

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON CONSUMER AFFAIRS

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May 5, 2009
Start: 10:26 am
Recess: 10:45 am

HELD AT: Council Chambers
City Hall

B E F O R E:
LEROY G. COMRIE, JR.
Chairperson

COUNCIL MEMBERS:
Charles Barron
G. Oliver Koppell
John C. Liu

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2 CHAIRPERSON COMRIE: Good morning,
3 my name is Leroy--are we ready to rolling, rock 'n
4 roll? Good morning. I'd like to welcome everyone
5 today's Consumer Affairs Committee meeting.

6 I am Leroy Comrie, the Chair of the
7 Committee. I am joined by my colleagues Council
8 Member Charles Barron from Brooklyn, Council
9 Member John Liu from Queens, Council Member Oliver
10 Koppell should be on his way up the stairs in a
11 minute, Council Member Jim Gennaro had a emergency
12 and cannot be with us today.

13 Today, we will be voting on Intro
14 380-A, a Local Law, which will amend the
15 Administrative Code of the City of New York in
16 relation to issuing licenses for the purchase and
17 possession of etching acid.

18 The problem of etching acid
19 vandalism is most prevalent on the city's mass
20 transit system where subway windows are frequently
21 damaged at a cost of \$130 per window and the
22 annual cost to the MTA of 11 million. Trains can
23 also be out of service for over eight hours while
24 replacement windows are installed and the number
25 of subway cars going out of operation for window

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repair has increased dramatically in recent years.

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New York City employs several laws in its efforts to thwart graffiti. For example, Local Law 124 of 2005 and Local Law 39 of 2007 specifically regulate the possession and transportation of graffiti instruments by individuals under 21. The police department also enforces several important state anti-graffiti regulations, such as penal laws criminalizing the possession of graffiti instruments and the act of producing graffiti.

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Intro 380-A would supplement existing laws by requiring sellers of etching acid to keep detailed records of purchasers for one year. These records would be made available to the police for the purpose of enforcing anti-graffiti legislation and would include the purchaser's name and address, type of ID presented at the time of purchase, the amount of acid dispensed, and the date of the purchase. Sellers also would be required to post a notice stating that all persons purchasing acid must present photo identification and that the aforementioned information will be recorded by the seller.

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2 We'd like to move to a vote,
3 Council Member Liu, we can vote now 'cause I know
4 you have a committee meeting, would you like to
5 vote on this issue?

6 COUNCIL MEMBER LIU: Thank you very
7 much for your indulgence, Mr. Chairman, yes, I--

8 [Crosstalk]

9 CHAIRPERSON COMRIE: Oh, wait a
10 minute, huh, what, what?

11 MS. LACY CLARKE: Billy Martin
12 isn't here.

13 CHAIRPERSON COMRIE: Oh, Billy
14 Martin is not here, great. But Lacy is, you're an
15 attorney, you can take the legal record of what
16 happened and then we can move forward, correct?

17 [Off mic]

18 CHAIRPERSON COMRIE: Well we need
19 Billy Martin, geez, that means we lose John for a
20 half hour to 45 minutes 'cause--

21 COUNCIL MEMBER LIU: No, no, I'll
22 be right downstairs, they will pull me out as soon
23 as I can come up to vote.

24 CHAIRPERSON COMRIE: All right,
25 well--here he is, here he is, oops, there he is,

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2 oops, there he is, oop.

3 MS. CLARKE: just make a quick--

4 this is just--

5 [Off mic]

6 CHAIRPERSON COMRIE: Oh I'm sorry,
7 there is a correction, it's not to issue licenses,
8 it's just to keep a log for the purchase and
9 possession of etching acid. I said issuing
10 licenses, it's just to keep a log book.

11 Okay. Would anyone like to make a
12 statement before we move to a vote?

13 Okay. Can Council Member Liu vote
14 first 'cause he has a meeting with a hundred
15 people waiting for him?

16 COUNCIL MEMBER BARRON: I want to
17 try to influence his--

18 [Crosstalk]

19 CHAIRPERSON COMRIE: You want to
20 try and influence his vote?

21 COUNCIL MEMBER BARRON: Yes.

22 CHAIRPERSON COMRIE: All right.

23 Well in that case--

24 COUNCIL MEMBER BARRON: I want to
25 try to get him to vote no--

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CHAIRPERSON COMRIE: Okay.

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COUNCIL MEMBER BARRON: --unless he's going to vote no, then you can go ahead and vote.

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CHAIRPERSON COMRIE: I didn't ask him how he was going to vote on this.

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COUNCIL MEMBER LIU: Well, Mr. Chairman, respectfully, I am thankful to Council Member Barron for his insight and input. In this case, I will respectfully beg to differ with Council Member Barron. In the subways we do have-

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COUNCIL MEMBER BARRON: You don't even know what you're--

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[Crosstalk]

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COUNCIL MEMBER LIU: --we have an ongoing issue with graffiti and scratchitti and it is costing the MTA and, ultimately the subway and bus riding public, money. And we need to do a better job of containing the problem, so I vote yes on this bill, with all due respect to Council Member Barron. I hope that now that he knows that I voted yes, that he will change his vote to yes as well.

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2 COUNCIL MEMBER BARRON: Well that's
3 interesting how you respect me--

4 COUNCIL MEMBER LIU: Oh here we go.

5 COUNCIL MEMBER BARRON: --and
6 disagree with the position I haven't put out yet.
7 You're deep, John, I knew you were deep, but I
8 didn't know you read minds and you know--

9 COUNCIL MEMBER LIU: No, Charles,
10 you just asked me to vote no, that's how I know.

11 COUNCIL MEMBER BARRON: I didn't
12 tell you why, but if you're in a hurry, I
13 certainly understand that, you can leave.

14 I'm just saying that this is not
15 the way to stop graffiti. It will not do what you
16 are--the intent of this bill that we now have to
17 give our information so that the police can have
18 information on anybody that purchase this etching
19 acid and even if it's an artist that's purchasing
20 it for--or glassmakers purchasing it for decent
21 reasons, now the police will have access to that.
22 And I don't think that we should turn this thing
23 into a police state just to stop graffiti. I
24 think it's a stretch, it's not going to stop the
25 \$11 million because the people who are going to do

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2 that, what are you going to do, collect all the
3 names of people that's buying this and then go to
4 their houses and say did you use this for
5 graffiti? It just doesn't make any sense, and
6 it's just giving more access to the police to
7 harass people and go to their homes 'cause they
8 purchased some etching acid. It doesn't make
9 sense, it's not going to work, it's just going to
10 bring more police harassment to the citizens of
11 New York, who may have legitimate reasons for
12 purchasing this. That's all I wanted to say,
13 John. [Pause] Okay.

14 CHAIRPERSON COMRIE: Did you change
15 your mind?

16 COUNCIL MEMBER BARRON: I guess
17 that means no.

18 COUNCIL MEMBER BARRON: Okay, I
19 guess that means no. All right, we can move
20 forward. Mr. Martin, can you call the roll for
21 the vote at this point?

22 MR. WILLIAM MARTIN: William
23 Martin, Committee Clerk, Committee on Consumer
24 Affairs roll call. Introduction 380-A Council
25 Member Comrie.

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CHAIRPERSON COMRIE: I vote aye.

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MR. MARTIN: Barron.

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COUNCIL MEMBER BARRON: May I be
excused to explain my vote?

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CHAIRPERSON COMRIE: Yes, you may.

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COUNCIL MEMBER BARRON: I'm voting
no on this, this really doesn't make sense. It's
another one of them Peter Vallone doesn't make
sense bills that involves law enforcement [off
mic]innocent citizens to stop graffiti. This is
not going to work. There are already things in
place--penal laws in place already, and if we want
to stop graffiti, then I think we should have more
opportunities for these artists to develop their
artistic skills in other ways. Instead of this
law enforcement approach to everything, how about
putting more money into arts and recreation
programs and giving greater benefits for artists
to do other things than graffiti, like maybe build
more art centers in our neighborhoods, build more
theaters, build more things that will encourage
artists to do other kinds of things with their
talent, other than this law enforcement approach
to everything. This makes absolutely no sense,

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2 it's not going to work and I encourage my
3 colleagues to say no.

4 I vote no on this bill.

5 MR. MARTIN: Koppell.

6 COUNCIL MEMBER KOPPELL: Some of us
7 recall the days not too long ago when our subways
8 and buses were horribly defaced by graffiti and
9 other vandalism, particularly graffiti. And while
10 some people viewed that as art, the fact is that
11 it really lowered the level of communities and
12 people felt they were in a lawless environment,
13 and that changed.

14 While I wasn't a great fan of Mayor
15 Giuliani, the fact is that cracking down on these
16 quality-of-life offenses like graffiti made a real
17 difference in people's perception of where they
18 lived in New York.

19 We have a problem and apparently
20 the graffiti is returning and it's not only
21 despoiling the environment, but it's creating
22 enormous costs.

23 The fact is, in my opinion at
24 least, that forcing someone to show their identity
25 in order to buy something that is a dangerous

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2 product is a very minor intrusion into civil
3 rights or civil liberties. We require information
4 on people when they are in the possession of
5 dangerous instrumentalities. I mean, just
6 thinking about it, you can't drive a car, you
7 can't have a car even without registering it and
8 providing all kinds of personal information in
9 that connection; you can't get a gun without
10 registering in New York City at least and it
11 should be nationally. And there are other areas
12 where you just have to go through a process before
13 you're entitled to have possession of what is a
14 dangerous or destructive instrumentality and this
15 etching acid is one of those, we see the result of
16 it.

17 And so, while I don't particularly
18 like intrusion into people's personal lives, I
19 don't see any alternative at this point, quite
20 honestly, and so, Mr. chairman, I vote aye.

21 MR. MARTIN: By a vote of three in
22 the affirmative, one in the negative, and no
23 abstentions--

24 COUNCIL MEMBER BARRON: Mr.
25 Chairman, may I just--

2 MR. MARTIN: --item is adopted.

3 Council Members, please sign the committee report.

4 COUNCIL MEMBER BARRON: Just one
5 point of clarification--

6 COUNCIL MEMBER COMRIE: I didn't
7 make a statement yet, so I'd like to make my
8 statement first, but actually I'll defer to you,
9 so--

10 COUNCIL MEMBER BARRON: Just a
11 point of clarification, Ollie, they already have
12 to show ID to get this product. So this bill is
13 not about them showing ID to get the product, this
14 bill is allowing the police to get the information
15 of the consumer and it's a bit of a stretch from
16 etching acid to guns, I think that's a real
17 stretch to make a point.

18 I'm against graffiti and defacing
19 property, but the way to do it is to channel it
20 into something more positive and open up more
21 artistic places so that people who have these
22 talents will have the ability to express it in a
23 more positive and productive way.

24 So just a point of clarification,
25 they already have to show ID and it's a bit of a

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stretch from acid to guns. Thank you.

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CHAIRPERSON COMRIE: Council Member Barron, I have to agree with my colleagues, Council Member Liu and Koppell, regarding this bill.

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I for one am not for total intrusion into our lives, but I also realize that are our lives have already been totally intruded upon--there are computer box that monitor every time you go on the Internet, we're already in a society where people monitor you on everything you do. I think this just gives the police department another tool to go back and track records quicker, to be able to connect the dots a lot quicker so that they can deal with the fact that we do have a new scourge of graffiti that's moving around the communities and costing the MTA money.

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The state right now is looking to hopefully vote by tomorrow on a bill that won't even deal with the fact that they're going to close the gap in the MTA. I heard on the radio there's going to be at least an 8% increase where the fare is going up to 225, they're not even dealing with the capital needs and the capital

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2 needs are really part of the costs for the \$130
3 per window and the eight hours of service when the
4 train is down.

5 I do believe in what you said about
6 making more opportunities for artists, making more
7 children, giving them artistic opportunities and
8 after school opportunities and preschool
9 opportunities, opening up more community centers.
10 I think especially in this negative times we need
11 to do everything we can to give children and
12 people creative things to do, but I do think that
13 this bill will just give the police another easier
14 tool to track down those bad apples.

15 I think that the percentage of
16 them, I agree with you, will probably be less than
17 10% of the people, but I think the other 90% of
18 the people are law-abiding people that already
19 have their IDs well-known by most of the people
20 they interact with anyway. So that's why I'm
21 voting aye on this bill.

22 Just to move to the other topic
23 that's not being discussed today, Intro 846, I
24 know that's why most of you are really here today.
25 I'll let you know that this hearing was deferred

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2 and primarily due to do your issues, and your
3 issues are being dealt with in the bill, that's
4 why the bill has not been moved forward.

5 They're trying to do everything
6 they can to come up with a balanced bill for a
7 neighborhood that really wants to try to do
8 something to deal with the issues in their
9 neighborhood, that they're working on
10 collectively. They've been trying to work with it
11 to deal with issues that they feel are necessary
12 to improve the quality of life in their
13 neighborhood and I think you need to try to work
14 with them to come up with a solution that can
15 work.

16 I think that this is a city that if
17 we sit down and try to work out problems, that
18 there's no problem that can't be resolved. And,
19 clearly, the Sunset Park areas have been trying--
20 fervently working collectively to try to come up
21 with an issue regarding how they handle their
22 communities, how they handle the quality of life
23 in their communities, how they deal with sidewalk
24 access in the community, how they deal with
25 pedestrian traffic in the community. And I think

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2 it behooves all of you that are here to make sure
3 that you have your voices as part of that
4 discussion.

5 So, with that, I want to thank all
6 of you for being here. Again, I want to let you
7 know that 846 was deferred due to the issues of
8 First Amendment rights and we will be getting back
9 to it soon. I think it's an issue that, frankly,
10 we need to try to keep tackling. That I've been
11 wanting to have more meetings on the vendor's
12 issue public hearings, just to try to come to a
13 solution, but every time we go deeper into this,
14 there are more problems than solutions. But I
15 think that there clearly needs to be more
16 conversation, positive conversation about
17 solutions as opposed to just pointing fingers
18 about this is our turf, or this is my turf.
19 Clearly this is the city's turf and we have to
20 make sure that as we're doing with VIN [phonetic]
21 etching--

22 [Off mic]

23 CHAIRPERSON COMRIE: It's the
24 city's turf, the city is the people, the people
25 are the city.

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2 MALE VOICE: How come you say the
3 city's turf?

4 [Off mic]

5 CHAIRPERSON COMRIE: The people are
6 the city and the city are the people, and it's the
7 city's turf. It's not any individual's turf.

8 [Off mic]

9 CHAIRPERSON COMRIE: So, again, I
10 would just encourage all of you to make sure that
11 you're a part of the discussion regarding the
12 Greenpoint--

13 FEMALE VOICE: Sunset Park.

14 CHAIRPERSON COMRIE: --Sunset Park
15 bid because I think that, again, it's necessary
16 that there is real discussion and not finger-
17 pointing and the solution-focused and not just
18 problem-focused.

19 So, with that, I want to thank my
20 colleagues for being here this morning. I want to
21 thank the Committee and congratulate all of the
22 committee staff people that worked on Intro 380
23 and also congratulate all of the people in the
24 room for continuing to try to have some influence
25 on the quality of your own lives.

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With that, I'll call the hearing

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closed. Thank you.

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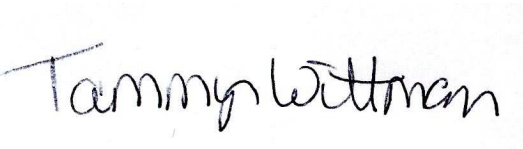
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C E R T I F I C A T E

I, Tammy Wittman, 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 _____

Date May 22, 2009