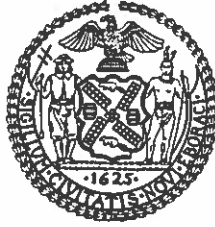


Alida Camp  
Chair

Will Brightbill  
District Manager



505 Park Avenue, Suite 620  
New York, N.Y. 10022-1106  
(212) 758-4340  
(212) 758-4616 (Fax)  
www.cb8m.com - Website  
info@cb8m.com - E-Mail

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

**VENDORS COMMITTEE**  
Monday, April 30, 2018 – 6:30PM  
Ramaz School, Heyman Auditorium  
125 East 85<sup>th</sup> Street

**MINUTES**

**Community Board Members (Present):** Michele Birnbaum, Valerie Mason and Marco Tamayo  
**Public Members (Present):** Monica Sanchez

Michele Birnbaum opened the meeting by welcoming city agency officials, as follows:

Commanding Officer Katherine Walsh of the 19<sup>th</sup> Precinct, Captain Gallagher of the 19<sup>th</sup> Precinct, Lt. Anthony Burgio of the 20<sup>th</sup> Precinct, Officer Larkin of the 19<sup>th</sup> Precinct and Deputy Commissioner Ed Pincar of the Department of Transportation.

Michele introduced the committee by explaining that it addresses the ongoing concerns about the quality of life issues affecting residents and businesses in our community.

**Pop-Up Mobile stores** were the first item on the agenda. Michele reported that she had been in touch with the *Department of Consumer Affairs* in an effort to find out what they know about mobile pop-up stores, defined as businesses that sell either food or merchandise out of a truck which has been repurposed to be a shop, which in many cases allows people to enter to buy products. This kind of mobile business will further impact empty store inventories.

After inquiring of the *Department of Consumer Affairs*, which is a licensing agency, not an enforcing agency, she was informed that the agency knew nothing about this coming trend. Similarly, C. O. Walsh of the 19<sup>th</sup> Precinct, reported that she has not come across any of these pop-ups, but she imparted the applicable rules that she would try to enforce, should she see one. Michele pointed out that there is no vending out of the back of a truck, whether or not the vendor had a license, so these would automatically be illegal. She reported that she saw a truck advertising pop-up truck vending, and she pointed to articles related to this issue which she printed and included on a new view board on display at the meeting. She cited a pop-up mobile retail organization and pointed out that Amazon is proposing coming to towns to sell their products out of a truck.

C.O Walsh said this is probably a reaction to high store rents and serves as a way to keep a business alive by using trucks. MB pointed out that there are no legal spots for any truck vendors, so an increase in these is very problematic. She referenced the truck food vendor at Hunter College, around the corner from the 19<sup>th</sup> Precinct on 68<sup>th</sup> Street just west of Lexington which stands in a “No Standing” zone daily. He would be an easy target for the 19<sup>th</sup> Precinct, yet he remains. Currently, an illegal purchase of a vendor license is the only

way to get a license. Captain Gallagher reported that selling licenses may be civilly illegal, but it is not a criminal violation. While the DCA is not an enforcing agency, and does not participate in curtailing these illegal transactions, Captain Gallagher said that the police could not really enforce the pop-up truck violations either, as they would only handle criminal violations.

MB reported that a Queens company called *Move Systems* has emerged which acts as a liaison between a street vendor and a corporate entity, i.e. Le Pain Quotidien, Nathan's, etc. wants to expand into the mobile food community. The corporation would hire a licensed vendor and provide him/her with the truck and the product. This proliferation would further diminish bricks and mortar rentals and impact the quality of life of everyone in the city.

Christopher Stevens reported the on the popcorn truck, always illegally parked and doing business daily on Lexington Avenue and 86<sup>th</sup> Street. C. O. Walsh reported that 171 summonses were written by the precinct year to date, but she is happy to direct her officers to specific locations as complaints are reported. We asked her to look at mobile food trucks parked at meters on Lexington Avenue between 86<sup>th</sup> and 87<sup>th</sup> streets; the vendors on Third Avenue between 85<sup>th</sup> and 86<sup>th</sup> Streets who illegally park their vans at meters all day; fruit vendors on 86<sup>th</sup> Street between Lexington Avenue and Second Avenue who have their inventory trucks illegally parked 24/7, which is problematic for not only illegal parking but for not returning to a commissary for inspection and cleaning. Additionally, the vendor at the subway entrance on the southeast corner of Lexington at 77<sup>th</sup> Street crowds the entrance and impedes the pedestrian way.

Unfortunately, it is legal to park food selling carts on subway grates if they have wheels. This is helpful to rats in the subway and illogical as general merchandise is not permitted to be sold on subway grates. Mr. Stephens told of how he repeatedly called 311 to report that the popcorn truck is routinely illegally parked, but it was not a successful campaign as the truck would be gone by the time the police arrived to ticket. Michele asked that the non-compliant vendors be hit routinely so as to deter them. Now that the precinct is aware of trouble spots in the community, we would hope, if possible, that the police could have a routine for ticketing and visit these locations when the infraction is likely to occur.

Robin Ostrow has repeatedly complained about a cooking vendor who is in front of the subway entrance at 72<sup>nd</sup> Street, because people in cars stop to buy food and leave their cars to block the traffic lane and bus lane. She is very frustrated in that all her complaints have not mitigated the situation. The major complaint in the community is the cooking fumes caused by cooking vendors. We are not aware of emissions standards for cooking vendors, which could be implemented through the Fire Department or Environmental Protection.

Michele would like to see comprehensive vending reform, because we do not have laws that address problems with locations. You can assign a location to a vendor, put a chip on the cart and track the cart, and issue a ticket automatically if the vendor is in violation. She pointed to our 2006 resolution which called for a separate vendor enforcement squad and sympathized with the police lacking man power to address vendor infractions effectively.

She requested that the police back up the Community Board and be advocates for some of the enforcement and control mechanism resolutions that we have already passed. Michele is asking that the police, through their legal mechanisms, advocate for our positions as many of our resolutions are an outgrowth of the needs of the police who are most affected, as they are the ones burdened with enforcement. Marco offered a color-coded map for the precinct's use to help them easily identify the no- vending zones and determine what category of vendor is permitted in each zone.

The second item on the agenda dealt with **Legislation, Rules, and Enforcement** and Deputy Commissioner Edward Pincar was in attendance to address a DOT Rule, as follows:

New York City Department of Transportation TRAFFIC RULES

Title 34, Chapter 4, Rules of the City of New York (February 21, 2017)

Section 4-12 MISCELLANEOUS

**(g) Peddlers. No peddler, vendor, hawker, or huckster shall stop or remain or permit any cart, wagon, or vehicle owned or controlled by him/her, to stop, remain upon or otherwise encumber any street in front of any premises if the owner or lessee of the ground floor thereof objects. No peddler, vendor, hawker, or huckster shall permit his cart, wagon, or vehicle to stand on any street when stopping, standing, or parking is prohibited or on any street within 25 feet of any corner of the curb or to stand at any time on any sidewalk or within 500 feet of any public market or within 200 feet of any public or private school.**

Deputy Commissioner Pincar addressed the status of this Rule by explaining that it is a legacy rule that was included a long time ago, but is not now, nor ever was enforceable and, therefore, will be removed. The Rule appeared to be added in 2017, but, in fact, had existed for years and was included, as is customary, every time a new version of the Rules is put out; all of the old rules are included in those updates, but it was likely challenged and will be eliminated.

When this Rule was first included, it should have included an enforcement protocol, but it did not. Now, the Rule will be re-written to include what the courts will allow, or it will be eliminated. DOT is involved as an enforcer when people are actually trying to alter the street or are abusing the right of way. Michele pointed out that vendors drive their carts on to the sidewalk every morning or every night. There are no curb-cuts permitting this, so that action is illegal. Yet the police could only enforce if they witnessed the action at the time of occurrence.

The Board has received complaints from Carnegie Hill Neighbors about the food vendors in front of the Guggenheim for pouring grease in the streets at the close of their work-day between 5:00 and 6:00 PM. Unless the police observed this, they cannot ticket for it. Michele asked if the Conditions Unit, to the extent possible, could create a schedule which would enable them to be at a targeted location at a time at which they have been advised that infractions occur and about which there have been numerous complaints, i.e. early in the morning when a vendor drives on to the sidewalk, or at sundown when grease is poured in to the street. To the extent possible, barring emergencies and other concerns, C. O. Walsh said they will try to send enforcement at specific times to address these issues.

Valerie Mason said the 72<sup>nd</sup> Street Association has been monitoring the vendors in front of the subway entrances. She pointed out that the fines are so minimal as to not be deterrents. Because the primary enforcing agency for non-health vendor violations are the police, and because their resources are limited, it would make sense to alleviate their burden by using modern technology such as electronic chips which would be placed on carts which would then generate automatic ticketing if there was a location violation or if a food entity did not return to the commissary within the prescribed 24 hour period. It would make sense if the meter enforcers also would be able to ticket non-compliant vendors, as they are already on the streets in great numbers. To qualify, however, they would have to be educated about vendor law.

Chris Stephens explained that vendor rules are very complicated whereas parking rules are easy to understand. Michele explained that the vendor community is a professional group, but the individual vendor is very much abused by the owners. That's why we need to enforce the one-vendor/one-cart rule. The different ticket books have been eliminated, so that all police officers can ticket most infractions. Michele reported on changing internal Rules of the DOH. Our Committee asked that Rules be changed that primarily deal with commissaries. A food seller is required bring his truck or cart to a commissary to be inspected every 24 hours, and he is also required to bring his garbage back to that commissary each day. There is no enforceable in and out check in system, as well as no commissary insurance required, so that there is no accountability or liability on the part of the commissary owner. These privately owned commissaries may go

out of business if the business is not viable, thus, burdening the nearby commissaries with having to deal with their abandoned customers.

The letter grades or any changes to the internal rules of the DOH have not been implemented yet. DOH confirmed that you are not allowed to sell a permit. With respect to *Move Systems*, the DOH will not control the relationship between the corporate entity and the individual vendor, although the vendors and businesses will have to follow the DOH existing rules. *Move Systems* will combine with a corporate entity, i.e. Nathans, which is of concern because this program will put many more vendors on the street. Monica Sanchez asked if time-stamped videos of infractions could lead to ticketing, but it cannot. An enforcer must be there to witness the infraction. Michele reported that the Mayor helped to squash Intro #1303 on the basis of it not addressing locations and other important issues. The bill did not address any of the current technology, which needs to be included in any future legislation.

Submitted by,  
**Michele Birnbaum and Marco Tamayo, Co-Chairs**