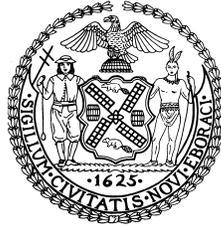


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**The City of New York
Manhattan Community Board 8**

Vendor Task Force Minutes
Lenox Hill Hospital, 130 East 77th Street, Theater Room
October 23, 2013

Present: Michele Birnbaum, Barbara Rudder, Nick Viest

Excused Absence: Rita Popper, Debbie Teitelbaum

Unexcused Absence: Matt Bondy, Teri Slater

The meeting, at Lenox Hill Hospital (Theater Room), was called to order at 6:40 P. M.

Michele Birnbaum reviewed the aims of the committee and gave an overview of the year's meetings so that new attendees would understand what preceded this meeting and the year's work.

This meeting had one agenda item, as follows: **Discussion with other Manhattan Community Boards, community groups, BIDS, business groups and neighborhood groups about vendor issues.**

This meeting devoted to this one agenda item was meant to attempt to bring together all the community groups in the borough, who have individually expressed concerns over street vendors and street vending and who, on their own, have been trying to deal with the issues involved.

The premise of this meeting was that all these groups should work together and share their views, comments and suggestions in order to find common ground for an effort to effect changes to process, protocol and vendor law and then continue to work together going forward.

Michele noted that seated at a Council hearing on proposed truck vendor legislation, she heard, for the first time, concerns by Council Members in every borough about street vendor issues; they reported that their constituents were voicing complaints and annoyance with the presence of street vendors, most notably food trucks and food vendors, which they reported had a direct effect on their quality of life.

In the absence of Bob Qu, Council Member Dan Garodnick's liaison to CB8 who is usually in attendance at the Vendor Task Force Committee meetings but was unable to be at this meeting, he briefed Michele by telephone yesterday so that she could report the updates in legislation.

Council Member Garodnick will propose, via the Consumer Affairs Committee, legislation dealing with Standardized Street Furniture, based on our Board's recommendation and a former CB8 Resolution. The Council Member is also working on legislation defining a separate Vendor Enforcement Squad, fully conversant with vendor law and devoted to bringing vendors in to compliance. He would like to expand it to include enforcement violations committed by other entities such as street cafes and newsstands which would be acceptable only if the squad is big enough and

educated enough in all legal aspects of these entities. Michele expressed that she had strong reservations about that, but will reserve comment until the bill is written.

Council Member Garodnick will also continue to work on the food truck vendor bill that he introduced last month. Michele testified at the Council hearing on that the bill, and commented that while it was a good first step, it was problematic because, although it would set aside specific spaces in which a truck vendor could operate, it would also increase the number of food truck licenses, put the DOT in charge of choosing these locations, permit vending in residential areas, and not address crowding or the number of vendors on a block, because the bill did not restrict sidewalk vending in any way.

Bob Qu also informed Michele that the Mayor's office would like to see enforcement of signage laws that should govern the new lit signage that we are increasingly seeing on hot dog and other food stands which could fall under the purview of either a Mayoral Department or the Department of Transportation.

Michele offered a Review of the 1943 Good Humor court ruling which dealt with competition between vendors and bricks and mortar businesses. She had discussed this with Bob Qu and was informed that the Council, which repeals and makes laws routinely, could not deal with this one because it was as a result of a Court Ruling and, therefore, would have to be challenged in the court. The Council can't repeal it.

BIDs, CBs and Community organizations were present.

Following the update on Council Member Garodnick's legislation, CB 7's Transportation Committee Co-chair, Don Zweig, asked who would command the Separate Vendor Enforcement Squad. We believed it would be the police. Nick Viest suggested that the NYPD might have suggestions about the best way to support enforcement and monitor such a squad, and that they would probably weigh in on that, if it came to pass.

Ronald Kearney, from the Downtown Alliance, suggested that the enforcement squad could be under the Department of Consumer Affairs, but Michele explained that Consumer Affairs handles only General Merchandise Vendors, and if you assigned ticketing responsibilities to the various agencies, and not just one enforcement group, then we'd be in the same position we are in now. Now tickets are given by DOT, DOH, DOS, DEP, etc. Nick Viest explained that if the various agencies continue to ticket, it takes time to get them to the violation spot. A separate vendor squad would immediately be on the scene and have jurisdiction to ticket for all infractions, each of which is now handled by different agencies. Michele said we want this squad to walk the street in significant numbers and have assigned territories, so that we know all neighborhoods are well covered. It would be a revenue generating force.

Bruce Varnitsky, who lives on the west side, has an interest in the vendor issue and attended the 34th Street BID meeting last week. Bruce suggested a "three strikes you're out" law, because you need to have some kind of enforcement on the back end. Permits and License numbers are now both on the ticket which helps identify the violator.

In new proposed legislation, a police officer would get feed-back as to what happened to the ticket that he wrote, and that would alleviate the frustration of an officer about writing tickets that get thrown out. Electronic ticketing should be in one data base. This is expensive, but we hope there will be budgeting for such a data base. There was consensus of the group on this.

Michele handed out copies of Community Board 8 resolutions so that the group could discuss these and evaluate how their Boards or groups would react to them.

All Resolutions were discussed: 2006, 2009, 2011, 2013. (These are with the Board office.)

It was agreed that the 2006 vendor resolution was very comprehensive. The group expressed their views on each point. A member of the 79th Street Association said that laws are not being enforced and confused what was proposed in the resolution and what is in law. Michele noted that Dan Garodnick, Gale Brewer and Jessica Lappin are taking an active interest in vendor legislation and that it would be helpful to work with all communities so that they can get their Council Members to support vendor control.

Jim Albert, of the 34th Street Partnership, wants to prioritize our effort to just a few issues. Michele said a Council Member will look at this comprehensive resolution and pick out what he/she agrees with and what he/she thinks could get passed. Sending him/her many resolutions will not confuse.

Each Community Board has to ask its own Council Member to support what is important to that district, but we will try as a group to focus on the things that we can all support and that way get support in the Council for specific bills. Knowing he has the support of other Council Members, will encourage a Council Member to bring legislation to the floor.

Patrick Condron, of the Bay Ridge BID, was also at the 34th Street BID meeting, said that Bay Ridge has similar resolutions and said that Staten Island is also working on this issue. He wants vendor issues to be addressed by the whole city.

Patrick reported that 86th St. in Brooklyn is now a vendor free zone, after much time and effort directed towards this end.

We are concerned that currently restricted streets might become unrestricted.

Steven Sloan, an owner of MortonWilliams supermarkets, expressed that fruit vendors are very intrusive and have seriously affected his business's bottom line.

Steven would like to see Council Member Garodnick focus on a separate vendor enforcement bill and not expand it to include others. Steven has called the police with written laws in his hand to show them, but feels their enforcement effort is inadequate, and most in the audience agreed.

Most said they would support a standardized street furniture bill.

A member of the 79th Street Association discussed the counterfeit merchandise issue. Michele informed the group that there is a separate police unit that deals with counterfeit merchandise and that selling counterfeit merchandise is an arrestable offense,

A consensus was reached that the group would support a separate vendor enforcement squad and legislation on standardized street furniture.

Dan Pisark, of the 34th Street Partnership, asked about standardized street furniture for all vendors, but Michele said the proposed legislation would, for the moment, deal only with general merchandise vendors, because the costs to vendors would be minimal, as vendors have to buy their furniture anyway. This project would have to go to the city Design Commission which then would have to come to the communities for approval. When dealing with food cart and food truck vendors, you are dealing with logos and more sophisticated design which would be much more difficult and would not be doable before this general merchandise legislation is enacted. Also, when dealing with truck and cart standardization, Michele would like to see standardized emissions and environmental controls that would govern food trucks and stands in the same way they restaurants or cooking delis.

Paul Gordon, of Blackstone, said 42nd Street vendor proliferation is out of hand. On Park Avenue, his property's offices have food trucks in front of them, and he believes it's out of control and very disturbing and taking a real toll on his properties.

Michele believes that cooking on the streets has had a direct impact on the loss of bodegas. Small delis and bodegas don't open because they can't compete with the food trucks, and then the food trucks claim they are in the area because it is underserved by food businesses.

Mr. Gordon will now approach his Council Member to talk about legislation to address some of the vendor issues, and Michele stated that this was the purpose of this meeting – to bring people and community organizations together that are individually frustrated and have them work towards a common purpose to effect legislation.

As there were representatives from the real estate, retail and residential communities at this meeting, the discussion led to a general consensus that all these entities in our communities should join forces in an effort to address their mutual vendor concerns. Paul Gordon, of Blackstone, expressed that if we all worked together with constituents; we would have a very strong voice and would make a difference.

Michele pointed out that each of us thinks we're alone in facing the imposition of vendors in our community and on our businesses and real estate, so we need a communication network so that each of us knows the other exists and that we are not alone in our effort to deal with vendors.

Real Estate, property owners etc. need to be very active. There is a need for organizing a group with paid employees whose sole job would be to convert the interests of the members in to an active plan with all the outreach and clerical support such a group would need.

Volunteers, who have other jobs and responsibilities, will not be able to sufficiently organize or maintain a city wide effort. Such an organization would have to have financial support and the staff and legal capability to fund-raise. It would need a substantial infrastructure.

Nick Viest explained that we set this committee up to get these resolutions turned in to law and to reach out to others. Michele explained that we need to expand and form a coalition to deal with this city-wide, because Community Boards can only address issues as they come up within their boundaries. Community Board representatives can be part of that coalition.

For example, businesses and real estate communities are both plagued by the restraints of the 1943 Good Humor law, so Michele suggested to them that, because they have the staff and financial means to do so, they should collaborate to try to challenge the court ruling. Bring the big box stores and the chain stores in to the fold. Community Boards can't do that.

If this law was challenged and it prohibited vendors from selling like merchandise in front of a store or restaurant, it would go a long way to clean up the streets and substantially help the bricks and mortar businesses. We're also seeing a proliferation of this kind of vendor business as big chains are expanding by using food trucks.

Bruce Varnitsky wants to send this message to Gale Brewer, but he needs to organize the west side. Michele suggested that he get his Community Board to support, in full or in part, the CB8 resolutions and that would show his Council Member that he has a number of people behind him.

Dan Zweig, of CB7, agrees that the retail community should challenge this law. It's a good idea to focus on the two items we're focusing on, and he believes that his Board would support a separate vendor enforcement squad, but that he is not sure if everyone wants to see sameness (standardized furniture). Dan has heard many complaints about the food trucks and would like to see them have assigned locations and a limit on density.

Michele suggested that each Community Board or BID should pick and choose what parts of a resolution they think would be supported in their organizations. Not all groups have to support every part of every resolution.

Hyman Silverglad, a resident in CB8, who attends our meetings regularly, suggested that punishment for violations should be significant. Michele noted that the fines were just reduced in the City Council. Vendors are very hard working and put in a long work day and, so there is great sympathy for them at the City Council. Michele stated she has regard for them, as well, but residents and employees are also hard working, and they don't want to have the smell of food in their homes or offices and smoke assail them when walking down the street.

Barbara Rudder suggested that a standardized furniture law would address legality and visual blight. She is very concerned about the sanitation on the streets and believes that vendors should sweep up after themselves and collect their own garbage. The property owner should not be additionally burdened with being the only one required to clean a street occupied by vendors. Michele pointed out that this is already in law and that vendors are supposed to return their garbage to their commissaries after their working day. Many vendors are on the street very long hours and some 24/7, so that they do not comply. Many of our public garbage cans are overloaded, because the vendors use them for their garbage disposal.

The 2009 resolution addressed vendor locations and suggested that a permit be issued for a specific vendor location. Michele explained thoughts of a bidding system that would be commensurate with the location, i.e. a more populated location would be more costly. A vendor could use this as a stepping stone to advance his business, starting with a lesser location at first and a more costly location as he saves money to bid on one. This resolution re-affirmed the request for a vendor enforcement squad. This was further affirmed in the 2011 Resolution.

In 2013, our Community Board supported a resolution calling for electronic ticketing to address police requests for feed-back on the fate of the tickets they write and to make the system more efficient.

The attendees at this meeting suggested an updated data base, enforcement of existing law, and to enact similar laws for vendors to those that apply to stores and restaurants. A tracking system data base, similar to what the precincts use, would include the information that the judicial system can provide. This would keep track of infractions even if they were ticketed by different agencies. One person suggested that infractions be treated like points on a driver's license.

The City Council reduced the fines and were concerned that the fines not be too punitive. The only way to change the views in the Council is to educate them as to the effect vendors have in the community and to have large numbers of people who want controls show up at Council hearings.

Bob Menna, a resident, believes that to accomplish anything, we need to pass new laws, as well as enforce the old ones. It's good to limit it to two new proposals at this time. He suggests that we need a parallel program to convince the Council members that the community is serious and needs the vendor issues addressed. Mr. Menna suggests that we need lobbyists, and that the organizations in the room should hire lobbyists and public relations people to help. It's not just the Community Boards that should handle this. Michele said that there are organizations in this room that already have lobbyists who have formed relationships with elected officials, and an outside coalition could also participate. Individuals could make themselves lobbyists by going to their Council Members. Businesses should form groups and elect people who would be supportive of vendor regulation. Nick Viest suggested that because we are trying to define the issues in narrow terms, you have something to take this back to your groups.

Someone explained that Donald Trump got the vendors in front of the Time Warner building removed. Michele explained that many years ago, after he made a public statement about vendors, she sent him a complete packet on vendors, and while not expecting to personally engage him, she was disappointed that she did not hear back from his office.

Nick Viest told the group that the Borough Board meeting is open to the public. If you wanted to discuss vendor issues, you could attend the meeting. Alert the Borough President that you wish to attend.

A member of the audience mentioned that because Gale Brewer is concerned about vendor control, she might be of help if she were elected Borough President.

Nick Viest expressed that we will convey what happened at this meeting to the other Community Boards. We're hoping to build support around the city.

In response to an audience question, Michele explained that the DOH has been brought in to the discussion. Steven Sloane expressed concern that food stands and their inventory trucks are not held to the same standards as bricks and mortar stores, i.e. supermarkets, fruit stores, restaurants.

Michele asked the retail and real estate representatives at the meeting if they could exchange cards and discuss addressing the 1943 Good Humor law. They agreed.

The public session was closed, and the Committee formulated the following resolutions:

**Vendor Task Force Committee 10.23.13
Resolutions:**

1. WHEREAS legal street vendors have licenses that are on display and can be viewed by the police and the public, and
WHEREAS a cart permit is available for viewing by the police and the public, and
WHEREAS in accordance with current law, spaces for cart and permit numbers now appear on a ticket, and
WHEREAS this information improves the tracking capability of the NYPD or any enforcing agency, and
WHEREAS enforcing agencies have requested feed-back on the disposition of tickets they have written, and
WHEREAS comprehensive and inclusive feedback is not possible with the current, non-integrated tracking system, and
WHEREAS a comprehensive data base would supply consistency of information to all city agencies, and
WHEREAS a comprehensive data base would document repeat offenders, and
WHEREAS a comprehensive data base would provide accurate records of inspections and violations,
THEREFORE BE IT RESOLVED that Community Board 8 asks that an integrated data tracking system be created to assist all city agencies in enforcement and feed-back for vendor compliance, and
BE IT FURTHER RESOLVED that such a tracking system be linked to the judicial system so as to provide feedback to the NYPD and the other city agencies as to the adjudication of tickets issued.

VOTE: 3 in favor (Birnbaum, Rudder, Viest)

2. WHEREAS there is a New York City Sanitation garbage collection schedule for all buildings in the city and
WHEREAS there are regulations for street vendors which describe how they should dispose of their garbage, and
WHEREAS there are regulations for street vendors which require them to keep the street near their displays clean, and
WHEREAS there are regulations for street vendors which require them to return their garbage to the commissary daily for disposal, and
WHEREAS compliance with these regulations is routinely unenforced and enforcement is not as stringent for vendors as it is for the building owner who bears most of the responsibility, and
WHEREAS we have received numerous complaints from property owners about vendor debris, and
WHEREAS currently the building owner receives fines, because he is responsible for keeping his sidewalk clean up to 14 inches in to the street, and
WHEREAS the presence of vendors adds significant debris to a street and sidewalk,
THEREFORE BE IT RESOLVED that Community Board 8 urges stronger and more consistent enforcement of existing vendor law with respect to sanitation, garbage collection and disposal.

VOTE: 3 in favor (Birnbaum, Rudder, Viest)

3. WHEREAS the quality and safety of food being sold on the streets is of primary importance to all, and
WHEREAS the food sold on the street, whether cooked or uncooked, is governed by a set of safety rules, but is currently not subject to the same safety and sanitation standards as those required of their bricks and mortar counterparts, and
WHEREAS food vendors have an inadequate inspection schedule, not up to the same schedule as their bricks and mortar counterparts,
THEREFORE BE IT RESOLVED that Community Board 8 asks that the same food safety standards and inspection schedules apply to food vendors as they do to their bricks and mortar counterparts.

VOTE: 3 in favor (Birnbaum, Rudder, Viest)

Respectfully submitted,

Michele Birnbaum, Chair
Vendor Task Force Committee
CB8