

CITY COUNCIL
CITY OF NEW YORK

-----X

TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON SANITATION AND SOLID WASTE MANAGEMENT

-----X

February 27, 2009

Start: 1:08 pm

Recess: 2:17 pm

HELD AT: Council Chambers
City Hall

B E F O R E:
SIMCHA FELDER
Chairperson

COUNCIL MEMBERS:
Maria del Carmen Arroyo
James F. Gennaro
Robert Jackson
Larry B. Seabrook

A P P E A R A N C E S [CONTINUED]

Baaba Halm
Counsel to the Committee

Siobhan Watson
Policy Analyst to the Committee

Michael Casatano
Director of Legislation
Council Member Felder's staff

Robert Orlin
Deputy Commissioner
Bureau of Legal Affairs
New York City Department of Sanitation

Thomas Milora
Executive Assistant
New York City Department of Sanitation

David Biderman
General Counsel
National Solid Waste Management Association

Gavin Kearny
Director, Environmental Justice Program
New York Lawyers for the Public Interest
On behalf of Organization of Waterfront Neighborhoods

2 CHAIRPERSON FELDER: Good afternoon
3 ladies and gentlemen and I apologize for being
4 late. For future reference, for future reference
5 I will try to be better. I want to first thank
6 Council Member Robert Jackson who was acting as
7 Chair of this Committee and as Chairman of the
8 Education Committee, certainly two very busy
9 Committees. In fact there was a rumor that they
10 weren't going to fill the post because he was
11 doing such a good job acting as Chair, they didn't
12 want to find a Chair.

13 So I thank you very much. I also
14 would like to thank my predecessor Councilman and
15 now Congressman Mike McMahon who did such a
16 wonderful job chairing this Committee. I hope to
17 try to do it as good. And if I do it better I'd
18 enjoy that a lot, but as good.

19 My name is Simcha Felder. And I am
20 the Chair of the Committee on Sanitation and Solid
21 Waste Management. We're here today to discuss a
22 bill which proposed to do two primary things.
23 First to increase permit fees for operators of
24 solid waste transfer stations and second to
25 establish new registration fee for intermodal

2 waste container facilities.

3 Before we get into this discussion
4 I'd like to begin by providing some background.
5 As most of you know, the City closed the Fresh
6 Kills Landfill in 2001. At that time the City
7 began exporting 100% of its trash outside of City
8 limits. Solid waste transfer stations which are
9 the subject of the bill before us today are the
10 facilities where garbage trucks bring the garbage
11 that they collect from around the City. Once the
12 garbage is delivered to that transfer station it
13 is consolidated with literally tons of other
14 garbage and shipped to landfills outside the City.

15 The Department of Transportation
16 currently has the authority to issue permits for
17 these solid waste transfer stations. In 1990 the
18 City Council passed Local Law number 40 which
19 increased the annual permit for solid waste
20 transfer stations. These fees have not increased
21 since 1990. In addition to solid waste transfer
22 facilities, a new mode of transporting garbage has
23 developed in the City called intermodal waste
24 container facilities. I was going to say
25 otherwise known as IWCF 'cause usually that's what

2 they do. But since we didn't do it, I won't say
3 that. Is that what it's called? Forget it.
4 We'll get to them.

5 These intermodal facilities
6 transport solid waste by using large containers
7 that are transferred from one mode of
8 transportation to another without the contents of
9 the containers ever, every, ever, I think, needing
10 to be removed.

11 Intermodal transportation is a
12 growing method for sending our garbage outside the
13 City. The bill before us seeks to establish a
14 registration fee for the operators of these
15 intermodal facilities since the original
16 legislation that was passed in 1990 doesn't impose
17 a fee at all on this form of waste handling.

18 The bill before us today would do
19 the following: it increases, excuse me, it
20 increases the annual permit fee for non, now do
21 you pronounce that?

22 [Pause]

23 CHAIRPERSON FELDER: I'll get it,
24 putrescible solid waste transfer stations from
25 \$3,500 to \$7,000; increases the annual permit fee

2 for putrescible solid waste transfer stations from
3 \$6,500 to \$13,000; and creates a new annual
4 registration fee for intermodal solid waste
5 container facilities in the amount of \$7,000.

6 I hope to use this hearing to
7 better understand the number of issues surrounding
8 these proposed fees, fee increases includes, these
9 are questions that we would be asking you later,
10 so if you want, you can prepare for them now. How
11 the Department of Sanitation uses the money
12 generated from these fees? In other words, where
13 it goes, is it a general fund or something more
14 related to this actual--these transfer stations.

15 Why these increases should take
16 place now since they haven't been increased in 19
17 years? Especially since I just became the Chair.
18 What the impact of these proposed increases will
19 be on the transfer station operators? What the
20 impact of these proposed increases will be on
21 residents and businesses who pay to have their
22 trash removed? And how the current economic
23 downturn should impact the decision we make and
24 the prices, obviously, that we're going to impose?

25 [Pause]

2 CHAIRPERSON FELDER: Before we get
3 to the discussion, I just wanted to introduce the
4 counsel to the Committee, that's Baaba, how do you
5 Spell that?

6 MS. SIOBHAN WATSON: H-A-L-M.

7 CHAIRPERSON FELDER: Baaba Halm.

8 And,

9 [Pause]

10 CHAIRPERSON FELDER: Siobhan Watson
11 who is the Policy Analyst to the Committee. And
12 my Director of Legislation, Michael Casatano
13 [phonetic], who's sitting off to the right. And
14 of course, delighted to have Council Member Robert
15 Jackson here and you can do whatever you want.

16 COUNCIL MEMBER JACKSON: Thank you
17 I wish I could do whatever I wanted to because I
18 would be on a plane to somewhere nice and warm
19 with some beautiful white beach and blue, you
20 know, waves. That's where I would be. But back
21 to reality.

22 Let me just say Simcha,
23 congratulations on being elected the Chair of the
24 Sanitation and Solid Waste Committee. And in fact
25 you are right. I think that you have big shoes to

2 fill because Michael McMahon, as a former Council
3 Member and as a Chair of the Sanitation and Solid
4 Waste Committee for the past seven years, up until
5 election to Congress, obviously, he knows this
6 like the back of his hand. And especially since
7 the whole issue of sanitation and solid waste was
8 right in his back yard.

9 But I am sure that you, knowing you
10 as I do, as my colleague for oh going into our
11 eighth year, I'm confident that you will be a
12 very, very good Chair do us all well. And
13 especially listening to the people in the
14 community because obviously where you live and
15 where you represent, there are many, many
16 homeowners that have a lot of issues and concerns
17 regarding this particular issue. And so I know
18 that you will take their feelings and thoughts
19 overall into what you do as a Chair.

20 So I'm confident that you will do
21 well and I say to you as a colleague, that someone
22 that has been on this year for eight years,
23 myself, that you will do well. And I'm here to
24 back you up 110%. Thank you.

25 CHAIRPERSON FELDER: Then I'm

2 certain we'll do well.

3 COUNCIL MEMBER JACKSON:

4 Absolutely.

5 CHAIRPERSON FELDER: [Off mic] What
6 can I say? [Back on mic] Thank you very much. I
7 just want to, for the record, to set in place the
8 same rule that I had in the prior committees that
9 I chaired. That anyone who wants to testify can
10 sign up to do so within the first 15 minutes of
11 the time the hearing begins. I don't want to say
12 when it was supposed to begin because that's not
13 fair. I came ten minutes late today myself. But
14 whenever the hearing begins, you have 15 minutes
15 to sign up.

16 And the purpose of that is to set
17 some order to a hearing. And also to allow people
18 who come in with questions or testimony to hear
19 what was said. So spread the word.

20 That's... and in the future, I do
21 want to also say that unless the--unless, if we're
22 going to be dealing with an oversight hearing, the
23 custom, the new custom in the Committee is going
24 to have the public's witnesses, one panel first,
25 and then we'll have the Administration. Not in

2 legislation because in legislation obviously we
3 want to hear what--how the Administration feels
4 about a bill.

5 But otherwise we, with the help of
6 my esteemed colleagues we are trying our best--
7 not--there's no earthquake approach in taking
8 everything and turning it upside down. But
9 certainly we want to try to make sure that people
10 feel that they get a fair hearing first. And I
11 think that the Administration feels the same way
12 except in the cases where we said it's
13 legislation. So that's how we're going to run
14 things from now on. They don't like it. Okay.
15 Anyway, we're ready whenever you are.

16 MR. ROBERT ORLIN: Thank you. Good
17 afternoon Chairman Felder and members of the
18 Committee on Sanitation and Solid Waste
19 Management. I am Robert Orlin, Deputy
20 Commissioner of the Bureau of Legal Affairs for
21 the New York City Department of Sanitation. I am
22 here today to discuss Intro 840, introduced at the
23 request of the Mayor and under consideration by
24 the Committee today. With me is Thomas Milora,
25 Executive Assistant to the Commissioner, who

2 oversees the Department's Permit and Inspection
3 Unit.

4 Intro 840 amends section 16-131(c)
5 of the New York City Administrative Code to
6 increase the annual fee for a permitted non-
7 putrescible solid waste transfer station from
8 \$3,500 to \$7,000, and to increase the annual fee
9 for a permitted putrescible solid waste transfer
10 station from \$6,500 to \$13,000.

11 Intro 840 also increases the annual
12 registration fee for intermodal solid waste
13 container facilities to \$7,000. The current
14 annual fees for a non-putrescible transfer station
15 and for a putrescible transfer station have been
16 in effect since the enactment of Local Law 40 of
17 1990, and the fares have not increased since Local
18 Law 40 was passed 19 years ago.

19 Local Law 40 consolidated the
20 jurisdiction over the permitting of solid waste
21 transfer stations in the Department of Sanitation
22 and generally granted the Department broad
23 authority over transfer stations and solid waste
24 facilities. At the time that the Department began
25 enforcement of Local Law 40 in 1991, 12 employees

2 were assigned to the Department's Permit and
3 Inspection Unit. The Unit is responsible for
4 regularly inspecting all private transfer stations
5 and intermodal facilities in the City.

6 Since 1991, the Department has
7 increased PIU staffing levels and currently
8 employs a staff of 24 people: 17 officers, 5
9 supervisors and 2 administrative staff, and has a
10 vacancy for an Administrative Project Manager who
11 will be able to provide technical expertise to the
12 Unit. This doubling in staffing has been
13 necessary to allow the Department to conduct more
14 thorough inspections of the City's 55 solid waste
15 transfer stations and 6 intermodal facilities and
16 thereby ensure compliance with the Department's
17 detailed regulations governing solid waste
18 facilities.

19 In 2005, the Department amended its
20 operational rules for putrescible and non-
21 putrescible solid waste transfer stations. These
22 new rules set forth stringent operational and
23 maintenance requirements that serve to minimize
24 the environmental impacts of transfer station
25 operations. The rules contain standards for air

2 emissions and require state-of-the-art
3 ventilation, dust and odor control equipment at
4 all solid waste transfer stations.

5 The PIU Police Officers regularly
6 inspect the City's transfer stations to ensure
7 that the transfer stations are complying with
8 these rules and the terms of their permits. The
9 PIU officers also receive special training in
10 United States Environmental Protection Agency
11 visual calibration methods to determine the
12 opacity and length of time of air contaminant
13 emissions.

14 Additionally, PIU officers
15 regularly inspect intermodal facilities to ensure
16 compliance with DSNY's registration requirements.
17 The officers check for quality of life issues such
18 as vector control, volumes of material stored at
19 the site and ensuring lawful entrances and exits
20 for transport vehicles. During Fiscal Year 2008,
21 PIU conducted 4,782 inspections of transfer
22 stations and intermodal solid waste container
23 facilities.

24 Intro 840 will help the Department
25 to defray some of the increased costs associated

2 with the Department's PIU officers who help ensure
3 that the City's private transfer stations and
4 intermodal facilities comply with the terms of
5 their permits and registrations and also ensure
6 that the quality of life in the neighborhoods
7 surrounding the transfer stations and intermodal
8 facilities is protected.

9 PIU staffing levels have doubled
10 since Local Law 40 was enacted in 1990, but there
11 has been no increase in transfer station permit
12 fees in those 19 years. The proposed fee increase
13 only covers a fraction of PIU's overall costs, and
14 it is the Department's belief that the proposed
15 fee increase will only insignificantly impact the
16 operators of transfer stations and intermodal
17 facilities.

18 Thank you for the opportunity to
19 testify this afternoon. And we would be happy to
20 answer your questions.

21 CHAIRPERSON FELDER: Thank you very
22 much. I want to make mention of the fact that
23 we've been joined by Council Member Larry Seabrook
24 who I have the honor of serving with on my
25 Government Operations, is it right? Government

2 Operations Committee, whose attendance and
3 promptness was impeccable and I look forward to
4 this Committee being able to have other members
5 like Council Member Seabrook and Jackson who are
6 so conscientious.

7 Unfortunately he has a number of
8 obligations today and he's going to stay as long
9 as he can but I want to thank him publicly for
10 making the extra effort to be here. And I know
11 that's only because it was my first hearing or
12 else he would not have been able to attend. So I
13 thank you publicly.

14 Can you educate the new Chair on
15 some of this stuff? The questions I'm about to
16 pose are not setups. They're very simple
17 questions that you're probably familiar with that
18 I don't know anything about. Can you explain the
19 difference in--I'm going to get this right,
20 putrescible versus non putrescible stations? How
21 does it work? Is it cheaper, more expensive to
22 run one the other? Do they do both?

23 MR. ORLIN: I think Tom Milora who
24 oversees the Permit and Inspection Unit will--

25 CHAIRPERSON FELDER: [Interposing]

2 Yeah just--

3 MR. ORLIN: --speak to that.

4 CHAIRPERSON FELDER: --identify
5 yourself.

6 MR. THOMAS MILORA: I'm Thomas
7 Milora, Executive Assistant to the Commissioner
8 and in charge of the Permit and Inspection Unit.
9 Putrescible facilities, putrescible garbage, first
10 of all is residential waste--

11 CHAIRPERSON FELDER: [Interposing]
12 Right.

13 MR. MILORA: --it has the tendency
14 to decompose, create odors. Typically those
15 facilities are enclosed--they have to be enclosed.
16 So they're inside buildings and the rules are more
17 stringent regarding odor control, ventilation,
18 equipment and sewage systems.

19 Construction and demolition debris
20 is found in the demolition of buildings. It's
21 concrete. It's wood. It's tile. It's wires.
22 They do not have to be enclosed, those facilities.
23 They could be outdoor facilities. They need to
24 have dust suppression systems. And that's
25 basically the difference.

2 There are also what's called fill
3 material transfer stations.

4 CHAIRPERSON FELDER: What was the
5 last thing, I'm sorry?

6 MR. MILORA: Fill material. And
7 they--

8 CHAIRPERSON FELDER: [Interposing]
9 Right.

10 MR. MILORA: --deal with clean
11 material, earth, soil, gravel--

12 CHAIRPERSON FELDER: [Interposing]
13 But what does that have to do with your charging
14 more money? I don't understand. What's the
15 correlation? You charge \$3,500 for non-
16 putrescible transportations and \$6,500 for
17 putrescible, why?

18 MR. MILORA: Well historically
19 we've inspected--due to the potential for more
20 public nuisance issues associated with the
21 putrescible facility--

22 CHAIRPERSON FELDER: [Interposing]
23 Yeah.

24 MR. MILORA: --odors, vectors. We
25 would inspect them more frequently.

2 CHAIRPERSON FELDER: So you're
3 charging them more to cover your costs that are
4 more, is that it?

5 MR. MILORA: Well the permitting,
6 the actual permitting process for putrescible is
7 certainly more intense than a non-putrescible due
8 to the fact that it's in a building. The
9 permitting requirements are more extensive.

10 CHAIRPERSON FELDER: Can you give
11 me--I'd like two examples of in what way it is. I
12 under--

13 MR. MILORA: [Interposing] They're
14 required to submit engineering plans--

15 CHAIRPERSON FELDER: [Interposing]
16 Hum. Yeah.

17 MR. MILORA: --site plans of the
18 building of the associated equipment, the
19 ventilation systems, the sewage systems.

20 CHAIRPERSON FELDER: So would it
21 cost you more, the Department more manpower hours
22 to see whether this is okay--

23 MR. MILORA: [Interposing]
24 Certainly.

25 CHAIRPERSON FELDER: --a

2 putrescible place--

3 MR. MILORA: [Interposing] Yes.

4 Yes.

5 CHAIRPERSON FELDER: Yeah. And now
6 you said that this increase is only going to cover
7 a fraction of really what your costs are. Why
8 aren't you proposing to charge more?

9 MR. ORLIN: There's a methodology
10 that OMB uses, I mean that was worked out with our
11 financial staff to determine the proper fees. I
12 mean I do know the fees we could have proposed
13 could have been higher than what we're doing here
14 today.

15 But, you know, we thought that the
16 fees that we are proposing are reasonable,
17 particularly given the economic climate, and, you
18 know, they reflect approximately the permitting
19 costs. You know, the costs that it takes to
20 ensure that permitting is done properly, reviewing
21 the annual paperwork, you know, going to inspect
22 facilities to ensure that the renewal of the
23 permits is properly done.

24 CHAIRPERSON FELDER: And let me--
25 having said that, and again I'm not arguing the

2 point. I'll let you know when I'm arguing. I'm
3 not arguing now.

4 I just--having said what you said,
5 somebody could make an argument and say that you
6 didn't increase fees for 19 years on the
7 intermodal which we'll get to in a minute, that's
8 another story 'cause you weren't ever charging
9 them anything. Is that correct?

10 MR. MILORA: Well we actually have
11 been charging intermodal fees pursuant to our
12 rules but not by statute. We passed--we
13 promulgated intermodal rules in 2005. And we used
14 to actually permit intermodals, then we decided to
15 go through a registration process. So the
16 intermodal facilities have historically been
17 paying the same fee as a putrescible transfer
18 station of \$6,500.

19 [Pause]

20 CHAIRPERSON FELDER: So you have
21 been charging for the intermodal. And the
22 intermodal, you're only charging \$6,500. Right?
23 And that's what it would remain--

24 MR. MILORA: [Interposing] It
25 would--

2 CHAIRPERSON FELDER: --except it
3 would be codified?

4 MR. MILORA: We're proposing to
5 increase it to \$7,000, a \$500 increase.

6 CHAIRPERSON FELDER: Slight. But
7 would--but the permitting process there again is
8 much, much less complicated in contrast to the
9 buildings that have the putrescible--

10 MR. MILORA: [Interposing] Well--
11 that's exactly right. I mean an intermodal
12 facility, waste is not actually hit what we call a
13 tipping floor. It's transferred in the container
14 from one transport vehicle to another and then is
15 put on a rail or a vessel for export out of the
16 City.

17 CHAIRPERSON FELDER: Now I'm not--I
18 am getting back to the argument I was going to
19 make is that despite the fact that you haven't
20 done an increase in 19 years, you're doubling the
21 fee. And even if the expense is much more than
22 that, somebody could make the argument that that's
23 a lot.

24 It may not be a lot considering
25 that you didn't do anything in a long time but

2 suddenly jumping the rent, it's like jumping the
3 rent. That's what it--I was going to say, it's
4 like not giving somebody an increase in rent and
5 then saying get out unless you double the rent in
6 a house.

7 So I don't know, I don't know how I
8 feel about it. I feel very comfortable with the
9 fact that you need to increase the fee. I just
10 don't know whether it might be more appropriate;
11 even to increase it by more money, but gradually
12 instead of doubling it immediately and stopping,
13 maybe, that would be a way to go.

14 And I know that, I understand the
15 need for the money. I just don't like the idea of
16 somebody being able to say you're doubling the
17 fee, even if they were getting away with a bargain
18 all these years. So that's not a question unless
19 you want to say something.

20 MR. ORLIN: Well the only think I
21 was going to say is that I think the bill was
22 introduced a couple of years ago. It didn't get
23 to a Committee hearing and, you know, the--as you
24 said, I mean the fees haven't been increased in 19
25 years. The Department staff has doubled in that

2 time period and the rules are much more detailed
3 particularly for transfer stations on the
4 putrescible side. We have much more detailed
5 rules regarding, you know, vector control, odors,
6 ventilation which requires much more technical
7 expertise than was the case when Local Law 40 was
8 passed in 1990.

9 CHAIRPERSON FELDER: Can you please
10 tell me, look we put up the hearing on the City
11 Council website, whatever else, but you mentioned
12 somewhere in your testimony, I think you alluded,
13 I won't say that you testified, that it doesn't
14 seem to be opposition. You alluded to that.

15 MR. ORLIN: Well I don't think I
16 said specifically there wouldn't be opposition. I
17 said the impacts on the transfer stations would be
18 insignificant. And I think Tom Milora has some
19 data to support that statement.

20 MR. MILORA: The cost per ton
21 variance, I mean for a facility that does 1,000
22 tons a day, the cost per ton is probably about a
23 half a cent per ton. To the smallest facility
24 which would be maybe 140 or 150 ton facility, it
25 amounts to \$.13 per ton which we certainly

2 consider negligible.

3 CHAIRPERSON FELDER: Is it correct
4 that you have different facilities, larger and
5 smaller?

6 MR. ORLIN: Yes.

7 CHAIRPERSON FELDER: And your
8 charging a fee, a straight fee, no matter what.
9 Would you consider then, maybe at a minimum, if
10 there--if there are much larger and much smaller
11 facilities that the permitting, the theory behind
12 this is the amount of work, you know, that you're
13 putting in to permit these places that perhaps it
14 should be based on capacity, permitted capacity
15 rather than just a flat fee?

16 MR. ORLIN: You know, historically
17 I would say the fees have been the same regardless
18 of the size. And a lot of the work is the same
19 regardless of the size. I mean you add a small
20 putrescible transfer station, they are still
21 required to meet the same operational standards
22 that a larger facility is. And, you know, we
23 still have to inspect their off-road vehicles and
24 their ventilation equipment and other things. So,
25 you know, we think it's easiest and--to charge the

2 same fee for each facility.

3 CHAIRPERSON FELDER: There's no
4 question that it's easy just to charge everybody
5 the same amount of money.

6 MR. MILORA: And the workload--

7 MR. ORLIN: [Interposing] I mean
8 maybe Tom can speak to that--

9 MR. MILORA: [Interposing] Well
10 even as part of the new operational regulations,
11 all of these facilities are required to submit
12 opacity testing and more detailed engineering
13 reports when they renew their annual permit. And
14 at which time, we review them, you know, quite
15 closely. So the work really doesn't change.
16 We're going that review every year.

17 CHAIRPERSON FELDER: So just to
18 recap what you just said, you're telling me that
19 you--the Department, and when I say you I'm not
20 talking about you, the Department itself, puts in
21 as much labor and, you know, labor hours and work
22 in permitting a smaller place as it does a larger
23 place? Doesn't seem logical.

24 MR. MILORA: Well from an
25 administrative review, reviewing an engineering

2 report, it takes close--it may not be exactly the
3 same amount but I don't think it's anything as
4 significant enough to be a reasonable difference.

5 CHAIRPERSON FELDER: Without
6 harping on this point too long, would you, can you
7 tell me whether in fact there are stations that
8 are twice as large as other stations, perhaps?

9 MR. MILORA: Yes there are
10 certainly stations that are--

11 CHAIRPERSON FELDER: [Interposing]
12 I think, I think again, I think it's something to
13 explore. In combination with the other parts of
14 the conversation that we were having. In other
15 words if you're going to double the fee, and again
16 I don't see that as being unreasonable other than
17 the fact that it's being done at once, even though
18 it was a bargain.

19 But this could be sort of a
20 compromise, you know, in trying to impose things
21 so that not everyone gets hit the same fee. I
22 can't imagine, and I just can't imagine that it's
23 the same. But even if it is correct, this is a
24 way of saying we're not just going to give
25 everybody the same fee at the same time.

2 [Pause]

3 CHAIRPERSON FELDER: How did you
4 come up with this amount other than just doubling
5 it?

6 MR. ORLIN: Well as I said there's
7 a methodology that OMB uses that they worked out
8 with our financial staff. You know, it takes into
9 account a small portion of the overall PIU work,
10 and it relates to the permitting costs. And there
11 was a general estimate done on a fully loaded
12 basis--

13 CHAIRPERSON FELDER: [Interposing]
14 But you--

15 MR. ORLIN: --and I know the number
16 is--I mean I wasn't specifically involved in that.
17 I do know that the numbers were actually a little
18 bit higher than what we're proposing here today.
19 You know, in part because we've double the staff
20 since 1990.

21 CHAIRPERSON FELDER: Yeah. I want
22 to reiterate that I'm not; I'm not at all
23 disturbed, believe it or not, by the Department
24 needing to raise its rates if it hasn't done so in
25 19 years. One could almost, God forbid, compare

2 it to the increase in salaries that Council
3 Members like myself gave ourselves after a long
4 time. We understand that the cost of living goes
5 up, so do the expenses and that makes sense.

6 The question is, the question is
7 the amount. Especially considering the fact that
8 you have a 30% cap, right? On the increase for
9 garbage carters, am I right?

10 MR. MILORA: I believe the new
11 rates went up approximately 30% yes.

12 CHAIRPERSON FELDER: Yeah. So
13 again we're just trying to take everything and put
14 it into one pot and perspective in this
15 discussion. Do you feel, does the Administration
16 feel that this increase, assuming that the request
17 that you're talking about actually happens, will
18 impact any of the businesses on their day to day,
19 on a day to day level of business?

20 MR. MILORA: No. You know, we
21 believe the cost per ton is so negligible that it
22 certainly won't have any trickle down effect, not
23 at all.

24 CHAIRPERSON FELDER: Now can you
25 tell me why the intermodal facility fee is called

2 a registration fee and the solid waste is called a
3 permit fee?

4 MR. ORLIN: Yes.

5 CHAIRPERSON FELDER: I know that
6 the Department is extraordinarily careful with
7 everything that it does and says, so I'm sure it
8 wasn't just by accident.

9 MR. ORLIN: Right, yeah, a transfer
10 station whether it's putrescible or non-
11 putrescible has to go through a full detailed
12 environmental review that ends up with a permit
13 because, you know, whether it's putrescible or
14 non-putrescible, waste is put on a tipping floor
15 which creates dust or odor issues.

16 An intermodal facility only
17 requires a registration from the Department
18 because the waste never leaves the container.
19 It's simply transporting waste in a container from
20 one vehicle to another. So it's a simpler process
21 and it's a registration as opposed to a full
22 permit that's granted.

23 CHAIRPERSON FELDER: I want to
24 apologize. I was talking while you were talking.

25 MR. ORLIN: Do you want me to

2 repeat--

3 CHAIRPERSON FELDER: [Interposing]

4 And I, in my younger years, I was able to do six
5 or seven things simultaneously. I'm only able to
6 do three at this time. Can you please forgive me
7 and explain it again?

8 MR. ORLIN: Sure. A transfer
9 station whether it's a non-putrescible or
10 putrescible transfer station involves waste going
11 on a tipping floor. And, you know, with the
12 putrescible waste, it's put on--in an enclosed
13 facility. At a non-putrescible there's an open
14 facility and you have dust issues. So there is
15 much--there's much more of an environmental impact
16 at a full transfer station.

17 At an intermodal facil--and that's
18 why it requires a full permit. At an intermodal
19 facility, it's simply waste being transported in a
20 container generally from a truck into a rail car
21 or a vessel for export out of the City. So the
22 impacts are less and therefore it doesn't require
23 the fill permit that a transfer station does.

24 CHAIRPERSON FELDER: And that's why
25 you only increased them \$500?

2 MR. ORLIN: That's correct.

3 CHAIRPERSON FELDER: But the \$6,500
4 price tag, you gave them was the--like non-
5 putrescible.

6 MR. ORLIN: Well it was like the
7 old putrescible--

8 CHAIRPERSON FELDER: [Interposing]
9 Oh right.

10 MR. ORLIN: --fee. Yes.

11 CHAIRPERSON FELDER: Right. So
12 that's--

13 MR. ORLIN: [Interposing]
14 Historically the Department had permitted
15 intermodal facilities but several years back we
16 realized it should just be a registration.

17 CHAIRPERSON FELDER: Yeah. We were
18 joined; we are joined by our distinguished
19 colleague from the Bronx, Council Member Maria del
20 Carmen Arroyo. Thank you for being here. So do
21 any of my colleagues have any questions before I
22 continue? Council Member Jackson.

23 COUNCIL MEMBER JACKSON: Thank you
24 Mr. Chair. I guess my question would be with
25 respects to do you know whether or not as a result

2 of this increase in the fees and permit fees and
3 what have you, and my understanding that they have
4 not been increased since 1990, which is about 19
5 years, is that correct?

6 MR. ORLIN: That's correct.

7 COUNCIL MEMBER JACKSON: Can you
8 tell me, what would be the impact, the financial
9 impact on residents if any? Residents as far as
10 homeowners and also as far as landlords in the
11 apartment buildings, in essence, so I can get an
12 idea whether or not this increase is going to
13 have, in your opinion, based on the normal course
14 of business, will it have a--what type of increase
15 would that mean for people to put out their
16 garbage?

17 MR. ORLIN: I don't think it will
18 have any impact on residents. The Department of
19 Sanitation collects waste directly from the
20 residents and we enter into some contracts with
21 City transportations and some contracts with
22 transportations outside the City. And as Tom
23 Milora had indicated the increase in the cost is
24 really negligible.

25 He was giving you some figures

2 based on the cost per ton. But a typical transfer
3 station's going to bring in anywhere from like
4 \$5,000,000 to \$25,000,000 in revenue per year.
5 And the increases we're seeking, you know, are a
6 very, very small fraction of that amount. You
7 know, \$6,500 is, you know, a very small impact on
8 terms of that revenue basis.

9 COUNCIL MEMBER JACKSON: So for a
10 homeowner and/or an apartment dweller there really
11 should be no increase.

12 MR. ORLIN: No.

13 COUNCIL MEMBER JACKSON: Okay. But
14 what about if I was a commercial store? I would
15 assume that since, is there--do you think there
16 will be an increase for a department store, if I
17 owned a department store and I was putting out
18 garbage with a private carting service, do you
19 think there would be an increase? And if so, how
20 much, give or take. If you have any idea.

21 MR. MILORA: The--I mean when we
22 look at the cumulative average of the cost per ton
23 increase, I mean--

24 COUNCIL MEMBER JACKSON:
25 [Interposing] Yeah.

2 MR. MILORA: --we're looking
3 probably at \$.01 to \$.02 per facility. So we
4 don't believe there would be any--

5 COUNCIL MEMBER JACKSON:
6 [Interposing] Negligible if any.

7 MR. MILORA: [Interposing] Yes--

8 COUNCIL MEMBER JACKSON: --is that
9 correct?

10 MR. MILORA: --yes absolutely.

11 COUNCIL MEMBER JACKSON: Okay.

12 Thank you. Thank you Mr. Chair.

13 CHAIRPERSON FELDER: You are aware
14 that the number--thank you. You are aware that
15 the number of transfer stations have decreased
16 significantly, is that correct?

17 MR. ORLIN: That's correct.

18 CHAIRPERSON FELDER: So despite the
19 fact that they've been--what was the cut. Would
20 you say 50%?

21 MR. MILORA: Well they've decreased
22 since 1990, roughly 50%.

23 CHAIRPERSON FELDER: But despite
24 that, despite that, you still feel that you need
25 this increase. In other words, despite the fact

2 that you have 50%, what is that, went from what to
3 what? How many were there prior to 1990 and how
4 many are there now?

5 MR. MILORA: There were close, I
6 believe 130.

7 CHAIRPERSON FELDER: And now?

8 MR. MILORA: Facilities. There are
9 60.

10 CHAIRPERSON FELDER: Okay. So
11 there are far, far fewer stations but you still
12 think that you need the extra money.

13 MR. ORLIN: Yes. And in part
14 because the regulations now are much more detailed
15 and it requires more work from the PIU officers
16 and the administrative staff.

17 [Pause]

18 CHAIRPERSON FELDER: Council Member
19 Arroyo. Please.

20 COUNCIL MEMBER ARROYO: Thank you
21 Mr. Chair and congratulations on your new
22 assignment. I look forward to working with you
23 and actually having fun doing it. [Chuckles]
24 Whenever you're in the room, we get a good laugh.

25 I was late. I--but, so I'm not

2 sure which of you is whom, but your name is? I
3 want to correct a statement made earlier that
4 depending on the type, there's less impact on a
5 community.

6 Nothing can be further from the
7 truth. There are 15 stations sited in my District
8 between Community Boards 1 and 2 and each have an
9 equal negative impact on our environment whether
10 they're closed or open or--because the management
11 of those facilities, although enclosed, they leave
12 the doors open. The odor and the impacts on the
13 community are significant, not to mention the
14 truck traffic that they attract. So regardless of
15 whether they're open or closed, they impact the
16 community equally, as much.

17 What's the anticipated revenue
18 benefit of the fees being increased in the--at the
19 scales that we're looking at here?

20 MR. ORLIN: I think it's
21 approximately \$250,000 total--

22 COUNCIL MEMBER ARROYO:
23 [Interposing] Annually?

24 MR. ORLIN: Yes.

25 [Pause]

2 MR. ORLIN: Are you talking about
3 the increase in the transfer station fees that
4 we're requesting--

5 COUNCIL MEMBER ARROYO:
6 [Interposing] Yeah. Well, the--I'm, I see that
7 there's a permit fee and then there's a
8 registration fee. I imagine that every station
9 has to do both. Yes?

10 MR. ORLIN: Right. There's a
11 permit fee which the Department charges. I--

12 COUNCIL MEMBER ARROYO:
13 [Interposing] Right.

14 MR. ORLIN: You want to know what
15 we're going to receive in terms of what the City's
16 going to receive--

17 COUNCIL MEMBER ARROYO:
18 [Interposing] Okay. Well first help me--

19 MR. ORLIN: --on the increases?

20 COUNCIL MEMBER ARROYO: --
21 understand. The permit fee and the registration
22 fee are one and the same, or are they different
23 fees?

24 MR. ORLIN: The permit fee is, each
25 transfer station gives us an annual permit fee--

2 COUNCIL MEMBER ARROYO:

3 [Interposing] Right--

4 MR. ORLIN: --to renew their
5 permit.

6 COUNCIL MEMBER ARROYO: --and
7 what's the registration fee?

8 MR. ORLIN: The registration is
9 done annually as well--

10 MR. MILORA: [Interposing] But
11 that's for an intermodal facility--

12 MR. ORLIN: --that's an intermodal
13 facility--

14 COUNCIL MEMBER ARROYO:
15 [Interposing] Only?

16 MR. MILORA: Yes.

17 MR. ORLIN: Right.

18 COUNCIL MEMBER ARROYO: Okay. So
19 combined, the revenue impact is in a positive
20 sense for the City is what I'm anticipating.
21 Correct?

22 MR. MILORA: I think we'll receive
23 approximately \$250,000 more a year.

24 COUNCIL MEMBER ARROYO: Okay.

25 MR. MILORA: From those fees with

2 the increase.

3 COUNCIL MEMBER ARROYO: I think
4 they should pay a lot more. Quite frankly, but
5 that's my personal experience from having to deal
6 with the impact that they have on communities. I
7 think this is nothing compared to the income
8 generated from the operations of those facilities.

9 So I would be inclined to encourage
10 you to increase the fees at higher--much higher
11 than this. They handle hundreds of thousands of
12 tons of waste that some communities have to deal
13 with more than others. I would like to see us
14 generate a great deal more revenue from these
15 facilities than we currently are. Given the
16 fiscal situation that we're in, this is an
17 incredible opportunity for us to be able to do
18 that. So my two cents about making the fees
19 higher, please. Make them pay for the impact that
20 they have on our communities.

21 MR. ORLIN: Okay. Yeah. I mean
22 the statute that we're proposing today is to cover
23 certain administrative costs of the permit and
24 inspection unit and the methodology that was used
25 by OMB and our financial staff is designed to

2 reflect the--to cover the, you know, slightly less
3 than our overall permitting costs for these
4 facilities. And that's what we're able to pass
5 along to the transfer stations.

6 COUNCIL MEMBER ARROYO: Well, you
7 know, the trucks tear up our streets, DOT has to
8 repave them on an ongoing basis. If you do an
9 analysis of the conditions of the streets in the
10 communities where these stations are sited, I
11 think the City invests a great deal more in those
12 communities than others because of the fact that
13 they're there.

14 So if you're looking to cover your
15 costs for running the permitted operation, I think
16 you're maybe being a little short-sighted on the
17 potential for revenue generating capacity that we
18 can have in the City. That's just my two cents.
19 Thank you Mr. Chair.

20 CHAIRPERSON FELDER: Thank you very
21 much. What is--what's the budget for the unit
22 that handles this entire--the entire budget for
23 the unit that handles this?

24 MR. ORLIN: It's approximately
25 \$2,000,000 per year.

2 CHAIRPERSON FELDER: It's
3 \$2,000,000?

4 MR. ORLIN: Yeah.

5 [Pause]

6 CHAIRPERSON FELDER: Now with the
7 proposed increase are we saying that this is going
8 to last for X number of years or are we leaving it
9 open ended?

10 MR. ORLIN: Certainly for the
11 foreseeable future, these are the fees we would
12 be--

13 CHAIRPERSON FELDER: [Interposing]
14 No. I'm throwing--we talked about a number of
15 things. One, the possibility, not necessarily
16 that you agree, about gradually imposing the fee.
17 Two was the capacity, changing the amounts and
18 even according to my colleague Council Member
19 Arroyo, even if you wanted to charge more, the
20 distinctions.

21 And three, the question is whether
22 we're going to put into law that the fee will
23 remain this way for an X number of years. We
24 didn't have it--for 19 years you had no increase.
25 The question is now that it's being doubled, even

2 if you believe that it should be that way, whether
3 it's going to remain that way for a certain amount
4 of time.

5 MR. ORLIN: Yeah. We have no
6 intention of coming back any time in the near
7 future to raise the fees. I can't say when we
8 think it would be appropriate to raise the fees
9 again but I don't think that would be appropriate
10 to put in the legislation.

11 CHAIRPERSON FELDER: But you--what
12 was the last thing again?

13 MR. ORLIN: I don't think it would
14 be appropriate to put in some time limit when we
15 could raise the fees again, but, you know, there's
16 no intention on the part of the Department's part
17 to come back again to the Council--

18 CHAIRPERSON FELDER: [Interposing]
19 Is it--

20 MR. ORLIN: --to raise the fees in
21 the--

22 CHAIRPERSON FELDER: [Interposing]
23 Well--

24 MR. ORLIN: --foreseeable future.

25 CHAIRPERSON FELDER: I just want to

2 acknowledge Council Member Jim Gennaro who has a
3 conflict with other meetings who's joined us.

4 What could be appropriate is that
5 you would say that in the future the price or the
6 fee would not, would not exceed, just like they
7 have a cap on the real estate tax, you know, X
8 amount percentage per year or over X number of
9 years. You might consider that. Not, not
10 preventing yourself from increasing it but saying
11 don't worry. Look we haven't increased the fee
12 for 19 years, we're doubling it now. Don't think
13 we're coming back in a year and we're going to ask
14 for another 25% or something else like that. That
15 if you wanted to increase it, you'd be limiting it
16 automatically.

17 So at least those that have
18 problems with the increase know that it's not, you
19 know, just a recurring--going to happen easily.
20 You keep on talking about the methodology. What
21 exactly, do you know what the methodology was?
22 Again I'm just--it just looks like they doubled
23 it.

24 MR. ORLIN: Yeah. The methodology
25 again I wasn't involved, was taking a portion of

2 the overall cost to the Permit and Inspection Unit
3 and that includes rent and--

4 CHAIRPERSON FELDER: [Interposing]

5 Do you have anything else--

6 MR. ORLIN: --personnel cost and
7 OTPS--

8 CHAIRPERSON FELDER: --if you want
9 to go.

10 MR. ORLIN: --and trying to assess
11 how much of those costs--

12 CHAIRPERSON FELDER: [Interposing]
13 Let him go?

14 MR. ORLIN: --relate to permitting.
15 And that was the methodology.

16 CHAIRPERSON FELDER: Okay. Are you
17 familiar at all with the issues of recycling,
18 although it has nothing to do with this hearing?

19 MR. ORLIN: I'm familiar with
20 recycling, yes.

21 CHAIRPERSON FELDER: Yeah. So this
22 is a general question. This is called--this is a
23 setup. This question. I want to know whether you
24 have any information as to how many City
25 facilities, City offices have the capacity or the

2 ability to do the recycling.

3 For example, even here at City
4 Hall, for a very, very long time, there was one
5 garbage--now they have these, I don't know whether
6 to call them units that have three holes, and even
7 for someone like me, I understand where the paper
8 goes and the garbage and the cups or cans. Are
9 you familiar with how many Departments, Finance,
10 you know, agencies throughout have recycling
11 units, you know, have been recycling?

12 MR. ORLIN: Well they're obligated
13 to recycle. I mean obviously the Department of
14 Sanitation, we have a very good setup for, you
15 know, tossing away or recycling paper and metal,
16 glass and plastic. As you are probably aware,
17 there is discussion about amending the recycling
18 bill which, you know, I think would enhance
19 agencies' responsibilities to ensure that
20 materials are recycled properly.

21 CHAIRPERSON FELDER: I, this is the
22 last statement unless one of my colleagues has
23 something else they want to ask. Hum? What?
24 Yes, Council Member Arroyo wants to make sure you
25 understood, she wants the prices raised. Higher.

2 That doubling it was not enough. Can you mark it
3 down so that she?

4 This is the last thing that I
5 wanted to say is that it's become clear to me in
6 visiting a variety of agencies throughout this
7 City that recycling is not being done. If that's-
8 -and I didn't expect the Department of Sanitation
9 to have anything other than perfect recycling
10 programs, especially under Commissioner Dougherty
11 who I admire tremendously.

12 That doesn't mean I won't give him
13 any aggravation as the Chair of the Committee, but
14 I would just say that I don't know who's
15 responsibility it is, but if we're giving
16 homeowners summonses for not recycling properly I
17 think it would be appropriate for us as a City to
18 make sure that we're doing it before we ticket
19 anyone else. That's all.

20 I want to thank you very much for
21 making me look smart in my first hearing. I've
22 told my colleagues here the same thing. So I look
23 forward to working with you in the future. And
24 unless you have any questions which I won't
25 answer, you're--it's over.

2 MR. ORLIN: Thank you.

3 CHAIRPERSON FELDER: Thank you very
4 much.

5 MR. MILORA: Thank you.

6 CHAIRPERSON FELDER: The next two
7 witnesses can come up. We have David, I think
8 it's Biberman. Huh?

9 MS. WATSON: Biderman.

10 CHAIRPERSON FELDER: Biderman, from
11 the National Solid Waste Management Association.
12 And Gavin,

13 MS. WATSON: Gavin.

14 CHAIRPERSON FELDER: Gavin Kearney,
15 thank you, from New York--

16 MS. WATSON: (Interposing) Lawyers
17 for Public Interest.

18 CHAIRPERSON FELDER: Thank you.

19 For New York Lawyers for Public Interest.

20 [Pause]

21 CHAIRPERSON FELDER: Great.

22 [Pause]

23 CHAIRPERSON FELDER: You can start
24 whenever you're ready. And I would ask somebody,
25 obviously you're here, but if somebody should

2 remain from the Department.

3 [Pause]

4 CHAIRPERSON FELDER: Push the
5 button please.

6 MS. WATSON: Thank you.

7 [Witnesses getting settled]

8 MR. DAVID BIDERMAN: Good afternoon
9 Mr. Chairman, members of the Committee and
10 distinguished guests, my name is David Biderman.
11 I am the General Counsel for the National Solid
12 Wastes Management Association. NSWMA appreciates
13 the opportunity to submit these comments on Intro
14 840 to the City Council's Sanitation and Solid
15 Waste Committee. NSWMA is the trade association
16 that represents the solid waste and recycling
17 industries. NSWMA's New York City chapter is the
18 association's largest, and includes numerous
19 companies that own and operate both putrescible
20 and non-putrescible transfer stations in the City.

21 As the Chair accurately stated,
22 Intro 840 is proposing to double the annual cost
23 of transfer station permits. The Department's
24 choosing to do this during the middle of the worst
25 recession in the United States in at least a

2 generation, and perhaps since the Great
3 Depression.

4 Solid waste companies are far from
5 immune from the economic downturn. Tonnage is
6 down at New York City's transfer stations, as
7 businesses go bankrupt or reduce their waste
8 generation in response to business slowing. This
9 trend is expected to continue for at least the
10 rest of this year.

11 The majority of transfer stations
12 in New York City are locally-owned facilities, and
13 the proposed 100% increase in annual permit costs
14 is going to be passed on to their customers. This
15 will increase waste disposal costs for New
16 Yorkers, again during a severe economic downturn.

17 Several years ago, the Department
18 of Sanitation issued regulations that required
19 transfer stations to invest in expensive dust
20 suppression, odor control and air emission
21 systems. In response, the City's transfer stations
22 now have tire washing facilities, misting systems
23 and are upgrading the heavy equipment used at
24 these facilities. At least one company spent more
25 than \$1,000,000 to comply with these new rules.

2 Now, the Department is proposing to
3 double the annual permit fee, and there is no
4 guarantee that they will not seek additional
5 permit fee increases, or impose new fees in future
6 years.

7 Now, we're not unreasonable. NSWMA
8 recognizes that it has been more than a decade
9 since the permit fees have changed, and that some
10 sort of adjustment may be warranted. NSWMA notes
11 that a few months ago, the City's rate cap on
12 solid waste collection, which limits what carters
13 are allowed to charge their customers, and which
14 had not changed for more than 11 years, increased
15 by about 30 percent.

16 An increase of that magnitude would
17 be acceptable to NSWMA and its members. If the
18 City is insistent on a larger increase, NSWMA
19 recommends that it be imposed over two or more
20 years to ease the impact on transfer stations and
21 their customers, and that the total amount of the
22 total increase be somewhat less than the 100%
23 increase proposed by this bill.

24 If I could just add one thing to my
25 testimony. There was some question and answers to

2 the Department about possibly having tiered fees.
3 In most of the United States, I can't say for
4 every jurisdiction, but in most of the United
5 States, it's my understanding that there's a
6 single fee regardless of size. If the Council
7 would like I can do some research on that and get
8 back to them with more specific information.

9 NSWMA worked very closely with
10 Councilman McMahon and his staff on a variety of
11 solid waste issues over the past six years and we
12 will very much look forward to working with you
13 and the Council staff on solid waste issues in the
14 future. Thank you and I'd be glad to answer any
15 questions.

16 CHAIRPERSON FELDER: Thank you very
17 much and we're delighted to have you. We know how
18 much you've been involved in this area and others.

19 When you said that the carters or
20 whatever facilities would be affected, would any--
21 we talked about different types of facilities. Do
22 you believe that some would be affected more than
23 others or it's the same problem for all of them?
24 And then also in terms of the pass-on to
25 customers, whether they be commercial or

2 individual, would it also be the same issue?

3 MR. BIDERMAN: I think that this
4 proposed increase will have a disproportionate
5 impact on the smaller transfer stations which by
6 the way make up the majority of transfer stations
7 in the City. The majority of transfer stations in
8 the City are not the 1,000 ton per day facility
9 that the Department's talking about. They're much
10 smaller than that. The impact--

11 CHAIRPERSON FELDER: [Interposing]
12 Thank you.

13 MR. BIDERMAN: --on a per ton basis
14 is much larger than, you know half a cent or one
15 cent per ton. I also think that the impact on the
16 individual customer will depend, again, on the
17 size of the customer. If a customer is generating
18 a substantial amount of material the increase may
19 be somewhat less than a smaller customer who's
20 already having trouble making ends meet, who's
21 already having trouble making payroll, and will
22 just view this is as another new City fee or tax
23 that it's being forced to pay for.

24 CHAIRPERSON FELDER: But what
25 percentage of the stations would you say are

2 small? You said, about?

3 [Pause]

4 MR. BIDERMAN: I have that, just
5 one sec.

6 [Pause]

7 MR. BIDERMAN: Of the putrescible
8 and non-putrescible transfer stations, of which
9 there are 38, there are 38 of these facilities
10 located in the City. Only a handful of them are
11 larger than 1,000 tons per day.

12 CHAIRPERSON FELDER: So can we
13 break this down? Let's say we take 30 stations,
14 right? And 30 stations and again the putrescible
15 are going to be increased by \$6,500. Let's just
16 assume that half of them, I don't know if that's
17 correct--

18 MR. BIDERMAN: [Interposing] It's a
19 little less than half, there are 16 putrescible--

20 CHAIRPERSON FELDER: [Interposing]
21 Yeah.

22 MR. BIDERMAN: --facilities and 23
23 non-putrescible. 22, non-putrescible facilities--

24 CHAIRPERSON FELDER: [Interposing]
25 So there are 15 putrescible stations. I'm taking-

2 -those are the ones that are going to be increased
3 the most, \$6,500. How--what is the average number
4 of customers that these places have?

5 MR. BIDERMAN: I'm not sure it--
6 able to say average--

7 CHAIRPERSON FELDER: [Interposing]
8 Yeah.

9 MR. BIDERMAN: --I could give you a
10 number but it would be a very bracketed kind of a
11 number because--

12 CHAIRPERSON FELDER: [Interposing]
13 I--

14 MR. BIDERMAN: --a very large
15 facility will have hundreds of--well will
16 certainly have--

17 CHAIRPERSON FELDER: [Interposing]
18 So you--

19 MR. BIDERMAN: --dozens of carters-
20 -

21 CHAIRPERSON FELDER: --what's the
22 minimum--let me ask you. Can you tell me what the
23 minimum number of customers one of these stations
24 has?

25 MR. BIDERMAN: Well a transfer

2 stations customer--

3 CHAIRPERSON FELDER: [Interposing]

4 Yeah.

5 MR. BIDERMAN: --is an individual
6 carter.

7 CHAIRPERSON FELDER: Right.

8 MR. BIDERMAN: Okay. And so some
9 transfer stations get the majority of their
10 material--almost all of their material from a
11 handful of carting companies.

12 CHAIRPERSON FELDER: Okay. And so-

13 -

14 MR. BIDERMAN: [Interposing] A
15 handful of carting companies.

16 CHAIRPERSON FELDER: --all right.
17 What I'm looking for is, oh again, this is also a
18 setup. Not to get--I just want to understand
19 actually at the end of the day, what will a
20 customer actually, under the worst scenarios, in
21 your mind.

22 MR. BIDERMAN: Um-hum.

23 CHAIRPERSON FELDER: What will the
24 customer--what's going to be the fee that they'll
25 be incurring, in addition to what they were

2 incurring in the past?

3 MR. BIDERMAN: Well the worst case
4 scenario, as I'm thinking about it would be a
5 facility in Queens that has only one customer--

6 CHAIRPERSON FELDER: [Interposing]
7 They have--

8 MR. BIDERMAN: --and that customer
9 is the Department of Sanitation. So the
10 Department of Sanitation ironically would end up
11 paying the entire cost, in theory--

12 CHAIRPERSON FELDER: [Interposing]
13 Okay. Now next because if they're charging it,
14 too bad, they'll have to pay it. Next, the next
15 example. I'm talking about a non-City entity.

16 MR. BIDERMAN: The--there are
17 facilities in the City that have--

18 CHAIRPERSON FELDER: [Interposing]
19 No I don't like what you're doing now.

20 MR. BIDERMAN: I'm sorry.

21 CHAIRPERSON FELDER: You're not
22 doing anything terrible. I just don't like it.
23 I'm asking a very simple question. And you know
24 what I want to do, and I want you to help me.

25 I want to figure out approximately,

2 it's nothing, you know, this is not, nothing
3 legal. Approximately what a customer, an average
4 customer in this business 'cause you're talking
5 about the impact that it's going to have when it's
6 filtered down to the customers, what will that be?

7 What's the most it will be? So you
8 took the Department of Transportation and said
9 \$6,500. Forget about--find one that makes, you
10 know, that's more--more...

11 [Pause]

12 CHAIRPERSON FELDER: Yeah, more
13 private and resembles your average customer.

14 MR. BIDERMAN: Actually--

15 CHAIRPERSON FELDER: [Interposing]
16 Yeah.

17 MR. BIDERMAN: The Department's
18 number for the aggregate overall cost on this is
19 approximately \$250,000--

20 CHAIRPERSON FELDER: [Interposing]
21 Right.

22 MR. BIDERMAN: --I don't disagree
23 with that.

24 CHAIRPERSON FELDER: Yeah.

25 MR. BIDERMAN: There are

2 approximately 150 licensed carters in the City who
3 pick up putrescible garbage. So 150 into \$250,000
4 yields, according to my math and I was not a math
5 major in college, about \$13,000 increased costs--

6 CHAIRPERSON FELDER: [Interposing]

7 But those carters are charging customers. In
8 other words this is going--then it goes down
9 another step to the customer. I, I'm just trying
10 to really get a sense about what it's going to
11 cost the actual customer at the end of the day.
12 And as you heard, Council Member Arroyo thinks it
13 should cost more for the, you know, for the way
14 they do business. And that's fine. I just want
15 to have a general idea.

16 MR. BIDERMAN: And a carting
17 company with 100 customers, if they were to
18 allocate it equally--

19 CHAIRPERSON FELDER: [Interposing]

20 Yeah.

21 MR. BIDERMAN: --would pay, each
22 customer would have to pay an extra \$130.

23 CHAIRPERSON FELDER: A year.

24 MR. BIDERMAN: A year.

25 CHAIRPERSON FELDER: Yeah. Okay--

2 MR. BIDERMAN: [Interposing] For
3 100 customer carter.

4 CHAIRPERSON FELDER: And you--

5 MR. BIDERMAN: [Interposing] And
6 again that's a mathematical average.

7 CHAIRPERSON FELDER: Okay. And you
8 were talking about other cities, can you tell me
9 what they do in other cities about what they
10 charge in other cities? Are you familiar?

11 MR. BIDERMAN: I don't have that
12 information here with me today--

13 CHAIRPERSON FELDER: [Interposing]
14 Okay.

15 MR. BIDERMAN: --but I'd be glad to
16 provide it.

17 CHAIRPERSON FELDER: Yeah. So that
18 would be helpful as well. If you have that
19 information, that would be helpful. Do any of my
20 colleagues have any questions? Council Member
21 Arroyo?

22 COUNCIL MEMBER ARROYO: I guess
23 maybe clarification. It sounds like what you're
24 implying is that chances are the Sanitation
25 Department is going to be charging itself more

2 money because if the fee is higher, the cost of
3 the garbage being picked up or transferred will
4 probably go up. And the City's probably the
5 largest customer of most of the larger stations.
6 Is that what you're saying?

7 MR. BIDERMAN: What I'm saying is
8 that with regard to one particular transfer
9 station, there's not commercial waste that goes
10 there. The Department, I believe, is the only
11 user of that facility according to the
12 Department's data. That's a atypical transfer
13 station, to be candid.

14 And I don't know the contractual
15 relationship between that transfer station and the
16 Department but it could be that there's a
17 provision in their agreement that to the extent
18 that licensing fees imposed by the City or others--
19 --by the Department or other City agencies--

20 COUNCIL MEMBER ARROYO:

21 [Interposing] Um-hum.

22 MR. BIDERMAN: --get to be passed
23 along either immediately or over time.

24 COUNCIL MEMBER ARROYO: So if it's
25 atypical why are you using that one as the

2 example?

3 MR. BIDERMAN: Oh I just mentioned
4 it, as an example. I didn't say it was The
5 example, but that is A example--

6 COUNCIL MEMBER ARROYO:
7 [Interposing] But it's the example you gave.

8 MR. BIDERMAN: Well it's not the
9 only example I gave. The typ--there are other
10 transfer stations that the Department uses in
11 addition to commercial waste going to that
12 facility. And in that instance the transfer
13 station, when it was--would be bidding on future
14 work that it would be hoping to get from the City,
15 either from the Department or other City agencies,
16 would likely have to build into that cost
17 structure the increased fees that are being
18 proposed here.

19 COUNCIL MEMBER ARROYO: Mr.
20 Biderman.

21 MR. BIDERMAN: Yes Ma'am.

22 COUNCIL MEMBER ARROYO: Do you
23 understand that I have no sympathy for the
24 National Solid Waste Management Association?

25 MR. BIDERMAN: I have picked up

2 that--

3 COUNCIL MEMBER ARROYO:

4 [Interposing] None.

5 MR. BIDERMAN: --vibe.

6 COUNCIL MEMBER ARROYO: Not a bit.

7 The gentleman sitting to your right is probably
8 going to testify and give us information why
9 that's the case. So sit around and listen. Okay.
10 Because I think what you're here saying from your
11 perspective is not the perspective of the people
12 that I represent. Starkly different. Please
13 listen.

14 CHAIRPERSON FELDER: Okay with that
15 we'll go to the next witness.

16 MR. GAVIN KEARNEY: Thank you.

17 Good afternoon members of the Committee, thank you
18 for the opportunity to provide testimony today.
19 My name is Gavin Kearney, and I am the Director of
20 the Environmental Justice Program at New York
21 Lawyers for the Public Interest. I am here today
22 on behalf of the Organization of Waterfront
23 Neighborhoods also known as OWN to testify in
24 support of Introduction 840.

25 OWN is a City-wide coalition of

2 community organizations from low-income
3 communities and communities of color throughout
4 New York City. OWN's members come from those
5 communities that host the great majority of the
6 City's waste transfer stations and endure the
7 impacts they create.

8 For more than a decade, OWN has
9 been a strong advocate of environmentally sound
10 and equitable solid waste management practices in
11 New York City. OWN worked extensively with the
12 City and City Council on the 2005 adoption of
13 regulations that require transfer stations to
14 operate in a cleaner, more environmentally
15 responsible manner.

16 While the adoption of these
17 regulations was a significant step, their
18 effectiveness depends on the degree to which they
19 are enforced, and enforcement requires funding.
20 The Department of Sanitation as they testified
21 today has increase funding for enforcement since
22 2005 and this has provided positive benefits.

23 Nonetheless, OWN's communities
24 still deal with a variety of negative impacts from
25 transfer stations and waste carters that use these

2 facilities operate in violation of the law.
3 Impacts some of which were referred to already
4 today include idling of trucks on streets, odors
5 from facilities that operate with their doors
6 open, and dust and debris in the streets from
7 facilities that don't take proper measures to
8 control them.

9 We support Intro 840 because it
10 will generate additional revenue for the
11 Department of Sanitation while placing what we
12 believe is a very modest burden on the operators
13 of waste-related facilities. We do so with the
14 strong recommendation that these funds be
15 allocated toward enforcement activity around
16 waste-related facilities, particularly in those
17 communities with disproportionately high numbers
18 of such facilities. Thank you for the opportunity
19 to testify.

20 COUNCIL MEMBER ARROYO: You're
21 being so gracious Mr. Chair. I just want to take
22 a moment to say thank you to the New York Lawyers
23 for Public Interest for the work that it does in
24 trying to help communities that are organizing
25 against the things that impact us in negative

2 ways. And you guys are incredible.

3 We have to figure out a way for you
4 to keep your attorneys on staff longer 'cause once
5 they develop this specialty they tend to move on,
6 and--which I guess is a good thing 'cause they get
7 such good training. But thank you for your work.
8 And on behalf of all those organizations that you
9 support, thank you.

10 [Pause]

11 CHAIRPERSON FELDER: Okay. I asked
12 the Department earlier and I forgot, I guess, I
13 didn't follow up, 'cause you just mentioned in
14 your testimony about the money, what it's going to
15 be used for. When the Department testified it
16 sounded as though they need the money to cover
17 their costs for manpower, employees, whatever
18 else. In your testimony you seem to be in favor
19 of the increase but you want the money to be used
20 for other things. Can you--did I get that right?

21 MR. KEARNEY: My understanding of
22 their testimony is that at least in part the
23 additional revenue would go towards their
24 inspection division which deals with enforcement
25 related activities. To the extent that that's

2 true, we would be--we're in favor of their doing
3 that. It's not obviously clear on the fact of the
4 Introduction itself.

5 CHAIRPERSON FELDER: So again, for
6 the record now, if the money is not going at all
7 to increase any inspection of whatsoever, if it's
8 going to cover--and they have their--they contend
9 that as it is they can't cover their costs. I'm
10 not so sure that that's the way you raise fees,
11 necessarily, but let's assume that if, again, if
12 the money were not to be used to increase
13 inspections or, you know, some of the things
14 you're looking for, but to cover the costs, would
15 you still be in favor?

16 MR. KEARNEY: Cover the cost of?

17 CHAIRPERSON FELDER: Doing
18 business. Of whatever they do normally. Whatever
19 they're doing now. In other words whatever
20 they're doing now--

21 MR. KEARNEY: [Interposing] Right.

22 CHAIRPERSON FELDER: --whether you
23 are satisfied or not, whatever they're doing,
24 they--and they're asking for an increase of fee to
25 help cover the costs--

2 MR. KEARNEY: [Interposing] Right.

3 CHAIRPERSON FELDER: --of what
4 they're doing.

5 MR. KEARNEY: To the extent that
6 what they're doing now deals with the impacts of
7 facilities in communities that we work with, yes.

8 CHAIRPERSON FELDER: Okay. Can I
9 ask somebody from the Sanitation to come back to
10 the desk to answer this question please? You
11 don't have to leave, we'll get another chair. Can
12 we get another chair, Sergeant at Arms?

13 [Pause]

14 CHAIRPERSON FELDER: I would do it
15 myself but I know I'd get into trouble. I'm sorry
16 for bringing you back and I'm not punishing you
17 for remaining. I just--we had talked about it and
18 I didn't remember--I don't think we followed up
19 about this, on this point, whether the money is
20 going to be used to address some of Gavin
21 Kearney's issues, remarks, in terms of increasing--
22 --am I right? Increasing inspections and things
23 like that.

24 MR. ORLIN: What it will do--there--
25 --we have a vacancy in the unit. As you know the

2 unit is designed to protect public health.

3 CHAIRPERSON FELDER: Yeah

4 MR. ORLIN: You know, in
5 controlling odors and air emissions from various
6 facilities. We have an opening right now for a
7 technical person who would--could assist us in
8 reviewing the reports that we get on an annual
9 basis from all the transfer stations and
10 intermodal facilities about, you know, the air
11 emissions from their off-road vehicles, their
12 ventilation equipment. So it would, you know, it
13 would help us fill that line I believe yes.

14 CHAIRPERSON FELDER: Thank you.

15 Just stay for a moment. I promise I won't be bad.
16 Can you tell--can you, Mr. Kearney, just say, tell
17 us whether you think the increase is sufficient or
18 should it be more or less? And some of the
19 discussion we had earlier about staggering it or
20 things like that, how you feel about it?

21 MR. KEARNEY: It's difficult for me
22 to tell you what the dollar figure would be
23 necessary--

24 CHAIRPERSON FELDER: [Interposing]
25 Yah.

2 MR. KEARNEY: --to deal
3 comprehensively with enforcement issues. I can
4 tell you that there are current issues that exist
5 today around enforcement. We'd actually love to
6 take you on a tour of some of the communities that
7 we work with at some point if you're interested
8 in--

9 [Off mic]

10 MR. KEARNEY: --sure. And so I
11 think staggering it in, depending on what--I would
12 be less amenable to staggering it in. I think as
13 a general matter there are public health related
14 impacts from these facilities that ought to be
15 addressed. And I think although in relative terms
16 it's a significant increase, I think \$6,500 in the
17 scale of what most of these transfer stations do,
18 if not all of them, is not unduly burdensome.

19 CHAIRPERSON FELDER: So you feel
20 they--you agree with Council Member Arroyo who
21 complimented you earlier that the fees should be
22 much higher, is that true?

23 MR. KEARNEY: I think that--I think
24 they should be--I think \$6,500 probably is not
25 going to take care of all the issues related to

2 compliance.

3 CHAIRPERSON FELDER: All right.

4 MR. KEARNEY: Yes.

5 CHAIRPERSON FELDER: Right. It
6 should be much higher--

7 MR. KEARNEY: [Interposing] I can't
8 give you a number but--

9 CHAIRPERSON FELDER: [Interposing]
10 I understand. You're saying it should be higher.
11 You don't, you don't have a number as to what it
12 should be. So it should be at least what the
13 Department wants to charge.

14 MR. KEARNEY: I would think so yes.

15 CHAIRPERSON FELDER: So you and Mr.
16 Biderman do disagree.

17 MR. KEARNEY: That is correct.

18 CHAIRPERSON FELDER: That's--that's
19 good. I mean that's how it's supposed to be. I
20 want to thank all of you for coming today. And
21 the hearing, unless Council Member Arroyo has--
22 hereby--

23 [Gavel banging]

24 CHAIRPERSON FELDER: --finished.

25 [END TAPE 1002]

C E R T I F I C A T E

I, Laura L. Springate 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.

A handwritten signature in cursive script that reads "Laura L. Springate". The signature is written in black ink on a light-colored background.

Signature Laura L. Springate

Date March 7, 2009