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

VENDOR TASK FORCE COMMITTEE MEETING
JOINT MEETING WITH THE SMALL BUSINESS COMMITTEE
FEBRUARY 28th, 2017
MINUTES

Michele Birnbaum and Marco Tamayo (Co-chairs)

Michele Birnbaum began the meeting at 6:25 P. M. with an introduction and summary of the aims and purpose of the Vendor Task Force Committee.

Our agenda item was as follows: **A DISCUSSION OF THE EFFECTS OF STREET VENDING AND STREET VENDING LOCATIONS ON SMALL BUSINESSES AND RESIDENTS**

Our aim is to come up with solutions to address community concerns. Michele read e-mails from the community about street vending that came to the Board office and remain there on file. There were many complaints dealing with locations. There is nothing in the city of New York that addresses the location of vendors. The Board had had passed a resolution calling for a mechanism to apply for Restricted Streets, where no vending would be permitted, but we have no resolution on individual vendor locations. The Vendor Review Panel, now non-operational, addressed restricted streets at one time, but never assigned or monitored location sites.

At our last meeting, we tried to address location by asking that it follow the Zoning Resolution of the City of New York. We recognize that City Planning doesn't address anything on the streets and only deals with zoning as it relates to the building footprint, but we thought it a possibility that vending locations could follow the zoning resolution.

Michele explained that Council Intro #1303 makes the topic of location today even more pressing, as this Intro calls for increasing the amount of vendor licenses by 635 per year, and will require no impact study until 2024 and 2025. While it calls for a separate Vendor Enforcement Force, it offers no ratio of vendors to enforcers, so we have no way of knowing whether or not the Force will be adequate. While it calls for a panel consisting of government agencies, it does not include an adequate number from the community. It gives the DOT power to raise the caps or eliminate the caps. This Intro makes zero reference to location, and with this increase in licenses thrusting more vendors on to the streets, congestion, sanitation and environmental concerns will be exacerbated.

Michele reported on a meeting with the Mayor's office during which she brought the issue of location to the fore.

She informed the public of the specific complaints to the office from The East 72nd Street Association and its serious concerns with 2nd Avenue, New York Realty Advisors telling us of their opposition to the Intro 1303, the Beach Café which was very disturbed by the lights and location of a food vendor, Brenda Goldman's 311 reports on vendors, local store owners who are disturbed by vendors set up in front a store with like merchandise thus impeding businesses who withstood obstruction for years during the 2nd Avenue subway construction. Brenda Leventhal reported her on-going disturbance by a cooking vendor on the corner of 89th and Madison and has written letters to the Board and elected officials about the circumstance. Michele showed view boards of the

intersection of 53rd Street and 6th Avenue showing 2 cooking carts with the same business name stationed on 53rd Street with their customers eating and seated along a low granite wall on 53rd Street and continuing around the corner onto 6th Avenue. This is what we need to control.

She asked for comments and suggestions from the meeting's attendees and rotated among groups to be sure to hear from everyone.

- City agencies

- Block Assoc. Bids, community organizations

- Business organizations

- Small business owners

- Residents and individuals

- Community facility or museum – Andrew Albert of Community Board 7 was in attendance.

- Vendor or vendor organizations – Armando Creszendi – Head of Disabled Veteran Vendors was at the meeting.

Valerie Mason, President of E. 72nd Street Association was representing some of the businesses in the area who expressed concern with the saturation of vendors around the subway escalator and the elevator entrances. 70th Street has vendors the subway entrance also. She has met with Street Vendor Project in an effort to work with vendors. She has found those she worked with to be nice, hard-working people who are seriously exploited. Many do not own the carts; they rent them, and some own multiple carts. The immigrant small business owners in the area have held on financially until the subway construction was over so that they could reap the rewards of increased business, but vendors are often positioned from 5:00 AM until 1 AM the next morning, which has made both an economic and environmental impact on the bricks and mortars. \$2400 per day has gone down to \$1000 per day.

Michele explained that the issue of location is addressed by the 1943 Good Humor Law which calls restraints on vendors in front of businesses selling like merchandise not permissible under the law. We believe that this law should be looked at, and that the City Council should make rules to mitigate these business concerns. Vendors are a hard working industry with good advocacy, so we have to be good advocates for ourselves. Vendors and the Community must live together.

Marco explained his map on the restricted locations of vendors. Map attached. If you are outside that small area, vendors are permitted. He explained the difference between General Vendors and Food Vendors and Veteran Vendors and Disabled Veteran Vendors, General Vendors are licensed and regulated by the DCA, and Food Vendors are regulated by DOH. The Precincts are permitted to ticket all.

Community Board 7 Andrew Albert spoke and asked about enforcement. Michele explained that the DCA is not an enforcing agency, DOH enforces food vendors and Precinct enforces both general and food. We have called for a separate vendor enforcement squad.

Rob Byrnes, East Mid-town Partnership and Co-chair of The NYC Bid Association's working group on vendor issues, has been immersed in this issue. He has met with Council Members, Commissioners and agency representatives over the past year and a half, and since the package of bills was introduced in November, he's been working on the problematic time line of Intro # 1303. He and the Bid Associations believe strongly that siting should be a vital component of any vendor legislation, and yet it is missing from this bill. We need to inject sensibility and order to the system. Everything that is on the street today has some kind of process and objective criteria that has to be met in order to be on the street. There should be a reviewing body of some kind using objective criteria for vending locations. The only exception to this process are street vendors. There must be some serious consideration of siting. These concerns are not peculiar to Community Board 8. Other Boards have deep concerns. The City might be able to absorb some increase of vendors, but without objective siting with consideration and input from the Community, an increase shouldn't be considered. Mr. Byrnes believes these are rational requests that the City Council could consider.

Michele would like to see an entity formed to deal with this so that we had an entity

to which to bring our ideas as to how to address locations. The Parks Department has a siting plan that applies to their vendors.

Tim Schrubel of Express Stop Deli on 72nd Street and 2nd Avenue, across from CVS, has suffered throughout the subway construction, and now a vendor is there undercutting pricing and blocking the traffic signals, because he is near the corner and the vendor lights obscure the red and green traffic lights. The vendor doesn't have any of the costs or responsibilities of the bricks and mortar businesses, he states.

Trisha Shimamura would like to see organizational oversight so that we can address all the stakeholders fairly and have a formal mechanism for siting and deal with incentives and appropriateness.

Valerie Mason would like to see these issues in the hands of the Community Board, but Michele explained that this is all done through legislation, and we need an agency to which to bring our ideas. The Community Board can't create an entity by itself or pass legislation.

Michele summarized some vending location ideas that were suggested which cover a broad spectrum of ideas, but none of these ideas can come to fruition without an agency or central body mandated to hear us.

Franciso Quyhada owns an interior decorating business located at this same location on 72nd Street and 2nd Avenue for 50 years. He has withstood the construction and suffered through it and hoped for relief when the construction was completed. Now, his inventory smells of the food odors and smoke coming from the cooking vendor. He had submitted pictures of the street covered with grease from the cooking oil. He says his business is still diminished because his customers don't want to come in to his store. The smells are terrible. Also, he said the vendor is too close to the entrance of the subway where people can't pass. The vendor won't cross the street, because he makes more money at the subway location. Mr. Q says both he and the vendor have a right to survive.

At the Council hearing on Intro# 1303, The Department of Environmental Protection testified that a cooking vendor puts out particulate equivalent to a diesel truck traveling 3500 miles in one day. They testified against Intro #1303.

Michele says that we have solutions for most of these issues, but we have no power to pass laws. We make resolutions and send them to the elected officials. The elected officials are often interested but can't get support of others. She explained the green cart program which was a failure because carts didn't want to go in less trafficked areas.

Armando Crezsendi, a veteran vendor and Head of the Disabled Veterans group, wants Intro #1303 to be put aside and never pass because of the increase of the number of licenses. It will also add 400 outer borough permits and allow them to become city-wide, permits which will encourage the carts to come into Manhattan. Armando says he has to fight the city for permits for his disabled vets. Permits should be petitioned for by the boroughs that want them. He suggested that we look in to State Law 35A to see if it could be extended to the city. Extend the regulations of State law 35A to CB8 so that the city has the same restrictions to street vendors as applies under 35A for veteran vendor. This restricts disabled vets in the mid-town core. If this General Business Law 35 A were applied to the district, Armando claims that this will clear the avenues and the side streets of vending. He says that vets are driven off the streets by other vendors, because only 135 vets are allowed to work in the mid-town core, whereas other vendors have city-wide permits. He claims that disabled vets are being punished. There are only 105 blue licenses for vets. He says our community should be treated just like the mid-town core. Armando wants to keep the number of vendors low, because vets can't good spots to vend.

Rebecca Harary questioned why only 35 additional vet vendors are called for under #1303, yet 600 are proposed for others in Intro 1303?

Marco Tamayo created a spreadsheet illustrating descriptions of vending violations with the corresponding number code so that a person can issue a complaint properly to 311. Marco suggested that it is important to call 311 with an infraction, and if you give them a complaint number, we can better track outcomes.

Recent articles have pointed to fraud in the vending industry, i.e. more than one owner for many carts, counterfeit licenses and permits, etc.

Many residents have complained about cooking on the streets. It's a very serious infringement on quality of life, and there is no law against this. Michele suggested that the Department of Environmental Protection be called when a person has odors in their home or store as a result of vendor cooking.

Michele suggested that we all have to speak up of behalf of all of us. If we just solve the problem that **we** have and **our** situation is solved, it doesn't mean the infraction isn't happening elsewhere.

The Bodega Association and the Korean Grocers Association are all disturbed about locations when fruit vendors park in front of their doors.

Matt Bondy, Co-Chair of the Small Business Committee, expressed his concern that while bricks and mortars have a significant responsibility to address odors, vendors do not. Smoke and odor mitigation should be required of street vendors. At the moment, there are no requirements for mitigation from vendors. He suggested that The Nuisance Abatement Law could and should address this. But, we need an entity to listen to us and have the enforcement mechanism to do something about this. The state and city makes laws that affect our neighborhoods, while they don't live in the neighborhood. A Council Member can bring action on your behalf using the Nuisance Abatement Law.

Marco Tamayo also presented forms for use by the Block Associations to help them apply for plantings and street furniture for beautification purposes.

We went in to executive committee and passed a longer version of the resolution attached:

After it was read and approved, Jane Parshall, while supporting it, suggested that it be shortened and Whereases be combined, and it was agreed that I do that.

**Yes: Birnbaum, Bondy, Parshall, Tamayo,
Public Member – Monica McKane Sanchez**

No: 0

Abstain: 0

Michele clarified that we are not telling the city where they should put this responsibility or whether it be in an existing entity or whether they want to create a new agency or entity.

We would also like to see a location chip on a cart which would send the location to an enforcing body that would ticket automatically.

Valerie Mason said she has been working with vendors and asking them to turn off their neon signs. Also, they seem to be moving closer to the subway stations. She said that vending laws were originally designed for less foot traffic when vending wasn't permitted on streets less than 12 feet wide, but now new construction is widening more streets. There should be more comprehensive laws that are combined not piecemeal.

Michele explained that the only thing you can address at a hearing is the bill that is before you. You can't just address what you want. You can only get your ideas across by meeting with the Council Members individually and reaching out to the Speaker.

Valerie would like the Community Board to have the power on the issue of location.

Michele explained that Intro #1303's purpose was to increase the caps or lift the caps thinking that this would eliminate the black market in vendor licenses.

Armando says that there should be a commission set up for vendors like the Taxi and Limousine Commission with regulation and enforcement powers.

Marco explained that the Council is very concerned about the black market and thinks it will disappear if we lift the caps.

When there is an Intro, you hope that the Council will listen to the stakeholders' testimony and then go back to tweak the bill with consideration of the concerns. The Council has turned over many times since our initial efforts and so has the Mayor's, but we try to keep up by informing them as they come into office. Over the years, the street conditions have become worse.

Michele explained that with the Council you have to take baby steps with legislation.

Meeting was adjourned at 9:20 PM.

Respectfully submitted,

Michele Birnbaum
Co-Chair

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RE: Location Resolution

WHEREAS, there is currently no protocol in the City of New York for assigning locations where a street vendor can do business, and

WHEREAS, Intro # 1303 is calling for an increase in the number of food vendor licenses that are issued each year to 630, 30 of which are for Veteran Vendors, in each of the years until 2025, and

WHEREAS, after this period of time, the cap may be removed on the recommendation of the Department of Transportation, and

WHEREAS, Community Board 8 has already commented on their objections to the increase in the number of licenses until other concerns, such as location and enforcement of existing vendor law are addressed, and

WHEREAS, neither this Intro nor any city entity addresses concerns about street vendor location, and

WHEREAS, Community Board 8 has been receiving numerous complaints about the locations of street vendors, and

WHEREAS, clusters of street vendors cause pedestrian crowding and impede access to subway entrances, and

WHEREAS, customers of businesses with heavy foot traffic are impeded, and

WHEREAS, it would serve the business, residential and vendor community well to have assigned locations for vendors so that vendor clustering could be controlled, and

WHEREAS, vendors would not have to “fight” for their spot each day or remain on the street for 24 hours in order to hold their spot,

THEREFORE, BE IT RESOLVED that a city entity be formed to address and assign locations for food and general merchandise street vendors, and

BE IT FURTHER RESOLVED that such an entity have significant input from the Community Board and residents and businesses in the community.