ARROYO: Council Member
24 Garodnick?

25 COUNCIL MEMBER GARODNICK: Thank

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2 you very much, Chair Arroyo, Chair Vacca, and I
3 appreciate your comments, and I think that you
4 have gotten it right on the money in terms of what
5 we are after here today, which is to try to find
6 some solutions to what is obviously an extremely
7 complicated issue. Food trucks as you noted have
8 become much more common in New York City. Gourmet
9 food trucks have become especially popular and the
10 industry has undergone tremendous growth in the
11 past several years. Unfortunately, the growth of
12 the industry has outpaced the city's ability to
13 regulate it effectively. Parking restrictions
14 mean that there are virtually no legal places for
15 food trucks to vend. A recent ruling established
16 that food trucks that were selling from metered
17 parking spots were in fact selling merchandise
18 under New York law and therefore were prohibited
19 from doing so, and the result is that in order to
20 operate many if not most food trucks must park and
21 operate illegally. This is bad for everyone.
22 Community members don't want food trucks parking
23 illegally, and potentially in hazardous spots and
24 food truck owners don't want to live with constant
25 fines and the fear of being towed right in the

1 middle of the busiest time of their day. This
2 bill would charge the Department of Transportation
3 with creating designated mobile food truck
4 locations. Each location would be a single
5 parking space from which food trucks are
6 explicitly permitted to vend. DOT would assign
7 the locations to trucks using an impartial system
8 of their own devising and perhaps, most
9 importantly the local council member and community
10 board would provide input on the siting of these
11 locations. For the first time communities would
12 have a say in the siting of food trucks. They
13 will be able to air their concerns about food
14 truck locations that may be hazardous or
15 detrimental to the neighborhood or that are
16 particularly problematic for established brick and
17 mortar establishments. This bill would also limit
18 locations to no more than one per block face and
19 no more than 50 percent Manhattan. When it comes
20 to food trucks, we need a system that creates
21 order, protects our neighborhoods and the brick
22 and mortar businesses and ensures that the trucks
23 that exist today operate under clear and
24 enforceable rules. This bill is intended to get
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2 us thinking about how best we can solve the thorny
3 problems involved, so for that reason I again
4 thank Chairs Vacca and Arroyo for this hearing and
5 for their oversight on the subject, and I am
6 looking forward to hearing testimony today from
7 all of the stakeholders. Thank you again.

8 CHAIRPERSON ARROYO: Thank you,
9 Council Member. I want to acknowledge members--
10 probably not going to get what committee they all
11 sit on so I will just acknowledge their presence
12 here. To my right in the front Council Member
13 Inez Dickens, Council Member Eugene, Council
14 Member Ignizio. On the other side of the table,
15 Council Member Rodriguez, Council Member Koo,
16 Council Member Peter Vallone, Julissa Ferreras,
17 and I think that is it for now and members will
18 flow in and out of the hearing as the hearing
19 progresses. Our first panel we will hear
20 testimony from Liz Weinstein from the Mayor's
21 Office of Operations. Welcome and for questions,
22 we are joined by Kate Slevin [phonetic] from the
23 Department of Transportation, Lieutenant Daniel
24 Albano [phonetic], managing attorney NYPD, and
25 Deputy Commissioner Dan Kass from the Department

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2 of Health and Mental Hygiene. Thank you all for
3 being here. Ms. Weinstein, pull the mic as close
4 as you can to you. We are being recorded, and you
5 may begin when you are ready.

6 LIZ WEINSTEIN: Great. Good
7 morning, Chair Arroyo, Chair Vacca and council
8 members. I am Liz Weinstein, director of the
9 Mayor's Office of Operations. You already
10 introduced our panel, but we want to thank you for
11 the opportunity to testify today regarding food
12 truck vending in New York City. I also want to
13 point out members of the Mayor's Office of
14 Operations who are here, Andrea Bender [phonetic],
15 Amy Bishop and Geraldine Sweeney, some group or
16 the subset of the four of us will be here for the
17 entire hearing so that we don't miss anything from
18 the public. Selling food in the streets has been
19 an evolving part of New York street scape for
20 generations. Today the Department of Mental
21 Health and Hygiene is authorized to issue permits
22 to 5100 mobile food vendors. Of those vendors,
23 3100 are year round carts and trucks, 1,000 are
24 fresh fruit and vegetable green carts, and an
25 additional 1,000 are seasonal. Of these, DOHMH

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2 estimates that there are approximately 530 trucks,
3 about 405 of which are year round food trucks and
4 125 operate only in warmer seasons. The cart or
5 truck owner is required to maintain both a permit
6 to operate the cart or truck as well as a license
7 to handle food. Each cart or truck can only have
8 a single permit holder, but the administrative
9 code allows a permit holder to employ multiple
10 licensees to work the cart or truck. Citywide
11 year round permits can be used to operate any type
12 of mobile food vending unit, for example taco
13 trucks or coffee carts. Unlike the cap on
14 permits, there is no cap on the number of licenses
15 DOHMH can issue. Currently more than 18,000
16 licensees are active in DOHMH's system. DOHMH
17 requires all permit and license holders to pass
18 its food preparation safety course and currently
19 requires a biannual inspection of the cart or
20 truck at the time of permit renewal. The
21 Department of Consumer Affairs is responsible for
22 handling the renewal process for both permits and
23 licenses through its licensing centers. Three
24 different city agencies handle enforcement of
25 mobile food vending rules. Health inspectors

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2 enforce food safety rules and time and location
3 restrictions such as vending at a bus stop or too
4 close to the crosswalk, and the city's
5 administrative code and traffic rules. NYPD
6 officers can also enforce time and location
7 violations, but do not generally enforce health
8 code violations. In addition, the Department of
9 Sanitation can issue violations to vendors who
10 fail to maintain sanitary conditions at their
11 truck or cart or do not have proper waste
12 receptacles. The proliferation of food trucks is
13 a relatively new phenomenon in New York City.
14 These trucks provide diverse dining options for
15 both residents and tourists and create new job
16 opportunities. The City's partnership with the
17 Food Truck Association in the aftermath of super
18 storm Sandy was instrumental in bringing high
19 quality hot meals to residents and volunteers in
20 storm affected communities, and we thank them for
21 their assistance. We know that food trucks are an
22 important part of the vending universe and making
23 legal vending spaces available for food trucks is
24 an idea worthy of discussion. City rules prohibit
25 trucks from vending at metered spaces and require

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2 trucks to comply with all other parking rules and
3 regulations leaving food truck vendors to use ad
4 hoc methods to find legal vending spaces on
5 streets. The administration has made several
6 recent efforts to improve the legal operation of
7 mobile food vending. Just last week, new Health
8 Department rules went into effect intended to
9 improve the sanitary practices of mobile food
10 vendors and the commissaries they use to clean,
11 store and outfit their carts. The Department also
12 clarified that permit holders who own the truck or
13 cart will be liable for the actions of licensees
14 who work at their truck or cart. In practical
15 terms this means the permit holder will be held
16 responsible for any NOVs written to the truck or
17 cart rather than liability being limited to the
18 licensee working when the violation was observed.
19 The new rules also require the permit holder to
20 appear in person at the truck or cart's biannual
21 Health Department inspection rather than allowing
22 a designee to appear on behalf of the permit
23 holder. These efforts will help curtail the
24 illegal transfer of permits by absentee permit
25 holders. To help stem the illegal transfer of

1 permits, the administration also supports the
2 legislative requirement that the permit holder
3 must also work as a vendor at least half-time.
4 Regarding introduction 1025, the administration
5 believes that this concept generally has merit and
6 can be the beginning of a dialogue to establish a
7 meaningful system for bringing a measure of order
8 to the industry; however, the world of food truck
9 vending is very complex and involves several
10 agencies and therefore any changes with regulatory
11 structure would require careful consideration and
12 study. For these reasons we cannot support the
13 bill as drafted, but support its broader
14 intentions and offer the following suggestions for
15 continued conversation on food trucks. The
16 administration shares the concerns of City Council
17 regarding the proliferation of food trucks and we
18 believe this may be an opportunity to take a more
19 holistic view of mobile food vending operations.
20 For the past few months, my office and several
21 city agencies have been reviewing areas that could
22 be improved around food vending regulation and
23 enforcement. We are interested in further
24 exploring a market based plan to allow food trucks
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2 to bid for the right to certain street locations,
3 similar to the Parks Department concession
4 program. developing a strategy for awarding or
5 designating spots would also be an opportunity to
6 change some of the regulations to improve current
7 food truck operations. For example, we would like
8 to consider encouraging food trucks to convert to
9 clean fuel, low emissions vehicles and generators
10 over the next three to five years. two of the
11 most common complaints we hear from residents and
12 business owners relating to mobile food vendors
13 are that generators are loud and produce too much
14 exhaust. For both engines and generators the
15 administration supports in encouraging trucks and
16 carts to run on natural gas or other clean fuel to
17 reduce emissions in addition to setting a maximum
18 decibel level to reduce noise pollution. We would
19 also like to see food trucks and carts move to
20 cleaner, greener recyclable packaging products
21 during the same time frame. Both of these changes
22 are consistent with ongoing administrative
23 initiatives intended to reduce New York City's
24 environmental footprint. As another means of
25 improving the visual environment on the streets,

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2 the administration would support language holding
3 vendors responsible for the cleanliness of their
4 immediate vicinity which would remove the burden
5 from business and homeowners to clean trash
6 created or left by a vendor. In addition, the
7 administration would like City Council to
8 authorize DOH, DEP and DOT to rule make around
9 air, noise and lighting concerns, which are also
10 among the most common vendor related complaints.
11 Finally, the administration cannot support
12 legislation without the inclusion of a strong
13 enforcement component, accompanying any
14 designation of the locations for food trucks. As
15 currently written Intro 1025 prohibits trucks from
16 vending at a non-designated location, but does not
17 include penalties for those that do. The
18 administration is supportive of restricting the
19 number of trucks per block face and would also
20 like to see penalties imposed for vendors who
21 attempt to rent corners. The administration
22 supports a low threshold strikes program to
23 encourage compliance within the industry. Trucks
24 that violate the terms of the program more than a
25 determined number of times would be removed from

1 the program and lose their ability to vend.
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3 Strict hours of operation must be written into the
4 legislation, which must also include provisions
5 requiring trucks to move from a location for any
6 potential length of time if there is construction,
7 a parade or any other event that makes the spot
8 untenable. In addition, to facilitate ease of
9 towing we support establishing maximum weight and
10 size dimensions for food trucks, which present
11 special challenges for NYPD's towing operations.
12 Food trucks are an iconic and champion part of the
13 New York street scape and food scene. While the
14 administration supports a creative solution for
15 managing trucks, we believe a program that meets
16 the operational needs of the vendors and supplies
17 the administration with necessary regulatory and
18 enforcement tools has not yet been identified due
19 to the complex nature of the vending world. We
20 thank the Council for raising this important issue
21 and look forward to continuing the discussion. We
22 are happy to answer any questions you may have at
23 this time.

24 CHAIRPERSON ARROYO: Thank you for
25 your testimony. We have been joined by Council

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2 Members Van Bramer and Rose and we will start with
3 the questions. We will turn it over to Council
4 Member Vacca followed by Council Member Garodnick.

5 CHAIRPERSON VACCA: Thank you,
6 Chair Arroyo. Your testimony was very insightful.
7 I thank you for it. One of the concerns I get
8 from my community with food trucks is that they
9 are on the same block as food establishments who
10 pay rent every day, who pay taxes to our city, who
11 are striving to make ends meet, and then a food
12 truck often selling the exact food that they are
13 selling pops up on their block, so these are small
14 business people that are struggling. Now I need
15 to know how you view this legislation in that vein
16 and is this a concern of the administration and
17 have you heard that out in communities throughout
18 the city as I have heard it?

19 LIZ WEINSTEIN: So we certainly
20 have heard that feedback. While the
21 administration has many different options,
22 especially with Council support for regulation
23 food trucks, we cannot take into account
24 competition with brick and mortar restaurants.
25 There is legal precedent that says that the city

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2 may not consider brick and mortar establishments
3 and competition with those establishments when
4 regulating food trucks or carts, so we simply have
5 no leg to stand on legally to do that.

6 CHAIRPERSON VACCA: Do you hear
7 this complaint frequently?

8 LIZ WEINSTEIN: We have heard it.

9 CHAIRPERSON VACCA: And you just
10 stated that there is nothing we can do about it?

11 LIZ WEINSTEIN: Unfortunately at
12 the moment we would have to change more than law.
13 We would have to go back to the courts and try to
14 overturn previous decisions.

15 CHAIRPERSON VACCA: Alright. How
16 many food vendors do you estimate we have in New
17 York City? How many food vendors do you think are
18 on the streets? Can you give us an estimate or
19 exact number?

20 LIZ WEINSTEIN: We can tell you how
21 many the Department of Health has the authority to
22 license and that is the 5100 number that was
23 mentioned in the testimony.

24 CHAIRPERSON VACCA: 5100.

25 LIZ WEINSTEIN: Right, and that

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2 encompasses green carts, seasonal and the year
3 round carts and trucks,

4 CHAIRPERSON VACCA: How many do you
5 estimate are serving food in our city, but are not
6 licensed by the Department of Health?

7 DEPUTY COMMISSIONER KASS: We don't
8 have a precise estimate on that. We have done
9 sweeps and we monitor the number of vendors that
10 we see who are without a permit and we do
11 certainly find them. In some neighborhoods it may
12 be as high as 25 percent and others it is much
13 lower. By and large the illegal vending tends to
14 be smaller in formal operations operating out of
15 cart or with tables on the street there tend to be
16 fewer of the recognizable carts or trucks that are
17 wholly illegal or without a permit.

18 CHAIRPERSON VACCA: Just identify
19 yourself for the record.

20 DEPUTY COMMISSIONER KASS: I'm
21 sorry. I am Dan Kass. I am the deputy
22 commissioner for environmental health at the
23 Health Department.

24 CHAIRPERSON VACCA: Alright, so you
25 are saying to me that in some neighborhoods up to

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2 25 percent of the food vendors are illegal,
3 without a Health Department permit?

4 DEPUTY COMMISSIONER KASS: Based on
5 some sweeps that we have done and attempts to
6 survey it, it has been that high. In other
7 neighborhoods, it is obviously much lower.

8 CHAIRPERSON VACCA: How many
9 violations have you given for people who are
10 serving food on mobile trucks without a Health
11 Department permit? Let's say in 2012 how many
12 violations were issued for that purpose?

13 DEPUTY COMMISSIONER KASS: I don't
14 know that number. I can try to identify it.
15 Violations can be issued to a vendor, sometimes it
16 is a bit complex. Sometimes there are illegal
17 vendors who are licensed. They don't have --
18 permit, so the violation can be issued to a
19 licensee for operating on an unpermitted cart.
20 Sometimes a violation will be issued to the person
21 how is both illegal as a vendor and illegal as a
22 cart. It's a very difficult arrangement because
23 when someone is wholly illegal, the recourse of
24 the city is basically the seize the property.

25 CHAIRPERSON VACCA: Now do you act

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2 on complaints concerning vendors that have no
3 license or do you have inspectors out in the
4 field? Is your violation process strictly
5 complaint driven?

6 DEPUTY COMMISSIONER KASS: We do
7 extensive proactive inspections. We schedule
8 them. We roam neighborhoods. We recently
9 launched an electronic system for recording and
10 modernizing our inspectional program, so we do a
11 lot of practice intended, scheduled inspections.
12 We also do respond to complaints. Most complaints
13 get an inspection response, so we go into the
14 field, we try to identify whether the complaint is
15 founded, whether we can find the same vendor,
16 whether the complaint that occurred at the time of
17 the complaint is still being committed, so we do
18 both.

19 CHAIRPERSON VACCA: Upon receiving
20 a complaint, how long does it take you to send
21 someone out? What is the time period? I am sure
22 this would be in the mayor's management report,
23 but I would like to know if you have it.

24 DEPUTY COMMISSIONER KASS: We
25 usually are able to get out within 24 hours.

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2 CHAIRPERSON VACCA: Within 24 hours
3 of the complaint?

4 DEPUTY COMMISSIONER KASS: Yes.

5 CHAIRPERSON VACCA: Okay. Thank
6 you.

7 CHAIRPERSON ARROYO: We have been
8 joined by Council Member Mendez. Council Member
9 Garodnick?

10 COUNCIL MEMBER GARODNICK: Thank
11 you again, Chair Arroyo. So thank you for your
12 testimony this morning. I think if I were to try
13 to characterize the sum of the testimony it is
14 that you are open to this conversation, but that
15 we still have a little work to do to sort it all
16 out. Is that a fair--let's talk about the numbers
17 that we are dealing with here because it is my
18 understand that if you have a permit that you can
19 actually use that for a cart or a truck today. Is
20 that correct?

21 LIZ WEINSTEIN: Yes.

22 COUNCIL MEMBER GARODNICK: So how
23 do we know--you have identified about 530 trucks
24 out there, 405 year round, 125 in the warmer
25 seasons. How do we have a handle on those

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numbers?

LIZ WEINSTEIN: I will let Dan--

DEPUTY COMMISSIONER KASS: Every two years or more frequently if they modify their operations in any significant way a permittee [phonetic] is required to have their cart or truck or stand or green cart appear for a pre-permit inspection. At the time of the per-permit inspection, we note what type of operation that is. Depending on what they intend to vend, there are differential requirements for what those things are, but your fundamental point is correct. A permit entitles someone to operate any of these kinds of operations.

COUNCIL MEMBER GARODNICK: So let's talk about the concepts here for a second. To the extent that we give DOT or another agency the power to set out the spaces and the procedure for granting them, what does the administration think is the right number for us to be targeting here? We have a number in the bill, but that is just based on a rough understanding of what number of trucks may be out there. What is the right number for us to have spaces by whatever procedure we

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decide? What do you think is the right number?

LIZ WEINSTEIN: I think part of the challenge is that we don't know, and since we haven't done anything like this before as far as designating spots, we don't know what the impact would be. We would want to take it on a neighborhood by neighborhood basis, do a survey of any given moment in any given season and figure out what the capacity is working with Transportation, working with PD, working with Health. We just don't know. I think from our perspective today, we would certainly be more comfortable starting with a small pilot or some program that gives us a sense of how this actually would operate on the street, how enforcement could be handled, how certain permits and licenses and spots could be given out, but we just don't know exactly what the right number is for the various reasons we have spoken about.

COUNCIL MEMBER GARODNICK: So let's talk about one of the ideas that you put forth as a way to advance the bill--the idea that food trucks could bid for the right to certain locations. I think that is an interesting concept

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2 and in the bill we didn't prescribe specifically
3 what the method would be for DOT to allocate the
4 spaces so that is an idea now which we should
5 definitely consider, but let's talk about how that
6 could work because one of the issues that is of
7 great concern to me and I know to others on the
8 panel and folks who are going to testify later is
9 the ability for there to be community input,
10 community involvement in this conversation. Is
11 that limited if you were to have a straight bid
12 system or is there a way to incorporate that in as
13 far as you are concerned?

14 LIZ WEINSTEIN: I am certain there
15 is a way to incorporate it in. I think one of the
16 things that we would like to see is some onus on
17 the applicant to the program whether that person
18 is bidding, is responding to an RFP, is
19 registering with the Transportation Department or
20 another department that they have maybe done that
21 outreach with the community, so rather than in the
22 administration sort of shopping the idea around on
23 behalf of the business owner. I think we would be
24 interested in a plan where the cart or the truck,
25 that permittee is actually talking to the

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2 community, getting the sign offs from elected
3 officials before they even become eligible for the
4 program.

5 COUNCIL MEMBER GARODNICK: Let's
6 talk about the legal limitations for a moment.
7 You noted the issues about the city considering
8 brick and mortar businesses as a factor in
9 determining where a space could be. What are the
10 other if any? Are there any other limitations
11 that would guide the way the city could go in
12 placing a space at a particular location? Would
13 we be inhibited for example from limiting the
14 number of trucks on one per block face or is there
15 any other thing that would be a limitation here?

16 LIZ WEINSTEIN: So I will start to
17 answer this question, and then I will let my
18 colleagues jump in. the number one limitation
19 that we absolutely cannot consider is the one we
20 spoke about--the competition. There are of course
21 as all of you know who follow the vending world
22 other limitations in terms of what the
23 administration, Council can do in terms of First
24 Amendment vending in terms of veterans who vend.
25 There are many different pieces of state and local

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2 law that mean that limiting numbers per block
3 actually is not limiting; it is limiting certain
4 types per block, and so it is very difficult to
5 create--it is almost like putting a puzzle
6 together--limitations only because you would be
7 able to do it for one segment of the vending
8 population. We really have very little say in
9 limiting what those other parts of the vending
10 population can do, specifically the First
11 Amendment, veterans, disabled veterans, and I
12 think there is one more I am forgetting, but
13 certainly those are two big groups that we want to
14 be sensitive to and there is a lot of law already
15 written about how we can handle them.

16 COUNCIL MEMBER GARODNICK: So the
17 traditional time place manner stuff we can deal
18 with for food trucks. It is just that you can't
19 say you are a taco truck that wants to locate in
20 front of a Mexican restaurant, like the city is
21 going to somehow stand between you and that space
22 for that reason? That is right?

23 LIZ WEINSTEIN: That is right.

24 COUNCIL MEMBER GARODNICK: Okay.
25 Last point I want to make, Madam Chair, and then I

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2 will defer to our colleagues is just that I agree
3 with you about the need for a strict enforcement
4 provision in this bill to the extent that we are
5 going to do anything that is permissive, we have
6 to have the consequence if the rules are not being
7 followed and I certainly will want to include that
8 in as well as many of the suggestions that you
9 made in your testimony, so we look forward to
10 talking with you further about that. Thank you.

11 CHAIRPERSON ARROYO: Council Member
12 Koo?

13 COUNCIL MEMBER KOO: Thank you.
14 Commissioners and deputies, thank you for coming.
15 My question is this street food vendors cause a
16 lot of problems not only for small business
17 restaurants around the areas. They also cause a
18 lot of problems in residential buildings. I want
19 to ask each one of you do you have a street vendor
20 underneath your apartment building? Do you?

21 MALE VOICE: [off mic]

22 COUNCIL MEMBER KOO: I am talking
23 on behalf of some apartment building owners in my
24 area, Flushing downtown, and some of them
25 complaint to me for years. They have to smell

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2 barbecue every day 24 hours a day almost. You
3 don't want to smell that, one hour each week is
4 okay - - . Your clothes in your wardrobe smell
5 like barbecue too because there are so many
6 barbecue places-- Mongolian barbecue, shish
7 kabobs. They are all within a 100 feet from
8 residential buildings. Those people can -- for
9 five or six years. Every time they complain - -
10 . - - . It is considered a cost of doing
11 business. So there is something we have to do and
12 even business buildings--I have a bank, Chase
13 Manhattan Bank in downtown, they all complain when
14 they eat lunch - - the smoke from outside. They
15 have to smell barbecue every day, and you don't
16 want to do that. We don't want Flushing to be - -
17 a barbecue city. And let me finish, so this is a
18 good bill to start. - - to certain locations.
19 Maybe we designate an each area in each town,
20 underneath the bridge away from business and away
21 from residential buildings. In other Asian
22 countries, in Taipei, Hong Kong, they have
23 designated areas to do street vending there. You
24 can eat all kinds of gourmet stuff there--sausage,
25 whatever, barbecue. You can go to the area. You

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can buy any kind of food there--

CHAIRPERSON ARROYO: [interposing]

Council Member Koo, you have a question, right?

COUNCIL MEMBER KOO: My question is I hope the city can find an area like that in each different part of the zip code, 10355, 10368, all the vendors go to these areas. They all pay rent, \$50, \$100 per spot, so then we can regulate them better. So that is my question - - move them to a certain area, not all over scattered the city because it is not fair to business people. I own a restaurant. I don't want kabobs right in front of me. It is not helping us. Meanwhile the Sanitation Department - - little things or important things, but these food trucks even though they fine them, a lot of them don't pay. According to recent statistics all those food trucks owe the city millions of dollars in unpaid fines and no enforcements, so I appreciate the city take care of the street vendors, but we also have to take care of the small business owners too. They are the backbone of the economy. The street vendors they don't pay tax. When they renew their license, do they have to prove they

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2 pay income tax or the owners? Would you make it a
3 requirement? How much--

4 CHAIRPERSON ARROYO: For the panel,
5 if you are answering a question, make it audible.
6 Thank you.

7 COUNCIL MEMBER KOO: So forgive me
8 for my frustrations.

9 CHAIRPERSON ARROYO: We understand,
10 Council Member. We have been joined by Council
11 Members Koppell and Lappin, and on the list for
12 questions next Council Member Vallone.

13 COUNCIL MEMBER VALLONE: Thank you.
14 Let me commend this committee and Dan Garodnick
15 for taking on this issue because it needs to be
16 taken on. The lack of rules that exist right now
17 have led to the wild west side, the wild east side
18 and the outer boroughs just being left to fend
19 completely for themselves. You mentioned legal
20 precedent, which says that you cannot use
21 competition with brick and mortar in your
22 decision-making. What exact precedent is that?

23 LIZ WEINSTEIN: It's a case
24 referred to as Good Humor, and I am not a lawyer.
25 It was in the 1930s.

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2 COUNCIL MEMBER VALLONE: What court
3 was that in? It's holding up progress in New York
4 City and we don't even know what the precedent is?

5 DEPUTY COMMISSIONER KASS: We don't
6 have the general counsel office, but we can get
7 back to you.

8 COUNCIL MEMBER VALLONE: Is it a
9 Supreme Court of the United States decision?

10 DEPUTY COMMISSIONER KASS: We will
11 get back to you.

12 COUNCIL MEMBER VALLONE: Okay,
13 because if it is not we should take that on
14 because we cannot have another ivory court judge
15 telling elected officials how to do their jobs.
16 This is something we need to do. Our brick and
17 mortar establishments are the backbone of Queens
18 County and they are going out of business on a
19 daily basis, and they need to be taken into
20 consideration when we make these rules, and no
21 judge should be telling us otherwise, and I want
22 to know what that precedent is so we can work on
23 that. I agree with everything my fellow council
24 members said, so I won't say it again. You
25 mentioned inspections. I think you said scheduled

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2 inspections. Are those the only inspections you
3 do of food trucks?

4 DEPUTY COMMISSIONER KASS: No, we
5 do three general categories of inspections. Every
6 two years we inspect the vehicles or the carts or
7 the stands from which they will be vending. That
8 is called a pre-permit inspection and that occurs
9 before a permit is renewed or before a permit is
10 first issued. We do scheduled or cycled
11 inspections for food safety where we go and we
12 observe their operational activity and their
13 compliance with health code and others. The
14 police department also does its own inspections
15 where they are looking at time, place and manner
16 principally, some health code violations. The
17 last type is a complaint based inspection, so in a
18 complaint, we may get a concern about a food borne
19 illness, improper handling of food, improper
20 placement, some other issue. We go out rather
21 quickly. We then do an investigation. We issue
22 findings sometime after that.

23 COUNCIL MEMBER VALLONE: I am still
24 confused as to the type of inspections. The first
25 two inspections you mentioned seem to be

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2 scheduled, seem to be inspections that the food
3 vendor would know about.

4 DEPUTY COMMISSIONER KASS: No, the
5 only one that the food vendor would know about is
6 the one that they schedule, which is to bring
7 their cart or truck to a central facility for
8 inspection. All others are unannounced. We
9 schedule them, but they are unannounced to the
10 vendor.

11 COUNCIL MEMBER VALLONE: Clearly
12 you schedule them. People just aren't going out
13 willy nilly to do inspections. Okay. and how
14 many of these do you do per food truck per year?

15 DEPUTY COMMISSIONER KASS: We
16 endeavor to inspect every cart at least once a
17 year in an operational inspection. Some we do far
18 more than that and on occasion we miss them. We
19 have embarked on some pretty significant changes
20 this year. We have launched a hand held system, a
21 data system. We now take data from the police
22 department to try to help identify typical
23 locations of vendors, so over the next year, we
24 hope to be getting out to more of them. We have
25 increased our inspectional force, but for the most

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2 part some carts are inspected quite frequently and
3 some less frequently.

4 [crosstalk]

5 COUNCIL MEMBER VALLONE: Clearly
6 that does not sound like the optimal system to be
7 in place.

8 CHAIRPERSON ARROYO: Council Member
9 Vallone, so a designated spot will basically help
10 you better enforce and perform the inspections or
11 if you find them where they were ticketed last, it
12 is just a hit or miss. Is that what I am hearing?

13 DEPUTY COMMISSIONER KASS: Your
14 question was would knowing the location of a
15 vendor help us do an inspection, the answer of
16 course is yes. This bill would only identify the
17 location potentially of food trucks, which is the
18 minority of food vendors out there. The majority
19 of them are carts. Some vendors we already know
20 their location because they are referred to as
21 restricted area permits, so the Parks Department
22 may concession those locations. There may be
23 private locations where they have - - like the
24 Brooklyn flea or around the perimeters of parks,
25 so some we already know the location, some we

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2 don't. we endeavor to try to find it out based on
3 our prior inspection or the police department's
4 inspection results, and it is true that if there
5 were more designated locations for vendors, we
6 would have an easier time finding some.

7 COUNCIL MEMBER VALLONE: Thank you.
8 So clearly a system where you catch some and not
9 others is not optimal for the health of New York
10 City residents, and I am glad Dan Garodnick is
11 taking that one. Why are--I do not love the food
12 inspection system that exists with restaurants,
13 but why are food carts and food vendors held to
14 different standards than our restaurants?

15 DEPUTY COMMISSIONER KASS: Well, I
16 would disagree that they are held to different
17 stands. The Article 81 applies to the operation,
18 which is the Health code applies to mobile food
19 vending. They are held to the same temperature,
20 food handling, many times the same equipment
21 standards as a restaurant is. Their vendors are
22 required to get food training for food safety.
23 They are subject to inspections and violations, so
24 the standards for food safety are not different.
25 The inspectional programs differ somewhat.

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2 COUNCIL MEMBER VALLONE: First of
3 all that is news to pretty much everyone up here.
4 I don't think any of us have ever seen a food
5 vendor being inspected or being shut down. You
6 have seen that, Gale? Well, again you are in
7 Manhattan. We are in the outer boroughs. We have
8 never seen that and we receive complaints on a
9 daily basis from our restaurants. I have never
10 received a complaint from a vendor that they are
11 being inspected too much. Again, Gale has, but
12 that's Manhattan. The rest of us have not. Am I
13 wrong? Has anyone received a complaint from a
14 food vendor about health inspections? So I know
15 that Dan Garodnick just informed me he has a bill
16 in that might resolve those differences between
17 the inspections, but I know that the inspections
18 that the restaurants undergo are rigorous to the
19 point of absurdity while food carts I haven't seen
20 one be regulated in my district. So they can't
21 park at meters, which is relatively new. When the
22 meters end, 7 o'clock in the evening is there any
23 restriction at that point as to where these trucks
24 can park?

25 LIEUTENANT ALBANO: One the meter

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2 regulation is over with, so say 7 o'clock at night
3 the meters end, that person can park there
4 providing parking is not otherwise restricted.
5 The truck can stay there until the meters are in
6 effect again.

7 COUNCIL MEMBER VALLONE: So right
8 now there is nothing stopping every spot on the
9 street full of brick and mortar restaurants from
10 being taken up by food truck vendors after parking
11 regulations end. Is that correct?

12 LIEUTENANT ALBANO: Provided that
13 parking is otherwise legal, provided the street is
14 not restricted to vending. If a private car can
15 park there, they can.

16 COUNCIL MEMBER VALLONE: I support
17 the right of food truck vendors to exist as I
18 think we all do, but clearly that is not
19 acceptable, and we need to get a handle on this
20 situation before that in fact occurs. I know in
21 Julissa's district, in some areas of my district
22 it is very close to occurring right now. So
23 again, I thank the Chairs and Dan Garodnick and
24 all of you for coming down here and working on
25 this problem. Thank you very much.

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2 CHAIRPERSON ARROYO: Thank you,
3 Council Member. We have been joined by Council
4 Member Brewer and Greenfield. Council Member
5 Dickens?

6 COUNCIL MEMBER DICKENS: Thank you,
7 Chairs and thank you for coming in to provide your
8 testimony. At the onset before I ask my question,
9 I want to state that I do support--I agree with
10 you--the food carts. I do think that they provide
11 a service. They employ locally and they are a
12 definite part of the landscape of New York City,
13 but having said that, there are some problems
14 inherent in the way it is handled today, and I
15 want clarity first and Ms. Weinstein, in your
16 testimony, did I understand that you said that you
17 answered one of the questions by saying that brick
18 and mortar is not considered concerning the
19 competition between brock and mortar and vending
20 trucks. Am I correct? Did I get that correct?

21 LIZ WEINSTEIN: Yes, just to be
22 clear right now the city does not make any
23 determination except for the rules that we have
24 talked about, place and manner restrictions and
25 the parking regulation about where trucks can and

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2 cannot be. Should we move forward with the
3 Council to try to come up with a program that did
4 some sort of designation currently we cannot
5 consider the competition.

6 COUNCIL MEMBER DICKENS: Alright,
7 and so designating spaces for specific food trucks
8 whether it is done through RFP or whatever method
9 is finally determined, that might help the
10 situation--is that right--because right now the
11 brick and mortar which in my district are small
12 businesses, small restaurants, they frequently
13 have to pay fines, they pay taxes, they pay social
14 security, they pay income tax, they have to file
15 and they are being fined if they fail to do so,
16 and so I think it's a little unfair, and in
17 addition in some instances competition is
18 considered in brick in mortar, brick and mortar -
19 - you can't have two liquor stores in the same
20 block. So it is considered when it is concerning
21 brick and mortar, brick and mortar depending on
22 the type of store there, so I designating might be
23 a way of dealing with this to help the small
24 business that also employ locally and are
25 frequently owned by people from the community in

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which they service.

DEPUTY COMMISSIONER KASS: I don't think that the inability of the city to set restrictions based on competition is necessary a hindrance to setting limitations on other rational matters. To my knowledge there is nothing limiting the ability of the legislature or the City Council to limit the number of vendors per block face for example, to limit the distance from a curb. You already limit distance from an entrance to a building, so there are rational basis for limiting the number of vendors in a particular area. You also restrict certain parts of Manhattan from vending entirely. That is a rational basis that doesn't run afoul of the court decision. The court decision only spoke to the competition aspect of it, not for other rational basis for limitation.

COUNCIL MEMBER DICKENS: Alright because in my district because tourism trade is picking up significantly it has encouraged food vending trucks to be, and there is no problem with that. I enjoy it myself, but there is also problems inherent with my small businesses that

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2 pay rent, that pay taxes to the city of New York
3 just as the food vendors do by the way, and employ
4 locally. I think that has to be taken into
5 consideration just like we do with the brick and
6 mortar.

7 LIZ WEINSTEIN: So I would just add
8 to what Dan said by saying that one of the things-
9 -so we understand we certainly would welcome the
10 Council's input if your lawyers want to look at
11 the same things that we are looking at, but I
12 would also say that operationally it would be a
13 little challenging and we would have to if we got
14 over the legal precedent work with you on this,
15 but it would be operationally challenging to
16 assign a spot where there was no competition and
17 then should the landscape of a block change, new
18 restaurants open, new businesses come there, then
19 what happens to that designated spot, and how do
20 you sort of weigh the benefits of, and how do you
21 weigh the importance of each of those businesses,
22 so I think it is a legal issue, but I think it
23 also has some operational concerns as well that we
24 would have to work on. I don't want to completely
25 throw it at the legal even though that has meant

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that we can't even consider it to date.

COUNCIL MEMBER DICKENS: I am glad that you are willing to have open discussion about it. I thank you for that because although there is some truth in what you do say, if you incorporate maybe the community boards, in which the food vending trucks are licensed just like we frequently do with other restaurants and other businesses, they have to go before the community board. I think that that would help alleviate some of the problems that you described. Thank you so much.

CHAIRPERSON ARROYO: Thank you, Council Member. Council Member Ferreras?

COUNCIL MEMBER FERRERAS: Thank you, Madam Chair. Thank you to all those who organized this very important hearing today. I want to ask and a lot of the questions that I was going to ask have already been asked, but how many inspectors are there?

DEPUTY COMMISSIONER KASS: We currently have 21 full-time inspectors dedicated to mobile food.

COUNCIL MEMBER FERRERAS: 21 full

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2 time inspectors. Are they assigned by borough or
3 do they go citywide?

4 DEPUTY COMMISSIONER KASS: No, they
5 are assigned citywide.

6 COUNCIL MEMBER FERRERAS: What are
7 their hours of operation?

8 DEPUTY COMMISSIONER KASS: They run
9 in different shifts and we also run overtime and
10 weekend shifts as necessary.

11 COUNCIL MEMBER FERRERAS: Can you
12 just tell me what shifts look like?

13 DEPUTY COMMISSIONER KASS: Yeah,
14 for the most part it is an eight hour day. I
15 think some begin at nine and some begin at ten--
16 sorry--8:30 and nine and it is staggered, and then
17 we also use staff in conjunction with the
18 Sanitation Department and the police department to
19 periodically conduct sweeps in neighborhoods based
20 on complaint rates and those generally involve
21 evening, late night, weekend hours.

22 COUNCIL MEMBER FERRERAS: I just
23 want to kind of focus in a little bit on my
24 district in particular, Corona, Jackson Heights,
25 Elmhurst, east Elmhurst. My number two complaint

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2 after no affordable housing is the vending issues
3 that we have. We have a proliferation of vending
4 issues of trucks parking one right behind the
5 other. You can go to my district right now--if we
6 were to leave this hearing and go on Warren Street
7 and the people that live opposite of the five
8 trucks that are parked there 24-7, they just are
9 fed up, frustrated and the fines that are given to
10 them are just a cost of doing business. There is
11 a very large restaurant around the corner that
12 they are actually paid I think it was \$20,000 to
13 be able to have an outdoor café set up. They
14 can't even sit outside because of the smoke.
15 Whenever you walk on Roosevelt Avenue on your way
16 to work you have to go through a screen of smoke
17 to get to work. I understand that a lot of the
18 enforcement whenever there is enforcement goes to
19 those that are licensed, but not those that aren't
20 'cause the ones that aren't, there really is no
21 way of following up. there is not enough trucks
22 to tow. The fruit vendors now have their own
23 trucks taking up parking spaces with the trucks
24 full of fruit, so that they are able to rotate
25 their product, and it just seems to me like this

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2 is what I see every day and for whatever reason,
3 we still can't--I cannot give a response, and it
4 is incredibly frustrating to me as the local
5 council member that I have to have community
6 meetings and people bring up this issue to me and
7 all I can say is oh, they are enforcing. They are
8 trying their best. I would hope that as we try to
9 look at this legislation that it is going to help
10 resolve some of this, but we cannot just leave
11 areas like mine unattended. It is like the wild,
12 wild west, and I have people that come out and
13 take tours because yes, I have great food, and I
14 want more people to come to Queens and I want more
15 people to come and have a Dominican chimichurri or
16 a tamale or whatever, but we have to have some
17 type of organization, and that is not what is
18 happening in my community today.

19 DEPUTY COMMISSIONER KASS: Well, I
20 would agree with your observations. I have been
21 out there. I know what the issues are. I mean
22 just to try to put a point on some of the issues
23 that you have raised that I think Ms. Weinstein
24 alluded to in her testimony that we would invite
25 solutions to, they include the proximity of one

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2 vendor to another--currently not something we
3 can't regulate, but it could be regulated, the
4 emissions of smoke, noise, light. We would invite
5 the ability to do rulemaking on these matters. We
6 don't currently have it. The notion of the
7 excessive number on a particular block face or the
8 impeding of pedestrian traffic--right now the
9 rules as I understand them limit based on the
10 width of a sidewalk, not based on the ability of
11 people to move sort of within or between carts on
12 those sidewalks, so those are all legitimate
13 issues. They contribute to this kind of
14 congestion and wild west atmosphere that you are
15 describing, but additional rulemaking authority,
16 addressing some of these, addressing in
17 legislation some of those factors that contribute
18 to that would be a great thing and I would just
19 point out that that is a problem not just with
20 food trucks, but that is a problem of carts on
21 sidewalks.

22 COUNCIL MEMBER FERRERAS: Well, I
23 also think that there has to be an opportunity to
24 express clear rules. Because there are no rules,
25 there is also no clarity. I also get approached

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2 by the vendors. They just want some clarity on
3 what the rules are and where they can be. It's
4 almost like they get penalized for not having
5 information, and we have no information to give
6 them because nothing exists, so it is catch 22
7 where there are those who really do want to abide
8 by the rules, and I am hoping that we are able to
9 work together and get something resolved here. I
10 know that you had mentioned that the vendors and
11 the trucks are held to the same standard as brick
12 and mortar when it comes to the food quality. I
13 have seen where we have food just exposed and
14 there is no way that you can keep temperature
15 adequately. An example is one of my restaurant
16 owners had Clorox poured on his lettuce because it
17 was off temperature, right? And that was a Health
18 Department inspector and whatever, but when I walk
19 on Roosevelt Avenue and I see an entire pig in a
20 cart and rice and other things in a cart
21 underneath the elevated train I am concerned that
22 that food that is being sold is held to the same
23 standards. So you are telling me that that is
24 held to the same standard as a brick and mortar?

25 DEPUTY COMMISSIONER KASS: For a

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2 legal operation where they are subject to our
3 rules, yes. In fact, I would be happy to forward
4 you the chapter 6 rules that just went into effect
5 that clarify matters relating to both sort of
6 temperature, holding, equipment required,
7 refrigeration requirements, hand washing sinks,
8 ware washing sinks, covering to protect from
9 falling objects or flakes of paint from a bridge.
10 All of those things exist in the rules and we do
11 enforce against them when we are there.

12 COUNCIL MEMBER FERRERAS: When you
13 are there.

14 DEPUTY COMMISSIONER KASS: Which is
15 the same that is true for all food establishments.
16 We count on people to abide by the rules, and that
17 is why we go to assure that they do, and when they
18 don't, we penalize them for it.

19 COUNCIL MEMBER FERRERAS: I think
20 that I have clearly very particular needs in my
21 community and we can follow up on a one on one
22 conversation, and I would love to see the
23 legislation and thank you, Chair.

24 CHAIRPERSON ARROYO: Council Member
25 Rose?

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2 COUNCIL MEMBER ROSE: Thank you,
3 Chair. Ms. Weinstein, I want to refer to your
4 statement regarding sanitary practices. You said
5 just last week the new Health Department rules
6 went into effect intended to improve the sanitary
7 practices of mobile food vendors and the
8 commissaries they use to clean and store and
9 outfit their carts, and so I was wondering, how
10 many commissaries are there and where are they
11 located?

12 LIZ WEINSTEIN: I am going to let
13 the Health Department respond to that.

14 DEPUTY COMMISSIONER KASS: I am
15 joined by Robert Edman [phonetic], the assistant
16 commissioner for food safety, and I will let him
17 answer this question.

18 ASSISTANT COMMISSIONER EDMAN: - -
19 between 80 and 100 permitted commissaries
20 operating throughout the city in various boroughs.

21 CHAIRPERSON ARROYO: Please say
22 your name for the record.

23 ASSISTANT COMMISSIONER EDMAN:
24 Robert Edman, the assistant commissioner, bureau
25 of food safety and community sanitation.

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2 COUNCIL MEMBER ROSE: In every
3 borough, so they travel? They are not stationary
4 locations?

5 ASSISTANT COMMISSIONER EDMAN:
6 Commissaries are brock and mortar facilities,
7 stationary, and there are between 80 and 100
8 permitted at any given time throughout the city,
9 private commercial businesses permitted by the
10 city.

11 COUNCIL MEMBER ROSE: Why is there
12 the fluctuation? What impacts the fluctuation
13 between 80 and 100?

14 ASSISTANT COMMISSIONER EDMAN: As I
15 said, these are commissaries operated by private
16 businesses. They come and go out of business.
17 That is their right. That is their decision. I
18 have no idea why.

19 COUNCIL MEMBER ROSE: Is it not
20 that these food carts that they have to go every
21 night to a commissary?

22 ASSISTANT COMMISSIONER EDMAN: The
23 units, trucks and push carts are required to be
24 serviced every 24 hours and stored in one of these
25 commissaries. Yes.

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2 COUNCIL MEMBER ROSE: The fact that
3 you have between 80 and 100 of these commissaries,
4 will that impact the number of permits that you
5 will be able to issue?

6 ASSISTANT COMMISSIONER EDMAN: No,
7 they are not related. The number of mobile vendor
8 permits that we are allowed to issue is prescribed
9 by the administrative code, and that is 5,100. We
10 can't issue no more. There is no limitation on
11 the number of commissary permits. That depends on
12 demand.

13 COUNCIL MEMBER ROSE: Isn't one of
14 the conditions of this legislation whether or not
15 you were going to increase that number? There was
16 some discussion about increasing the number of
17 permits that will be issued. Was there not?

18 DEPUTY COMMISSIONER KASS: No, this
19 legislation as proposed is silent on the number of
20 permits. It presumes a certain number of trucks
21 that are already operating and it considers I
22 believe the number is 450 spots to manage them.
23 We know we have more trucks than that, and we
24 don't have the ability under current
25 administrative code to actually limit the number

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2 of trucks. A permit can be used to open a hot dog
3 cart or a truck. It is up to the permittee.

4 COUNCIL MEMBER ROSE: Clarify for
5 me. I am sorry. You don't have the ability to
6 limit the number of permits that is issued?

7 DEPUTY COMMISSIONER KASS: We do
8 limit the number of permits that are issued but
9 what we don't possess is the ability to determine
10 or to decide on behalf of the permittee whether a
11 permit will be used for a truck or whether it will
12 be used for some other kind of operation.

13 COUNCIL MEMBER ROSE: Okay. so the
14 number of commissaries have nothing to do with--
15 because they also store these trucks and carts at
16 that location.

17 ASSISTANT COMMISSIONER EDMAN: They
18 are required to. That is correct. Yes.

19 COUNCIL MEMBER ROSE: So like a
20 place on Staten Island, we don't have a lot of
21 trucks, but the ones that we do are a problem with
22 our small businesses, so the fact that I was told
23 we didn't have a commissary on Staten Island, and
24 that they were traveling to Queens.

25 ASSISTANT COMMISSIONER EDMAN: Our

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2 records indicate that there is at least one
3 commissary on Staten Island, but if they choose to
4 travel to Queens, there is nothing stopping them
5 from doing it.

6 COUNCIL MEMBER ROSE: No, no. They
7 did not choose. Believe me. They did not choose
8 to travel to Queens, but it has been reported that
9 there is no commissary on Staten Island and all of
10 our trucks and pushcarts have to go to Queens for
11 sanitizing and cleaning and storing.

12 ASSISTANT COMMISSIONER EDMAN: We
13 can get back to you with the commissaries we have
14 permitted throughout the city.

15 COUNCIL MEMBER ROSE: Is there any
16 regulation of these commissaries? Who oversees
17 them and how do you know that they are in effect
18 functioning and there?

19 ASSISTANT COMMISSIONER EDMAN:
20 These commissaries are also required to obtain
21 permits from the Department of Health. They are
22 inspected on a routine, regular basis. We respond
23 to complaints, and we perform routine inspections
24 of these commissaries.

25 COUNCIL MEMBER ROSE: So they are

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scheduled like all the other inspections?

ASSISTANT COMMISSIONER EDMAN: Yes, they are.

COUNCIL MEMBER ROSE: Would you please look into that fact that Staten Island--it has been reported that we have no commissary for--

ASSISTANT COMMISSIONER EDMAN: Yes, we can get back to you with a list of the permitted commissaries throughout the city.

COUNCIL MEMBER ROSE: Well, if we have to have the trucks and they have already been permitted, yes, I would rather have a commissary to know that they were clean and safe than to have them not following the regulations, and that was what was reported. They had not been going every night to be cleaned and stored, and so this is a great concern for us in addition to all of the concerns that my council members have expressed earlier. Thank you.

CHAIRPERSON ARROYO: Thank you, Council Member. I understand that we have members of the public in the overflow room, and I want to make sure that if they are here and want to provide testimony, they must complete the

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2 appearance card with the sergeant at arms, so if
3 you are in the back room and you haven't done that
4 please see the sergeant to do so. Council Member
5 Brewer?

6 COUNCIL MEMBER BREWER: Thank you
7 very much. A couple of issues, one is we do have
8 legislation pending to make the generators quit.
9 Is that something that you would support?

10 LIZ WEINSTEIN: I am not sure if we
11 have seen it. We would certainly take a look, but
12 I think in spirit we would be supportive, but we
13 would need to see the details of the legislation.

14 COUNCIL MEMBER BREWER: We also
15 have legislation, which I think we have been
16 taking about since I first initiated four years
17 ago a meeting with all the agencies on trucks--
18 maybe it was five years ago. I know this is not a
19 new topic. We met with all the agencies to try to
20 have reporting and posting online regarding those
21 that are trucks and those that are carts so we
22 would know which is which. Is that something that
23 you would support?

24 DEPUTY COMMISSIONER KASS: I am
25 sorry. I don't recall a bill on this--

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COUNCIL MEMBER BREWER:

[interposing] The first bill is 898 and the second one is 691. Take a look at them.

DEPUTY COMMISSIONER KASS: We will take a look at them.

COUNCIL MEMBER BREWER: Okay.

Those have been pending for some time. The other issue is that I get a lot of complaints about and then I have a more general question. I just want to know if they are legal 'cause I don't know--the lights that go around that look like a light strip. Maybe you discussed that, but that is a complaint that is in a residential community very common. Are they legal?

DEPUTY COMMISSIONER KASS: There are no regulations prohibiting the lights. We are addressing that issue in any way.

COUNCIL MEMBER BREWER: Okay, so that is something that I would love to address in that you're in a residential community and it feels like you are in Times Square to the community. Finally, my question is how do you suggest--I mean I hate to put more on the community boards because they are so strapped in

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2 terms of their staffing and all the work they have
3 to do, but I would love to see more input from the
4 community boards as to where these trucks can go.
5 Is that something that would be able to fit in
6 regulation wise? My complaint is - - , although
7 that is something, but it's all of a sudden a
8 truck shows up on 90th and Central Park West, and I
9 don't know how can it just be there, and the next
10 day there is one on 89th Street, and the next one
11 is the next one. And that is what is disturbing
12 that nobody really knows why or how and I want to
13 thank you because you are constantly regulating,
14 you are constantly visiting, you are constantly
15 giving tickets if appropriate or not so I
16 appreciate all the agencies are incredibly
17 responsive, but that doesn't help if there is no
18 law to go with. So how do you suggest--I know
19 that the administration I know is generally
20 supportive of vending and trucks and so on--I got
21 that--but I agree with Julissa Ferreras. It is -
22 - stop people from spending half their time on
23 trucks, and it doesn't make any sense. So how
24 could we work with the community boards similar to
25 perhaps the outdoor café issue-- God knows, I know

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they are busy already--to figure out how they could have some input into some of this?

LIZ WEINSTEIN: I don't think we have a baked idea really on this, but one of the things that came up earlier in the discussion is that if there were to be some sort of program designated spot pilot that from our perspective we think it would be incumbent on the person who is applying to be part of that to go through some procedure with the community. I think the administration feels less comfortable advocating on behalf of a certain business to be in a certain spot as part of our regulation--

COUNCIL MEMBER BREWER:

[interposing] I tend to agree with you.

LIZ WEINSTEIN: --but should we think there is probably a way that we could get together and come up with steps that would need to happen before someone was awarded a spot through whatever program we came up with, but again, we would want the business owner in this case to be the advocate for themselves.

COUNCIL MEMBER BREWER: Okay. So

the bossiness owner would work with the community

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2 board similar to an outdoor café kind of situation
3 in trying to figure out these business owners.
4 these vendors are wonderful human beings. I know
5 all of them. They are always in my office, but
6 they are not sophisticated in the ways of dealing
7 with the community board, but I guess they would
8 have to become sophisticated with the ways of
9 dealing with the community board. You said the
10 business to advocate, what do you mean by that?
11 I am sorry.

12 LIZ WEINSTEIN: Again, this is - -
13 for me, but I think it would be something where
14 there would be some sort of application process
15 for that person, that business, that permit holder
16 to make their case with the community. You are
17 much more familiar with the level of
18 sophistication you would need, but again, we would
19 want to leave that process with the community and
20 the owner within the confines and details of the
21 program that we come up with.

22 CHAIRPERSON ARROYO: So there is
23 nothing baked, but it sounds like it is incumbent
24 on the business owner to engage in a process to
25 discuss with the community board and other

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2 stakeholders and at the end of that process, what
3 evidence would they need to provide that they have
4 indeed gone through a good faith effort - - ?

5 LIZ WEINSTEIN: [interposing] We
6 would have to come up with something. Again, we
7 are discussing a process that does not exist to
8 enter a program that does not exist.

9 COUNCIL MEMBER BREWER: But it is
10 not different, Liz, than the newsstand. We spend
11 in the community boards hundreds of hours with
12 newsstands and hopefully, it is a process that is
13 something positive for the newsstand owner and for
14 the city and for the consumer. So I am just
15 saying that is what I would like to follow, and
16 again, these poor community boards are already
17 swamped, and I think they need more support. That
18 is a different story, but the fact of the matter
19 is that would be one way to go about it.

20 LIZ WEINSTEIN: I agree and to
21 answer your question, Chair Arroyo, I think we
22 would come up with something that we all felt
23 comfortable with.

24 COUNCIL MEMBER BREWER: Okay, and
25 generators, light strips and differentiation, you

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2 will look at some of these legislation--I am going
3 to add the light to it down the line, so thank
4 you.

5 CHAIRPERSON ARROYO: Thank you,
6 Council Member. I am going to zero in on some
7 more specific questions. Now the bill would have
8 DOT and DOHMH consult together on creating
9 designated food truck locations. Do you have an
10 opinion about any other city agency participating
11 in that process?

12 LIZ WEINSTEIN: I would think that
13 the police department would need to be involved,
14 since they are primarily charged with enforcement
15 about where carts are and when they are there, so
16 they would need to be part of the conversation as
17 well.

18 CHAIRPERSON ARROYO: The police
19 department I would imagine they would also traffic
20 enforcement be involved in that as well?

21 LIZ WEINSTEIN: It would probably
22 be a few different places within the police
23 department that would need to - -

24 CHAIRPERSON ARROYO: In theory we
25 would be taking up parking up spaces.

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2 LIZ WEINSTEIN: That is what the
3 bill proposes. Yes.

4 CHAIRPERSON ARROYO: And the
5 discussion about already limited access to parking
6 spaces, particularly in business zones, commercial
7 strips, so what would happen if a private vehicle
8 is found parking in one of those spots?

9 LIZ WEINSTEIN: That is a great
10 question, but I can let PD answer.

11 LIEUTENANT ALBANO: Any illegally
12 parked vehicle can be towed.

13 CHAIRPERSON ARROYO: So under this
14 model, the private vehicle would be considered
15 illegal parked?

16 LIEUTENANT ALBANO: Yes.

17 CHAIRPERSON ARROYO: You mentioned
18 the pilot. It is kind of floated around that term
19 throughout the discussion. Is the administration
20 considering a pilot, and if you are, are you
21 asking to hold this bill in abeyance until you go
22 through a process to shake this out and see what
23 issues come out?

24 LIZ WEINSTEIN: I think we would
25 like to move forward now in partnership with the

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2 Council, so I don't think at this point we would
3 move forward with a pilot without some sort of
4 legislation or enabling--I think it would have to
5 be legislation that allows us to step up the
6 enforcement pieces that we have discussed today,
7 so these pieces are really important to us as we
8 consider even a pilot.

9 CHAIRPERSON ARROYO: So as we are
10 considering a pilot the how an individual acquires
11 a designated spot would go through a formal RFP
12 auction. I am concerned there might be some
13 businesses that have more resources and would be
14 able to prepare a proposal better than a very
15 small business that may not have the financial
16 resources. How do we make sure that this is a
17 fair process and that every single business would
18 have equal opportunity to be designated a spot?

19 LIZ WEINSTEIN: I think there are a
20 few different options that we could look at and we
21 haven't worked out those details, but we would be
22 happy to consider them with you. The Parks
23 Department now does run a concession program for
24 food carts and that is done by bid, so basically
25 whoever offers the most for a spot. That doesn't

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2 have to be the way we go for it, but it is one
3 model that the city currently uses.

4 CHAIRPERSON ARROYO: So I think
5 that implies that we would have already identified
6 some spots, right? You can't auction for spots
7 that don't exist.

8 LIZ WEINSTEIN: Most of the Parks
9 Department concession--I don't think it's 100
10 percent, but most of the ones that they have
11 offered up are already taken so they have a couple
12 of different bid processes they go through--they
13 have gone through recently actually, and so most
14 of their spots are taken. Some are not, and so
15 those are spots that we could look at. I am not
16 sure why demand would change now, but it certainly
17 could. But I think in any new program, we would
18 need to find new locations at least for part of
19 the supply.

20 CHAIRPERSON ARROYO: Okay. So the
21 administration has about seven months left before
22 a new mayor is elected. Do you see a pilot
23 rolling out in this calendar year?

24 LIZ WEINSTEIN: I don't know. I
25 think a small pilot if we work together quickly is

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2 possible. We don't have anything scheduled, but I
3 think there is certainly time to try something. I
4 don't know that we could try 500 spaces this
5 calendar year, but we could probably try something
6 in a neighborhood that is looking to participate.

7 CHAIRPERSON ARROYO: So given all
8 the other rules about vending, which are 500 feet
9 from a public market or 200 feet from a school,
10 building entrances, et cetera, how much
11 opportunity do we have for designating spots?

12 DEPUTY COMMISSIONER KASS: I think
13 there are plenty of places that would under
14 existing limitations, the restriction of parts of
15 Manhattan, the distance from curbs, the distance
16 from openings, I still think there would be plenty
17 of spots where people could vend if they were
18 selected for designation. Now whether they would
19 be acceptable to a community, whether they would
20 pass some sort of vetting process, that is another
21 matter, but I don't think we have done a
22 geographic systems analysis to determine where
23 precisely those permitted spots would be, but I am
24 confident that there are some.

25 CHAIRPERSON ARROYO: Now given all

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2 of the issues and concerns that have been raised
3 about the enforcement or the lack thereof, which
4 is I think in many cases what creates the problems
5 that council members have articulated. In my
6 district in the hub on 149th Street and 3rd Avenue,
7 there is a party store that sells party favors and
8 those kinds of things, and on Valentine's Day and
9 Mother's Day or New Years, there is a guy that
10 sets up a table with horns and hats and all kinds
11 of other--flowers and the owner is frustrated.
12 Working with the BID, we have a meeting with the
13 police department to make sure that they are doing
14 the enforcement, so given that they experience
15 that we have on the ground level is that the
16 enforcement is lacking, what would be different
17 about designated spots and the enforcement on
18 making sure that food trucks are vending legally?

19 LIZ WEINSTEIN: I think that is the
20 question that we have, so I think what we would
21 want to make sure is that with designated spots
22 comes more teeth with enforcement, and so we know
23 that the police department and the Health
24 Department are working actively and aggressively
25 to try and be everywhere and to do what they can,

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2 but as many of you brought up for many vendors the
3 cost of doing business is these penalties, so in
4 the testimony and in our discussion there have
5 been different areas where we think legislation
6 would help us give more teeth to some of these
7 enforcement measures, and so we would want to see
8 with any designated spots more of that so that the
9 people who are vending legally have access to
10 whatever spot we decide they should have and the
11 people who are not following the rules actually
12 face some penalties that discourage them from
13 doing so.

14 CHAIRPERSON ARROYO: So I am
15 anticipating that this spot is going to cost
16 something, right? Is there a fee attached to the
17 designation of a spot and the business that will
18 be designated or using that spot?

19 LIZ WEINSTEIN: So the legislation
20 currently contemplates a fee that would cover the
21 administrative costs for the city. One of the
22 things that we like about the Parks Department
23 concession is it is a market based program, and so
24 the city actually has an opportunity to make
25 revenue from this valuable spot that we are

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2 offering to a business, so I think both plans
3 could work in theory, but in any case, the city
4 should be getting reimbursed for at least its
5 expenses.

6 CHAIRPERSON ARROYO: Have we done
7 an analysis of what revenue the city can generate?

8 LIZ WEINSTEIN: All we have done is
9 looked at the Parks Department concession. I
10 don't have those numbers on me, but I can tell you
11 what that program generates, and then we can use
12 that as a starting point, but again that is a
13 concession where we are allowing folks to pay
14 more. It is not just covering our fees. It is a
15 market based approach, but we have not done a fee
16 assessment since the legislation is fairly new.

17 CHAIRPERSON VACCA: I just wanted
18 to come back that there has got to be a
19 sensitivity to the fact that we have many of the
20 food vendors on strips where there are people
21 paying rent, and there is direct competition. I
22 have to throw that back in the mix because I am
23 hearing all of these possibilities, and I don't
24 hear that variable in the discussion. The current
25 situation is that people selling food, renting

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2 space on commercial strips often find that these
3 vendors are on the same block as they are selling
4 the same product, so how does a person who pays
5 taxes, who pays rent, how does that person survive
6 when this wild west atmosphere exists and anyone
7 can go anywhere they wish regardless of the
8 merchant that is there in place. I raise that as
9 a very important issue that I hear all of the
10 time.

11 DEPUTY COMMISSIONER KASS: I would
12 just say again that there are options available to
13 the Council to create a rational basis for
14 limiting the number of vendors in any area on any
15 block face in front of any store. Competition
16 with an existing vendor is not one of them, but
17 that doesn't in any way limit the other
18 possibilities. If Council were to determine that
19 there could be only one food cart per block, that
20 might be a rational basis for setting regulations--
21 -two, three, whatever that number is--a distance
22 between carts, an evaluation of not impeding
23 pedestrian traffic moving in streets from curbs.
24 All of these things are rational basis for
25 limiting.

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2 CHAIRPERSON VACCA: One or two
3 things quickly. If there is a food cart vendor
4 and that food cart vendor does his business and
5 there is litter on the street or on the sidewalk,
6 the person who is going to get that summons from
7 the Department of Sanitation is going to be the
8 person who rents space on the street, not the food
9 vendor. Am I right or wrong? The storekeeper
10 where that litter is is going to get the summons
11 from the Department of Sanitation.

12 DEPUTY COMMISSIONER KASS: You are
13 correct about that, sir.

14 CHAIRPERSON VACCA: It is a
15 terrible thing when people are being summonsed in
16 the city, when small businesses are being
17 summonsed left and right every day fighting to
18 exist then we face the reality that that is
19 happening to them as well 'cause many people have
20 come to me and they said, Mr. Vacca, we keep our
21 storefront clean. We can't keep up with the
22 wrappers and the paper that the food vendors
23 produce, and they are not summonsed. We are.
24 When you have these food vendors there, not only
25 is competition an issue, but how do you pick up

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2 and drop off? How do you have deliveries on that
3 block? All of these things are impeded--the
4 traffic congestion issue, but I am thinking of
5 pick up, drop offs and other things like that are
6 all impeded so I am glad you are open to talking
7 about possible solutions, and I think this
8 legislation is hitting a problem that we have long
9 had in the city that we have got to do something
10 about, but I just wanted you to know what is
11 happening in commercial strips all around the
12 city. We have business improvement districts. We
13 have vibrant places or we have places that we are
14 trying to turn around. It makes it hard for
15 landlords to rent space when a store is vacant to
16 many operations who went they see the existing
17 food vendor situation don't want to rent the
18 space, and that space stays vacant and that space
19 can't be rented because of the status quo that a
20 perspective merchant sees when he goes to rent.
21 Okay. Why don't we start calling some panels,
22 right?

23 CHAIRPERSON ARROYO: I have one
24 more question. Other cities, any examples of this
25 pilot or otherwise attempted in other cities?

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2 What has been the outcome, success, failures,
3 problems?

4 KATE SLEVIN: Boston and Chicago--

5 CHAIRPERSON ARROYO: [interposing]
6 Your name for the record.

7 KATE SLEVIN: I am Kate Slevin for
8 the Department of Transportation. We know Boston
9 and Chicago have some examples, and we would be
10 happy to share with you the legislation that they
11 have pursued to deal with the food trucks in their
12 cities.

13 CHAIRPERSON ARROYO: Following
14 Council Member Vacca's lead, thank you for your
15 testimony. Thank you for engaging in the
16 conversation, and I know that Council Member
17 Garodnick will certainly follow up with all of the
18 government entities necessary here so we have a
19 fully informed dialogue and hopefully get to a
20 place where we can inject some order into what I
21 hear is a great problem. So thank you all for
22 your testimony and we look forward to the ongoing
23 conversation. Now we are going to call panels up.
24 I hate to use a clock, so when you come up to
25 testify, summarize your comments. At the end you

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2 will notice that it will be repeated over and
3 over. So that we don't have to use a clock, I
4 just beg that you are brief in your presentation.
5 Our first panel is going to be a little crowded,
6 but I think you guys probably know each other, and
7 you will be very comfortable up there together.
8 We have David Webber, New York City Food Trucks,
9 Michael Addison, New York City Food Truck
10 Association, Sean Basinski [phonetic], Street
11 Vendor Project, Max Crespo, Neapolitan Express,
12 Joseph Glaser [phonetic] La Bella Torte--oh a
13 dessert truck. Interesting. This first panel is
14 going to set the tone for whether we are going to
15 use a clock or not. Okay. And as I mentioned
16 before I hope that there will be representation
17 from the administration and the agencies in the
18 room throughout the hearing. Correct. It
19 reassures the public that we are absolutely
20 interested and fair in this process. Okay.
21 Gentlemen, I called up five people. We have five.
22 Handle the mic by the base. Don't pull it by the
23 stem because they are a little bit sensitive.
24 When the light is on the mic is working. You have
25 to pull it as close to you as possible so that we

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2 can pick up the recording. I implore you keep the
3 conversation going quickly. I don't want to use a
4 clock. I really do hate doing that. You can
5 choose the order that you testify in and identify
6 yourselves for the record. We will hear from all
7 of you and then we will do the questions after you
8 all testify. Welcome, you may begin.

9 DAVID WEBBER: Thank you very much,
10 Chair Arroyo and council members and in
11 particular, Dan Garodnick. Thank you very much
12 for introducing this legislation. My name is
13 David Webber. I am the founder and president of
14 the New York City Food Truck Association. I am
15 also the author of the food truck handbook, and I
16 am here today with Michael Addison, our VP of
17 policy. I am happy to submit as written record
18 just to give you all a little bit of insight into
19 the industry a copy of my book, which has sort of
20 a guide on how to run a truck, some insight into
21 the economics of street vending and also some
22 insight into the regulatory structure that
23 different cities have looked into. So yeah, if
24 that is okay, it is worth \$11 I hope that that is
25 not a problem, but I am happy to send 20 copies

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2 wherever they need to go. The New York City Food
3 Truck Association is an association of small
4 businesses. They own and operate premium food
5 trucks here in New York City and they are all
6 focused on innovation and hospitality, high
7 quality food, and community development. We are
8 really looking forward to working with the Council
9 and the administration to reinvent food truck
10 vending in a way that is beneficial to New Yorkers
11 and New York City, the entrepreneurs and their
12 patrons. Food trucks have had a lot of traction
13 in New York City. As a group, our members have
14 350,000 Twitter and Facebook followers and we
15 employ about 1,000 New Yorkers and run 60 food
16 trucks here in the city. Our members have
17 contributed about three million dollars to the New
18 York City budget in 2012 and we anticipate that it
19 is going to be around four million dollars in
20 2013. 12 of our members own brick and mortar
21 restaurants, so we are working on all sides of the
22 hospitality industry. Two are in the process of
23 building out restaurants thanks to their
24 successful food truck businesses. All of our
25 members sign a code of conduct to vend

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2 responsibly, which specifically stipulates a
3 couple of criteria. One is to stay spread out and
4 I know that overcrowding is definitely a - -
5 point. So we have a rule of thumb that we ask
6 people to follow of one truck per block and we
7 also ask all our members to pick up after
8 themselves, to pick up when they show up on site
9 and at the end of the time that they are vending.
10 New York City as you know has an incredibly rich
11 history in street vending from hawking oysters on
12 Pearl Street to immigrant vendors in the Lower
13 East Side in the 20s to stock brokers selling
14 apples in the 30s to the iconic hot dog cart and
15 now we have branded food trucks, and throughout
16 their history there has been numerous examples of
17 entrepreneurs who started as street vendors and
18 went on to run iconic New York City institutions
19 including Andrew Saks of Saks 5th Avenue, Marcus
20 Goldman of Goldman Sachs and Danny Myers
21 [phonetic] Shake Shack started as a cart and is
22 now a fast growing restaurant, a chain. However
23 the rich history of street vending has left behind
24 opaque and overly complex rules that we are
25 looking forward to working with you to improve

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2 upon. Food trucks have taken New York City and
3 the country by storm. There is media coverage in
4 popular shows like the Great Food Truck Race,
5 which ended in Manhattan and Zagat, the iconic
6 restaurant review catalogue started covering food
7 trucks in 2011. So I think this past summer there
8 was a food truck on the cover of the New Yorker,
9 so food trucks are definitely part of the culture
10 of New York City. We think that food trucks have
11 a lot to offer the city. Food trucks are
12 quintessentially local businesses. They hire
13 locally, the source locally, they vend locally.
14 They are inextricably tied to the community in
15 their relationships they have with their customers
16 on the street and with their vendors, and many of
17 our vendors work out of commissaries in the Bronx
18 and are sourcing not just food, but also
19 technology like iPad point of sales systems from
20 entrepreneurs in Brooklyn. Because of their low
21 startup costs, food trucks can push the envelope
22 in terms of culinary innovation and have launched
23 national trends like Korean Mexican fusion. Food
24 trucks stimulate tourism, provide jobs, increase
25 the tax base and activate public space. After

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2 Sandy the food trucks served over 350,000 hot
3 meals to New Yorkers without power in the month of
4 November and perhaps, most importantly food trucks
5 serve to incubate new hospitality businesses that
6 end up growing into more stable brick and mortar
7 businesses within the community. Everyone knows
8 that the failure rate of new restaurants in New
9 York City is astronomical and food trucks give
10 entrepreneurs the chance to test out their
11 operations, their brand and their food in
12 different areas of the city and hone their concept
13 before taking the leap into opening a brick and
14 mortar. A failed restaurant doesn't benefit
15 anyone. It doesn't benefit the landlord. It
16 doesn't benefit the entrepreneur, so using food
17 trucks as an opportunity to beta test a concept
18 before making that big leap is incredibly
19 important and from the Association, we have had a
20 number of trucks including the Bistro Truck,
21 Cupcake Stop dessert truck, Kimchee Taco truck,
22 Mexic - - , Morris Grilled Cheese, The Mud Truck,
23 Schnitzel and Things, Souvlaki - - , the Treats
24 Truck, - - and Artisan Ice Cream that all started
25 as carts or trucks here in the city and then went

1
2 on to open if not one, sometimes even multiple
3 restaurants throughout the city. We feel that New
4 York City has unparalleled urban density and
5 incredible vibrant pedestrian culture. It also
6 has some of the best culinary talent in the
7 country. With these two incredible assets there
8 is no reason we shouldn't have the world's best
9 street food hands down, and the only thing that is
10 holding us back is a robust and well-considered
11 regulatory environment, and we see that this is a
12 great opportunity to start this dialogue towards
13 developing that regulatory environment. Thank
14 you.

15 MICHAEL ADDISON: Good morning,
16 Chair Vacca and Chair Arroyo and Council Members.
17 Thank you for having us here this morning. My
18 name is Michael Addison, and I am the vice
19 president of police for the New York City Food
20 Truck Association. I work with our president,
21 David Webber, and members of the Association on
22 police development and crafting best practices
23 that preserve the benefits food trucks provide New
24 Yorkers while also addressing the interests of the
25 city and other stakeholders. The bill we are

1
2 discussing today helps advance an important
3 dialogue about finding practical solutions to the
4 issues facing the food truck industry. Some
5 progress has already been achieved in this area
6 thanks to the efforts of Council Member Garodnick
7 and other council members who have taken an
8 interest in tackling the challenges of regulating
9 mobile food vending, but much work still remains.
10 We understand the finding an equitable solution
11 that addresses the interests of the city, food
12 trucks and other community stakeholders is a
13 difficult task and we look forward to working with
14 the City Council and the city's agencies towards
15 this goal. As we move forward with this dialogue,
16 we believe it is important to be mindful of
17 several issues relating to the implementation of
18 the proposed bill. We are especially concerned
19 about how designated food truck locations would be
20 allocated throughout the city and among vendors.
21 How locations would be added or subtracted would
22 be crucial as well. Also food trucks serve a
23 variety of communities throughout the city and
24 sometimes follow very different business models.
25 For instance, while many trucks rely on regular

1 mobility as part of their operating model, some
2 trucks instead choose to focus on serving a single
3 community and have done so for years. An
4 understanding of the complexities and nuances of
5 the food truck industry is critical for developing
6 a regulatory scheme that is responsive to the
7 nature of the mobile food market. Given the
8 complexities of regulating food trucks and mobile
9 food vendors, we believe it is advisable to
10 develop principle based policy guidance that
11 focused on desired outcomes more than specific
12 methods. The mobile food vending market has
13 evolved immensely in recent years; however, as
14 this hearing has illustrated our vending
15 regulatory framework has not evolved with it.
16 During the rapid innovation and change that can
17 occur within this marketplace maintaining
18 flexibility within any new regulatory scheme is
19 imperative. We welcome continued dialogue and
20 truly appreciate the efforts of the City Council
21 and the agencies to provide greater regulatory
22 certainty for the food truck industry. Also aside
23 from the topics just discussed we also welcome
24 continued dialogue on other issues as well,
25

1
2 including food safety, pedestrian safety and
3 refuse management as they relate to food trucks
4 and mobile food vending. We believe in being
5 stewards of our community and these issues are of
6 great importance to us. Through our development
7 of best practices and self-imposed guidelines of
8 the New York City Food Truck Association we hope
9 we can serve as a model for the city and our
10 industry. Thank you for your time and
11 consideration.

12 JOE GLASER: Hello. Good
13 afternoon. Thank you. This is a great issue that
14 you have put on hand, and my name is Joe Glaser.
15 I own the La Bella Torte dessert truck. I am the
16 only dessert truck in New York City that sells
17 specific Italian desserts, cannoli. I have owned
18 a food truck now for two years. Prior to owning a
19 food truck I was a union plumber for almost 30
20 years. I lost my job when the economy tanked, had
21 no choice but went back at 45 years old to
22 culinary school and learned how to become a pastry
23 chef and started my own business. The reason I
24 opened a food truck is because I can't afford to
25 open a restaurant. Someday I want to open up a

1
2 bakery, but right now it is very difficult to
3 operate a food truck in New York City. We all
4 know that. The permitting is difficult. Right
5 now I work through lots through the Food Truck
6 Association, private events and street fairs.
7 This would be a great opportunity if you could do
8 certain things like make location specific
9 permits. The city could possibly sponsor a food
10 truck rally once a month like David does at
11 Prospect Park. Even other cities have offered
12 food truck parks--the little squares and
13 everything in California, Boston and what have
14 you. Councilman Vacca, I have heard some of the
15 things that you said. I agree and disagree with
16 you. We do pay taxes. I pay social security. I
17 pay everything, and you know what? If you come to
18 my truck, it is spotless. You could eat off the
19 floor. I think trucks and mobile vending carts
20 should be a separate issue individually because
21 trucks are like restaurants on wheels basically.
22 We basically have the same equipment that
23 restaurants have in them where a cart is limited
24 to what? Five feet, David? Five feet by ten
25 feet, so their food is out in the open air and

1
2 what have you. Ours is protected, and you can
3 spot check us anytime you want. Other than that I
4 think that this is a great legislation and I hope
5 it passes, and I hope something happens soon.
6 This way I can make a living and everybody else
7 can.

8 SEAN BASINSKI: Thank you. My name
9 is Sean Basinski. I am the director of the Street
10 Vendor Project at the Urban Justice Center. I am
11 also a former vendor myself, and the Street Vendor
12 Project we have about 1500 members who sell food
13 and merchandise, some of them on the streets,
14 including some who sell from trucks. We were not
15 consulted about this legislation in advance, but
16 we do appreciate the chance to come and testify
17 here today. I have testimony, which I have
18 written, but I am not going to read it. I will
19 just go through a few of the points. First of all
20 echoing everything that David especially said
21 about the benefits of vendors of all kinds
22 certainly including food trucks do bring to our
23 city in terms of activating public space, in terms
24 of incubating small businesses, in terms of
25 providing safety on the streets, all of the eyes

1
2 and ears--the vendors are out there watching over
3 things; we saw that in Times Square--paying taxes,
4 providing jobs and really reflecting what New York
5 City means to me, which is a place where people
6 can come and live out their dreams as small
7 business owners - - our immigrants or other people
8 who come here because they dream about making a
9 life for themselves in New York City. Getting to
10 the specifics of this bill, we appreciate the
11 effort to deal with this matter, but we don't
12 support this bill because we don't think it does
13 anything substantial--that is it just kicks the -
14 - decisions on to the Department of
15 Transportation, a body that has never really
16 thought much about vendors at all. So the main
17 question is it is better to have spots for vendors
18 than no spots, of course. We understand that, but
19 the first question then you ask is well, where
20 will the spots be? If they are all on 11th Avenue,
21 if they are in spots where vendors can't make a
22 living, then those spots are not good for
23 anything. Right now there is no standards. There
24 is nothing to determine how DOT and the other
25 agencies are supposed to determine where these

1
2 spots are and frankly the forces who are aligned
3 against vendors have a lot more resources and they
4 are going to be able to fight against the spots
5 much more than the vending community is going to
6 be able to fight for the spots. That is a theme
7 that I really see reflected speaking to so many
8 council members. We know that your brick and
9 mortar businesses are very effective at voicing
10 their complaints and their opinions to you, and we
11 respect that. Vendors by and large don't have the
12 resources, the social resources, the capital or
13 the ability to know where to turn. When we in
14 fact as an organization do go meet with council
15 members, they are shocked to hear the same
16 complaints, more complaints from vendors often
17 times than from brick and mortars, but they are
18 not hearing that from the vendors, and so the
19 scales are really tipped, and that is why we hear
20 so many council members understandably speaking
21 about the complaints that their brick and mortars
22 have and not talking about the other complaints
23 that their vendors in their districts have, and
24 that is why for example a few council members have
25 slipped and said small businesses today when

1 really they meant brick and mortar small
2 businesses. Vendors are small businesses, and
3 that is a really important thing to get across and
4 I understand it is just often times a verbal slip.
5 DOT has never in our experience they have never
6 seen vendors as part of the streetscape, a
7 legitimate part of the streetscape. In fact just
8 a couple of weeks ago we had a DOT put a bench in
9 one of our vendors spots on the sidewalk in
10 Brooklyn. We have asked them to move it aside so
11 the vendor can keep vending, and they have
12 refused. They prioritized a piece of metal over a
13 person who is trying to support himself and his
14 family with a small business on the street. So we
15 don't think that that is a good decision to simply
16 kick the can onto DOT and NYPD. It will just make
17 things more complicated. The better solution is
18 actually very simple and it is not going to
19 require hundreds of hearings about particular
20 spots. That is to allow food truck vendors to
21 vend from metered parking spots. This is what
22 happens in other cities, and it allows those spots
23 to be used when food trucks might not be there to
24 generate revenue for the city and also allows the
25

1
2 revenue to be generated when food trucks are
3 there. Vending is advantageous because it is a
4 flexible business model. It allows you to go in
5 different spots depending on the day of the week
6 as the city changes, and so I looked up and saw
7 that there are 81,000 metered parking spots in new
8 York City, and so a couple of hundred food trucks
9 are not going to have a substantial impact on the
10 ability of anyone to find a parking spot if they
11 are allowed to park in metered parking spaces.
12 That would be a very simple fix. As for
13 complaints, legitimate complaints about noise or
14 trash or anything else, those are best dealt with
15 through existing regulation of existing laws.
16 There are laws against leaving trash. There are
17 laws against noise. In fact, our organization has
18 often intervened when there are complaints about
19 vendors from local residents or local brick and
20 mortars to try to resolve those issues, and we
21 continue to be willing to work on those issues
22 that come up in certain neighborhoods, and with
23 the Council as well we thank you very much for
24 your time.

25 CHAIRPERSON ARROYO: Before you

1
2 begin, I just want to acknowledge we have been
3 joined by Council Member Ulrich.

4 MAX CRESPO: Chair Arroyo, council
5 members, thank you. My name is Max Crespo. We
6 have been here for a while, so I won't take up a
7 lot of your time. We created a company called the
8 Neapolitan Express. It is the first food truck
9 that runs both the engine and the power generation
10 on compressed natural gas. One of the things that
11 I haven't heard here a lot is about public safety
12 for the community, and it should be our
13 environment both locally and worldwide. Right now
14 we have a--our number one--I believe that food
15 trucks and food carts both are the same thing,
16 especially when you have something that can be
17 easily regulated and we have propane tanks that
18 are on the streets of New York, which are not
19 commercially legal for transportation. Department
20 of Transportation allows for certain fueling
21 sources like gasoline tanks, natural gas tanks,
22 diesel tanks. We have food carts that are not
23 trailed. We don't have plates on them. There are
24 several things that could be enforced without
25 having new legislation. What I believe that we

1
2 should all be doing is helping our city become
3 cleaner, greener and have new viable alternatives
4 to both energy and food. I believe that food
5 trucks and food carts provide a diverse culturally
6 experience, which being a native, that is
7 something that--New York is a melting pot, but it
8 can be done in a clean, green and safe manner.
9 That should be tantamount, especially given events
10 that we have seen targeting New York City bridges
11 and tunnels. It is very important.

12 CHAIRPERSON ARROYO: Council Member
13 Garodnick, you have some questions?

14 COUNCIL MEMBER GARODNICK: Thank
15 you very much for the reminder. Thank you,
16 gentlemen for your testimony, and I wanted to just
17 start off by making one observation, and then I
18 have a few questions for Mr. Webber and perhaps
19 for the rest of the panel. I certainly respect
20 the importance of these trucks in the context of
21 the history of food vending in New York City and
22 their popularity and their nature as an incubator
23 for other businesses, but at the end of the day I
24 think it is really important for the city to
25 establish a set of rules where we are establishing

1
2 the places and locations and times in which
3 vending is appropriate and that they are clear
4 enough for the vendors to understand and clear
5 enough for the police to understand and clear
6 enough for communities to understand so that we
7 strike the right balance here, so the idea that we
8 would just simply step back and say vendors, it is
9 up to you, we are going to let you go wherever and
10 whenever, that is not something that I would
11 support even as somebody who actually respects the
12 importance of the vendor community and in this
13 particular case, the need for us to establish a
14 place where trucks actually can operate legally.
15 So with that, I wanted to ask Mr. Webber what you
16 thought about the administration's testimony about
17 the idea of a bid system. We as Mr. Basinski
18 pointed out, we didn't specify in this bill
19 precisely the method for determining the spots and
20 that was deliberate and we really also wanted to
21 have this hearing to hear what people thought of
22 the various potential methods out there, but the
23 administration came in and they suggested that
24 perhaps there could be a system of bidding for the
25 spots. What would be the implications for that

1
2 and what would you and the Association feel about
3 that sort of a system as opposed to any other
4 potential route that could be available?

5 DAVID WEBBER: I am excited to hear
6 that we are on the same page about rules and
7 transparency. I think that that is going to help
8 us all a lot. We had a quarterly meeting last
9 night and the Department of Health and Mental
10 Hygiene and the FDNY were both kind enough to come
11 and send representatives to help us understand
12 more fully some of the rules and regulations that
13 are out there. It was quite edifying, and I think
14 that an increased dialogue can only be a good
15 thing and a lot of thought and consideration to
16 come up with a right solution for New York is
17 definitely tantamount. In regards to a bid
18 structure, that is something that we haven't fully
19 floated with our members yet. I think that one
20 mechanism that it does allow for is a cleaner
21 allocation, but I think it is administratively
22 quite complicated. I think that there is a couple
23 good precedents out there in terms of something
24 just more along the lines of a principally based
25 solution looking at L.A. or what we are trying to

1
2 do internally within the Association of just
3 holding ourselves accountable to have one truck
4 per block. Obviously, we are 50 of 450 trucks I
5 gather out there. So we don't have leverage to
6 the entire community, but we feel like that sort
7 of principle based is a good maybe starting point,
8 but we definitely respect the right of the city to
9 administer its space and curate its space, so if
10 there is a way to get from here to there, it is
11 definitely something we are open to exploring, and
12 I think that Boston is a great precedent for it
13 because they have set aside some amazing spaces in
14 front of City Hall, in front of big public plazas
15 and really used mobile food to activate public
16 space, and it has really been a win, win for the
17 community and the vendors, so it really all
18 depends on the specifics.

19 COUNCIL MEMBER GARODNICK: So if
20 Boston is potentially a model how exactly did they
21 make their designations of spaces in those areas
22 that you described?

23 DAVID WEBBER: One of the things
24 that they have as an advantage is they are not
25 coming with the legacy of street vending, so we

1
2 have hundreds of years of experience and culture
3 and rules and regulations whereas the have built
4 something from scratch and they also have about 30
5 vendors, so the way they allocate spots is they
6 get everybody in one room and then they go around
7 and take turns picking. That is not going to be
8 scalable to 450 trucks or 3,000 spots.

9 MALE VOICE: Also one of the things
10 - - is there are also different rules for disabled
11 veterans, which has a long history after the civil
12 war and that is why before we add new regulation
13 we would always look we have such a mountain of it
14 now that a lot of it would just probably just
15 create more work for - - and the courts.

16 COUNCIL MEMBER GARODNICK: What
17 does it mean--this is back to the Food Truck
18 Association--what does it mean to have principles
19 based policy guidance that focused on desired
20 outcomes more than specific methods? You
21 referred--help us understand what that means.

22 [crosstalk]

23 DAVID WEBBER: So there is a couple
24 of themes that have sort of developed. I am
25 hearing a recurrent idea of overcrowding, of

1
2 competition between brick and mortars and mobile
3 vendors, of noise and exhaust potentially like an
4 imposition in terms of getting deliveries at brick
5 and mortar. The one that strikes me that seems to
6 resonate the most, and you would have to tell me
7 about what is happening in your communities is
8 really the overcrowding, and so internally the way
9 we have tried to deal with that is one truck per
10 block because then you are not getting the five
11 trucks on the block and with the trucks spread out
12 a little bit it is usually enough that it can be
13 absorbed into the streetscape and the nice thing
14 that we think about the principle based solution
15 is that it is a lot easier to administer. One of
16 the things that we were talking about with the
17 Department of Health was the idea of letter grades
18 for trucks and the effort that something like that
19 might take, so the more oversight and control,
20 there is a lot of potential benefits of that, but
21 it also like a longer lead time to get to that
22 desired outcome, but I think that I am not saying
23 that it is insurmountable. I don't know what the
24 resources of the city are, I assume that they are
25 considerable, and if it's worth it for 450 trucks

1
2 to come up with the right thing, we are going to
3 be here to help you do it every step along the
4 way.

5 COUNCIL MEMBER GARODNICK: Thank
6 you. Do you feel comfortable with the idea of our
7 legislating some of what you just described, the
8 one truck per block face? That is certainly a
9 principle that you guys adhere to within the 50
10 trucks that you represent or the 50 entities.

11 DAVID WEBBER: It is something that
12 we do, aspire to that obviously I don't have the
13 full force of the NYPD to designate that rule or
14 to enforce that rule, but it is something that
15 collectively our members have agreed to.

16 COUNCIL MEMBER GARODNICK: And you
17 think is reasonable?

18 DAVID WEBBER: Yeah. I mean I
19 think that there are certain circumstances and
20 even speaking to BIDs in addition to going around
21 and speaking to council members, we like to talk
22 to the bids to hear how things are going on the
23 ground and there are circumstances where there are
24 cross streets than less active than avenues and
25 they would potentially quite like to have more

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2 commercial activity on a cross street to get more
3 flow through the neighborhood, so I think there is
4 so much possibility within mobile food that I
5 think that acting hastily to come up with one size
6 fits all solution is really challenging.

7 SEAN BASINSKI: You are forgetting
8 one thing. You keep referencing trucks though.
9 If you have one truck per block that is not going
10 to prevent five carts and now you have--one truck
11 per block is simple.

12 COUNCIL MEMBER GARODNICK: Do you
13 think we should take an extra step and say that
14 you can either have a truck or a cart on that
15 block?

16 SEAN BASINSKI: But now you are
17 talking about 5100 blocks.

18 [crosstalk]

19 SEAN BASINSKI: I don't have an
20 answer for that. What I can say is there are laws
21 that you can enforce today for example, DOT, FDNY,
22 NYPD if you were to want to eliminate all carts
23 you can very simply. You just turn around and say
24 does your propane tank have a venting system? No.
25 Okay. Well, this is not a commercial propane

1
2 tank. It is illegal. It is not vented, and it is
3 a fire hazard and you get rid of all of them. If
4 you wanted to get rid of all of them, you could do
5 so tomorrow. I don't think New York City and the
6 people that frequent them would like that, but
7 that could be done.

8 DAVID WEBBER: In L.A. there is
9 principle based solution. There is a 50 foot rule
10 in L.A., and in New York there is a 20 foot rule
11 that vendors shouldn't be within 20 feet of each
12 other which was overturned through the courts
13 historically, so there is something there
14 potentially.

15 MALE VOICE: If you are going to
16 make 450 parking spaces for trucks, then the areas
17 where one truck or two trucks per block are
18 allowed don't allow food carts.

19 SEAN BASINSKI: Unfortunately you
20 have legal precedent that does not allow that to
21 happen and you would have veterans groups that
22 would successfully challenge that in court. There
23 is multiple precedents. Perfect example is in
24 front of the museum, you have the city Parks
25 Department has a bid and you have two disabled

1
2 veterans that do not adhere to that bid.

3 COUNCIL MEMBER BREWER: They fight.

4 COUNCIL MEMBER GARODNICK: Let me
5 ask one last question 'cause there are others
6 waiting. The mobility element of the food truck
7 world seems pretty important at least from my
8 perspective to be able to have some flexibility in
9 where you go. I also think it is probably
10 beneficial for business. It is probably good for
11 neighborhoods too. In a bid system it is unclear
12 to me and we have not explored this as a
13 particular route, it seems that trucks might be
14 designated for a fixed period of time to a
15 particular place defined by some period of time,
16 and I don't know exactly what that would be. How
17 important is the mobility element here as opposed
18 to the stay in one place interest of a food truck?
19 I can see a benefit on both fronts, but when we
20 are thinking about how to write the rules like
21 which is the--explain for us the principles that
22 we should be thinking about.

23 DAVID WEBBER: I would say that
24 trying to accommodate the ability to do both. If
25 you set aside spots that are available to be bid

1
2 upon per day a truck that has a business model
3 that is predicated on moving around the city and
4 so maybe they have something that is more
5 indulgent like a lobster roll, so an expensive
6 lobster roll is not something that are people are
7 going to get Monday through Friday and so it is
8 really to their benefit and to the benefit of the
9 community to have like really great lobster rolls
10 brought in from Maine today on the Upper West
11 Side, tomorrow downtown for them to move through
12 the city whereas a different business model,
13 potentially something like a coffee truck, they
14 are really going to want to be in the same
15 community every day because that is how they
16 operate. People are extremely habitual on their
17 way to work. They always want their same cup of
18 coffee at the same spot.

19 COUNCIL MEMBER GARODNICK: Thank
20 you. Thank you, Madam Chair.

21 CHAIRPERSON ARROYO: Thank you, Mr.
22 Garodnick. I thank you all for your testimony.

23 MALE VOICE: Can I just add one
24 more thing. I am sorry.

25 CHAIRPERSON ARROYO: Yes, Council

1
2 Member Ulrich.

3 MALE VOICE: Can I just add one
4 more thing?

5 CHAIRPERSON ARROYO: Sure, and then
6 Council Member Ulrich.

7 MALE VOICE: With this whole
8 process just rotate the trucks in certain areas
9 that you are going to put. If you have a grilled
10 cheese truck on Monday and Tuesday in one spot
11 offer the bid up to somebody else for Thursday and
12 Friday or something like that. This way there is
13 more flexibility and everybody gets a chance to
14 eat the good food of the street on the street.

15 COUNCIL MEMBER ULRICH: Thank you,
16 Madam Chair. Thank you to the author of the bill.
17 I had the opportunity to listen to your testimony
18 although I came to the hearing later so I
19 apologize I didn't get to hear the
20 administration's testimony, but I did review it.
21 I also appreciate the hard work that the men and
22 the women put into making successful businesses
23 start up or continuing their business by selling
24 food off a truck. I appreciate food that comes
25 off a truck. Where I come from people buy lots of

1 things that come off a truck, and not just food,
2 but the point is that I have two concerns. First
3 I am not sure that I am very comfortable with DOT
4 and Department of Health designating food truck
5 locations because sometimes DOT likes to put
6 things in my community that everybody is against
7 that we really don't want. I won't mention
8 anything in particular because I am sure it will
9 be mentioned on the Transportation blog later
10 today, but the point is that DOT will come with
11 paint or with building materials and put something
12 in the community that a community board doesn't
13 want, that the residents don't want, that the
14 elected officials don't want, and it is there
15 anyway, so I don't know that I trust DOT to give
16 them the power to designate food truck locations
17 when the community may not necessarily be
18 comfortable with or feel that they are not
19 appropriate at those locations, so maybe the bill
20 can be amended or looked at the include the role
21 of the community board or other community
22 stakeholders if not already if it's in there.
23 Okay, he says it is in there. That is good, but I
24 am very leery of giving DOT more power than they
25

1
2 already have in general. The second concern that
3 I have--or question is that does the city have the
4 ability to prohibit food trucks and food carts in
5 certain locations? Do they have restrictions that
6 they put on the books? They do or they don't?

7 MALE VOICE: Absolutely.

8 COUNCIL MEMBER ULRICH: So there
9 are certain areas in the city where they say no
10 trucks, no food vendors whatsoever. Do they
11 restrict the hours of operation in the places
12 where they are allowed to be up and running?

13 MALE VOICE: Sometimes yes.

14 COUNCIL MEMBER ULRICH: Sometimes.
15 Well, in my district we had a food truck that was
16 on Rockaway Boulevard and 80th Street and we
17 couldn't get rid of the guy. He was there until
18 four o'clock in the morning, blasting music until
19 the wee hours of the morning. The only nearby
20 business was a Laundromat. It wasn't a high
21 traffic location. This was an opportunity for him
22 to seal whatever it is that he was trying to sell
23 there, and it took us a year and a half to get rid
24 of him. Obviously he wasn't a good businessman
25 because he wasn't engaging in good business

1
2 practices. Finally, he went over into east New
3 York across the border, and now he is driving the
4 people in Brooklyn insane. He is no longer in my
5 district, so he is no longer my problem. But the
6 point is that it is very hard to enforce these
7 laws, the laws that are already on the book, and
8 this is what the sponsor of the bill was getting
9 at before is that these laws should be easy to
10 understand, easy to enforce, easy in general. It
11 shouldn't take an expert from the Department of
12 Health or a person at the NYPD to know that
13 operating a food truck at a certain location at
14 three o'clock in the morning is not appropriate--
15 maybe in Times Square it is appropriate. Maybe in
16 parts of the city where there is 24 hour business
17 and we want to encourage it that it appropriate,
18 but in residential communities or in bid
19 districts, it is not appropriate.

20 SEAN BASINSKI: You answered your
21 own question, you, yourself, Councilman. There is
22 so many rules and regulations. This is why adding
23 them really doesn't do that much. You didn't know
24 that there are certain parts of the city that are
25 verboten for food vending, the reason being if you

1
2 were to go look at the rules and regulations it's
3 yea thick and who has got the time to read several
4 hundred pages of regulations? NYPD is already
5 doing yeoman's work as it is, and so public
6 servants, we are going to ask them to do more.
7 Boston is great because of what they have said.
8 The started from a clean system, which it's a lot-
9 -

10 DAVID WEBBER: I don't know what
11 the legal precedents for this are, but one tool
12 that they use is a GPS so that the trucks can
13 always be found, which is something that we aren't
14 opposed to.

15 SEAN BASINSKI: You could do what
16 the taxi medallions do. Institute a POS system
17 like New York City taxis. Right now the food
18 truck, food cart industry, mobile food vending,
19 there is about from our calculations I think there
20 was \$175 million worth of sales tax that New York
21 City didn't receive. Same thing if you remember
22 the New York City taxi cabs before when I was a
23 kid there was no such thing as a credit card
24 machine on a taxi and when someone said to me they
25 were going to force New York City taxi guys to put

1 a POS system I said, yeah, good luck doing that.
2 Well, they did it and it has been a boon for the
3 city. It has been a boon for the taxi - - and
4 that could be a very easy way to get GPS, POS
5 sales tax revenue, and it will help the city
6 become more efficient and have accurate deduction
7 of sales tax. It could probably fund I think your
8 total pre-K budget.

10 COUNCIL MEMBER ULRICH: That is
11 very interesting. That was also one of my
12 concerns however that the city would somehow use
13 this as another revenue generator and I don't want
14 to drive up the cost of business, but I read
15 somewhere that the city was exploring or thinking
16 about a pilot program where they auction off
17 locations. Well, that is not very fair either.

18 SEAN BASINSKI: I am not speaking
19 about auctioning. I am speaking about accurate
20 deduction of collection of sales tax.

21 COUNCIL MEMBER ULRICH: I agree
22 people need to pay their sales tax like everyone
23 else. In fairness to the brick and mortar
24 businesses as you describe them, they have to
25 comply with enormous regulations, enormous rules,

1
2 also rules that they don't understand several
3 hundred pages whether it's DCA, Health Department,
4 Buildings Department, Fire Department, Consumer
5 Affairs Department whatever it is. They are
6 paying taxes, insurance, they are paying to be in
7 those locations, and it is not fair to them if I
8 own a pizzeria and I have to post the prices on
9 the top of the menu and I have to have certain
10 signage and I have to wear a hat and I have to
11 wear gloves and I have to have certain
12 certifications that somebody can come tomorrow and
13 I am paying \$3,000 a month rent to be in my
14 location and some guy or girl can come tomorrow,
15 prop his truck in front of my store or down the
16 block and sell the slices at a quarter less a
17 slice, and he is going to put me out of business.
18 How is that fair to the brick and mortar
19 businesses. That is what has to be a delicate
20 balance here.

21 DAVID WEBBER: The city is I think
22 as it was discussed earlier, the city is in a
23 tough spot in terms of regulating based on
24 completion because of the Good Humor lawsuit from
25 1943 but one thing that I can assure you is that

1
2 the economics for hospitality businesses are quite
3 similar. I have run both a restaurant and a food
4 truck and the biggest expense for both of them is
5 food. People on average are spending about 30
6 percent of the money that they are collecting on
7 food. Then usually 35 percent on labor. No
8 matter what you are running you are probably
9 spending 65-70 percent of every dollar collected
10 on just those two things. Nationally restaurants
11 and this is according to the National Restaurant
12 Association are spending about eight percent on
13 rent. Here in the city people do spend more on
14 rent. They are spending 10 percent, 12 percent,
15 and while the trucks aren't paying the same rent,
16 they are paying rent in another way. Every truck
17 is mandated by the Department of Health to stay at
18 a commissary as was discussed earlier, so they are
19 paying rent sort of in the outer boroughs.

20 COUNCIL MEMBER ULRICH: How is that
21 enforced? How do we know if they are staying at a
22 commissary? That is a good question. I don't
23 know the answer.

24 DAVID WEBBER: So in order to get
25 your permit you need to come with a notarized form

1
2 that shows the commissary that you keep your truck
3 at and as part of an inspection you have to
4 provide that as well as explain. Also the new
5 regulations stipulate that a commissary owner
6 needs to track what is happening at the commissary
7 every day in regards to trucks that visit or
8 carts.

9 COUNCIL MEMBER ULRICH: That is a
10 good question maybe the Chair can ask the
11 Department of Health. How does the city know that
12 a commissary isn't saying that--if they only have
13 100 spots let's say and there are 500 notarized
14 letters out there, 600 well obviously they are not
15 all going to the commissary. I mean that is
16 somewhat duplicitous. I don't know if it happens
17 or if it's a problem.

18 SEAN BASINSKI: There are about 100
19 commissaries to only 3,000 carts, so that would be
20 - - .

21 CHAIRPERSON ARROYO: I think it is
22 a legitimate question, Council Member and we
23 certainly will follow up. They are permitted and
24 licensed to operate so the city knows where they
25 are at and we can certainly follow up with more

1
2 detailed questions. Council Member Brewer?

3 MALE VOICE: As far as pizzeria or
4 brick and mortar, if you are going to worry about-
5 -I am not being arrogant--if you are going to
6 worry about a food truck taking business from you
7 then maybe you ought to look at the product that
8 you are putting out. Also, I live in the
9 Williamsburg area. There are what they call
10 triangles that are run by the Parks Department,
11 but the Parks Department says that the city owns
12 them. I don't know how it works, but they are not
13 close to brick and mortars, but yet they are in an
14 area where people walk. They are by subways and
15 what have you. It won't conflict with the brick
16 and mortars and it is not a bad thing to put on
17 the table. You could take say three trucks and
18 put it over there instead of one and you are not
19 going to take away from other business. We will
20 pay our taxes and we will pay a permit fee or
21 whatever bid that you want for it.

22 CHAIRPERSON ARROYO: Council Member
23 Brewer, and then I am going to close down the
24 discussion on this panel. We have other people
25 who are waiting to testify.

1
2 COUNCIL MEMBER BREWER: I have got
3 a few questions. First of all what does the
4 community board input look like you if you support
5 that because obviously one of the concerns is how
6 to get input from the community, and it is a
7 challenge, but I do think at least in a lot of
8 neighborhoods it is done fairly with the
9 newsstands and some of the other similar requests,
10 public space in general. How does it look for you
11 in terms of how it would be taking place--
12 community board input?

13 DAVID WEBBER: I think that in
14 theory one of the things that we definitely ask
15 all of our members to do is vend responsibly
16 within the communities that they are in, so we
17 would definitely be open to the idea of making
18 sure that vendors are vending responsibly where
19 they are, and we will help facilitate that, so if
20 you are having problems with one of our members
21 definitely get in touch with us and we think that
22 it--we agree it's incredibly inflammatory for a
23 pizza truck to be in front of a pizza restaurant.
24 I don't know the community board processes well
25 enough to comment on what that might look like. I

1
2 think one thing that needs to be balanced from an
3 administrative perspective when you start thinking
4 about all of these locations being dictated daily
5 and preserving the idea of mobility, that single
6 newsstand which is done like once per year all of
7 a sudden becomes much more complicated if you need
8 to bring in five people or seven people for that
9 spot.

10 COUNCIL MEMBER BREWER: That is why
11 I am wondering how this is going to work.

12 DAVID WEBBER: I think that that is
13 definitely an important consideration.

14 MAX CRESPO: I agree with Dave on
15 that. I am not part of an association, but I will
16 say that I have dealt with the community boards in
17 the past in the previous businesses that I was in
18 and I believe that we should definitely at least
19 allow--at least if we know that we are going to be
20 in those communities at the very least go to those
21 community boards.

22 COUNCIL MEMBER BREWER: I
23 understand that, but this would be a process that
24 is different and an official process. I am for
25 it, I just don't know how exactly and I have been

1 on a community board for a long time.

2 MALE VOICE: - - .

3 COUNCIL MEMBER BREWER: Listening
4 is fine. How it works is a different story.
5 Number two, the issue of moving around. I know a
6 lot of people who run trucks and I have been in
7 the trucks and I know what they go through. I
8 know both sides of the issue, and they use
9 Twitter, so in the morning, they tweet out where
10 they are going to be and then there is a long line
11 at least for the people I know. So how would that
12 work under your scenario because they are in a
13 different space every day? That is what they do.
14 How would that work with this bill--I don't know
15 that it works, so I am asking.

16 DAVID WEBBER: Social media is an
17 important way in which New Yorkers find mobile
18 food. Right now it is used both for street
19 vending trucks that are finding spots on their own
20 and also there are lots in the city like at the
21 World Financial Center - - and those trucks tweet
22 from there as well just to notify people in the
23 neighborhood.

24 COUNCIL MEMBER BREWER: But how
25

1
2 does that--in other words under the bill people
3 would be able to move if this bill is to pass, and
4 I don't know that it will, they would move from
5 space to space. It was allowed every day. I just
6 don't know how that works with community input. I
7 wanted to see how the two go together.

8 MAX CRESPO: To answer your
9 question, I have no idea.

10 COUNCIL MEMBER BREWER: I am just
11 trying to say this issue is complicated and I am
12 not sure one bill is going to solve it. The final
13 issue is green technology. We have a bill to do
14 that, which is to do what I think you already
15 have. Is that something that you would support?

16 MAX CRESPO: Absolutely.

17 COUNCIL MEMBER BREWER: I know you
18 already have it. I am asking him.

19 DAVID WEBBER: We have been talking
20 about that actually. All the trucks I think that
21 they are held to EPA level four generators. All
22 of the members--

23 COUNCIL MEMBER BREWER:
24 [interposing] That is what we have in our bill.

25 DAVID WEBBER: All of the members

1
2 of the Association are already in compliance with
3 that, and I think that the dates--

4 COUNCIL MEMBER BREWER:

5 [interposing] But not all of the food trucks are
6 because not all food trucks are in your
7 association. We have one who is not in compliance
8 in my neighborhood.

9 [crosstalk]

10 DAVID WEBBER: --the 56 members
11 that we have within the Association, but within
12 the Association, we are already in compliance with
13 that bill, so we support it.

14 MALE VOICE: There should also be
15 noise pollution as well.

16 COUNCIL MEMBER BREWER: We have
17 that in our bill. One of the other quick issues
18 is when you say one truck per block obviously not
19 all blocks are equally of interest to people, but
20 I have to say my neighborhood, I like the vendors,
21 but I can tell you - - bike lanes. There is
22 something about bike lanes and vendors that take
23 up all our time. I like them, but - - an issue.
24 But the question is the one per block, the
25 residential community is as upset as the brick and

1
2 mortar as you say so when you say one per block, I
3 am trying to understand what you mean by that.
4 When you mention that they will be off the avenues
5 on a quiet street. Oh my God. Do not put that on
6 a quiet street. All hell breaks loose.

7 DAVID WEBBER: I was thinking of
8 Hudson Square, which has just loading docks in the
9 cross streets.

10 COUNCIL MEMBER BREWER: When you
11 say that everybody here went nuts over here.

12 DAVID WEBBER: I apologize. I was
13 thinking of an industrial district.

14 COUNCIL MEMBER BREWER: That is
15 where my complaints come in and there is a new -
16 - and the coffee and then the quiet street is no
17 longer quiet.

18 DAVID WEBBER: The food trucks vend
19 in commercial districts vend in commercial
20 districts primarily at least my constituency.

21 COUNCIL MEMBER BREWER: But the
22 other ones don't, and with commercial plates they
23 should be in a commercial district and when they
24 are doing commercial activity they should also be
25 in a commercial district. We worked with Dan

1
2 Garodnick actually on this in the past with a
3 truck that was in Stuyvesant Town vending in the
4 middle of Stuyvesant Town and because it is a
5 residential district rightly they were removed
6 from the district.

7 COUNCIL MEMBER BREWER: So you are
8 saying all trucks can be removed from residential
9 districts?

10 DAVID WEBBER: I don't know the
11 particular nuances of zoning, but in the
12 particular instance.

13 COUNCIL MEMBER BREWER: Alright.
14 Just so you know this issue is very--got lots of
15 ramifications and sometimes when we mention one
16 thing you bring up other problems, so I just want
17 to throw out that we probably need--from my
18 perspective it needs a lot more discussion. Thank
19 you.

20 CHAIRPERSON ARROYO: - -

21 COUNCIL MEMBER GARODNICK: I know
22 you are ready to move on, but just to clarify for
23 the benefit of those listening, Madam Chair,
24 Stuyvesant Town is specific in that it is actually
25 private property. So it was a residential zone,

1
2 but also more importantly it actually was private
3 property.

4 COUNCIL MEMBER BREWER: I know
5 every inch of every truck in my district
6 literally, and it doesn't work to do what you just
7 suggested on a commercial street.

8 CHAIRPERSON ARROYO: Okay. Thank
9 you. Usually, we arrange panels in favor or in
10 opposition of the issue. I think we missed that
11 mark in this panel, and three testified in favor
12 and opposed--

13 MALE VOICE: I don't have an
14 opinion. I am open to any discussion.

15 CHAIRPERSON ARROYO: Clearly
16 opposed?

17 MALE VOICE: Well, it's not so easy
18 as saying yes or no in this case. It's generally
19 no I would say.

20 CHAIRPERSON ARROYO: Thank you all
21 for your testimony. Always very enlightening when
22 we hear from the public. Our next panel we have
23 Elaine Walsh, president of East 86th Street
24 Association. Are you here, Elaine? I think you
25 have to fill out a card as well. We have Rob

1
2 Byrnes [phonetic], East Midtown Partnership. Rob,
3 are you here? Judith Monaco Callet [phonetic],
4 Bleecker Area Merchants. Judith, are you here?
5 Yes. Okay. Robert Bookman, New York City
6 Hospitality Alliance, you are here. And Monica
7 Blum [phonetic]. No Monica? Monica Blum? Ah,
8 there you go. Okay, as soon as you guys settle
9 in, it is a fairly large panel, if you can kind of
10 wrap the table, it might make it easier. Handle
11 the mic from the base please. Don't pull it by
12 the stem. When the light is on the mic is on.
13 State your name for the record, and you may begin
14 when you guys are ready. Thank you for your
15 patience in waiting.

16 TERRY SLATER: I am Terry Slater
17 [phonetic], but I am reading the testimony of the
18 East 86th Street Association for our president,
19 Elaine Walsh. Our organization, which represents
20 merchants and residents of East 86th Street and - -
21 respectfully submits the following testimony on
22 this Intro in connection with your hearing on
23 April 17th, 2013. Our group works to improve the
24 quality of life in our area. We believe strongly
25 that enactment of this bill would be a mistake as

1
2 the bill fails to safeguard our neighborhoods from
3 unwanted congestion and unsanitary conditions and
4 is fundamentally unfair to merchants. Our members
5 have many concerns about the bill as outlined
6 below. We urge the City Council to consider these
7 issues and reformulate the proposed legislation
8 dealing with food trucks to take these concerns
9 into account. One, food trucks should be limited
10 to commercial areas such as Midtown and other
11 areas with a high percentage of commercial office
12 space buildings and office workers. Food trucks
13 should not be located in residential neighborhoods
14 such as East 86th Street and Yorkville and for
15 that matter, the entire Community Board 8 area.
16 Two, it is a fallacy promoted by the bill's
17 advocates that food trucks are necessary because
18 there are insufficient inexpensive dining options.
19 The bill should at a minimum be modified so that
20 food trucks would not be located on a block that
21 already has one or more establishments selling
22 food at low cost or within a block in either
23 direction or across the street from such an
24 establishment. A food truck located nearby will
25 inevitably poach business from the brick and

1
2 mortar businesses that pay expensive rents
3 compared to the \$100 a year fee to the city for a
4 food truck space. These brick and mortar
5 businesses also pay income taxes, business taxes
6 and employ people. It is unfair to locate a food
7 truck near these businesses and engage in unfair
8 competition aided by the city. In addition some
9 of the food truck owners have procured their
10 licenses on the black market. In order to have a
11 food vending license one must have been on the
12 food vending license waiting list as of June 2007.
13 Food trucks only sprang up after that date.
14 Creating a special privilege for those who have
15 procured their license in this fashion adds to the
16 unfairness. In commercial locations food trucks
17 should be responsible for the sidewalk and gutter
18 litter conditions. Cleaning up after the food
19 truck's business should not be the responsibility
20 of property owners who are subject to Department
21 of Sanitation fines for the unsanitary conditions
22 caused by food trucks. Four, a food truck should
23 not be located on a block with subway access in
24 order to maintain pedestrian flow, keep litter to
25 a minimum and to prevent high trucks that would

1 parked for a long day from blocking visibility.
2 It is important for the police to have clear
3 visual access near the subway areas for crime
4 prevention. Five, food trucks should not have
5 blinking or illuminated signage nor should they
6 advertise for any other business except their own.
7 Six, food trucks should be subject to the
8 Department of Health letter grading system.
9 Current inspectors should be empowered to inspect
10 food trucks in addition to restaurants. Fees for
11 parking and other fines should be sufficient to
12 cover enforcement. Thank you.

14 JUDITH MONACO CALLET: Hi. I am
15 Judith Callet, Judith Monaco Callet officially. I
16 am representing the residents of 520 LaGuardia
17 place and unofficially represent the Bleecker Area
18 Merchants and Residents Association. We are a
19 block association that covers from 6th Avenue to
20 Mercer Street and from North Houston to West 3rd
21 Street. We are small blocks. We are narrow
22 blocks, so I totally agree. We really appreciate
23 you looking into this subject. The community
24 board had a meeting about food trucks and food
25 carts a couple of years ago and we had about fix

1
2 or six agencies there. Everyone had a different
3 answer for something. There is no regulation on
4 these food carts. We have merchants brick and
5 mortar that are paying \$30,000 a month--not
6 \$3,000, I wish they were, but \$30,000 a month and
7 they have food trucks in front of them. The food
8 trucks are also reserving spots. They will park
9 vans there during the day so that the residents
10 can't park their cars and then they move out and
11 the food trucks come. We have food trucks on
12 corners that are blocking the vision of oncoming
13 traffic on the corners both pedestrian and
14 vehicular. So we really, really appreciate you
15 looking into it. Also the food trucks that are on
16 the streets, the residents of 520 are having
17 problems with grease on the sidewalk, grease on
18 the street, garbage on the street. Our trashcans
19 are packed with trash from the food trucks. We
20 only have a couple, but we have a food cart. Now
21 the food cart is also a problem because it blocks
22 pedestrian traffic, and it has been noted that
23 they have pushed the cart onto the sidewalk in
24 front of a club that we have and have damaged the
25 walk and don't walk signs where it is just

1
2 dangling, so it is not only a cost and a hazard to
3 us, but also the city. Thank you very much.

4 ROBERT BOOKMAN: Good afternoon.
5 My name is Robert Bookman. I am counsel to the
6 New York City Hospitality Alliance, a trade group
7 in New York City that represents restaurants,
8 bars, nightclubs, destination hotels, basically
9 all aspects of hospitality industry. The Alliance
10 has spoken with multiple supporters and opponents
11 of this legislation and we have carefully
12 considered its implications. We have determined
13 that the concept of assigning locations around the
14 city from which mobile food trucks can vend may
15 have validity if the designated locations are
16 determined based on input from multiple
17 stakeholders including brick and mortar
18 restaurants; however, considering the longstanding
19 burdens posed by mobile food vendors such as
20 unfair competition, and that is a point I want to
21 get to, illegal and improper business practices
22 that harm brick and mortar restaurants. The
23 Alliance will not support this proposal until the
24 current vending laws are enforced by the city of
25 New York against the mobile food vendors who are

1
2 currently in violation of the law. The real wild
3 west out there is the permitting process and the
4 fact that a substantial number if not an
5 overwhelming majority of the quality food trucks
6 who we are discussing today are being operated
7 unlawfully. They are renting permits. They have
8 multiple permits. They have handshake deals with
9 the true permit holders. You want to talk about
10 rent. That is where their rent is going to paying
11 off the actual permit holders. The law is the law
12 and it must be complied with before we discuss
13 legislation making it easier for unlawful
14 operators to make a living and rewarding them for
15 their unlawful activity. I am tired of telling
16 lawful business owners that they cannot legally
17 get into a food truck business while others just
18 ignore the law. Like I said, the issue is not
19 competition. Restaurant owners we welcome fair
20 competition. Restaurant row is based on the
21 concept of fair competition, but this is not a
22 level playing field. We pay taxes. We have labor
23 costs. One of the people in the prior panel says
24 he estimated \$175 million a year in sales tax not
25 being paid currently by the all cash food vending

1
2 business out there. The Health Department says
3 that they can't issue letter grades to food
4 vending businesses 'cause they don't know where
5 they are located, so if they don't know where they
6 are located, how are they enforcing the laws
7 against them? How are we going to expand the
8 process where they are enforcing the law against
9 them? We see articles in the Times talking about
10 the food truck business, at the excitement of it
11 and it is, and the people here - - Food Truck
12 Alliance really at the forefront of trying to make
13 sense of this and I compliment them concerning it
14 and they are really good stakeholders for you to
15 work with, but we have to fundamentally get past
16 the issue first of they are not legal and when you
17 have articles in the Times where individuals are
18 complaining about the parking laws being enforced,
19 and they were saying I have four food trucks. How
20 do you have four food trucks when the law says no
21 one can have more than one permit? How is it that
22 they say they got into the business three years
23 ago and since then I have increased to two other
24 food trucks? How did they get into business three
25 years ago when the Department of Health hasn't

1 handed out new permits for much longer than that?
2
3 So we have to get--we first have to resolve that
4 issue. We then have to create a level playing
5 field. We can't reward the people who are
6 operating currently illegally when lawful
7 restaurant owners and others who would like to go
8 into the business, but don't because they don't
9 want to get into the illegal handshake, that is
10 the wild west out there. That is what we have to
11 address. These are complicated issues food
12 vending as all commercial activity on the public
13 sidewalks are. If you are interested in hearing
14 from my colleague, Monica Blum, who is a leader in
15 the BID movement and I worked for her 30 years ago
16 at the Department of Consumer Affairs - - and food
17 vending was a problem then. We can't just deal
18 with these nice, sexy food trucks and how can we
19 make life better for them without dealing with the
20 underlying issues the most important being which
21 nobody should get rewarded for operating an
22 unlawful business. Two quick little points in no
23 particular order in response to things I heard.
24 You can restrict food vending by zoning for
25 example. You can use the zoning laws to do that.

1
2 You can restrict entire streets from food vending,
3 entire areas because it is overly congested.

4 There are as the Health Department suggested many
5 ways to deal with that. If a restaurant produced
6 the amount of smoke that some of these food
7 vendors produced that some of the council members
8 were complaining about we would be fined up the
9 kazoo. That is a legal term. Chicago recently
10 passed some laws. They don't seem to have a
11 problem. I believe that their rule was 200 feet
12 from a restaurant. Courts there seem to not have
13 any objection to it. Those are just a few little
14 extra points.

15 ROBERT BYRNES: Good afternoon. My
16 name is Rob Byrnes, and I am president of the East
17 Midtown Partnership, which is a business
18 improvement district covering all or part of 48
19 blocks of midtown Manhattan. Included in that
20 area are more than 800 ground floor businesses,
21 including in excess of 100 food establishments.
22 The East Midtown Partnership first we want to
23 commend Council Member Garodnick, our council
24 member, in his initiative to attempt to resolve
25 this ongoing problem of food truck siting. We

1
2 also commend the entrepreneurialism of the men and
3 women who are creating these businesses, and I
4 should note also the NYC Food Truck Association is
5 to be applauded for wanting to be included in the
6 letter grading system. That said, we have some
7 specific objections to the legislation, the
8 introduction as it is drafted. By placing the
9 responsibility and control of the mobile food
10 truck location siting process exclusively in the
11 hands of the commissioner of Transportation, we
12 are concerned that locations could be designated
13 arbitrarily and unilaterally without adequate
14 public review and participation. At a minimum we
15 think the city's 67 business improvement districts
16 should be part of this site notification process
17 and the ability of notified parties to contest and
18 ill advised food truck location should be
19 strengthened in the legislation. The legislation
20 would increase the number of mobile food truck
21 licenses initially by five percent and eventually
22 to a maximum 450. Given the current competition
23 for curb space in commercial areas throughout the
24 city and especially in east midtown Manhattan, we
25 feel increasing the number of vehicles is ill

1
2 advised. The legislation should guarantee that
3 existing metered parking space will remain metered
4 parking space. Many area of the city again
5 including east midtown Manhattan already suffer
6 from an extreme shortage of metered curbside
7 parking, which directly and adversely impacts
8 commercial activity. The city's brick and mortar
9 small business base cannot afford a decrease in
10 the number of these spaces. We recognize the
11 mobile food trucks are popular with some
12 consumers, but it is imperative that the city
13 government recognize the disadvantage that current
14 exists between brick and mortar food
15 establishments and other non-mobile businesses.
16 This introduction does nothing to alleviate that
17 disadvantage and we feel it may actually
18 exacerbate it, so we would recommend that
19 legislation must ensure that food trucks comply
20 with the same environmental, health, sanitation
21 and consumer protection laws and regulations as
22 brick and mortar restaurants. This is especially
23 important as it pertains to exhaust, cooking and
24 food odors and noise from generators and food
25 truck operators should also be required to clean

1
2 sidewalks and streets adjacent to the locations
3 where they are parked or face fines in the same
4 amount as are levied on property owners and
5 businesses that do not maintain the public space
6 outside their buildings. In this city of great
7 diversity, we recognize that an entrepreneurial
8 spirit will always develop new ways of doing
9 business and we welcome them; however, in an
10 effort to accommodate one type of business, the
11 city cannot afford to put its hardworking marginal
12 small businesses at permanent disadvantage. Thank
13 you.

14 MONICA BLUM: Hi. My name is
15 Monica Blum and I run the Lincoln Square business
16 improvement district, and thanks to Rob Bookman
17 you all know how old I am. I have been running
18 the Lincoln Square BID for 17 years, and for most
19 of that time I have been dealing with vending
20 issues, so I am really very pleased to be here
21 today, and I thank Council Members Garodnick,
22 Vacca and Arroyo particularly and my own Council
23 Member, Gale for at least opening the discussion.
24 While we agree with you on your findings that the
25 number of food trucks has increased and that the

1
2 number of mobile food carts as well, the
3 stationary carts, has increased and that many are
4 parking in violation of parking regulations, we
5 can't support this bill. Frankly, and I am not
6 going to read my entire statement. I was
7 encouraged by the testimony from the Mayor's
8 Office of Operations and even more encouraged by
9 the Department of Health's person who said that
10 designated spaces could work with restrictions. I
11 believe there has to be a comprehensive overhaul
12 of the vending system that does not only focus on
13 food trucks, but food carts. There needs to be
14 one system because you cannot if you designate
15 spaces for food trucks you are going to have nine
16 mobile carts right there. In the last year or so
17 we have started getting in a tremendous increase
18 of complaints from businesses and residents. What
19 happens in our neighborhood, Lincoln Square, along
20 Broadway, the mobile food trucks look for spaces
21 directly in front of the delis and quick serves,
22 and we don't have that many delis and quick
23 serves, but we get complaints constantly from
24 them, and they wait for those spaces. They take
25 two spaces. We get complaints from residents as

1 well because they are taking up residential or
2 metered parking spaces that businesses can use,
3 that residents can use and you know, we don't have
4 bike lanes yet, but no one has mentioned that bike
5 lanes are mentioned--I am doing everything I can.
6 Lincoln Center, can you see it in the bowtie? But
7 we losing parking spaces for bike lanes throughout
8 the city, so you have to take into account that
9 these food trucks they take two spaces, and other
10 bike lanes take spaces too. I am very worried
11 about giving this responsibility to DOT. While I
12 like DOT a great deal, we struggle with them daily
13 on things like newsstand applications, and this
14 bill, Dan, I think it is a great start, but there
15 is no consultation with property owners. You are
16 going to designate spaces in front of---property
17 owners are responsible for maintaining the
18 sidewalks. If the sidewalk gets cracked, the city
19 has passed that responsibility onto property
20 owners. The food truck is not going to be
21 responsible for maintaining the sidewalk. They
22 don't clean it. We do in conjunction with
23 businesses, but there has to be consultation with
24 property owners. No one has mentioned that. I
25

1 think BIDs need to be consulted and DOT for the
2 most part does not--and I think thanks to your
3 bill at least there is consultation now on bike
4 lanes, but they will try to site wherever they
5 want to site. So I think that is not absent a
6 regulatory comprehensive scheme I think it is a
7 mistake. The only other thing I am going to
8 mention, you have my statement, I am better
9 speaking publically I think, we recently did a
10 customer satisfaction survey of all of our
11 stakeholders, and I didn't ask a specific question
12 about vendors and food trucks but I said are there
13 any situations that affect quality of life that
14 you would like to comment on? We got a
15 surprisingly high number of complaints, and I
16 don't know if they are from residents. It is hard
17 to sort who complained, but businesses, residents,
18 our stakeholders, a very high number of
19 complaints--odors, noise, blocking the sidewalk
20 and businesses parking right in front of the small
21 food establishments, so what I believe is needed,
22 and I have been asking and working--I worked with
23 Lieutenant Albano 15 years ago on this--we need a
24 comprehensive plan that takes all of this in
25

1
2 account, and I am happy to work on it with you
3 guys. There was a bill about 12 years ago that
4 started this process. It didn't move, but that is
5 what I think we need. Thank you very much.

6 CHAIRPERSON ARROYO: Council Member
7 Garodnick?

8 COUNCIL MEMBER GARODNICK: So first
9 of all let me just thank the members of this panel
10 for their thoughtful insights on the bill, and I
11 want to reiterate to you all because some of you
12 are my constituents that I come to this with the
13 perspective of a need to find rules that actually
14 work here and realize this is the beginning of the
15 conversation. That is what this hearing was
16 intended to be, and that unfortunately the
17 problems, some of the problems that Ms. Blum just
18 articulated are problems out there today with or
19 without this bill, with or without any
20 comprehensive overhaul and show the question for
21 us will be whether it does make sense for us to
22 try to address the food truck issue by itself, and
23 there may be a few from this panel that know--I
24 know that there have been comprehensive overhaul
25 proposals that have come and gone, and it is a

1
2 very complicated issue. There may or not be an
3 appetite to actually do a comprehensive overhaul
4 of any vendor regulation although I am perfectly
5 willing to work on it myself as the chairman of
6 the Consumer Affairs Committee. There is a
7 threshold question as to whether or not trying to
8 deal with food trucks themselves separate and
9 apart from the broader question some of which is
10 within our jurisdiction some of which is not is
11 meritorious, so that is a conversation which I
12 think is fair to have, but it is a threshold
13 question that we need to determine. Let me just
14 not a couple of things in response. First of all,
15 the idea of finding ways to limit the trucks to
16 areas that are not purely residential I think is
17 very interesting and something that was part of my
18 thinking when I put in the consultation process
19 with the community boards and the council member.
20 I do think that BIDs should be included in that
21 property owners I think that a broad and
22 comprehensive and maybe even Mr. Bookman, brick
23 and mortar businesses if that is consistent with
24 the law, I think that that would be absolutely
25 reasonable. In fact you have heard it from a lot

1 of council members here today that is a concern.
2 That is a big concern for all of us that we want
3 to protect all of the small bossiness. We want to
4 create a place for the food trucks to operate
5 legally. We want a place for the brick and mortar
6 businesses to operate free from somebody just
7 plopping up right in front of their establishment.
8 The issues of protect sight lines, subway access,
9 pedestrian flow, I think that that is real and
10 very, very good. Let me just note one thing I
11 wanted to correct and thank you to Mr. Byrnes on
12 the subject of the improvements that we can make
13 to the bill, but I just wanted to correct one
14 point, which is that we are not actually
15 increasing the number of licenses, and that is a
16 point that is important. There are licenses that
17 are in place. We are not touching those licenses.
18 We are not expanding those licenses. But what we
19 are proposing is only to create a number of spaces
20 where those licenses or the permits can actually
21 operate, so in this bill this was not an intent--

22 MALE VOICE: [off mic]

23 CHAIRPERSON ARROYO: Into the mic
24 please.
25

1
2 COUNCIL MEMBER GARODNICK: We can
3 go over it together. It is not relevant, but the
4 point is it is not actually creating new permits
5 or licenses and I didn't think that that was
6 appropriate to do here. There happens to be a
7 permit that you actually can use for either the
8 cart or for the truck, but I didn't think at this
9 point it made sense to create a new class of
10 permits and to start that conversation at this
11 moment in time. So now with all of that said, I
12 just had a couple of quick questions for Mr.
13 Bookman. Let's talk about that brick and mortar
14 question and the Good Humor question, and let's
15 talk about Chicago and let's talk about how we
16 deal with the existence of what appears to be
17 legal precedent that the city, the Bloomberg
18 Administration, claims prevents our taking into
19 consideration brick and mortar businesses when
20 siting locations for food trucks.

21 ROBERT BOOKMAN: It's a 70 year old
22 decision. I think times change, situations
23 change. I certainly think we at a minimum should
24 take another look at the 70 year old Good Humor
25 decision. My guess is reasonable people can come

1
2 up with situations that would lead us to a
3 conclusion that it doesn't particularly hamstring
4 us, and I certainly don't think policy 70 years
5 later needs to be determined based on conditions
6 that existed 70 years ago in a particular portion
7 of an industry at the time which was seasonal ice
8 cream. We didn't have a lot of things. There
9 wasn't as much commercial activity on the public
10 sidewalks. We certainly didn't have the food
11 trucks. I think that we can certainly take a look
12 at that decision again.

13 COUNCIL MEMBER GARODNICK: So my
14 last question is about the DOT because the bill as
15 it is currently drafted and again, this is
16 intended to be a starting point here, it does
17 designate the rulemaking authority for determining
18 how, when, where exactly to DOT. Assuming that we
19 get over the threshold question of whether we
20 should try to tackle the food truck challenges
21 here as opposed to waiting for the ability to take
22 a comprehensive overhaul of all city vendor
23 regulations, do you all believe that the City
24 Council should specify the terms and conditions of
25 where and when or do you think that there is a

1
2 better agency that would be more appropriate to do
3 it?

4 ROBERT BOOKMAN: Personally,
5 neither. I think that this is a-the
6 administration was correct in their testimony, and
7 I agree with them. This is a multi-agency issue
8 that will only have multi-agency solutions. DOT
9 has a very limited scope of what they are looking
10 for. We have raised concerns that go way beyond
11 all of that. I think you would need something new
12 that created by legislation in my mind if I was
13 king for the day I would create a multi-agency
14 panel that you would designate representatives
15 from different agencies as well as perhaps that
16 Council would appoint a number of people, perhaps
17 the borough president would be able to appoint
18 somebody, where they could take a broader holistic
19 view of the issue of vending locations, and you
20 know, listen. The idea of all 3,000 or however
21 many permits are being assigned locations perhaps
22 some competitively bid out, some available for a
23 dollar. It has been discussed for decades. When
24 we were in charge of food vendors in Consumer
25 Affairs and determining whether the streets are

1
2 too restricted, it is not a new idea. It has some
3 benefit to it because it does give people assigned
4 locations and so enforcement becomes much easier
5 as to who is doing what and for the Health
6 Department and all the other agencies purposes and
7 trucks would just be a small part of that. I
8 think you really need to think bigger than just
9 how are we going to do something that is nice for
10 these sexy, new admittedly interesting and
11 entrepreneurial trucks.

12 CHAIRPERSON VACCA: If I can add, I
13 think the legislation proposed by Councilman
14 Garodnick as much as it concerns me as well that
15 you seem to feel that DOT is sometimes
16 arbitrary... heaven forbid. You seem to feel
17 that way; however, I don't know where you get that
18 idea from. Now that I have said it, you know the
19 precedent we are dealing with is now if you want
20 to be a vendor in a park you go to the Parks
21 Department. The Parks Department then says, we
22 are going to RFP a certain location, they go to
23 the community board, the community board has an
24 advisory say as they are advisory in almost all
25 cases and I was a district manager, I know how

1
2 frustrating that is, but the reality is if
3 community boards are more than advisory then the
4 allegation could be that they have a nimby
5 [phonetic] and that they will say no to everything
6 if they have the final say. So I get both sides,
7 but to have a multi-agency taskforce review each
8 and every vending application doesn't seem
9 workable to me. I think sometimes we deal with
10 agencies and we judge them as they are at a
11 certain point in time. Now I am not saying you
12 are wrong. When I was on the sick leave bill with
13 Gale Brewer, her bill, and when I heard that the
14 Department of Health was going to be the
15 enforcement agency I blew my stack because the
16 Department of Health in my community is viewed as
17 onerous and when I saw that I blew my top and
18 thank God it was changed, but now in this bill we
19 have the Department of Transportation, so believe
20 me I understand your concerns, but in a different
21 point in time, the Department of Transportation
22 may not meet your standard of arbitrary. They may
23 be more inclusive of people's opinions, so I think
24 that when you look at Councilman Garodnick's bill,
25 there has got to be a mechanism, a process

1
2 mechanism so I am open to seeing how you feel and
3 I respect how you feel, but I want you to know
4 that right up front. It is got to be a process
5 mechanism that is fair and that is going to be
6 inclusive of everyone's view but at the end of the
7 day make a decision, and that is what I think we
8 are kind of hung up. if you have any ideas I am
9 open to them.

10 MONICA BLUM: I just want to say
11 two things. I agree with Council Member
12 Garodnick's concern about waiting for a
13 comprehensive overhaul because you know, I have
14 gone gray trying to make that happen; however, I
15 do not think that you can address food trucks
16 without including food carts because we have
17 situations in Lincoln Square where we have right
18 now at the tip of Columbus Circle, the circular
19 part, not where the Trump Hotel is, we have nine
20 or ten food carts, and if a food truck were to
21 station themselves near there, it would be
22 ridiculous we can't control the food carts, so I
23 think that if you do something at all then you
24 have got to do the siting taking that into account
25 and frankly I think you have got to figure out a

1
2 way to take into account the brick and mortar food
3 establishments or in the case of newsstands we
4 fought to keep them away from a store that sold
5 news magazines and stuff. So I think that perhaps
6 working on some kind of program with the Mayor's
7 Office and the Department of Health as well as--
8 because I think Health I think despite what you
9 say about the DOT may be the right one, Health has
10 a major role in this. They are the ones that
11 inspect these mobile things and the gentleman who
12 testified about the propane tanks, we have had a
13 terrible time with that. We called the fire
14 department, and they do come in and look at those.
15 So I think that whatever you do cannot address
16 food trucks in isolation because neighborhoods are
17 overwhelmed by food carts and food trucks, so it
18 is all food and maybe that is the approach to
19 take, that you somehow and I think you probably
20 should have some joint involvement from Department
21 of Health because DOT has a very narrow focus and
22 I think there should be at least another agency if
23 not several. We are going to fight.

24 ROBERT BOOKMAN: I just remember my
25 last reading of Good Humor. - - , but as I recall

1
2 part of the holding in the Good Humor case was
3 what the court was saying the absence of a
4 comprehensive placement school the municipality
5 cannot just pick favorites and use economic
6 competition as the basis, but a comprehensive
7 placement scheme I don't believe the court was
8 passing judgment on.

9 JUDITH MONACO CALLET: May I just
10 say I want to point out that the Bleecker Area
11 Merchants and Residents Association is not a BID.
12 It is a voluntary non-profit organization that
13 merchants and residents have been working together
14 for a long time and that we have been working
15 trying to resolve this problem with the food
16 carts. In our area we have businesses that are
17 open until four o'clock in the morning, and what
18 the residents are now dealing with with these food
19 carts - - they are there till five o'clock in the
20 morning until the bar patrons leave the area, so
21 residents are dealing with noise from the
22 generators, the odors, the noise from the crowds,
23 and the lights also--somebody mentioned the
24 lights. They are dealing with this until five,
25 six o'clock in the morning, so there has to be

1
2 some regulation on that also.

3 CHAIRPERSON VACCA: Can I just add
4 I like the idea of the Department of Health being
5 the agency in this case. I can see them getting
6 input from DOT and input from other agencies.
7 Also, when we had the green cart legislation he
8 green cart legislation that passed the Council and
9 was supported by the administration of course was
10 proposed by the administration. The green cart
11 legislation outlined priority areas in the city
12 where green carts would be allowed to go or would
13 be encouraged to go because people were not eating
14 healthy because they did not have access to good
15 food, so they designated boundaries. This may be
16 another thing that we can look at where if you are
17 an over served area part of the over served area
18 would be omitted from what the city could expand
19 cart presence in. It is just an idea. I am
20 thinking out loud, but it may be a way that we
21 could model that after the green cart. So it's
22 something I just wanted to toss out.

23 COUNCIL MEMBER GARODNICK: I
24 appreciate the comments about combining all of the
25 food permit questions together. I would certainly

1
2 be interested in hearing your thoughts on how that
3 could be achievable particularly in connection
4 with any or all of this. I just wanted to make
5 one point about the vendor rules that we recently
6 passed with the Council, which I do believe would
7 address or should address the issue on the west
8 side of Columbus Circle--

9 MONICA BLUM: [off mic]

10 COUNCIL MEMBER GARODNICK: Oh. You
11 are talking about the east side of Columbus
12 Circle.

13 MONICA BLUM: I am talking about
14 the legislation you passed will address the
15 situation in front of Time Warner Center--

16 [crosstalk]

17 MONICA BLUM: We only have seven
18 there. We have nine across the street at the
19 circular where the subway entrance is at 59th and
20 frankly, I know those vendors are looking for
21 locations, and we have a good relationship in our
22 district with our food vendors. We really do. We
23 also think the perk system I have one in each of
24 our two little parks that works quiet well and
25 someone had said that food trucks would not be

1
2 able to compete for the park system because they
3 are not big businesses, but the vendors that apply
4 for the spaces in parks and bid on them those are
5 small vendors and they seem to be able to navigate
6 that bidding process if that were the direction
7 you were to go in because they are allowed to go
8 in and look at what previous vendors earned at the
9 site and paid to the city and those turn over
10 every couple of years, so that model that Liz
11 Weinstein mentioned is not something to throw away
12 I think.

13 COUNCIL MEMBER GARODNICK: I don't
14 think we will and for the benefit of those who
15 don't know what I was referring to the Council
16 passed and the mayor signed into law rules that
17 would prohibit vending in no standing for taxi
18 zones, in front of hospitals. We clarified the 20
19 foot rule for all building entrances and exits.
20 We tied the permit to the license so if you have
21 somebody who was selling food with a particular
22 license and they get a violation that is tied to
23 the permit, so upon renewal, the permit holder
24 will be responsible for all outstanding
25 violations--those are all things that we have done

1
2 in this Council particularly in the last few
3 months, so I just wanted to point out that was
4 what I was referring to on the west side of
5 Columbus Circle, but you are talking about a
6 different area.

7 MONICA BLUM: I am, but I think you
8 have definitely made strides. I think that this
9 bill I think needs more study before...

10 CHAIRPERSON ARROYO: Thank you all
11 for your testimony and your input is greatly
12 appreciated, and Monica, be careful what you pray
13 for - - more work. Okay. I have testimony for
14 the record that I am going to read those who
15 submitted. I am going to call up the next panel
16 Terri Cude, Community Board 2 in Manhattan, Luigi
17 Consagra, Pete Davies, Broadway Residents'
18 Coalition. Luigi is also from the Broadway
19 Residents' Coalition, and we have Michelle
20 Birnbaum. Come on up. Okay. So while you guys
21 get organized--I also had a slip for Laura
22 Schultz, and she is not here. So we do have
23 Laura's testimony for the record. We also have
24 testimony from the New York State Restaurant
25 Association, from S. Warwick, who is I guess a

1
2 resident of Thompson Street and Bleecker, who e-
3 mailed her testimony and the Flatiron 23rd Street
4 Partnership also submitted for the record. Sunset
5 Park Business Improvement District also submitted
6 testimony for the record. We thank them all for
7 taking the time. Okay. So I guess you have
8 watched this happen over the last few hours. You
9 kind of get the gist of it, and our last panel we
10 have Andrew Boso [phonetic]--just line up and you
11 are on deck and Lo van der Valk, are you here? So
12 Andrew, why don't you join the panel? Come on up.
13 We will get him to line up as well. If there is
14 anyone here who wants to testify who I have not
15 called--

16 [background conversation]

17 CHAIRPERSON ARROYO: We eliminated
18 your card thinking you were doing double duty.
19 Andrew, just hang out here until we hear from this
20 panel, and then will bring up Terri. You may
21 begin when you are ready. Speak into the mic.
22 Handle the mic by the base please.

23 TERRI CUDE: Thank you so much,
24 Chairs Arroyo and Vacca and Council Member
25 Garodnick for producing this legislation. I will

1
2 read briefly summarize the Community Board 2
3 Manhattan testimony. In our district, including
4 SoHo, Greenwich Village, Little Italy, NoHo,
5 Hudson Square, which is a mixed use district, not
6 industrial thanks to the rezoning, Chinatown,
7 Gansevoort Market, the proliferation of food
8 trucks in our neighborhoods have been significant
9 source of concern to our residents. Food trucks
10 can be seen illegally parked throughout the
11 afternoon, evening and into the early morning
12 hours continually running generators, which are
13 noisy and emit fumes. In addition, the
14 proliferation of food trucks has created
15 pedestrian and vehicle traffic in busy locations
16 that cannot accommodate additional congestion. I
17 have passed along some photographs that will show
18 you at least a dozen food trucks and carts parked
19 along one block length where you just can't pass.
20 Also in addition to West 3rd Street, which are the
21 photographs that Council Member Vacca has right
22 now just this past weekend along Broadway there
23 were three separate - - food trucks parked within
24 the crosswalks on Broadway between Prince and
25 Broome. A fourth food truck that serves crepes

1
2 was in place all weekend of the northeast corner
3 of Broadway, Broome and a fifth food truck Burgers
4 'N Things located just across Broadway on the
5 northwest corner of Broome. These five food
6 trucks were all operated within two blocks in our
7 most congested area in our district on a Saturday
8 afternoon. The photographs on the other hand that
9 I have presented to you were Monday at 4 p.m.
10 well after a normal lunch time. Further
11 exacerbating the congestion in this area an
12 additional 43 mobile food vendors were identified
13 occupying the sidewalks along the same Broadway
14 corridor while another 95 additional general
15 merchandise vendors were identified operating in
16 the same area--

17 CHAIRPERSON VACCA: [interposing]

18 When were these pictures taken?

19 TERRI CUDE: The ones that you are
20 holding?

21 CHAIRPERSON VACCA: Yeah.

22 TERRI CUDE: Monday at 4 p.m. I
23 have got them on my cellphone if you need.

24 CHAIRPERSON VACCA: Continue. I
25 have a question. Continue.

TERRI CUDE: Sure. I am here.

While Community Board 2 and its residents recognize the necessity of food trucks and food vendors and food carts that service the people who visit and shop in the neighborhoods, the need to protect the local community's interest in maintaining an orderly flow of pedestrians and vehicular traffic must be achieved. The current congestion caused by the number of food trucks and carts in our district constitutes an immediate threat to the health, safety and wellbeing of the public and our local residents. Failure to enact laws limiting the number of foods trucks operating in the most congested areas of our district is responsible and unsafe. As a result Community Board 2 supports this beginning endeavor to provide legislation to designate vending zones for food trucks. Designated locations for food trucks and carts will make our area safer and reduce congestion in our most congested streets. These designated locations will also provide law enforcement with clarity as to their scope of enforcement and provide greater opportunity for the vendors that operate within the law. I can

1
2 add on Bleecker Street there are two food trucks
3 that are almost always taking up multiple parking
4 spots in front of other food vending merchants.
5 In other parts of Community Board 2 the
6 proliferation is controlled and it is unenforced.
7 You will see in those photographs, there is one
8 visible permit. So that again was from Monday on
9 West 3rd Street and my colleagues here will talk
10 about SoHo. Whatever the legislation is, it must
11 have teeth. To Council Member Brewer's point as a
12 representative of a local community board our
13 community board is overworked and we are still
14 more than willing to shoulder our charter mandated
15 responsibility to advocate on behalf of all
16 stakeholders in the community whether residents or
17 merchants. We do make recommendations on sidewalk
18 cafes, liquor licenses, newsstands, public health,
19 public safety, transportation, and we can
20 additionally help with this and would be most
21 pleased to be involved in helping to create
22 legislation that makes all of our neighborhoods
23 better. We Community Board 2 Manhattan
24 specifically with every application, we walk the
25 area, we talk to residents, we talk to the block

1
2 associations and the BIDs and we work very hard to
3 be fair, not nimby, not pro-business, but fair.
4 CB2 welcomes this opportunity to discuss this
5 further. This bill is a start, but there are more
6 aspects to discuss. Thank you for bringing it
7 forward and for your kind attention.

8 CHAIRPERSON VACCA: Now let me ask
9 you something. Did you notify the Department of
10 Transpiration of this sidewalk obstruction issue?

11 TERRI CUDE: No, I am not familiar
12 with all of the regulations that apply. Is that
13 311?

14 CHAIRPERSON VACCA: No, I would
15 write to the borough commissioner or the
16 commissioner--well, who is here from the
17 Department of Transportation? Chair Arroyo as
18 more than once had requested that all city
19 agencies stay here, so I am upset that they are
20 not here. Health is here. Yes. And the Mayor's
21 Office I see, but not DOT. This is a DOT issue.
22 These sidewalks are inadequate for pedestrians.
23 They are not what I would describe as
24 unobstructed. They are totally obstructed, so I
25 would immediately from your community board e-mail

1
2 Commissioner - - and the borough commissioner and
3 give them the specific locations and let them send
4 people out, but these pictures tell a story that
5 is unbelievable. There is not even a two lane
6 situation where people can walk. The whole
7 sidewalk is taken up wall to wall. So that is my
8 advice to you. You can feel free to send me a
9 copy. I'd like a copy of what you send. E-mail.

10 CHAIRPERSON ARROYO: I think given
11 the Chair of the Transportation agency has taken
12 issue with the agency not being here, I am sure he
13 will follow up with the Commissioner regarding
14 that issue because I certainly would have taken
15 issue--

16 PIERRE LUIGI CONSAGRA:
17 [interposing] If I had pictures to show you where
18 I live, it seems like cake. I live on Broadway
19 between Prince and Spring Street--oh, I am sorry.
20 My name is Pierre Luigi Consagra. I live at 542
21 Broadway in New York City. I am an artist. I am
22 a resident. I have been there since 1979, and I
23 have watched this neighborhood devolve into a food
24 court basically, and not a particularly attractive
25 one to boot. I started something called Broadway

1 Residents' Coalition, which is just a neighborhood
2 group, which is concerned with this problem of
3 vendors. I can tell you right now that we have
4 done something unprecedented I believe in the
5 city, which is that we created a vendor count that
6 has been going on every weekend for the entire
7 year of 2012 and into '13. And I will tell you
8 that on three blocks from Houston to Broome
9 Street--it is just three blocks--that there are
10 upwards to 30 to 40 vendors including ten food
11 vendor trucks on any given weekend day. That is
12 just three blocks. Now we are talking about
13 pedestrian issues. We are talking about exigent
14 situations, which blow your mind. It can't be
15 legal to have that many people in that restricted
16 a space with all those vendors. It just can't be.
17 I will tell you what it is. It is against the
18 law. In administrative codes--I will give you
19 now--the administrative codes for DCA and
20 administrative codes for DOH you have 20 foot
21 minimum distance from display to building or store
22 entrances, which are completely negated and
23 unenforced. Under the DOH - - you have the same
24 thing--20 foot minimum from display to building or
25

1 store entrance. I'll tell you something else. I
2 also joined the community board, but guess what?
3 Nobody listens to me. I am a resident. My
4 building pay \$200,000 a year in taxes, and I go to
5 the precincts, and I go to the community board
6 meetings--and the community board has passed a
7 resolution of late which says that basically what
8 the Mayor's Office has to do, and this is
9 supposedly the solution to the issue of all these
10 variegated agencies that don't know their legs
11 from their elbows in terms of what has to happen,
12 right, I mean we are talking DOH, DCA, DOT, DOHMH,
13 DOS, none of them know. We had a subcommittee
14 meeting, and they didn't know what to do. The DOT
15 didn't know what to do. Where is the street
16 vendor review panel? It does not function, and
17 that is against the law.

18
19 CHAIRPERSON VACCA: Is there a
20 street vendor review panel? Where is that
21 prescribed? In the administrative code? No, no,
22 I would like to know, who requires that that panel
23 exists? Is it law or is this a policy that the
24 administration changed?

25 [background conversation]

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2 CHAIRPERSON VACCA: No, I would
3 like to know because this is ridiculous.

4 PIERRE LUIGI CONSAGRA: I am sorry
5 about getting emotional here. I am not reading.
6 I am just doing this extemporaneously, but this is
7 a huge emotional issue for me. My kid got ripped
8 off--pick pocketed, a 17 year old girl coming home
9 from school. Somebody just came up to her
10 backpack and took her wallet and her id and hey
11 keys, et cetera. It is something that happens all
12 over the place, but I remember Jane Jacob's famous
13 adage, one thousand eyes. At least you have 1,000
14 eyes in the street that can keep the city safe,
15 but what about 100,000 eyes? That is just as bad
16 as no eyes because nobody knows what is going on
17 with all of those people. Having said that, let
18 me just show you the great metaphor for the
19 breakdown of city agencies. Here is a truck. It
20 is called Always the Best Yogurt and Soft Cream
21 ice cream truck. The truck is a vintage truck
22 from probably the 1960s. it blows carcinogenic
23 particulate diesel 12 hours a day every single day
24 in a no standing zone. I have talked to
25 Lieutenant Albano about this. I have talked to

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2 Captain Daling [phonetic] about this, Lieutenant
3 Bailey [phonetic] about this. I have talked to
4 Vincent Chung about this. I have talked to Chin
5 about this guy. He is still there every single
6 day in a no standing zone from Monday to Friday
7 and next to a hydrant. Cookies and Cream--this is
8 just on my block--here is a truck called Cookies
9 and Cream, you think they sell food, very tricky.
10 They don't. They sell t-shirts from their truck--
11 totally against the law. Nothing. Nobody
12 listens. No enforcement. The yogo [phonetic]
13 trucks--illegally parked on crosswalks. Nobody
14 does anything. Nobody listens to me. Thank you.

15 PETE DAVIES: Good afternoon. My
16 name is Pete Davies. I am also a member of the
17 Broadway Residents' Coalition. I think you each
18 got a copy of our submission. Some of you will
19 recognize these, which we send out to a big list
20 of city officials, agencies, enforcement groups
21 each and every week. Every Saturday and Sunday,
22 me and my friends on Broadway walk up and down the
23 block and count all of the vendors. We make
24 notation on here. You will see the little hatch
25 marks to show the concentration of the vendors,

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2 which we find that last weekend there were 137
3 between Canal and Houston Street, 87 percent of
4 them are on three blocks, a very concentrated,
5 easy to enforce area between Broome and Houston
6 Street. Recently as Council Member Garodnick
7 said, new legislation was passed regarding
8 placement, 20 foot minimum from the entranceway to
9 a building. What is an entranceway? Lieutenant
10 Albano would tell you that is the place where the
11 building meets the sidewalk, but the street vendor
12 project, will tell you no, that is in the inset
13 door, three feet in. So there is a lot of
14 confusion on the street, which leads to confusion
15 by NYPD as what is the enforceable place. Okay.
16 I am going to step back from that, and talk about
17 food vendors, food trucks. I have lived on
18 Broadway, above Broadway, fifth floor, for 33
19 years. Till about two or three years ago, there
20 wasn't an issue about spewing loud, rumbling food
21 trucks, 12 hours a day downstairs. This is all
22 new. And the city is behind it. The city is way
23 behind it. Those guys are way ahead of you all.
24 Yogo trucks--they are not selling food. They are
25 marketing their brand. They come in fleets of

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2 three and four--pink yogo. They are there to get
3 their image in the eyeballs of people. They can't
4 sell that must yogo to make this worthwhile. It
5 is like if you talk to any real estate people in
6 the area, they need to be in SoHo 'cause that is
7 where the eyes are. They have got to market their
8 brand. You heard the Food Truck Association guy--
9 we are here to brand. This is not about serving
10 the public. This is a business model that some
11 people might think is fantastic, but it doesn't do
12 much for residents, it doesn't do a heck of lot
13 for other local businesses, and it is out of
14 control. It is the wild west. It is an
15 unregulated outdoor food court where residents be
16 damned. The gentleman, Max, from the Neapolitan
17 Express Pizza, you should give him a medal. He
18 was the only person from that industry, who all
19 left, thank you very much. Did they stay to
20 listen to anybody? No. Maybe a couple of you
21 did. Thank you. But he was honest to say we need
22 to change these generators. Do you know that the
23 generators that operate in these food trucks are
24 totally unregulated? No regulations. And the
25 Mayor's Office says we would like to encourage

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2 them to go green. Encourage them? These are
3 people that park in crosswalks. Encouragement is
4 not what is needed. Now I don't think that the
5 legislation before us today is perfect, but is the
6 beginning of the conversation that needs to happen
7 because I am sorry. The food industry just wants
8 to do what they want to do, and as Council Member
9 Brewer said, oh well, if you start putting them on
10 the side streets, that is residential. I have
11 also included in our submission a map of Broadway
12 and SoHo. We are in a mixed use district. If you
13 look in the City Planning, every building with
14 most buildings like mine where I rent if it is a
15 residential building, it is listed as commercial,
16 so there is no way of knowing where are the
17 residential buildings. This will show you on
18 Broadway where the residential buildings are.
19 These filthy, dirty, noisy, rumbling food trucks
20 should not be able to park below windows of
21 residential buildings. If you want to encourage
22 them to get better generators so they are clean
23 and safe and healthy, then we can talk about can
24 they park below my window. I am done. Thank you.

25 MICHELLE BIRNBAUM: Good afternoon.

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2 My name is Michelle Birnbaum, and while I am chair
3 of the Vendor Taskforce Committee of Community
4 Board 8, I am testifying today on my own behalf as
5 the Board has not has an opportunity to review
6 this Intro in particular, they have however
7 included in a past resolution that they are
8 generally supportive of assigned locations for
9 vendors subject to the details of such a proposal,
10 so I have a lot of other commentary about trucks
11 and the vendor situation, but I am going to stick
12 to my prepared commentary because it addresses
13 this bill specifically. I thank the Chairs and
14 the council members for hearing my testimony
15 today. I and others have had discussions with
16 Council Member Garodnick and had suggested that
17 assigned locations might be a possible solution
18 for the very strong concerns the communities are
19 expressing about intrusive vending, which has
20 become detrimental to our streetscape and our
21 quality of life, and while I welcome the
22 opportunity to comment on this bill, I first would
23 like to differ with its premise, which states that
24 food truck vending is an important part of our
25 community. With their persistence, their very

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2 hard work and proliferation and breaking some
3 rules, they have made themselves a force that
4 communities must deal with, but this is not to say
5 that they are necessary to a thriving community.
6 Their employees are often exploited and most often
7 do not receive the benefits that other workers
8 receive and they are a significant intrusion on
9 our streets. I dispute the claim that truck
10 vendors fill the gap and provide affordable food.
11 Their presence has resulted in less bricks and
12 mortar groceries, delis and bodegas; thus,
13 decreasing competition between these businesses
14 resulting in higher prices. The existing unlevel
15 playing field where vendors do not pay rent,
16 salaries, work benefits, insurance, utilities, et
17 cetera has seriously impacted these other
18 businesses, which do benefit the community they
19 serve. As for the heart of the bill, I and others
20 support assigned locations for food truck vendors
21 and over the years have made that interest known
22 to council members. I want to see metered spaces,
23 which trucks currently occupy, turned back to
24 local businesses, and I want to see the loading
25 zones kept free for their intended use; however,

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2 this bill does not go far enough in describing and
3 restricting the locations of food truck vendors
4 and designation made solely by the Department of
5 Transportation is of concern despite the call for
6 community review that the bill addresses. For
7 example, one vendor, one spot is a good idea, but
8 where--on every block, every five blocks, every
9 ten blocks, on avenues, on side streets--should be
10 addressed. I suggest the following parameters.
11 Food truck vendors should not be permitted in any
12 residential area or in any mixed used area where
13 the retail is meant to support the surrounding
14 residential community. If you live in an
15 apartment building or a private home, you have an
16 expectation when stepping out of your front door
17 in that residential area of not having a
18 commercial venture on your doorstep. The New York
19 City zoning resolution does not permit commercial
20 activity in residential areas, and vending is a
21 commercial activity. The owner of a building or
22 business has liability for what happens on his
23 sidewalks and is responsible for the cleanliness
24 of the street up to 16 inches into the gutter. As
25 I walk the streets in my neighborhood where there

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2 is vendor activity, I see litter and garbage on
3 the sidewalks or placed in tree pits and I have
4 neighbors whose buildings have received tickets
5 for these infractions. This is a very serious
6 issue. I and others have also been disturbed by
7 the on street cooking, which generates smoke and
8 odors, which permeate the air and flow into
9 apartments and stores. Currently street vending
10 is conducted with significant intrusion on others
11 and food truck and all vending should be permitted
12 only in commercial areas. It is my understanding
13 that there is currently originally I thought 3,000
14 vending licenses, a category that includes not
15 only trucks, but any cart--I mean food licenses,
16 but any cart that has wheels and can be moved. It
17 is my understanding that the Department of Health
18 does not know how many of these food vendors
19 currently hold licenses or are mobile truck
20 vendors. The guess was approximately three to 400
21 for the purposes of this bill. Because a food
22 vendor that is currently holding a license has the
23 autonomy to decide to switch to truck vending and
24 because the DOH does not keep track of how many
25 there are of each kind of mobile food vendor and

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2 because the proliferation is inevitable, which
3 will make the number of spots called for in this
4 bill obsolete, it seems that the DOH should keep
5 track of the number of each kind of mobile food
6 vendor that that would be primary, and that the
7 number of mobile food truck vendors should be
8 capped preferably at the current estimated number.
9 This bill does not state whether or not truck
10 vendors for whom there is not an assigned spot can
11 still vend, but it should. There should be no
12 food truck vending except in the assigned
13 location. It is not specified in the bill.
14 Mobile food vending is becoming a popular way of
15 expanding bricks and mortar businesses and will
16 continue to remain, so because it is much less
17 costly than long term leases and labor and
18 insurance requirements necessary to open a bricks
19 and mortar business. For this bill to make sense
20 from a quality of life point of view, the number
21 must be capped and a careful accounting must be
22 made. You have a picture in my little
23 distribution--one of the pictures is of a bricks
24 and mortar business expanding to the food truck
25 business. While it is important to limit the

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2 number of food vendors to one on a block, other
3 mobile food carts would still be able to be on the
4 sidewalk unless you dictate the distance in blocks
5 between the assigned truck vendor spots and/or
6 limit the other food vendors that can be on the
7 sidewalk on a block where there is a parked food
8 truck. You can still have a block overrun with
9 vending and this accumulation doesn't even address
10 the food stands and general merchandise vendors
11 that could further crowd the pedestrian way and
12 infringe on other businesses. The bill also talks
13 about a fee paid at the time of location
14 designation. Is that forever? For a year? For
15 two years, et cetera? If that vendor is found
16 non-compliant for every reason, what is the
17 penalty? Is it a ticket? Does the location get
18 revoked or does it continue to vend in that spot
19 with--

20 CHAIRPERSON VACCA: [interposing] -
21 - to conclude.

22 MICHELLE BIRNBAUM: Let me do my
23 concluding paragraph here. There should be a
24 review process yearly on the locations that are
25 assigned. I like most things, but the devil is in

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2 the details here. I am not comfortable enough to
3 support this particular bill even though I applaud
4 the effort. It actually was part of my concern,
5 but to sum up, there should be no spots in
6 residential areas, be a careful accounting that
7 distinguished between the number of food trucks
8 and other food vendors, a cap on the number of
9 food trucks starting now going forward, a frequent
10 renewal process of permit assigned locations,
11 which takes into consideration vendor compliance
12 and the appropriate of a location as time goes by.
13 Thank you very much. I appreciate the time.

14 Thank you.

15 CHAIRPERSON VACCA: Let me ask
16 where is the vendor taskforce? What is the vendor
17 taskforce? Where is this prescribed?

18 [background conversation]

19 PIERRE LUIGI CONSAGRA: Council
20 Member Koslowitz--

21 CHAIRPERSON VACCA: [interposing]
22 Used to be head of the Consumer Affairs Committee
23 years ago. Yes.

24 PIERRE LUIGI CONSAGRA: She was on
25 the panel. She testified about it during I

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2 believe it was the DCA hearing on vending, and she
3 spoke how the City Council has asked for it to be
4 convened during the entire Bloomberg legacy. It
5 has not convened, and she testified that was
6 against the law for them not to convene.

7 CHAIRPERSON VACCA: I need to know
8 from staff is this prescribed by law, by the
9 charter, by policy--

10 MICHELLE BIRNBAUM: [interposing]
11 My original understanding 'cause we looked into
12 this was that it came out of the--I think it was
13 suggested by the Department of Consumer Affairs,
14 and then it was approved by the City Council. The
15 exact reason as to why it is not functioning at
16 this moment, I don't know. There were issues with
17 it as well. It wasn't a perfect solution, but it
18 certainly was a help. I would just like to also
19 mention some commentary before about the DOT
20 making the decisions, et cetera, et cetera. One
21 of the big issues is the DOT if they are the
22 prescribed agency needs to have parameters in
23 order to make the initial designation, not just
24 make designations and then come to the--

25 CHAIRPERSON VACCA: [interposing]

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2 We have testimony here, Broadway Residents'
3 Coalition, I think this is yourself, sir, and you
4 do recommend some parameters that DOT could
5 implement.

6 PIERRE LUIGI CONSAGRA: I was
7 basically following the lead of Council Member
8 Garodnick thinking oh, okay, if this is the path
9 we are going down--I am not a legislator. I am
10 just a citizen looking for a way to solve this
11 problem.

12 CHAIRPERSON VACCA: No, some of the
13 things you indicated DOT should specify that food
14 vending trucks should not park within 15 feet of a
15 crosswalk--

16 PIERRE LUIGI CONSAGRA:
17 [interposing] Council Member Chin has supposedly
18 has legislation stating the same thing.

19 CHAIRPERSON VACCA: But let me ask
20 you this, in your community right now, how close
21 are trucks to the crosswalk?

22 PIERRE LUIGI CONSAGRA: - -

23 [crosstalk]

24 CHAIRPERSON VACCA: Are they inside
25 the crosswalk?

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PIERRE LUIGI CONSAGRA: Oh yeah.

And when they are not inside, an inch.

CHAIRPERSON VACCA: Let me tell you this--this is the district manager in me coming out. If they are in the crosswalk, you have got to call the police immediately. Now if they are beyond the crosswalk, we have to find out from DOT what their guideline is and what it should be.

PIERRE LUIGI CONSAGRA: I looked that up. I don't believe there is a regulation or a code that says anything about being too close to a - - .

CHAIRPERSON VACCA: I know there are codes about how close you can park to a fire hydrant, and how close are these trucks to fire hydrants?

MICHELLE BIRNBAUM: Well, for example, we have in our district we have a Mr. Softee truck on 60th off 5th that is routinely in the crosswalk. Now if you have a car and you find a parking spot and you park and you are past the building line and the back of your car is in a crosswalk, you get a ticket, so clearly, it is not legal for anything with a motor to be in a

1 crosswalk. This is all enforcement, and over the
2 years, I have suggested a separate individual
3 enforcement squad for vendors and vendors only
4 modeled after the meter people who go around.
5 They would be conversant with vendor law, which
6 despite their terrific effort--we are in the 19th
7 Precinct--they are wonderful. They do a great
8 job. They don't have the manpower to handle this.
9 We are overrun. If you had a designated force
10 that was self-funding where it generated revenue
11 that could pay for itself, they would be
12 conversant with vendor law and when they went out
13 on the street to ticket, they would know what they
14 were looking at. We routinely have trucks in the
15 crosswalk and in front of fire hydrants, routinely
16 on 86th Street. I just wanted to make a comment
17 about you saying about the DOT and you know,
18 people come and go in these agencies over the
19 years. I think what governs most of the decisions
20 in many of our departments--I won't say all--has
21 to do with philosophy as opposed to practicality
22 of what is happening on the ground. There are
23 many people that have a philosophy that there
24 should be - - modes of transportation in the city,
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2 a philosophy that food should all be cheap, a
3 philosophy that the streets could belong to
4 anybody. These are philosophical things. If you
5 are out on the street and you are looking at it
6 practically, you might come up with a different
7 decision, so I would say that that is an important
8 consideration.

9 TERRI CUDE: If I may very briefly,
10 my passionate colleagues have said most of what I
11 would, our community board district has four
12 police precincts. We have been to the community
13 councils of all of them. All of the police
14 community councils, food trucks and carts are
15 always brought up, and especially in the 6th
16 Precinct, we get told we don't clear guidelines
17 for enforcement and therefore cannot enforce, and
18 enforcement there has got to be teeth in this.
19 Thank you.

20 CHAIRPERSON ARROYO: Thank you all
21 for your testimony.

22 FEMALE VOICE: Wait. One more.

23 CHAIRPERSON ARROYO: No, I am
24 calling up another panel, and Andrew is on that
25 panel and Terry Slater and Lo van der Valk. Do

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you have testimony, Terri?

TERRI CUDE: The community board
testimony.

CHAIRPERSON ARROYO: If you do
have, give copies to the sergeants to make sure
that we have all of it. All last panel certainly
not the least, thank you for being so patient and
for waiting to testify. Thank you for being here.
You may begin when you are ready. Handle the mic
by the base, not by the stem please. When the
light is on, the mic is working. Please.

ANDREW BOSO: Good afternoon. I am
very happy to be here, and thank you for taking
the time to address this issue. My name is Andrew
Boso and I am with a food truck called Carpe Donut
NYC. I want to address a topic that really hasn't
been touched on today, but since this an
opportunity to address issues within this emerging
industry, I thought this was a good time to bring
it up. As we know a mobile food unit needs to
have a permit. That permit is for the vehicle or
the cart. Each individual working on or in a
mobile food unit needs to have a mobile food
vendor license, and in our industry this creates a

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2 very difficult issue in terms of staffing. I
3 believe that the Department of Health earlier said
4 there are 18,000 I believe outstanding licenses,
5 and there is 5100 permits, so quick math, that is
6 just over three licensed people for every truck to
7 work or every cart. To make the distinction I
8 will kind of go into these remarks after that, but
9 the permit is for the vehicle, the license is for
10 the person and as it stands right now the
11 available workforce for the permitted units is
12 about three people for every unit, and so this
13 creates a lot of issues on the business side for
14 mobile food vending. The requirement that any
15 person working on a mobile food vending unit that
16 has a mobile food vending license is an excessive
17 standard that wouldn't be tolerated in any
18 industry including the tradition retail food
19 service industry. The mobile food community
20 hasn't had a voice, so this problem has been
21 allowed to continue. The process to acquire
22 mobile food vending license takes about three
23 months and in that time the person cannot work on
24 a mobile food vending unit. Can you imagine the
25 sort of uproar you would get at Starbucks or

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2 McDonalds if they hired a cashier to work at their
3 register and they couldn't have that person do any
4 meaningful work for three months? So that is the
5 issue. Here are the issues with the process.
6 Requiring each person to have a certificate of
7 authority to collect sales tax--this requirement
8 is unnecessary because the company that runs the
9 mobile food vending unit files and pays for New
10 York State sales tax. If this requirement were
11 dropped it would also benefit the state in that it
12 wouldn't have to process all of these unnecessary
13 requests for certificates of authority to collect
14 sales tax. Requiring each person to take a food
15 handling course--this requirement for each person
16 even if they are not handling food, so a cashier
17 must take this course. On each mobile food unit
18 there should be one person who has taken the
19 course, but it isn't necessary for everybody. The
20 next issue is requiring a person to wait to
21 receive their mobile food vending license in the
22 mail before they can work on a unit. That part of
23 it alone often takes six weeks. This is the
24 longest delay in the entire process and the
25 biggest issue. If a person has completed all of

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2 the requirements and submitted the application,
3 they should be issued a provisional license or
4 allowed to - - work with the receipt of their
5 application filing as proof. Why this process
6 takes so long I don't know, but it is something
7 that certainly should be fixed. So then the
8 issues that this causes the mobile food community
9 and the city, we cannot adequately staff our
10 mobile food vending units. And this causes us to
11 lose revenue. We are not able to produce as much
12 revenue. If we lose revenue or we don't produce
13 as much revenue, the state loses tax revenue, the
14 city loses tax revenue, the city loses corporate
15 or business tax revenue, the city loses sales tax
16 revenue and the amount of revenue that we can
17 produce as a business is limited by the fact that
18 we can't staff our units. So this has actual
19 revenue implications for the city and state. The
20 next issue is if we identify a person that we want
21 to hire, they often don't have the money or the
22 time it takes to complete this process, so the
23 requirement to have a mobile food vending license
24 actually keeps people out of work. There are
25 people that we would like to work, we want to

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2 hire, but this process is so onerous that they
3 can't meet and end up don't working. I don't know
4 what they do, but it is affecting who is in the
5 workforce. If we invest the time, three months,
6 and money in guiding a person through this
7 process, we cannot train or know that they are the
8 worker we want for at least three months, so if we
9 decide that this person is not right for our
10 company, we lose a significant investment in time
11 and capital. If a person takes it upon themselves
12 the invest the time and money going through this
13 process and they decide that after they begin
14 working that this is not something that they like,
15 they have wasted their time and their money to go
16 through this process for something that is
17 ultimately a dead end. My proposal for this would
18 be that the city not require each person on a cart
19 to have a mobile food vending license. If the
20 city needs to have this requirement filled in some
21 way then each mobile food vending unit would have
22 a single licensed person who acts as the manager
23 and that person would be responsible for making
24 sure the requirements for food safety are met,
25 food handling is done properly, all of the

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2 requirements that go into where a truck parks, how
3 it is managed, they will be managed by the manager
4 of that truck, the holder of the mobile food
5 vending permit, but it shouldn't be necessary for
6 a person to work a cash register to stand there
7 and take money from people or to do other sort of
8 meaningful tasks on the truck that don't require
9 you to collect sales tax or to actually handle
10 food or to go through this entire process. Thank
11 you.

12 CHAIRPERSON ARROYO: Let me just
13 ask, in the brick and mortar food business
14 restaurants, it is required that a manager be
15 onsite who has the food vending license. Is that
16 what you are proposing here?

17 ANDREW BOSO: Yes. The same model
18 I think--

19 CHAIRPERSON ARROYO: That that
20 individual be in the truck.

21 ANDREW BOSO: Correct. Yes. There
22 should be somebody on a truck that has a mobile
23 food vending license; it just doesn't need to be
24 everybody at all times. The person who is working
25 the register and taking orders and passing them on

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2 to somebody else--that is an issue that we
3 encounter all the time is that we want somebody to
4 come and work and help us create more business or
5 move the lines faster so there is not ten people
6 standing in front of us, but you can't do it
7 because it takes this three month process just to
8 bring somebody on to work the register.

9 CHAIRPERSON ARROYO: Thank you.

10 TERRY SLATER: Hi. I am still
11 Terry Slater. I forgot to say before thank you
12 for having this hearing to all of you, Council
13 Member Vacca, Council Member del Carmen Arroyo and
14 our special guy over there, Dan Garodnick. We
15 love him. Having said that, I am testifying on
16 behalf of the Association of Neighbors on the
17 Upper East Side. We have been around for a while.
18 We have been fairly quiet in recent years, but we
19 are thinking of mobilizing again because of the
20 situation with vendors and food trucks in our
21 neighborhoods. Over the years our organization
22 has worked on zoning, environmental and quality of
23 life issues. The safety of our streets and public
24 spaces has been a paramount interest to us. Our
25 local stores are the lifeblood of our

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2 residentially zoned neighborhood. These C1 and C2
3 local retail uses are widely mapped throughout the
4 city's residential neighborhoods. They face many
5 challenges on a daily basis and residential
6 neighborhoods cannot function with them. We are
7 blessed with a variety of eating and drinking
8 establishments in all price ranges. Many of them
9 are run by immigrant entrepreneurs who work
10 tirelessly to make a go of their businesses. Food
11 trucks invaded our neighborhoods in the last
12 couple of years causing safety and sanitation
13 problems while operating illegally with impunity.
14 They competed aggressively and unfairly with our
15 small businesses while offering nothing new in the
16 way of affordable food choices. They are the
17 square peg in the round hole. They do not fit the
18 residentially zoned envelope and should not be
19 permitted in residential neighborhoods. It is
20 impossible to see oncoming traffic with huge,
21 noisy, polluting trucks parking at the curb. It
22 is impossible to walk on narrow sidewalks with
23 food truck customers lining up for their orders.
24 They block our storefronts. They take away our
25 essential parking spaces. Community boards by the

1 way should not be forced to make - - decisions
2 when it comes to deciding where these trucks
3 should be located. Where should food trucks be
4 permitted? The financial district, midtown,
5 tourist areas, the areas of the city where
6 thousands of people are on the street at lunchtime
7 looking for an affordable bite to eat and where
8 there is a dearth of choices. Many of these
9 trucks belong to highly successful bricks and
10 mortar businesses, even national chains. Some of
11 our struggling hole in the wall restaurants could
12 fit inside some of these trucks, but have
13 responsibilities and pay a price the truck owners
14 don't pay. A few hundred truck owners don't make
15 up an industry and they are not more
16 entrepreneurial than small bricks and mortar
17 business owners with good ideas. Please, please
18 protect our residential quality of life and the
19 thousands of overtaxed, fee paying, small
20 businesses, our local retail users. They are one
21 of the city's most invaluable industries. Just a
22 couple of things, to the Mayor's Office, you can
23 hide behind the law or you can get in front of a
24 law. It is 2013--if there is anybody here from
25

1
2 the Mayor's Office still. And two, council
3 members, I know you know this, but there are
4 thousands of residents throughout the city of New
5 York. They do the job of the Department of
6 Sanitation, they do the job of the police
7 department. They work tirelessly to protect their
8 residential quality of life, and you know, they
9 are not thinking or feeling that they are getting
10 the best bang for their taxpayer dollar. It is an
11 insult when you have to do this on a daily basis.
12 It really is. People from SoHo and Tribeca feel
13 the way we do, and it is all over the city in
14 every borough. Having said that, the vendor
15 review panel was one of the most successful parts
16 of the Department of Consumer Affairs regulations.
17 If you get those regulations, you will see it
18 described, who was on it. The agencies were
19 represented. You weren't always happy when you
20 left--a resident could be unhappy, a vendor could
21 be unhappy. Those were the only issues, but it
22 was a place--it was like an appeals board. If
23 there was an issue you could bring your issue
24 there. There was a place to go. It is still on
25 the books. It has been on ice for years, and I

1
2 presume it is this administration putting it on
3 ice. I don't know. But it is a valuable tool.
4 Thank you.

5 LO VAN DER VALK: My name is Lo van
6 der Valk. I am president of Carnegie Hill
7 Neighbors. Carnegie Hill is an area in the Upper
8 East Side between 86th and 98th roughly and from 5th
9 to 3rd Avenue. We are a preservation, but also
10 very much a quality of life organization, and we
11 come to this meeting here, this hearing here with
12 our concerns about vendors and of course, the
13 mobile vendors. We want to thank our council
14 member, Dan Garodnick, who has really been on top
15 of this issue for years, and has had to listen to
16 all of our complaints, but to his credit he comes
17 up with solutions or tries to come up with
18 solutions, and that effort alone is worthwhile as
19 we see today because I consider this session
20 largely an exchange of ideas. It is more useful
21 to exchange ideas when you are grappling with a
22 concrete proposal, so thank you, Dan, for that.
23 Dan is also as was mentioned earlier responsible
24 with his fellow council members to correct the
25 vending situations at hospitals and to try to

1
2 enforce the fines at permit renewal. We applaud
3 this effort, and we are glad to be here and to
4 listen, and I have learned a lot this morning and
5 this afternoon. In general, we are not happy
6 about this proposal. We are really not that happy
7 with mobile vendors in our community. There may
8 be areas of the city where there are not enough
9 convenient retail outlets--I am thinking of
10 certain areas maybe in midtown or maybe way down
11 at the tip of Manhattan, Lower Manhattan. Thank
12 you. It is true that technically if we were to
13 say we want it only in residential districts if we
14 could limit it that way, it happens that Lexington
15 is zoned as partly as C2-8A and C1-9 so you can't
16 limit mobile food it seems that way. Although we
17 could say mixed use residential, but then that
18 becomes a whole part of the city. So we find it
19 very difficult, but I want to stress and support
20 earlier comments about brick and mortar
21 competition and we have seen stores really
22 suffering and disappearing. We also think that
23 especially at 86th Street where the subway and
24 Lexington--Dan has been helpful in limiting the
25 parking abuse by the mobile vendors, and now there

1
2 is a rule that they can be there only after seven
3 o'clock and that has helped a lot, but we hope
4 that in the future considering sight lines,
5 congestion, clutter and confusion that makes
6 safety as you get in that subway block and people
7 are rushing a concern so that we hope that that
8 will be off limits in the future. We also agree
9 with comments made earlier about the nuisance
10 factor of these mobile vendors--their generator
11 noise, their fumes, their litter and the fact that
12 they are not responsible for picking up after
13 them. Even though they may make claims and may
14 sincerely try to limit litter, it is byproduct of
15 the fact that they are using the sidewalk as a
16 place to consume their wares. We agree with truck
17 free zones. Yeah I have covered that with
18 residential with a difficulty. We would like to
19 expand truck free zones. We think that we are
20 already dealing with vendors and having mobile
21 vendors compounds it by not only a larger
22 presence, but also all the paraphernalia that it
23 needs and so yes, we would like the mobile vendors
24 to be not part of our community. I would like to
25 make two observations. One is that regular

1
2 vendors also often have trucks, and I am thinking
3 of 86th Street and 3rd Avenue near the movie--almost
4 in front of the movie theater. The truck that has
5 the vegetables and all the boxes in it is there
6 all the time, and even when you go to the movies
7 in the evening on the weekends, it is there, and
8 that is really not a nice presence, and we haven't
9 talked about aesthetics, but what is wrong with
10 having a city that is aesthetically pleasing? We
11 are very proud of our community, but when we walk
12 to 86th Street and we see those vendors there and
13 the sloppiness and the graffiti walls on their
14 trucks, that is a point of concern. Why shouldn't
15 New Yorkers be proud of their city the way
16 Parisians are? We are proud of our community. We
17 are here to protect our community, and we think we
18 have a right to be here and to oppose what we
19 think is an abuse. The second observation I'd
20 like to make is that it was very easy to collect
21 signatures to oppose a newsstand that was going to
22 be placed on 86th between Madison and Park.
23 Competition was raised, but that wasn't an - -
24 issue in the community board, but what made people
25 really excited and incensed about the idea of a

1 newsstand being there was their sight lines were
2 being ruined, the beauty of that beautiful 86th
3 Street, the residential part between Lex and 5th
4 avenue and of course when you get to - - Park,
5 there too. People like clear sidewalks. It is a
6 boulevard. Sometimes the buildings deserve to be
7 historically zoned or designated. Sometimes there
8 are individual designations there, so that hasn't
9 been brought out this morning. I am amazed that
10 coming so late I can make one little contribution
11 and that is aesthetics is important. People live
12 in this city because they love this city. We
13 should try to maintain what we have and not lose
14 it just because other people are trying to brand
15 and trying to be entrepreneurial--all of these
16 buzz words that are now coming to the floor, but
17 let's not forget the real basis of our city, which
18 is hardworking people who want to raise their
19 families, send their kids to schools and live in
20 livable neighborhoods. Thank you. Thank you very
21 much, and we look forward to continuing these
22 dialogues.
23

24 CHAIRPERSON ARROYO: Do you have
25 written testimony?

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2 LO VAN DER VALK: No, but I will
3 supply it.

4 CHAIRPERSON ARROYO: Dan?

5 COUNCIL MEMBER GARODNICK: Thank
6 you, Madam Chair. I wanted to really just thank
7 you and for the staff for your willingness to hold
8 this hearing and we obviously heard a variety of
9 different views today I think everybody
10 recognizing the need for some advancement of the
11 rules here and our drilling down to find precisely
12 the right outcome is the challenge that awaits us,
13 and I think Lo, you said it perhaps the very best
14 that this is intended to be an exchange of ideas
15 as many Council hearings are and that the concrete
16 proposal before everybody is intended to be the
17 instigation of this conversation, and we certainly
18 appreciate your testimony and everybody on this
19 panel and previously that we have particular
20 challenges that range from the aesthetic to the
21 taxes to the proper agency if any and we are going
22 to be grappling with those in the weeks and months
23 to come so I want to really particularly thank
24 Chair Arroyo, Chair Vacca for holding this hearing
25 and thank you for the opportunity to say a couple

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2 words.

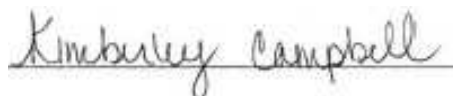
3 CHAIRPERSON ARROYO: Well, thank
4 you, Council Member. I for the public we always
5 welcome and appreciate your input. None of any
6 piece of legislation is ever perfect. We do
7 however improve what legislation is enacted in
8 this body because of the public input that we get.
9 We appreciate it and it is so necessary in order
10 for us to create a balance and that is the goal
11 here. I am sure that Council Member Garodnick
12 will take all of the comments and recommendations
13 and work with all of you to get us to a place that
14 if we are going to adopt legislation meets as many
15 of the concerns and addresses as many of the
16 concerns as possible. I thank you all for being
17 here for this many hours, and with that, I
18 conclude this hearing.

19 [gavel]

C E R T I F I C A T E

I, Kimberley Campbell certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature

Handwritten signature of Kimberley Campbell in cursive script, underlined.

Date _____ 5-16-13 _____