

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON SANITATION AND  
SOLID WASTE MANAGEMENT

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November 25, 2013  
Start: 1:25 p.m.  
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HELD AT: Council Chambers  
City Hall

B E F O R E: Letitia James  
Chairperson

COUNCIL MEMBERS:  
Maria Carmen del Arroyo  
James F. Gennaro  
Robert Jackson  
Andy King  
Jessica Lappin  
Michael C. Nelson  
Diana Reyna  
Peter Vallone

## A P P E A R A N C E S (CONTINUED)

Cas Holloway  
NYC Deputy Mayor for Operations for Department of  
Sanitation

Ron Gonen  
First Deputy Commissioner for Recycling and  
Sustainability for the Department of Sanitation

Brian Kolb  
Minority Leader of New York State Association

Michael Westerfield  
Dart Container

Gary Frederick  
Princeton Moulding Group

George Cruzan  
Toxicologist

Alan Shaw  
Plastic Recycling

Mitch Goodstein  
Foam Pack Industries

Richard Master  
MCS Industries, Inc.

Thomas Outerbridge  
Sims

Eric Goldstein  
Natural Resources Defense Council

Brian Fleury  
WeCare Organics

## A P P E A R A N C E S (CONTINUED)

Cecil Corbin-Mark  
WEACT Environmental Justice

Saleen Shah  
Citiznes Committee for New York City

Jesse Glickenhau  
New York University Law Student

Felipe Ventegeat  
President of CIVITAS

Andrew Moesel  
New York State Restaurant Association

Astrid Portillo  
Mi Pequeno El Salvador Restaurant

Louis Maldonado  
Tacos Morelos Queens, New York

James Moncion  
Nelson Paella Restaurant

Marcelo Morocho  
El Nuevo Delicioso Restaurant

Pablo Martinez

Jennifer Prescott  
District Three Green Schools Corporation

Amanda Evanguard  
Parsons New School of Design.

Debbie Lee Cohen  
Cafeteria Culture

Helen Greenberg  
School Foods

## A P P E A R A N C E S (CONTINUED)

Bruce Hodges  
International Association of Machinists and  
Aerospace Workers

Norman Brown  
MTA Board Labor Representative

Michael Brotchner  
Executive Director of Sustainable South Bronx

Christopher Chin  
COARE

Jennie Romer  
Attorney

Andrea Bonaiuto  
Susty Party

Maggie Clarke  
Environmental Scientist

Mark Spencer  
Pactiv

Jim Cusma  
Pactiv

Rod Kucera  
Pactiv Plant Manager

Darren Suarez  
Business Council of New York City

Moishe Grossman  
All One Source Supplies, Inc.

Michael Kahoe  
MB Public Affairs

## A P P E A R A N C E S (CONTINUED)

Ed Rider  
Vice President of Engineering at Genpak

George Braddon  
Commodore

Paul Poe  
Dart Container

2 CHAIRPERSON JAMES: Thank you.

3 Thank you. Good afternoon and welcome to the  
4 hearing of the Committee on Sanitation and  
5 Solid Waste Management. I am Letitica James,  
6 Chair of the Committee. We are joined today,  
7 the front is Council Member Jim Gennaro, to my  
8 far left is Council Member Peter Vallone, next  
9 to him Council Member Michael Nelson, and then  
10 Council Member Jessia Lappin, all the way to my  
11 far right is Council Member Lou Fidler and  
12 Council Member Andy King. Today, the Committee  
13 will be hearing four bills that represent  
14 differing approaches to expanded polystyrene,  
15 commonly referred to as foam. In the end, all  
16 four bills have the same objective, to improve  
17 recycling in the City, but the four bills take  
18 very different approaches to achieving that  
19 goal, either by expanding the City's recycling  
20 program to begin recycling foam or to ban foam  
21 altogether and to replace it with materials  
22 that are more recyclable. The first bill I'd  
23 like to discuss is proposed Intro 1060A  
24 sponsored by Council Member Lou Fidler and also  
25 co-sponsored by myself and introduced in

2 conjunction with the mayor. Intro 1060A would  
3 ban the use of foam in all food service  
4 establishments and prohibit the sale of foam  
5 loose fill for packaging. Notably, the bill  
6 has been amended since its introduction to  
7 include a provision calling on a Department of  
8 Sanitation Commissioner to determine if foam is  
9 recyclable in the City's system based on a  
10 variety of factors by January 1, 2015. If so,  
11 the Commissioner of Sanitation must designate  
12 foam as a recyclable, and it will be included  
13 in the City's curbside recycling program. If  
14 the Commissioner determines that it is not  
15 recyclable, then the ban will go into effect  
16 beginning July 1, 2015. In addition, we'll be  
17 hearing a pre-considered bill sponsored by  
18 Council Members Reyna and Jackson, which calls  
19 on the Commissioner to designate foam as part  
20 of the City's curbside recycling program. We  
21 will also hear Intro 380 sponsored by Council  
22 Member Vallone, which would require the  
23 Department of Sanitation to establish a foam  
24 recycling pilot that would begin recycling foam  
25 trays from city schools and source separated

2 foam collected at city green markets. Finally,  
3 we will hear Intro 369 sponsored by Council  
4 Member Jessica Lappin, which would require food  
5 service establishments to only use recyclable  
6 food service packaging for food that is  
7 packaged on-site or by the direction of such a  
8 food service establishment. Before we hear  
9 from the Administration, I'd like to turn to my  
10 colleagues for some opening statements. Let us  
11 begin first with Council Member Lou Fidler.

12 COUNCIL MEMBER FIDLER: Thank you,  
13 Madam Chairwoman. Welcome to everybody. Glad  
14 to see so many people with an interest in our  
15 environment here today. I, you know, over the  
16 last couple of weeks I've heard a lot of press  
17 on the issue of polystyrene or Styrofoam. A lot  
18 of people are likening it to Mayor Bloomberg's  
19 nanny-state issues, his soda ban, saying he's  
20 rushing to get one more thing done that, you  
21 know, tells us all how to live our lives. Quite  
22 frankly, that's not how I see it, and having  
23 pursued this for the better part of the last  
24 year as the primary sponsor of the ban, I want  
25 to say this is not a rush to the Mayor's nanny

2 state. This is actually a rush into the future  
3 for the basis for the protection of the earth,  
4 for our environment, for people who work in  
5 this industry, for all of those things. And if  
6 done properly and as we move towards the next  
7 phase of recycling of the future that we all  
8 know that to be truly green city we're going to  
9 need to reach which is organic recycling and  
10 composting, a very, very necessary first step.

11 Those who have followed the council playbook  
12 over the years know that I am if anything, I am  
13 not a toadie [phonetic] for the Bloomberg  
14 Administration. I've heard a lot of assertions  
15 from them, and then I heard a lot of counter  
16 assertions from the industry that quite frankly  
17 has an extraordinary profit motive here. I  
18 took neither at their word. My Counsel Brad  
19 Reid [phonetic] who's sitting to my right and I  
20 checked with primary sources, and we found out  
21 that the truth is much closer to what the  
22 Administration has said, that each and every  
23 time the lobbyist, and make no mistake we have  
24 seen--I haven't seen a lobbying campaign like  
25 the one that has gone on against this ban since

2 we tried to save lives by banning metal bats  
3 from little league kids. I really haven't seen  
4 it. Each time that lobbyist, that lobbying  
5 group makes an assertion and we find out that  
6 it's either not true or there's a very big  
7 asterisks on that assertion or that the study  
8 that they're referring to was paid for by the  
9 industry. They move the line and say, "Well,  
10 you know, we didn't mean that it could be  
11 recycled. We recognize that it has to be--you  
12 know, we could only recycle clean foam." You  
13 know? Then they say they were going to wash  
14 it. You know, and then they said that we're  
15 coercing the City's only recycling plant that  
16 says it can't be done. Alright. When we  
17 represent about two percent of their revenue,  
18 and they would be offering them an opportunity  
19 for greater revenue. So a lot of these things  
20 don't make sense, and I would as those of you  
21 who are here that believe some of things that  
22 you've heard about why this ban shouldn't take  
23 effect, to maintain an open mind. Plus you're  
24 going to find out that 200 percent increase in  
25 the cost of a styrofoam cup to what's currently

2 available and recyclable, okay, that's like a  
3 penny. Okay? And you're going to find out  
4 that the retail alliance or whatever it is  
5 doesn't actually exist, okay, that it is a  
6 product of the American Chemistry Council and  
7 that's a proven fact, that the mailers that  
8 were sent to districts that make assertions  
9 rely on a study that was funded by the industry  
10 and was paid for by the American Chemistry  
11 Council. So I just want you to look at this  
12 not as the soda ban, but I want you to look at  
13 this as something that is good for the  
14 environment. We all know that. It has been  
15 said many times before that when mankind leaves  
16 the face of this earth, they'll be two things  
17 left behind, cockroaches and Styrofoam. Let's  
18 not make that our legacy. If McDonald's can  
19 see it, if Dunkin Donuts can see it, for crying  
20 out loud if Albany County can see it, New York  
21 City ought to be able to see it, and I urge my  
22 colleagues to support this bill.

23 CHAIRPERSON JAMES: Thank you Coun--  
24 so let me--some house rules. We will refrain  
25 from applauding. We have a custom in the City

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2 Council, if you agree with someone and it's  
3 something that I started, we just go like this.  
4 Okay? No applauding. Council Member Peter  
5 Vallone.

6 COUNCIL MEMBER VALLONE: Thank you.  
7 Lou, let me amend that. It's cockroaches,  
8 Styrofoam and plastic bags, and that's why I  
9 wrote the law to the first law in the City to  
10 recycle plastic bags a few years ago, and I  
11 want to applaud all the environmentalists that  
12 are here today in this room. I consider myself  
13 one. I wrote that law. I wrote the trans fat  
14 ban. Lou, you also mentioned the soda cup ban  
15 that didn't withstand court scrutiny, that's  
16 because it's not a law. We actually passed a  
17 law here that I wrote and that I introduced  
18 before the Health Commissioner did what he did,  
19 which I applauded, to ban trans fat. I'm  
20 working on banning fluoride, when that happens  
21 you'll say you heard it from me first. Thank  
22 you. One set of hands went up. And you always  
23 stop the applause right before me, Trish. I  
24 don't know, I'm getting a complex. But because  
25 I am an environmentalist, I did introduce a

2 bill years ago to do a pilot program to recycle

3 Styrofoam, and hopefully that started the

4 process that led us here today. And

5 unfortunately, I learned a lot of the same

6 things that Council Member Fidler did about

7 some of the claims put forth by the people who

8 want to recycle Styrofoam, and I'm glad they're

9 here today. We can all listen to these claims

10 and we can all listen to them be refuted and

11 make our minds up because we've got to do

12 something when it comes to Styrofoam. I'm a

13 business person, that's one of the reasons why

14 I wanted the pilot program, because I did not

15 want to raise costs on small business people.

16 However, if that's--if recycling does not work,

17 either we learn that today or we learn it

18 through the amendment which Council Member

19 Fidler made to his bill to include a chance to

20 prove recycling will work. Then this needs to

21 be banned. So I look forward to listen to the

22 testimony today. I do have two other hearings.

23 One needs me for a quorum right now, so I will

24 be stepping out, in and out, and Council Member

25

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2 James, thank you for having this important  
3 hearing.

4 CHAIRPERSON JAMES: We've been  
5 joined by Council Member Maria del Carmen  
6 Arroyo from the Bronx who's a member of this  
7 Committee. The next member is Council Member  
8 Jessica Lappin who will give an opening  
9 statement.

10 COUNCIL MEMBER LAPPIN: Thank you,  
11 Madam Chair. I'll be brief. New York City is a  
12 city on the go, but our to-go containers  
13 shouldn't end up in landfills, and this is bill  
14 that we're hearing today that I wrote three years  
15 ago before the proposal to ban Styrofoam was out  
16 there, which I fully support, and the idea was to  
17 try and take Styrofoam out of the waste stream by  
18 enacting measures similar to what other cities  
19 have done like San Francisco and Seattle to make  
20 sure that the take out containers that you're  
21 getting from food service establishments, from  
22 salad bars, and from others are recyclable, and  
23 now you see that more and more places like  
24 Pretamonge [phonetic], Whole Foods, if you go to  
25 their salad bar the containers that you take are

2 not the clam shell plastics that are now  
3 recyclable in New York, when I wrote the law it  
4 was not, or Styrofoam. And so since that is a  
5 big source of the Styrofoam that ends up in our  
6 landfills, I propose this legislation as a way to  
7 take that out of the waste stream. There are  
8 other economical options and I hope that we will  
9 be using them in the City. Thank you.

10 CHAIRPERSON JAMES: Council Member Jim  
11 Gennaro.

12 COUNCIL MEMBER GENNARO: Thank you  
13 Madam Chair. I just wish to associate myself with  
14 remarks of Lou Fidler. He's been a great champion  
15 on this and I really appreciate all the work that  
16 he's done on this, all the work that the  
17 Administration has done leading up to that. Just  
18 wanted to put it on the record. I don't want to  
19 go on and on, I just want to be associated with  
20 my good friend's remarks. Thank you, Madam  
21 Chair.

22 CHAIRPERSON JAMES: Let's congratulate  
23 Council Member Gennaro, he's been a leader and a  
24 force in the City Council on all things green.  
25 Yes, he deserves this. Let me also say since

2 everyone's engaging in self-promotion, this  
3 Committee has passed a very robust recycling law.  
4 Last week we had a hearing on composting. Now we  
5 are considering the ban, and hopefully before the  
6 end of the year, and before I move onto another  
7 position, hopefully we'll have a hearing on  
8 banning plastic bags in the City of New York.  
9 Now, we turn to Ron Gonen and to Cas Holloway,  
10 representing the Mayor of the City of New York.

11 CAS HOLLOWAY: Thank you Chair

12 James, Council Member Fidler, Council Member  
13 Gennaro, Council Member Lappin, Arroyo, all  
14 the--Council Member King. Thank you for being  
15 here today. I am Cas Holloway, New York Deputy  
16 Mayor for Operations. With me is the Department  
17 of Sanitations' Deputy Commissioner, the First  
18 Deputy Commissioner for Recycling and  
19 Sustainability. Thank you for holding this  
20 hearing on Intro 1060 that if enacted would  
21 restrict the sale or provision of single  
22 service food items and packaging that contains  
23 expanded polystyrene, known as EPS, and  
24 commonly referred to as foam in the City of New  
25 York. Passing this legislation would achieve

2 at least three very significant objectives at  
3 minimal costs. First, it would eliminate from  
4 New York City a large volume of a wasteful and  
5 environmentally harmful product that does not  
6 biodegrade and cannot be recycled. Second, it  
7 would dramatically reduce the contamination of  
8 metal, glass, and plastic recyclable stream,  
9 increasing the value of NYC recyclables and  
10 thus the revenue that the City could collect  
11 through its existing recycling program, and  
12 third, it would eliminate a major hurdle to  
13 large scale food waste and other organic  
14 recycling in NYC at the household and business  
15 level by eliminating a major contaminant from  
16 the food waste stream. My goal is to make three  
17 key points in my testimony this afternoon.

18 One, explain why the prohibition of EPS foam in  
19 single service throw away food containers is in  
20 the City's immediate and long term best  
21 interest. Two, explain why. Regardless of  
22 what you may have heard to this point or may  
23 hear following my testimony, EPS foam is not  
24 recyclable in New York City, nor has any  
25 producer of EPS foam, including Dart Container,

2 made a realistic proposal or commitment to make  
3 it recyclable here. And three, explain my  
4 personal efforts to ensure that Dart Container  
5 was given every opportunity to demonstrate the  
6 viability of EPS foam recycling in New York  
7 City and to make the financial and other  
8 commitments necessary to make it recyclable,  
9 and how those efforts fell far short of making  
10 even the minimum showing that City, and I would  
11 suggest the City Council as well, would need to  
12 consider an alternative to the limited common  
13 sense prohibition of single-service foam food  
14 containers in Intro 1060. Point one, the  
15 limited prohibition of EPS foam and single-  
16 service food containers is the right policy for  
17 New York City. At the outset, it is critical  
18 to understand what Intro 1060 is and what it is  
19 not. Intro 1060 does not ban all EPS foam  
20 products in New York City. It would simply  
21 prohibit the use of EPS foam in its most  
22 harmful and wasteful form, single-service foods  
23 like food uses like foam cups and foam clam  
24 shells. EPS foam can still be used in shipping  
25 electronics and other products as well as many

2 other applications. EPS foam is particularly  
3 harmful to the environment when used for the  
4 sale and provision of single-service food  
5 items. While it may be convenient for the 10 to  
6 20 minute that it is used to carry a sandwich  
7 or a cup of coffee, the vast majority of EPS  
8 foam for single-service food items ends up in a  
9 landfill where it will sit for 500 years and  
10 longer. Not only that, but EPS foam is light,  
11 95 percent air in fact, brittle, and breaks  
12 easily into many very small pieces and is a  
13 major source of litter. When that happens, EPS  
14 foam pollutes and contaminates just about  
15 everything it touches, our streets and  
16 waterways, catch basins, and neighborhood  
17 sidewalks, and even the waste stream itself.  
18 What do I mean by that? New Yorkers are  
19 currently required by law to recycle paper,  
20 metal, glass, and plastics including since this  
21 spring, all rigid plastics as part of the  
22 largest expansion of the City's recycling  
23 program in 25 years. The City's 6,000 dedicated  
24 sanitation workers collect recyclable through  
25 the curbside pick up program and by contract,

2 the City is obligated to deliver the recyclable  
3 it collects to our recycling vendors, SIMS for  
4 metal, glass, and plastics, and Pratt for  
5 paper. Anything delivered to SIMS that is not  
6 recyclable is a contaminant and EPS foam would  
7 be considered a major contaminant in the  
8 recycling stream. Currently, EPS foam is  
9 mostly found in our refuse stream and it costs  
10 the City nearly two million annually to dispose  
11 of it in landfills. SIMS has confirmed numerous  
12 times in writing that EPS foam food service  
13 containers cannot be recycled and that if it  
14 shows up in the recycling stream it will be  
15 considered a contaminant. Visy [phonetic]  
16 Paper, our paper recycling vendor indicated  
17 that they were not willing to run a test as to  
18 whether EPS foam food service containers can be  
19 recycled because it would contaminate the paper  
20 they already get. The City currently gets paid  
21 16 million per ton for its paper which  
22 translates into millions of dollars of revenue  
23 annually. Eliminating EPS foam from the  
24 millions of single service food delivery items  
25 that New Yorkers use will substantially reduce

2 the risk of contamination in the paper, metal,  
3 glass and plastic recycling streams. Perhaps  
4 most importantly, single service EPS foam  
5 materials severely undermine both the City's  
6 residential and commercial organics recycling  
7 programs. EPS foam plates, clam shells, and other  
8 materials are a significant contaminant in the food  
9 waste stream that makes up a full 35 percent of the  
10 11,000 tons of waste that New Yorkers produce every  
11 day. The City currently spends more than 85  
12 million annually exporting organics to landfills  
13 and we expect that our organics program will be  
14 able to significantly reduce that cost, create  
15 local jobs and renewable energy. Organic material  
16 contaminated by foam during the collection process  
17 becomes unmarketable for composting or anaerobic  
18 digestion, whether by the City or by private  
19 carters that collect food waste from the City's  
20 approximately 24,000 restaurants. Local Law 77 and  
21 2013 provides that DSNY will expand our voluntary  
22 residential waste collection program, but it cannot  
23 be successful with foam in the system. A robust  
24 residential and organics program offers major  
25 financial and environmental opportunities for New

2 York City. For example, the three cities in the US  
3 that have the most robust organics collection  
4 programs and the three highest recycling rates,  
5 Seattle, Portland, and San Francisco have all  
6 banned EPS foam from food service. In addition,  
7 all three cities have robust and growing and  
8 restaurant industries. The limited EPS foam ban  
9 required in Intro 1060 would significantly increase  
10 the chances that our aggressive organic recycling  
11 program that the City and the private sector have  
12 gotten underway, including Chair James last week,  
13 the testimony--the bill that we heard on the  
14 commercial recyclings. In the final analysis, the  
15 limited prohibition of EPS foam food service  
16 products will significantly reduce the  
17 environmental harms that these products cause and  
18 will substantially increase the value of metal,  
19 glass, plastic and paper streams that the City  
20 collects every day. We project that in combination  
21 with the City's increased recycling efforts this  
22 legislation will result in nearly 50 million of  
23 annual savings. Now, what are the objections to  
24 this bill which I just described and sounds pretty  
25 great? Well, they come from basically two sources.

2 One is the EPS foam industry and its lobbyists,  
3 particularly Dart Container and a few voices in the  
4 food service industry who fear that costs could  
5 increase. Now, we take seriously any regulation  
6 that could increase business costs, particularly of  
7 the restaurant industry, one of the City's most  
8 powerful economic engines. In fact, since become  
9 Deputy Mayor for Operations, I've worked with  
10 Deputy Mayor Bob Steel to make it easier to open  
11 and keep open restaurants in New York City through  
12 initiatives like the New Business Acceleration Team  
13 and taking permitting digital. We have decreased  
14 the amount of time that it takes to open a  
15 restaurant by more than two and a half months. Now  
16 we've conducted substantial research into the  
17 economic impacts of the legislation and have  
18 concluded that it will have no significant cost  
19 impacts on restaurants of any size. First, the  
20 fact is that most restaurants in New York City no  
21 longer use foam. This includes 84 percent of chain  
22 restaurants, representing more than 3,000  
23 locations. In May, we met with the two largest  
24 generators of foam food service cups in New York  
25 City, Dunkin Donuts and McDonald's, and as Council

2 Member Fidler told us, both told us in writing that  
3 foam cannot be recycled and they have initiated  
4 plans to discontinue its use. With the help of  
5 Council Members Chin and Reyna--welcome Council  
6 Member Reyna, we also met with small local  
7 restaurants. Our research found that the average  
8 cost difference per product between a EPS foam and  
9 a non foam alternative was two cents. That result  
10 meres a study done by the City of San Jose,  
11 California prior to enacting similar legislation.  
12 Other cities with vibrant restaurant cultures have  
13 enacted polystyrene restrictions and found no  
14 impact to their food service industry. In fact,  
15 when San Francisco imposed this legislation, they  
16 offered a financial hardship exemption to small  
17 businesses and to date, zero. That's right, zero  
18 restaurant have requested the exemption. The facts  
19 are that the vast majority of food service  
20 establishments in New York City don't use EPS foam,  
21 and there are a variety of cost competitive  
22 alternatives available that most businesses are  
23 already using. Intro 1060 will simply accelerate  
24 finishing the job and will likely make EPS foam  
25 alternatives even more cost competitive than they

2 clearly already are. In a sense, prohibiting EPS  
3 foam for food service applications is analogous to  
4 when the City prohibited coal burning for heat or  
5 the phase out of the dirtiest heating fuels, number  
6 six and number four that is almost complete in New  
7 York City. The presence of readily available cost  
8 effective alternatives in the market has already  
9 done most of the job. Intro 1060 will finish it.

10 Point two, food service products made from EPS foam  
11 cannot be recycled in New York City, full stop.

12 Some members of this committee have already heard  
13 and at some point following my testimony, you will  
14 certainly hear that EPS foam is recyclable. It is  
15 not. That is not my opinion. That is a fact. To  
16 be recyclable and claim that a product such as EPS  
17 foam can be recycled, two basic criteria must be  
18 met. One, the product must be capable of being re-  
19 used "in manufacturing or assembling another item."

20 And two, the material must be capable of being  
21 "collected, separated or otherwise recovered  
22 from the waste stream through an established  
23 recycling program." The Federal Trade  
24 Commission has established these criteria,  
25 reusability and public access to recycling

2 opportunities so that producers of products  
3 like EPS foam cannot claim that it is  
4 recyclable simply by slapping a plastics  
5 designation number on the bottom of it. In the  
6 case of EPS foam, that's number six. As Dart  
7 Container's own Director of Recycling has  
8 acknowledged repeatedly and in multiple public  
9 sources, EPS foam used in food service products  
10 fails these criteria in all but a very few  
11 jurisdictions across the United States,  
12 including New York. That's because the  
13 infrastructure does not exist here to collect,  
14 sort, and reprocess EPS foam. In fact, Dart  
15 itself has not established a single location in  
16 all of New York State where New Yorkers could  
17 take EPS foam products to recycle them even if  
18 they wanted to. Dart readily acknowledges that  
19 most municipalities have not included EPS foam  
20 in their recycling programs, and their own  
21 materials are the best place to go if you want  
22 to understand why. According to Dart, the  
23 first problem is that EPS foam is not a  
24 significant portion of the waste stream. Less  
25 than one percent of all products, in fact.

2 Second, recycling goals are measured by weight  
3 and volume and EPS foam is extremely light and  
4 comparatively rare, and third, it takes  
5 substantially more effort to collect a pound or  
6 a thousand pounds, or 10,000 pounds of foam  
7 than one pound of glass or cardboard. In fact,  
8 special equipment is needed to collect and  
9 densify EPS foam so that it can be transported  
10 economically for re-use. Can these problems be  
11 overcome? Are they worth overcoming? As Dart  
12 knows and has acknowledged, 73 percent of quick  
13 service restaurants food leaves the restaurant  
14 and most of it ends up at the home or at the  
15 office. Thus, for EPS foam recycling to be  
16 viable in New York City, a curbside collection  
17 program would have to be established, and that  
18 is the strategy that Dart has been using in  
19 California for a long time, because--not  
20 successfully. Because foam must be extremely  
21 clean to be recycled, free of even the oil and  
22 grease that is in virtually every sandwich or  
23 lunch platter carried in EPS foam. It cannot be  
24 mixed with other recyclable. Now we estimate  
25 that an EPS foam curbside recycling program

2 would require the addition of the minimum of  
3 1,000, that's 1,000 additional truck routes at  
4 a cost of 70 million per year. That is  
5 certainly an expensive and heavily polluting  
6 way to deal with an almost infinitesimal  
7 portion of the City's waste stream that is  
8 already shrinking but is a significant  
9 contaminant. Now you may have heard that Dart  
10 offered to purchase a densifier for the City's  
11 recycling vendor SIMS or to pay SIMS 160  
12 dollars for every ton of EPS foam it collects.  
13 The offer of a machine or two does not make a  
14 product recyclable. In fact, this offer is  
15 analogous to asking someone to start a  
16 newspaper and offering to pay only for the  
17 printing press. Without the reporters, editors,  
18 word processors, advertising and business  
19 staff, ink and paper and distribution  
20 infrastructure to write, package, and deliver  
21 those newspapers the printing press is probably  
22 more valuable to a recycler than it would be to  
23 a would be publisher. Moreover, Dart's offer  
24 to SIMS expressly provides that any foam it  
25 would take cannot contain oil and grease,

2 byproducts of nearly every food in all of the  
3 products that they produce. The fact is that  
4 investing in the infrastructure needed to make  
5 EPS foam truly recyclable in New York City  
6 makes no sense because it would cost far too  
7 more to do than the value of what amounts to  
8 one half of one percent of the City's waste  
9 stream. That's why Dart has not invested in  
10 even a single recycling facility in New York  
11 City in the 25 years that we have had a  
12 recycling program and why they have not made a  
13 realistic proposal to make EPS foam recyclable  
14 here now. Instead, they would like the public  
15 to pay the cost of a highly inefficient program  
16 to preserve a form of a product, EPS foam food  
17 service foam items that most New York City  
18 restaurants don't even use and that can be  
19 cheaply replaced. That's why the prohibition of  
20 EPS foam and single-service food service  
21 products makes sense and should be adopted. My  
22 third and final point. Dart has had every  
23 opportunity to demonstrate the viability of EPS  
24 foam recycling in New York City and they have  
25 failed. I would like to directly address claims

2 that you may hear from Dart Container and  
3 others about their efforts to show that EPS  
4 foam can be recycled in New York City. In March  
5 2013 Dart Container and the American Chemistry  
6 Council requested a meeting with me and the  
7 Department of Sanitation. On March 7, 2013, I  
8 personally met with Michael Westerfield of  
9 Dart, Wright Airlick [phonetic] of the American  
10 Chemistry Council and their lobbyists to  
11 discuss EPS foam recycling. To ensure that Dart  
12 was given every effort to show that EPS foam  
13 recycling could be viable, I personally  
14 instructed the Department of Sanitation to ask  
15 our recycling vendors to work with Dart and  
16 determine if their claims that EPS foam could  
17 be recycled were true. Now we understand that  
18 Dart sent a proposal to SIMS and that SIMS  
19 rejected their proposal. SIMS can speak to the  
20 specifics, but our understanding as I described  
21 above is that Dart simply offered to pay for  
22 equipment that it would not pay to operate or  
23 maintain, nor would it commit to invest in the  
24 infrastructure needed to collect EPS foam at  
25 the household level. Moreover, Dart expressly

2 refused to take foam contaminated with oil and  
3 grease, precisely the food service byproducts  
4 that their products contain. Now, when I asked  
5 Dart why they had not invested in a recycling  
6 program of any kind in New York City in the  
7 last 25 years, they said that they were  
8 "working in California." The fact is, the only  
9 reason that Dart is here making the anemic  
10 proposals it is making is because the City is  
11 finally ready to do the sensible thing, end the  
12 use of this product for single-serving throw-  
13 away food items. Now the EPS foam industry may  
14 point to purportedly successful recycling  
15 programs in other cities, particularly Los  
16 Angeles, and Los Angeles does accept clean  
17 polystyrene foam for recycling, but Intro 1060  
18 prohibits food service products made from EPS  
19 foam, which contain the oils and grease that  
20 Dart itself will not accept. Of the  
21 communities in LA County that have attempted  
22 curbside recycling pilots, eight have  
23 discontinued the program, 15 send the material  
24 directly to a landfill, and only seven send  
25 their material to recycling facilities which

2 would not accept foam food containers, which  
3 ended up being sent to landfills. On June 25<sup>th</sup>,  
4 Council Member Fidler received a letter that we  
5 have passed out with my testimony from Los  
6 Angeles Council Member Paul Koretz stating,  
7 "EPS food containers contaminated with food  
8 waste are not in fact recycled in any way by  
9 the City of Los Angeles." The Council Member  
10 continued citing a Bureau of Public Works memo  
11 that MRF's don't recover food trays, meat  
12 trays, or other EPS contaminated with organics  
13 as the recycling manufacturers will not accept  
14 that. More than 70 cities and counties  
15 nationwide that are home to more than 10  
16 million people have already taken this sensible  
17 step, and just last week Albany County passed  
18 legislation restricting polystyrene foam.  
19 Finally, I note that the proposed legislation  
20 does not go into effect until July 1<sup>st</sup>, 2015.  
21 Between now and then the foam industry may  
22 prove that EPS foam food service products can  
23 be recycled in New York City. If that happens,  
24 the bill contains a clause that would all the  
25 Sanitation Commissioner to rescind the

2 prohibition. Since Mayor Bloomberg announced  
3 this proposed legislation as part of his state  
4 of the City, the Administration has received  
5 wide spread support from environmental groups  
6 like NRDC, Sierra Club, environmental justice  
7 groups like We Act for Justice, Sustainable  
8 South Bronx, and the League of Conservation  
9 Voters, from local foundations, the Overbrook  
10 Foundation from the Waste and Recycling  
11 Industry such as the Manhattan Solid Waste  
12 Advisory Board, and from business groups  
13 including the Long Island City Partnership,  
14 packaging companies, municipalities across the  
15 country who have successfully restricted foam  
16 and food service products and school parents  
17 anxious to ensure that their kids are no longer  
18 using polystyrene foam trays and packaging.  
19 Intro 1060 is a common sense way to address an  
20 environmentally harmful expensive problem that  
21 the market has almost entirely eliminated on  
22 its own. I strongly encourage the City Council  
23 to finish the job. Thank you for this  
24 opportunity to testify. I'll happily answer any  
25 questions.

2 CHAIRPERSON JAMES: Thank you. Very  
3 good. We've been joined by Council Member  
4 Diana Reyna from Brooklyn. My first question  
5 is, it's my understanding that we spend 310  
6 million dollars to dispose of solid waste, is  
7 that an accurate figure?

8 CAS HOLLOWAY: That's correct. We  
9 spend approximately 310 million dollars to bury  
10 three million tons of waste in the ground, 35  
11 percent of that is food waste.

12 CHAIRPERSON JAMES: Would this ban  
13 reduce that amount?

14 CAS HOLLOWAY: This ban--well, this  
15 ban would certainly reduce the amount of foam  
16 that goes to landfills, but as I noted it's  
17 really not the amount of foam in the waste  
18 stream that's the issue. In fact, foam is only  
19 one half of one percent. The problem with foam  
20 is that it contaminates everything else. So,  
21 the recyclable stream of metal, glass, and  
22 plastic that we already get, that gets  
23 contaminated by foam, but as you know, what  
24 we're talking about is food service containers.  
25 So what's really going to get contaminated is

2 the food waste stream that we're just beginning  
3 to tap into. Thanks to what Ron has done, we  
4 already have hundreds of schools participating  
5 in organics recycling, a 70-story couple of  
6 high rise buildings. We are looking to expand  
7 a neighborhood pilot in Staten Island and we're  
8 going to roll out the first 500 new public  
9 recycling containers. If we really want to be  
10 serious about organics recycling, getting foam  
11 out of the waste stream is the first step.

12 CHAIRPERSON JAMES: In your testimony  
13 you talked a little about other jurisdictions.  
14 Can you just elaborate a little bit more? I  
15 think, believe you touched on it on page eight  
16 of your testimony about other jurisdictions and  
17 the success and/or failures in recycling this  
18 product.

19 CAS HOLLOWAY: Sure. I will--I will  
20 say a couple of things then turn it over to Ron  
21 to elaborate in depth. The--first of all, I  
22 think 70 jurisdictions have already taken this  
23 step with 10 million people in them. Some of  
24 them are ones who actually tried to do a  
25 recycling pilot. Cities like Los Angeles that

2 did try to recycle expressly do not recycle  
3 food containers because nobody will take them.  
4 Ron, do you want to go into some more depth  
5 here?

6           RON GONEN: Sure. The three cities  
7 in the United States that have the most robust  
8 organics program as well as the highest  
9 recycling rates in the country are Seattle,  
10 Portland and San Francisco. One other thing  
11 that all three have in common besides the most  
12 robust organics programs and the highest  
13 recycling rates, is all three have banned  
14 polystyrene foam from food service.

15           CHAIRPERSON JAMES: What is more  
16 problematic for the City's recycling  
17 infrastructure, foam or plastic bags?

18           CAS HOLLOWAY: Well, you know,  
19 they're both bad. So, I don't really draw  
20 distinctions. We don't really think about the  
21 distinction that way. Plastic bags are their  
22 own challenge, and my understanding is that  
23 there is some legislation that's been  
24 introduced to address them. I can tell you that  
25 plastic bags are terrible for the water supply.

2 They are, you know, very difficult to deal  
3 with. Foam also extremely difficult to deal  
4 with and particularly in the organics waste  
5 stream. I can't stress enough how important it  
6 is that we get this out of the waste stream if  
7 we really want to see organics recycling, which  
8 by the way will save hundreds of millions of  
9 dollars over the long term, really be viable in  
10 New York City.

11 CHAIRPERSON JAMES: There was a  
12 compromise offered that would give the industry  
13 about a year to come up with the  
14 infrastructure. Do you believe that in fact the  
15 infrastructure will be built prior to the ban  
16 taking effect?

17 CAS HOLLOWAY: Well, I think that the  
18 giving the Commissioner of Sanitation--the  
19 provision that Council Member Fidler has put  
20 in, I'm a person who believes that, you know,  
21 everybody should be given the opportunity to  
22 try. If you ask whether it's de-nitrification  
23 of solid waste or Big Belly [phonetic], which  
24 is now piloting in Times Square. I'm a fan of  
25 pilots. We want technology to work. We want

2 people to recycle. I will point out a couple  
3 of facts, though. This is not a new problem.  
4 This has been a 20--around for 25 years. If you  
5 go on, and I keep using Dart because they're  
6 the biggest producer of this in the world,  
7 they're the ones who have certainly come and  
8 wanted to meet with me many times. I'm sure  
9 there are other producers. If you go to their  
10 own website, they have a map that shows where  
11 they themselves have set up locations for the  
12 public to take polystyrene and recycle it.  
13 There isn't a single one in New York State.  
14 The fact is, they have invested nothing in any  
15 kind of infrastructure that would enable the  
16 public to recycle this stuff, and it's only  
17 when the prospect of this prohibition came that  
18 all of a sudden--I'm sure I'm not the only  
19 person who has been inundated by this. I took  
20 the step that we have taken with everybody  
21 else, which is we directly link them up with  
22 SIM, our vendor. They spend three months doing  
23 a pilot and a study, but the fact is, 73  
24 percent of clam shells and other food service  
25 products end up in the home or office. That

2 means that to be recyclable, in other words, to  
3 make a recycling system accessible to the  
4 public, which is part of the definition, you  
5 have to do curbside pick up. You can't just  
6 buy a box and give it a vendor and call that  
7 recycling. It's not. And for all of the people  
8 on this committee who have had a vested  
9 interest in improving recycling in this city  
10 know that there are no magic bullets and no  
11 easy answers, and my personal view is, if  
12 they've had 25 years to try to make it work and  
13 haven't found the time or the inclination to do  
14 so, I'm not sure another 365 days is going to  
15 help, but if, if that's what it takes to get  
16 this done, then I'm fine with it.

17 CHAIRPERSON JAMES: The impact to  
18 small business, in your testimony you talked  
19 about research. Can you elaborate a little bit  
20 on the research that you conducted to determine  
21 that the cost to the restaurant industry would  
22 be negligible?

23 CAS HOLLOWAY: Sure. We did a fairly  
24 extensive look really at the--what are these--  
25 what do restaurants use, what are the things

2 that are available, the replacements available  
3 in the market. Ron, do you want to talk about  
4 that?

5                   RON GONEN: We looked at both  
6 national restaurants, national restaurants that  
7 have a presence in New York City, local  
8 businesses in New York City as well as the  
9 experience that other cities have had. Let me  
10 start with the experience that other cities  
11 have had in terms of banning polystyrene foam.  
12 As Deputy Mayor Holloway mentioned, over 70  
13 municipalities have already banned polystyrene  
14 foam. We have not heard or received  
15 information about a single instance where the  
16 restaurant industry received any impact.  
17 Number two is as I mentioned before, Portland,  
18 San Francisco and Seattle have all banned  
19 polystyrene foam. They all have healthy and  
20 robust and growing restaurant industries. We  
21 looked at a study that San Jose did before  
22 their ban to see if there would be an impact on  
23 the restaurant industry, they found that there  
24 would be no impact. We then started meeting  
25 with the restaurants in New York City. So

2 Dunkin and McDonalds have a major presence in  
3 New York City and are also the two largest  
4 generators of foam in New York City. So we sat  
5 down and met with them. They communicated that  
6 they have also recognized that polystyrene foam  
7 is a major contaminant and pollutant. They  
8 have made a decision to also get rid of it and  
9 have found alternatives. So they confirmed what  
10 we had found. We then met with Walmart. They  
11 don't have a presence in New York City, but  
12 they are the world's largest retailer, perhaps  
13 be a scale or just their global reach, they had  
14 found a way to do it. They confirmed for us  
15 that they've not been able to find a way to  
16 recycle polystyrene foam from food service and  
17 in fact had given their suppliers a document  
18 stating that polystyrene foam from food  
19 containers cannot be recycled and they prefer  
20 that they find an alternative. We then started  
21 meeting and doing sampling of local New York  
22 City restaurants. We found that the chain  
23 restaurants, that restaurants that have five  
24 locations or more, they represent 3,000  
25 locations, 84 percent of them were already

2 using an alternative product. We then started  
3 meeting with small local businesses, and again,  
4 we didn't find there to be a significant  
5 impact. We found that it would increase the  
6 cost an average of two cents per product. So  
7 for instance, if you're buying a dollar cup of  
8 coffee, you now may be paying \$1.02. If you're  
9 doing a proper job recycling, on the back end  
10 you should be saving money because now you're  
11 using a product that can actually be recycled.  
12 So we did an extensive amount of research and  
13 found there to be no impact.

14 CHAIRPERSON JAMES: In other  
15 jurisdictions, in jurisdictions where the ban  
16 has gone into effect, has it resulted in a  
17 significant increase to consumers?

18 RON GONEN: No. We have yet to find  
19 any city that has found any evidence that there  
20 is any significant or material impact either to  
21 their local restaurant industry or to  
22 consumers.

23 CHAIRPERSON JAMES: And as part of  
24 your testimony you indicated or Deputy Mayor  
25 indicated that most of New York City

2 restaurants don't even use the EPS foam food  
3 service items. Is that--is that a true  
4 statement?

5 RON GONEN: Yeah, the--

6 CHAIRPERSON JAMES: [interposing]

7 What percentage of food restaurants currently  
8 use this item?

9 RON GONEN: Of--we broke it down. So  
10 restaurants that we consider to be chain  
11 restaurants, those are restaurants with five or  
12 more locations, we found that 84 percent are  
13 already using an alternative. They are readily  
14 available, cost competitive and cost neutral  
15 alternatives that we all use every day when we  
16 visit New York City restaurants. That includes  
17 paper, plastic, aluminum, compostable. Among  
18 local businesses we did sampling in different  
19 neighborhoods, and we found that it ranged  
20 anywhere from some neighborhoods about half of  
21 the restaurants were using alternatives, and  
22 some there were 80 percent of the restaurants  
23 are using alternatives. The reality is if you  
24 look at industry of 20, 30, 40, 50 percent are  
25

2 using an alternative, can't be a significant  
3 impact to the business.

4 CHAIRPERSON JAMES: And primarily,  
5 the industry, it's just primarily restaurants.  
6 Are there any other industries who would be  
7 impacted by the ban?

8 RON GONEN: There's an inclusion for  
9 foam peanuts in packaging. So, you know, there  
10 could be an impact there. That would be small  
11 and minimal, but this is primarily focused on  
12 food service in restaurants.

13 CHAIRPERSON JAMES: Thank you.  
14 Council Member Arroyo?

15 COUNCIL MEMBER ARROYO: Thank you,  
16 Madam Chair. Good afternoon, Deputy Mayor.

17 CAS HOLLOWAY: Good afternoon.

18 COUNCIL MEMBER ARROYO: You know  
19 you're in my will, right? You single handedly  
20 closed down my Afco in my district, so thank  
21 you. But I want to--the ban, so if I go to the  
22 supermarket, will I be able to buy Styrofoam  
23 cups?

24 CAS HOLLOWAY: No.

2 RON GONEN: No. It's food service.

3 So you would not.

4 COUNCIL MEMBER ARROYO: I'm sorry?

5 RON GONEN: No, you would not because  
6 that would be considered for food service.

7 COUNCIL MEMBER ARROYO: Okay. So  
8 this is only single serving packaging. And the  
9 clam shells, you mean those little things that  
10 fold over and turn into like a little box?

11 CAS HOLLOWAY: Yea, if you're a  
12 buffet you can fill them up.

13 COUNCIL MEMBER ARROYO: So, I didn't  
14 catch your name. I'm sorry, I came in a little  
15 late.

16 RON GONEN: That's okay. Ron Gonen.

17 COUNCIL MEMBER ARROYO: Okay. So  
18 your statement, proper back end recycling at--  
19 you mean at the restaurant level, if they're  
20 doing the proper back end recycling they can  
21 make money.

22 RON GONEN: I didn't say they could  
23 make money. I said that they should be able to  
24 save money.

2 COUNCIL MEMBER ARROYO: Okay. So but  
3 they're packaging it for people to take home.  
4 So how could they do back end recycling on that  
5 level?

6 RON GONEN: We found that 73 percent  
7 of polystyrene for food service ends up in the  
8 office and the home. The other remains in the  
9 facility of that restaurant. Right now, that  
10 has to go into refuse which restaurants pay to  
11 get rid of. You can run a very efficient  
12 collection program for your restaurant if  
13 everything that you have is recyclable.

14 COUNCIL MEMBER ARROYO: I'm--that  
15 doesn't make sense to me. This is packaging  
16 that's brand new. They have it on the shelf  
17 waiting to package something for me as the  
18 consumer to take home. Why would they be  
19 recycling it if they've not used it?

20 RON GONEN: Sometimes people have a  
21 cup of coffee in the establishment and then  
22 throw it out.

23 COUNCIL MEMBER ARROYO: So we're  
24 looking at--okay. So--

2 CAS HOLLOWAY: [interposing] You're  
3 right, though. Most take it home.

4 COUNCIL MEMBER ARROYO: I'm really  
5 frustrated by the description of the research  
6 that you've articulated. Local businesses--I  
7 did a walking tour in my district of  
8 restaurants, and every single one of them asked  
9 me, "Council Member, please don't let them do  
10 this. It's going to increase the cost of my  
11 business." And the guys that I visited to not  
12 fit into the group of restaurants that you  
13 described were part of the research. So, how do  
14 I tell the owners of Delicioso [phonetic] and  
15 Cocina Mexicana [phonetic] in my district that  
16 they should not worry that they should expect  
17 to see minimal increase in their operation?

18 CAS HOLLOWAY: Well, first of all,  
19 we would be happy to work with you to convene  
20 as large a group as often as you would like to--

21 -

22 COUNCIL MEMBER ARROYO: [interposing]  
23 But the offer was not even--

24 CAS HOLLOWAY: [interposing] Do you  
25 mind if I--do you mind if I finishe?

2 COUNCIL MEMBER ARROYO: Yeah.

3 CAS HOLLOWAY: To convene businesses  
4 that could be impacted by this and explain what  
5 the alternatives are and make sure that they  
6 are connected, but the fact is, and I have to  
7 say, I mean, we've done a lot of these things,  
8 the level of outreach, research, and the  
9 amount, the number of examples that exist  
10 around the country show that any impact  
11 financially is going to be minimal and when you  
12 have companies like Dunkin Donuts and  
13 McDonald's switching who are the largest users  
14 now, it's going to only get more competitive.  
15 So, I think that we are very sensitive to any  
16 regulations that increase operating costs, and  
17 it's something that I've worked. You know, it's  
18 been a particular priority. Nothing's perfect,  
19 but the--this we believe, we really believe we  
20 have the data that shows that it's a minimal if  
21 any impact, and what we need to do is make sure  
22 people get connected to what the alternatives  
23 are.

24 COUNCIL MEMBER ARROYO: So, when we  
25 talk about minimal and two cents sounds like an

2 insignificant number, is that two cents per  
3 cup, and if I'm buying a thousand, what does  
4 that translate into, and if I'm a small  
5 business, which are the ones that I visited in  
6 my district, that can add up and have a  
7 significant impact. So I think it concerns me.  
8 Two things, number one, that there was no  
9 opportunity for that conversation to happen  
10 with the businesses that I visited. Wait, let  
11 me finish. And we had a discussion at the  
12 Black Latino Asian Caucus in the Council here  
13 about a month and a half or so ago. Then I  
14 asked for information. I don't remember who was  
15 at the table, but I have yet to receive  
16 information back, and I'm not saying that we  
17 shouldn't help to improve our environment, but  
18 at the cost of our small businesses, this is  
19 something that I'm very concerned about and  
20 they are the ones that I'm reacting to, not  
21 Dart, not the lobbyists, because they didn't  
22 send me here. The folks in my district did.

23                   RON GONEN: I understand your  
24 concerns. You're representing constituents in  
25 your neighborhood. We have done a significant

2 amount of outreach into local neighborhoods to  
3 meet with local businesses. We would be glad  
4 to set up a meeting with restaurants in your  
5 local district, explain to them the different  
6 opportunities to switch. We've met with over 13  
7 suppliers of alternative products that are  
8 selling into New York City. We can bring them  
9 to the meeting and what we've done for a couple  
10 of other restaurants that have communicated  
11 that this could potentially be an issue for  
12 them. I have staff in my office that has  
13 actually worked directly with those restaurants  
14 to help them find an alternative supplier. So  
15 we may not be able to satisfy everybody as you  
16 mentioned. Two cents is still two cents, but  
17 you will find that our office is readily  
18 available to meet with any restaurant, do  
19 whatever outreach is necessary, and also assist  
20 in terms of finding alternative products. We  
21 did meet with restaurants in Council Member  
22 Chin's district. We set that up to see if  
23 there were any restaurants that had an issue.  
24 No restaurant actually showed up. We also met  
25 in Council Member Reyna's district. She was

2 gracious enough to set up a meeting for any  
3 restaurants that had an issue. Two restaurants  
4 showed up. We had a conversation with those  
5 restaurants. We would be glad to spend as much  
6 time as necessary with the restaurants in your  
7 district to help them with any issue they may  
8 have.

9 COUNCIL MEMBER ARROYO: I hope it's  
10 not going to take a month and a half.

11 RON GONEN: We'll--

12 CAS HOLLOWAY: [interposing] It  
13 won't.

14 COUNCIL MEMBER ARROYO: Because when  
15 you presents--someone presented to the Black,  
16 Latino, Asian Caucus here over a month ago, and  
17 I was given a commitment that I would get  
18 information back and I have yet to receive it  
19 from your office. So, circling back to a  
20 meeting now and how long that's going to take  
21 is--I welcome it, because in the absence of  
22 clear and correct information people will draw  
23 their conclusions based on the only information  
24 provided to them. So, the businesses in my  
25 district currently are hearing from the

2 industry, this is going to increase your costs,  
3 and that's the only information they have.  
4 That's the conclusion they're going to reach,  
5 and that's unfair to them.

6           RON GONEN: I agree. We visited  
7 your neighborhood. If that information was not  
8 communicated to you I will make sure it's done  
9 by the end of today. I will also make sure that  
10 we're there to assist and do whatever  
11 necessary.

12           CAS HOLLOWAY: We'll follow up right  
13 away.

14           COUNCIL MEMBER ARROYO: Thank you.  
15 Thank you Madam Chair.

16           CHAIRPERSON JAMES: Thank you Council  
17 Member. So I believe in the carrot approach as  
18 opposed to the stick, and so is there a  
19 educational component to all of this. Are  
20 there benchmarks or time frames, and is the  
21 administration open to perhaps a more healthy,  
22 a more healthy engagement with restaurants and  
23 businesses particularly in communities of color  
24 who obviously may have an impact and may have  
25 a concern about the impact.

2 CAS HOLLOWAY: Well, abs--we're open  
3 to do as much outreach as the Committee and the  
4 Council would like. In fact, I do have to note  
5 though, we have already done and will continue  
6 to do a tremendous amount of outreach on this.  
7 This is not something where the idea was cooked  
8 up in a room and now all of a sudden here we  
9 are in front of this Committee. I can  
10 personally attest to Ron and your team, you  
11 know, you've put a lot of miles--pounded a lot  
12 of pavement doing this and we will pound as  
13 much additional pavement as we need to to make  
14 sure people understand why this is the right  
15 thing to do, what their cost effective  
16 alternatives are and how to get them, and why  
17 ultimately making this change now is going to  
18 drive down costs over the long term.

19 CHAIRPERSON JAMES: And the  
20 penalties don't go into effect into January of  
21 2016, correct?

22 CAS HOLLOWAY: Yes, correct.

23 CHAIRPERSON JAMES: so perhaps we  
24 could work with the next public advocate to--

2 CAS HOLLOWAY: [interposing] Sure.

3 Absolutely.

4 CHAIRPERSON JAMES: Council Member  
5 Peter Vallone?

6 COUNCIL MEMBER VALLONE: Thank you.  
7 Deputy Mayor, you said that--first off, I  
8 believe this is a noble goal and I want to get  
9 there, but I'm also a small business person so  
10 I have some of the same concerns that Council  
11 Member Arroyo just mentioned. Two cents on a  
12 cup of coffee is the profit margin that many of  
13 our small businesses make on a cup of coffee.  
14 They're not making a dollar and then they're  
15 going to lose two cents here. And I doubt  
16 they're going to charge a dollar and two cents  
17 for the cup. They're still going to charge the  
18 dollar. And it concerns me. You said they make  
19 that up on back-end recycling. I'm also  
20 confused like Council Member Arroyo was. What  
21 back-end recycling if there is no recycling of  
22 Styrofoam?

23 CAS HOLLOWAY: Ron.

24 COUNCIL MEMBER VALLONE: You said  
25 they make it up on back-end recycling.

2           RON GONEN: You will save money as  
3 business if you are using paper or plastic  
4 products. It's if you're using foam, you have  
5 to pay for getting rid of it. Regarding coffee  
6 cups, it's a great example. If you visit most  
7 Greek diners in New York City, they sell coffee  
8 in a paper cup. They do just fine as a  
9 business. They're one of the strongest parts  
10 of our business community.

11           COUNCIL MEMBER VALLONE: I represent  
12 the Greek Diner capital of the world, and I  
13 know that you're absolutely right about that.  
14 Oh, so you meant on the regular recycling they  
15 can make it up. They can make that up now on  
16 regular recycling.

17           RON GONEN: Right.

18           COUNCIL MEMBER VALLONE: So it's  
19 really--it doesn't make up for that two cent  
20 loss. I'd like to work with you and come up  
21 with ways to do that. As the Chair has said,  
22 maybe some education. One of things I heard  
23 and Lou Fidler heard and many of us was that LA  
24 was doing this. Clearly they aren't. We have  
25 a letter here from LA saying they don't accept

2 contaminated--containers contaminated with food  
3 waste, but in your testimony you said they do  
4 accept clean polystyrene foam. Can you explain  
5 what sort of clean Styrofoam gets recycled out  
6 in LA?

7 CAS HOLLOWAY: Sure. Ron, do you wan  
8 to--

9 RON GONEN: Clean polystyrene foam  
10 would be considered something that fell off a  
11 manufacturing line or came in a computer box  
12 that didn't touch anything else. That's  
13 considered clean polystyrene foam, and my  
14 understanding is there's a very limited market  
15 for that. Dirty polystyrene foam is anything  
16 that comes into contact with food service  
17 products or anything else. That's 100 percent  
18 of what we have in our recycling stream and  
19 food service industry when it comes to  
20 polystyrene foam, and as the Deputy Mayor said,  
21 that is specifically what this bill is focused  
22 on.

23 COUNCIL MEMBER VALLONE: So do you  
24 have any opinion on New York City instituting a  
25 recycling program for clean polystyrene foam?

2 CAS HOLLOWAY: Well, I think if you-  
3 -the question is--we're in favor of recycling  
4 anything that can be recycled, and the question  
5 is how do you do it? So for metal, glass, and  
6 plastic and paper we have two primary vendors  
7 and we do curbside collection for those items.  
8 It is a volume business and a weight business  
9 and that makes sense. For electronics and for  
10 textiles we have two industry funded programs  
11 that Ron can describe in greater detail that  
12 are also extensive and give people a lot of  
13 options. If you are going to set up a curbside  
14 foam recycling program, and we've--you know,  
15 which basically you would have to do with  
16 separate trucks and separate collection because  
17 you can't mix this stuff. Number one, it  
18 breaks apart. Number two, you know, it can't  
19 touch anything else. So that would be 1,000  
20 new routes that would cost approximately 70  
21 million dollars a year to collect a material  
22 that is 0.5 percent of the waste stream. So,  
23 each sanitation truck is supposed to be  
24 collecting 10.7 tons of waste a day. Well,  
25 collecting a ton of EPS foam is--takes a long

2 time. Let's put it that way. So this is a, you  
3 know, it would be very, very--I don't think it  
4 would be practical. So, I guess the short  
5 answer to your question is yes. For a clean  
6 recyclable pro--recycling program if it was  
7 viable, and by the way that's why we put, you  
8 know, one of the biggest producers in touch  
9 with our vendor. If it's viable, show us it's  
10 viable. Because if it can be recycled, sure,  
11 let's recycle it. But I think the evidence is  
12 pretty clear that it isn't and it's not going  
13 to be.

14 COUNCIL MEMBER VALLONE: I actually  
15 had that underlined in your testimony, about  
16 1,000 new routes--1,000 additional trucks. And  
17 so I think you just said 1,000 routes. Is it a  
18 1,000 trucks? I'm sorry. It's 1,000 additional  
19 truck routes, two separate lines, at a cost of  
20 70 million dollars per year. That is  
21 substantial, and that is also going to effect  
22 the environment when it comes to--

23 CAS HOLLOWAY: [interposing] Oh,  
24 absolutely. I mean, I think that's where, you  
25 know, if you look at the emissions and

2 everything we're trying to do in the Solid  
3 Waste Management Program and switch to barge  
4 and rail and so forth, I mean--

5 COUNCIL MEMBER VALLONE: I obviously  
6 have a--could ask 1,000 more questions, but  
7 I've been involved in these negotiations with  
8 Dart and yourself for a long time, so I don't  
9 want to waste anyone's time. I want the public  
10 to hear from everyone else. We have some--we  
11 have a restaurant group here. We have some  
12 small business groups. We have some Styrofoam  
13 components here, and I'd like everyone to hear  
14 from them, but I want to commend, again, the  
15 Chair and you for your efforts on this. You  
16 know, we've disagreed occasional, not a lot,  
17 but I do trust what you have to say, and you  
18 did a pretty good job. You're refuting most of  
19 the arguments that I've been hearing for the  
20 last few years. So I look forward to working  
21 with you.

22 CAS HOLLOWAY: Thank you.

23 COUNCIL MEMBER VALLONE: For the  
24 month I have left.

25 CAS HOLLOWAY: Thirty-six days.

2 CHAIRPERSON JAMES: How many days?

3 CAS HOLLOWAY: Thirty-six for me.

4 CHAIRPERSON JAMES: Oh, okay. I'm  
5 counting down to--

6 CAS HOLLOWAY: [interposing] But hold  
7 onto Ron.

8 CHAIRPERSON JAMES: So Deputy Mayor,  
9 let me just ask you a question. I'm playing  
10 devil's advocate. What about the possibility  
11 of asking consumers to place foam in a separate  
12 bag and it's collected during the recycling--  
13 during the route where you pick up recyclables?  
14 And you don't add any additional trucks on the  
15 route.

16 CAS HOLLOWAY: Well, I'm not sure  
17 what the feasibility of that is. I mean, we  
18 have--we would have to look at it. We've cal--  
19 we did the calculation and Ron, do you want to  
20 just talk about the assumptions underlying our  
21 analysis for doing a curbside program?

22 RON GONEN: Sure. We assume that the  
23 polystyrene foam would have to go into the MGP  
24 stream, but since we're unable to put it in the  
25 MGP stream, we looked at the number of trucks

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2 that are used to run our MGP program and that's  
3 how we came up with the calculation of what it  
4 would cost to collect polystyrene foam from  
5 every home.

6 CHAIRPERSON JAMES: So, it's not  
7 financially feasible, or it's--

8 RON GONEN: [interposing]  
9 Specifically to your question about putting--  
10 you're asking what if someone were to put foam  
11 in a bag--

12 CHAIRPERSON JAMES: [interposing]  
13 Correct.

14 RON GONEN: and then it would come to  
15 the recycling facility.

16 CHAIRPERSON JAMES: Right.

17 RON GONEN: And--

18 CHAIRPERSON JAMES: [interposing]  
19 Curbside during recyclable days.

20 RON GONEN: I don't see that as  
21 technically feasible at all.

22 CHAIRPERSON JAMES: Because?

23 RON GONEN: It would mean that SIMS  
24 would then have to separate out those bags,  
25 open them up, and then figure out what to do

2 with them. That's not part of our, number one,  
3 recycling program. It's also absolutely  
4 counter to the 50 million dollar plus  
5 investment that SIMS just made in very advanced  
6 sorting facility in Sunset Park, Brooklyn.  
7 That facility is geared to take material that  
8 comes in and optically sort it. That technology  
9 cannot recognize polystyrene foam, number one.  
10 Number two, it can't open up bags and pull  
11 stuff out and--

12 CHAIRPERSON JAMES: [interposing]  
13 Now, if SIMS testifies and their--I guess  
14 they're going to testify today, I'm not sure.  
15 If they claim that there's these optical  
16 scanners that can do it, and they can clean the  
17 Styrofoam, would the Administration object to  
18 that practice or is that why we're giving them  
19 a year to figure this all out?

20 CAS HOLLOWAY: Well, I think what  
21 you're--what you said at the end there is  
22 what's important to remember. We were and had  
23 been open to a solution where you showed the  
24 viability of recycling this product. Meaning  
25 that you would have the infrastructure in place

2 to be able to collect it, make it accessible to  
3 60 percent or more of the population, which is  
4 the standard that you have to meet to call  
5 something recyclable. And that there would  
6 then be a market for the product, and if you,  
7 particularly when you look at food service  
8 containers, you know, I even looked at one of  
9 the, you know, the proposal that had been put  
10 forward to SIMS, even though they allow for up  
11 to five percent contamination, that  
12 specifically excludes oil and grease, which is  
13 what's in any food. So, you know, I am--look,  
14 if there's another way to trap this mouse, then  
15 maybe SIMS knows how to do it, but that was the  
16 whole reason that we worked with them to do it.  
17 So I'm not--any particular scheme if it's  
18 viable, we would be open to looking at it, and  
19 I think the legislation does build in a time  
20 frame to do that, but I think it is important  
21 to look at 25 years of history and the  
22 immediate testing that this industry has done  
23 and think about the long term interests of what  
24 the city wants to do and the value of this  
25 organics recycling stream. This is the most

2 cost-effective, efficient, and rational way to  
3 deal with this.

4 CHAIRPERSON JAMES: Thank you.  
5 Council Member Diana Reyna.

6 COUNCIL MEMBER REYNA: Thank you,  
7 Madam Chair. I had a statement. I apologize  
8 for my tardiness getting across the street. I  
9 wanted to just share with the Committee as part  
10 of the opening of this Committee hearing. Good  
11 afternoon. Thank you, Chair James and my  
12 colleagues on the Committee of Sanitation for  
13 organizing today's hearing. My name is Diana  
14 Reyna. I have a co-sponsored bill with Council  
15 Member Robert Jackson to mandate that expanded  
16 polystyrene and thermoplastic polymer foam  
17 commonly referred to as Styrofoam be recycled  
18 in the City of New York. Today we will hear  
19 discussions or have been hearing discussions  
20 from a variety of different organizations  
21 industry groups, industrial environmental  
22 advocates on the best way for New York to  
23 become a more environmentally sustainable 21<sup>st</sup>  
24 century city. Recycling Styrofoam will take a  
25 non-biodegradable product out of our waste

2 stream while ensuring that affordable food  
3 service products are available to families and  
4 small businesses on a budget. I hope that in  
5 our dialogue today we can balance the interests  
6 of greening, the way we deal with waste and  
7 supporting our City's small business owners.

8 Pushing through a bill that would unduly burden  
9 small businesses by increasing inventory costs  
10 would negatively impact communities across the  
11 City, including my own, and I believe this  
12 Administration knows better than anyone how  
13 right now there's an undue burden on how we  
14 process waste, considering that there's only  
15 three community areas that have been carrying  
16 the City's waste. That's North Brooklyn, South  
17 Bronx, Southeast Queens, and we've yet to see  
18 the relief efforts from SWMP from 2006 where a  
19 reduction was a commitment that has not been  
20 delivered to those three communities and we are  
21 still waiting and pending legislation would  
22 allow us to get there, and it's unfortunate  
23 that we don't have the support of this  
24 Administration. Considering that in prior years  
25 pre-Bloomberg there was a 21 percent recycling

2 rate, and today there's 15 percent recycling  
3 rate. Clearly, this Administration has said  
4 that they're committed to recycling and yet  
5 there's been a reduction, not an increase from  
6 21 percent. And so I question that effort. I  
7 would love to work with this Administration on  
8 keeping commitments, especially when we talk  
9 about SWMP. Improving the environment requires  
10 what would be reducing emissions where  
11 communities have been impact for decades, and  
12 we're not talking about carrying tonnage of 900  
13 tons per day. We're talking about 21,000  
14 permitted capacity in one Community Board.  
15 That is extremely overburdened, and we have not  
16 dealt with that. That's an outstanding issue.  
17 So when we talk about recycling and making sure  
18 that we understand where all this garbage is  
19 going to today, it goes hand in hand, and so  
20 there's an impact on all communities across the  
21 City in relationship to what would be Styrofoam  
22 ban versus what would be recycling Styrofoam  
23 and in my community in particular, it impacts  
24 both not just small business but the families  
25 on fixed incomes. Because they're the ones who

2 are going purchase Styrofoam versus plastic,  
3 and if we had to make sure that there's two  
4 dollar, three dollar difference in purchasing  
5 what would be a cheaper expense, inexpensive  
6 product like Styrofoam, a family in my district  
7 will buy that as opposed to plastic, and they  
8 will be impacted by banning what would be  
9 Styrofoam. Correct me if I'm wrong.

10 CAS HOLLOWAY: I actually do think  
11 you're wrong, and I would like to just address  
12 each of the points that you--

13 COUNCIL MEMBER REYNA: [interposing]  
14 Of course.

15 CAS HOLLOWAY: raised. First, I  
16 think--I will not address specifically the  
17 capacity bill. That's a subject for other  
18 hearings and you know what the Administration's  
19 position is on that--

20 COUNCIL MEMBER REYNA: [interposing]  
21 There's no time for other hearings.

22 CAS HOLLOWAY: particular bill. But  
23 the--but we certainly have tried to work with  
24 you on that issue, but you've raised three  
25 issues. Saying that recycling would bring it

2 out of the waste stream, talking about  
3 affordability and then a bill that would just  
4 designate this material as recycling. Well,  
5 the best way to get this out of the waste  
6 stream is to get the rest of it out of the  
7 waste stream. We already have 84 percent of  
8 chain restaurants and most other restaurants  
9 not even using the stuff. So 1060 finishes the  
10 job. IF it's not allowed to be used, it won't  
11 be in the waste stream. Our analysis shows  
12 that it's up--you know, the difference that  
13 we're talking about per product is two cents,  
14 not two to three dollars, and that there are  
15 cost competitive alternatives that--and dozens  
16 of cities that have implemented this with no  
17 appreciable impact to the restaurant industry  
18 or to consumers, and we believe that will be  
19 the case here, and it will become even more  
20 competitive once foam is out of the market, and  
21 then in terms of a bill that would designate  
22 this as recycling, well, I mean, you know,  
23 calling foam recyclable in a piece of  
24 legislation doesn't make it so. In order for  
25 it to be recyclable the public has to be able

2 to recycle it. In order to do that in New York  
3 City, you would need to set up a curbside  
4 recycling program, which would increase by  
5 1,000 truck routes, the number of trucks  
6 picking up by our estimate that you would need  
7 to have a realistic recycling program, and so  
8 you know, at a cost of 70 million dollars a  
9 year and that's just to pick it up, not to  
10 process it. So, you know, I think that the fact  
11 is that 25 years of inaction and non--you know,  
12 the market certainly hasn't put together this  
13 solution itself, show that that this material  
14 because it is only 0.5 percent of the waste  
15 stream is not recyclable, and it is incredibly  
16 harmful.

17 COUNCIL MEMBER REYNA: Deputy Mayor,  
18 are you saying that by banning we're going to  
19 see less trucks?

20 CAS HOLLOWAY: Well, you're  
21 certainly going to see less waste.

22 COUNCIL MEMBER REYNA: But are we  
23 going to see less trucks?

24 CAS HOLLOWAY: Well, it's only--

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2 COUNCIL MEMBER REYNA: [interposing]

3 You mentioned the trucks, so I'm trying to  
4 understand.

5 CAS HOLLOWAY: Certainly no more  
6 trucks, but if you--

7 COUNCIL MEMBER REYNA: [interposing]  
8 Certainly no more trucks.

9 CAS HOLLOWAY: if you mandate  
10 recycling, you will see more trucks, absolutely  
11 without question.

12 COUNCIL MEMBER REYNA: And how does  
13 SIMS get their recyclable now? Is it by truck?

14 CAS HOLLOWAY: Well, Sanitation  
15 Department picks them up and then it is--then  
16 SIMS--

17 COUNCIL MEMBER REYNA: [interposing]  
18 By truck?

19 CAS HOLLOWAY: Yes, but you--but  
20 there--

21 COUNCIL MEMBER REYNA: [interposing]  
22 So there's still a truck being involved in the  
23 transport of recyclables?

24 CAS HOLLOWAY: Well of course, but  
25 there would have to be additional trucks just

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2 for Styrofoam, because Styrofoam can't be mixed  
3 with metal, glass, and plastic.

4 COUNCIL MEMBER REYNA: According to  
5 who?

6 CAS HOLLOWAY: Well, according to all  
7 of the research on this subject. I don't think-  
8 -

9 COUNCIL MEMBER REYNA: [interposing]  
10 In your pilot, was it separated, was a separate  
11 truck picking up Styrofoam?

12 CAS HOLLOWAY: No, the Styrofoam in  
13 the pilot was just sorted at the recycling--

14 COUNCIL MEMBER REYNA: [interposing]  
15 How did it get there?

16 CAS HOLLOWAY: at the recycling  
17 facility. Ron, do you know the details?

18 RON GONEN: The material arrived on a  
19 metal, glass, and plastic recycling truck. So  
20 we tested--

21 COUNCIL MEMBER REYNA: [interposing]  
22 So it was all mixed in?

23 RON GONEN: It was all mixed in just  
24 like all of our recyclables are mixed in  
25 together when they arrive at the recycling

2 facility. As the Deputy Mayor said, the only  
3 way to collect something that's not going to be  
4 mixed in with everything else is to send out a  
5 separate truck to collect it. To do that in New  
6 York City would require a lot of trucks.

7 COUNCIL MEMBER REYNA: But it was  
8 mixed in?

9 CAS HOLLOWAY: A thousand truck  
10 routes.

11 COUNCIL MEMBER REYNA: But it was  
12 mixed in?

13 CAS HOLLOWAY: Yes, and it was--it  
14 was contaminated and not viable for recycling.

15 COUNCIL MEMBER REYNA: So--

16 CAS HOLLOWAY: [interposing] Which is  
17 exactly what SIMS found.

18 COUNCIL MEMBER REYNA: if you can  
19 just express to me, a Wesson corn oil plastic  
20 container that's emptied out, are we required  
21 to wash it before we throw it in the recycling?

22 RON GONEN: We recommend that people  
23 try to rinse off their containers if they have  
24 a lot of contamination.

25 COUNCIL MEMBER REYNA: But it's not--

2 RON GONEN: [interposing] It's not a  
3 requirement. Not a requirement. Not an  
4 expectation.

5 COUNCIL MEMBER REYNA: And it's not  
6 100 percent clean?

7 RON GONEN: Not a requirement. Not an  
8 expectation. A polite request, but not a  
9 requirement, not an expectation.

10 COUNCIL MEMBER REYNA: No one gets  
11 ticketed for having some residue of oil in  
12 their container?

13 CAS HOLLOWAY: But I'm--that's true,  
14 but the point is, if you have contaminated  
15 foam--plastics like rigid plastics, those the  
16 Wesson oil bottle that you're talking about  
17 even with a little bit of oil in still can be  
18 recycled. The foam can't. It's going to end up  
19 in a landfill. So you can call it--

20 COUNCIL MEMBER REYNA: [interposing]  
21 Foam cannot, but you're basing the fact that  
22 foam cannot because it's going to have oil  
23 residue?

24 CAS HOLLOWAY: Well, yeah. That's  
25 what the biggest producer, Dart, says.

2 COUNCIL MEMBER REYNA: I just--

3 CAS HOLLOWAY: [interposing] And they  
4 also said they will--

5 COUNCIL MEMBER REYNA: I just wanted  
6 to understand.

7 CAS HOLLOWAY: But yes.

8 COUNCIL MEMBER REYNA: Who's claiming  
9 that a container cannot be recycled according  
10 to some residue of oil?

11 CAS HOLLOWAY: The largest  
12 manufacturer in the world.

13 COUNCIL MEMBER REYNA: No, no,  
14 according to plastics.

15 CAS HOLLOWAY: What do you mean?

16 COUNCIL MEMBER REYNA: As far as  
17 plastics are concerned or mixed in with--

18 CAS HOLLOWAY: In terms of the  
19 contamination rate for plastics.

20 RON GONEN: There's two issues.  
21 First is the polystyrene foam breaks up into  
22 little pieces when it gets into the truck. The  
23 technology that SIMS currently has does not  
24 have the ability to sort all those little  
25 pieces out. It has the ability to sort out that

2 plastic water bottle or an aluminum can or a  
3 glass. It does not have the ability to sort  
4 out those little pieces of foam. So that's the  
5 first problem. Assuming--

6 COUNCIL MEMBER REYNA: [interposing]  
7 But does the--I'm sorry, Ron. I just wanted to  
8 understand. The issue as far as the break-up  
9 of the Styrofoam when it's mixed in and the  
10 optical machine or whatever technology is out  
11 there does not exist?

12 RON GONEN: I'm not aware of a way to  
13 optically sort--

14 COUNCIL MEMBER REYNA: [interposing]  
15 Sort.

16 RON GONEN: out small pieces of dirty  
17 polystyrene--

18 COUNCIL MEMBER REYNA: [interposing]  
19 But wouldn't that be left up to the industry to  
20 be able to invest in that technology, if there  
21 was a contract today to be able to just allow  
22 for this particular technology to be invested  
23 in?

24 RON GONEN: That's specifically what  
25 we asked SIMS to test. Can you sort it? Can you

2 recycle it? They ran that test for over three  
3 months. What they responded to us in writing  
4 is that they were not able to do that or not  
5 willing to accept that material. We need to go  
6 with what our--

7 COUNCIL MEMBER REYNA: [interposing]  
8 How long has a pilot for organics been taking  
9 place?

10 RON GONEN: Well, we've been running  
11 an organics program in New York City for--

12 COUNCIL MEMBER REYNA: [interposing]  
13 For how long?

14 RON GONEN: years. Years.

15 COUNCIL MEMBER REYNA: And--

16 RON GONEN: [interposing] This  
17 specific program--

18 COUNCIL MEMBER REYNA: [interposing]  
19 No, I'm just asking because it's taken years  
20 for an organics program, right? And to be  
21 proven that it can work.

22 RON GONEN: No. We weren't trying to  
23 prove anything. We were just running an  
24 organics program. There was no proof of--

2 COUNCIL MEMBER REYNA: [interposing]

3 Where does this organics program exist?

4 RON GONEN: Well, we've had a number  
5 of different types of organics programs in New  
6 York City. We've had people backyard  
7 composting on their own. We've had community  
8 compost facilities. So DSNY funds a large  
9 number of community compost facilities around  
10 the City--

11 COUNCIL MEMBER REYNA: [interposing]

12 But nothing system-wise?

13 RON GONEN: We have the green market-  
14 -No, we have the green market drop off programs  
15 that have been city-wide, and we just launched  
16 and additional program that that specific  
17 program is considered a pilot program, but  
18 organics composting has be going on in the City  
19 for years in multiple different levels. Our  
20 goal now is to actually expand it city-wide.

21 CAS HOLLOWAY: And in fact, one of  
22 the biggest challenges is if foam is still in  
23 the waste stream because foam carries food and  
24 food is what you're recycling and it breaks up  
25 into all these little pieces, it is definitely

2 going to contaminate that waste stream and make  
3 it harder to recycle, 35 percent of the waste  
4 stream with 0.5 percent of the waste stream  
5 that foam represents. So clearly, the most  
6 rational economic sensible thing to do, and I  
7 think the reason that you haven't seen a  
8 recycling program of any kind in New York even  
9 invested in by the people who produce it is  
10 because they know that too.

11 COUNCIL MEMBER REYNA: Is this going  
12 to cost a family in areas where families let's  
13 say have a lower average income than the city-  
14 wide to be--on a fixed income let's say, where  
15 the fiscal impact is in the negative, in the  
16 red, as opposed to the environmental benefit  
17 where the cost perhaps is a few cents to a  
18 business as you claimed, if it's a chain store.  
19 Have those numbers been run as far as a family  
20 household is concerned?

21 CAS HOLLOWAY: Well, the cost is not  
22 a cost to just chains. I mean, what the best  
23 data that we have which comes both from  
24 sampling of the collecting data from the  
25 chains, five or more establishments, and then

2 selective sampling of smaller restaurants and  
3 what the alternatives are including interviews  
4 with 13 providers of alternative products to  
5 EPS foam is that it's up to a two cent  
6 difference, which we have not seen any  
7 appreciable impact that we have come across in  
8 either the restaurant industry or the household  
9 level, and that--I mean, that's all I can tell  
10 you.

11 COUNCIL MEMBER REYNA: So the answer  
12 is no, there won't be a fiscal impact to the  
13 house--

14 CAS HOLLOWAY: [interposing] We do  
15 not anticipate there being any fiscal--any  
16 material or fiscal impact to a household, no.

17 COUNCIL MEMBER REYNA: And you've run  
18 those numbers?

19 CAS HOLLOWAY: Well, based on the  
20 data that we have, yes.

21 COUNCIL MEMBER REYNA: Based in what  
22 areas?

23 RON GONEN: Council Member Reyna,  
24 there's over 70 cities that have banned  
25 polystyrene foam from food service. There's a

2 lot of families in New York that are struggling  
3 today. Those cities also have a lot of families  
4 that are struggling. We have not heard from a  
5 single one of those 70 plus cities that have  
6 already banned polystyrene foam that there has  
7 been any impact on their restaurant industry or  
8 any impact on their families. In fact, they've  
9 all told us that the ban was a great thing to  
10 do. It's helped their recycling program, and  
11 they went out of their way to actually submit  
12 letters in support of the ban. So that's an  
13 important sample that you can look at to see  
14 that there should be no appreciable impact on  
15 either families or local restaurants.

16 COUNCIL MEMBER REYNA: But I was  
17 referring to families in New York City, as far  
18 as understanding the cost of not having the  
19 option for Styrofoam versus everything else,  
20 which is more expensive.

21 CAS HOLLOWAY: Well, it's--well,  
22 we've said two cents or up to two cents per  
23 item.

24 COUNCIL MEMBER REYNA: Not for--  
25 that's for business.

2 CAS HOLLOWAY: No, but the business--

3 COUNCIL MEMBER REYNA: [interposing]

4 Who will buy in volume.

5 CAS HOLLOWAY: But that's--well,

6 yeah, but then--okay.

7 COUNCIL MEMBER REYNA: Okay. And

8 then as far as the reduction of trucks. Are you

9 claiming that there's going to be a reduction

10 of trucks because there's less waste in trucks?

11 CAS HOLLOWAY: No. My comment on

12 trucks is that if in order for EPS foam to be

13 recyclable, you would have to initiate a

14 curbside program.

15 COUNCIL MEMBER REYNA: So--

16 CAS HOLLOWAY: [interposing]

17 Everybody recognizes that. That would require

18 an increase in trucks.

19 COUNCIL MEMBER REYNA: And that is

20 the only way to recycle, is to add an

21 additional truck?

22 CAS HOLLOWAY: Well, because you have

23 to go where the material is. Well not just one

24 truck, up to 1,000 trucks, but you have to go

25 where the material is and the data which

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2 actually the industry collects more efficiently  
3 than we do, shows that 73 percent of these food  
4 service items, which is all this bill  
5 addresses, end up in the home. So you have to  
6 go home to collect it.

7 COUNCIL MEMBER REYNA: And that is--  
8 what is the negative impact of that?

9 CAS HOLLOWAY: Well--

10 COUNCIL MEMBER REYNA: [interposing]  
11 Aside from the increase--

12 [cross-talk]

13 CAS HOLLOWAY: You know the impact,  
14 the negative impact of trucks. Sure. And 70  
15 million dollars in personnel costs to collect  
16 0.5 percent of the waste stream that you could  
17 simply--

18 COUNCIL MEMBER REYNA: [interposing]  
19 To the city or?

20 CAS HOLLOWAY: Well to the City,  
21 yeah, to tax payers, sure.

22 COUNCIL MEMBER REYNA: But why  
23 wouldn't that be part of what the contract with  
24 whoever the vendor would be to take that? Why  
25 would the--

2 CAS HOLLOWAY: [interposing] Well  
3 they would just pass through that cost.

4 COUNCIL MEMBER REYNA: Why wouldn't  
5 the City get paid for it?

6 CAS HOLLOWAY: They would just pass  
7 through that cost to us. I mean, that's how  
8 the contract would work. They would charge the  
9 City a certain amount to do the collection. I  
10 mean, there's a whole bunch of different ways  
11 you can set it up, but rest assured, no matter  
12 how you do it we will pay.

13 COUNCIL MEMBER REYNA: I just wanted  
14 to again stress because you didn't mention or  
15 comment on the fact that as you had mentioned,  
16 you're improving the environment by reducing  
17 emissions and the issue of SWMP having passed  
18 in 2006 and the commitments of over burdened  
19 communities being responsible for more than  
20 three-quarters of the waste being processes  
21 within three different communities, Southeast  
22 Queens, North Brooklyn, and South Bronx  
23 continues to be the case and we're seeing no  
24 relief there. And yet we're working on banning  
25 Styrofoam, which is--I would consider an

2 indirect cost, and indirect tax, a regressive  
3 tax on a small business, you know, not being a  
4 chain, and yet I don't see any benefits coming  
5 to communities or the system city-wide to be  
6 able to reduce what would be the capacity that  
7 overwhelmingly we can certainly start reducing  
8 as opposed to keeping at a 45,000 tons per day  
9 system, as you continue to press upon what  
10 would be recycling. I don't see that on the  
11 table, and I don't see that we're taking this  
12 to the next level where banning is giving us  
13 some type of community benefit as a city-wide  
14 effort of not just talking about improving the  
15 environment by banning a certain product but  
16 actually improving it by making sure that  
17 communities are not left vulnerable. So I just  
18 wanted to make sure that that was noted as part  
19 of the record at this particular hearing. Thank  
20 you.

21 CAS HOLLOWAY: Well, I do have to  
22 say, though, and I think maybe if you do have  
23 an opportunity to go through my testimony, I  
24 spent the first half of it going through what  
25

2 the benefits of doing this are, and there are  
3 substantial city-wide benefits to doing this.

4 COUNCIL MEMBER REYNA: But there are  
5 reductions as part of it?

6 CAS HOLLOWAY: Well, cap--well,  
7 there's a reduction.

8 COUNCIL MEMBER REYNA: Capacity  
9 reduction?

10 CAS HOLLOWAY: No, because capacity  
11 reduction is not related to this.

12 COUNCIL MEMBER REYNA: No, it was  
13 related to 2006 which hasn't gotten done. So I  
14 just wanted to point that out.

15 CAS HOLLOWAY: Okay.

16 CHAIRPERSON JAMES: Council Member  
17 King?

18 COUNCIL MEMBER KING: Good  
19 afternoon, Deputy Mayor. Thank you for your  
20 testimony today. This is pretty much--this is  
21 one of my first times coming to the Sanitation  
22 Committee, but I'm glad what I heard. When Lou  
23 Fidler, Council Member Fidler proposed this  
24 piece of legislation in regards to banning the  
25 foam, the Styrofoam, I looked at the

2 environmental impacts that it has been having  
3 and what is projected towards the future. Now,  
4 I look out into this room. I don't think  
5 there's anybody in here who's going to last  
6 forever, and earlier today there were a number  
7 of children that were on the steps telling us  
8 as adults to save the environment that they're  
9 going to have to take over once we go on to our  
10 next place. I say all of that because I know  
11 people have come and lobbied me in my district,  
12 owners of small businesses have come and  
13 lobbied, you know, in regards to why they  
14 should--this ban shouldn't go into effect, but  
15 I would have to ask you what are some of the  
16 cost-saving plans for a small business if this  
17 transition was to go into effect? What is the  
18 Administration willing to do to make this  
19 transition a lot easier if it goes into effect,  
20 and how do we educate today, businesses in our  
21 community of the real advantages of moving  
22 forward. New York city is one of the pioneers  
23 when things happen to change for the United  
24 States altogether. So if we're going to be one  
25 of the other leaders in recycling, how do we

2 educate this whole, our whole community so they  
3 are really in tune of what this piece of  
4 legislation aims to accomplish that, you know,  
5 I've signed on as a co-sponsor and what the  
6 mayor wants to do.

7           CAS HOLLOWAY: Well, I think the--  
8 you're right. The single most important thing  
9 we can do is outreach and education and making  
10 sure that we connect particularly small  
11 business owners with the options and what the  
12 replacement options are. And so we've done a  
13 tremendous amount of that outreach, but I can  
14 commit now, certainly Ron and the Department of  
15 Sustainability and Recycling will commit to a  
16 specific outreach campaign to businesses in the  
17 form, you know, we'll do all different kinds of  
18 media and outreach to ensure that--and we will  
19 bring producers of alternative products. We've  
20 already met with 13 of them. We will bring  
21 them. Community Board by Community Board if we  
22 need, if necessary or desired. It'd be nice to  
23 maybe to maybe try to consolidate some, but  
24 the--to connect people with their options, and  
25 you know, hopefully we'll find that will be

2 most of the battle, that, you know, people  
3 maybe are locked in with a particular supplier  
4 or a particular contract. They haven't thought  
5 about it, and it's just--they didn't know that  
6 there are cheaper options out there maybe right  
7 now. So, this is an area where there is a lot  
8 of competition and a lot of people who want  
9 this business, and I think that will be to the  
10 benefit of these businesses over the, you  
11 know, pretty immediate term, and that any  
12 impacts, and I think all the evidence that we  
13 have looked at shows will be minimal.

14 COUNCIL MEMBER KING: What do you  
15 say to the critics who believe that this will  
16 end jobs?

17 CAS HOLLOWAY: I just don't think  
18 there's data to support that, and I think that  
19 if you look at the facts on this proposal, it's  
20 not a ban on EPS foam across the board. It is a  
21 ban on the foam for a use which even the  
22 producers of it say cannot be recycled because  
23 it is contaminated and the data that we have  
24 from the alternative shows that it's a minimal  
25 to no impact and likely they get more

2 competitive if this is taken out of the waste  
3 stream. And so in term--and we know that down  
4 the road, in terms of the city-wide benefits  
5 that Council Member Reyna asked about, the 35  
6 percent of the City's waste stream is organics.  
7 We bury, as Council Member James said, we pay  
8 330 million dollars a year to bury 3 million  
9 tons of stuff in the ground. Just capturing a  
10 part of that organics waste stream, which we're  
11 moving towards doing both commercially and in  
12 terms of the pilots that are being set up here,  
13 you know, I think a day is possible not too far  
14 down the line where organics recycling could be  
15 mandatory in New York City. But getting there  
16 means that the cleaner the waste stream is, the  
17 less potential contaminants there are that  
18 would make that unusable in terms of an energy  
19 source or a compost or another form of reuse,  
20 the better off we're going to be, and so  
21 looking at the long term view, this is  
22 absolutely the sensible option, and I don't  
23 think that anybody has pointed to any credible  
24 significant negative impacts of taking this  
25 step and I don't think you're going to hear

2 anything that is going to contradict that if  
3 you stick to the facts.

4 COUNCIL MEMBER KING: Okay. Council  
5 Member Reyna mentioned about families, whatever  
6 financial hardships that might take place. Are  
7 there any financial incentives to help  
8 businesses in this transitional, even families  
9 who might think that when Styrofoam may vanish  
10 that they don't have another option that's cost  
11 effective for them?

12 CAS HOLLOWAY: Well, we haven't  
13 explicitly contemplated, you know, particular  
14 programs like that. I think our first step  
15 would be aggressive outreach, because the data  
16 shows that the cost differential is so narrow  
17 between the two and the competition in terms of  
18 the number of producers in the marketplace is  
19 so fierce that we don't see this as a  
20 significant issue. Now there have been other  
21 proposals that we've done, and we have a green  
22 infrastructure grant program for private  
23 properties where DEP literally invests millions  
24 of dollars a year. So we have other programs  
25 for other kinds of environmental and

2 sustainability benefits that we want to achieve  
3 where those kinds of measures are--can be  
4 necessary or at least helpful. We don't think  
5 that's going to be needed here. But we have a  
6 year to figure it out.

7 COUNCIL MEMBER KING: Yeah. Okay.

8 And one final question. Of course, since there  
9 will have to have a different method of pick  
10 up, that means more trucks that you mentioned  
11 that would be on the road to pick up the  
12 recyclable from the foam. My question to you  
13 would be is, these trucks, how are they going  
14 to be constructed? Are they going to be green  
15 trucks? Or what kind of trucks are they going  
16 to be? Because you know, we talk about--my  
17 district is in the Bronx where we have the  
18 highest rate of asthma, and we know with all  
19 the pollutants, especially from big trucks that  
20 are not put together well that pollution is all  
21 over, all in our kids, and we just get sick all  
22 the time. So what is the plan if this should  
23 come to fruition, what kind of trucks are we  
24 talking about putting on the streets?

2 CAS HOLLOWAY: Well, if this Intro,  
3 if this approach is taken, you won't see any  
4 increase in trucks for this purpose on the  
5 street.

6 COUNCIL MEMBER KING: Okay.

7 CAS HOLLOWAY: So the best way, you  
8 know, this is a great way to ensure that you  
9 certainly don't see additional trucks for  
10 picking up this particular product. IF you  
11 were to pass--there's other bills in this  
12 including Council Member Reyna's legislation  
13 that would mandate the designation of this  
14 product as recyclable. Well, in order to make  
15 that designation a reality, you would have to  
16 make a significant investment in creating the  
17 system and the network to pick this stuff up.  
18 Where do you pick it up? You have to pick it  
19 up where it is, and the data shows us that  
20 where it is is in the home. That would require  
21 trucks. Now, the Department of Sanitation is  
22 probably ahead of every other agency in terms  
23 of fleet, in terms of low sulfur fuels and  
24 compressed natural gas and so forth, but an  
25 additional truck is an additional truck. And

2 so, you know, we are certainly making great  
3 advances there and all of those requirements  
4 which Sanitation, I think, has met before  
5 almost any other agency would be met and  
6 exceeded in any trucks we would purchase, but  
7 we personally think that the best approach to  
8 this is you don't need any trucks if you can't  
9 use it for this purpose.

10 COUNCIL MEMBER KING: Okay. Well, I  
11 thank you for your testimony, and again, I  
12 thank Council Member Fidler for that  
13 Introduction and looking forward towards the  
14 future. I know finances play a piece on  
15 everything, but I think when it comes to some  
16 pieces of life, life is costly, but in some  
17 places we can't put the money ahead of our own  
18 existence, and I think this piece of  
19 legislation does that and it's a testimony to  
20 that. Madam Chair, thank you.

21 CHAIRPERSON JAMES: Thank you.  
22 Deputy Mayor, does the Department of Education  
23 have a contract with any of these alternative  
24 products yet?

2 CAS HOLLOWAY: Ron, do you know?

3 Haven't we done some replacement?

4 CHAIRPERSON JAMES: Biodegradable?

5 RON GONEN: Traditionally, the  
6 Department of Education has used Styrofoam  
7 trays for food service. A number of parents,  
8 some of who I think you're going to hear from  
9 today, during the past few years has started an  
10 initiative where they self-funded the  
11 replacement of Styrofoam trays in the schools  
12 that their children attend with compostable  
13 trays. As Council Member James knows and to  
14 your credit, you have brought that up as  
15 environmental justice issue a number of times  
16 and you're correct to do so because these  
17 schools in which that's taking place--

18 CHAIRPERSON JAMES: [interposing]

19 That's right.

20 RON GONEN: is often times an  
21 affluent district and the lower income  
22 districts, although the parents want to  
23 Styrofoam replace can't often times replace it.  
24 As we've launched our organics program in  
25 public schools which has been massively

2 successful so far, the primary issue we have is  
3 the number one contaminant are these Styrofoam  
4 trays. To Department of Education's credit,  
5 last year they started an initiative where they  
6 formed a partnership with the five largest  
7 school districts in the United States to  
8 replace all Styrofoam trays with compostable  
9 trays, and my understanding from Department of  
10 Education is that this September, all trays in  
11 New York City public schools along with the  
12 public schools in the four other largest school  
13 districts in the United States, making up the  
14 five largest school districts in the United  
15 States will all be using compostable trays and  
16 Styrofoam will be out of schools.

17 CHAIRPERSON JAMES: What company?

18 RON GONEN: I'll leave it to DOE to  
19 answer which vendor they've decided to go with,  
20 but my understanding is that they are close to  
21 a vendor selection.

22 CHAIRPERSON JAMES: And will this ban  
23 apply to meat trays?

24 RON GONEN: It does not apply to meat  
25 or fish trays that you buy in the supermarket.

2 CHAIRPERSON JAMES: Does it apply to  
3 ice trays?

4 RON GONEN: To ice trays, yes it  
5 does--

6 CHAIRPERSON JAMES: Coolers, yeah.

7 CAS HOLLOWAY: Oh, coolers. I would--  
8 --we need to get a--I don't know.

9 RON GONEN: Yeah.

10 CHAIRPERSON JAMES: Does it apply to  
11 the TV trays, the--

12 CAS HOLLOWAY: TV dinner tray?

13 CHAIRPERSON JAMES: TV dinners?

14 RON GONEN: That's pre-packaged and  
15 would be considered part of interstate  
16 commerce, so no.

17 CHAIRPERSON JAMES: Okay. Council  
18 Member Fidler?

19 COUNCIL MEMBER FIDLER: Thank you,  
20 Madam Chairwoman, and will all due respect to  
21 all of my colleagues, I think I have publicly  
22 acknowledged a couple of times on the floor  
23 that Council Member--sorry, she's not here,  
24 Reyna and Arroyo are amongst my favorite  
25 colleagues. I do want to say before I question

2 you that I share Councilwoman Reyna's  
3 frustration on SWMP and the issues of  
4 environmental justice that we've waited seven  
5 years to see. I kind of view this as consistent  
6 with Environmental Justice, and she and I will  
7 have a conversation about that, and I certainly  
8 share Councilwoman Arroyo's concerns about the  
9 cost to small business. I wasn't a math major.  
10 Don't even know if I could be considered a  
11 particularly good math student, but I did a  
12 little calculating here, and if a business used  
13 20,000 more coffee cups and assuming that it  
14 costs two cents more per coffee cup, and that's  
15 assuming that the prices don't drop when the  
16 alternative products become the mainstream,  
17 that would represent about 300 dollars in  
18 additional costs to that merchant a year? You  
19 want to save up. Don't poo poo [phonetic] 300  
20 dollars. The cost of the coffee that they're  
21 selling in those 20,000 cups would be 30,000  
22 dollars. That's assuming \$1.50 a cup and I  
23 don't find coffee for a \$1.50 a cup in my  
24 neighborhood anymore. I don't go to Starbucks.  
25 So that would represent about one percent of

2 their cost just to put that into perspective.

3 So, I am always concerned about small business.

4 I was interested in hearing your testimony

5 about the hardship exception for small business

6 that apparently hasn't been utilized once, but

7 maybe we can offer that alternative to our

8 small business as well. If anyone truly feels

9 they have a hardship, maybe we can look into

10 that, but the one percent additional cost out

11 of their retail revenue hardly seems like a

12 cost that would stand in the way of the

13 environment and our future and our children.

14 Now, you indicated that 35 percent of our waste

15 stream is organic. Less than--over at about

16 half a percent is foam, EPS. I know that one

17 of the motivations in this bill, because I'm--

18 one of my motivations is to move to the gold

19 standard and get city-wide organic recycling.

20 That's something that I hope will happen

21 certainly in the life of the next

22 Administration and if that were to happen, and

23 I'm especially sorry that Council Member

24 Reyna's not here, what--how much of that 35

25 percent in tonnage, alright, would disappear,

2 alright, from the landfill stream and the  
3 refuse being trucked to some of the poorer  
4 neighborhoods in the City of New York?

5           RON GONEN: I can't give you an exact  
6 tonnage, but at a high level, if you strip out  
7 the fact that 35 percent of our waste stream is  
8 traditional recyclables and half of those are  
9 currently captured, and we now have programs  
10 for our e-waste and textiles. That 35 percent  
11 that is organic as part of the remaining refuse  
12 stream currently is over 50 percent. So if you  
13 were to run a robust organics program city-  
14 wide, you would massively reduce the amount of  
15 refuse that the city collected. And we're  
16 actually seeing that proved out today in our  
17 New York City public schools. They used to  
18 receive a tremendous amount of refuse  
19 collection. Now that we've launched an  
20 organics program in the school, we're able to  
21 give them once a day organics collection, once  
22 a day paper collection, because that's most of  
23 what they had, and we've actually reduced their  
24 refuse collection to twice a week. No issues.  
25 Because if you're collecting recyclable and

2 your collecting organics and people are  
3 participating, net/net what you have is very  
4 little refuse, which ends up saving the City a  
5 significant amount of money and is great for  
6 our environment.

7 COUNCIL MEMBER FIDLER: Okay. Now,  
8 there's one thing that you didn't testify  
9 about, I was a little surprised, our contract  
10 with SIMS, you know, will include the plastic,  
11 the rigid plastics. I'm extremely proud to have  
12 been the sponsor of the expansion of the  
13 plastic recycling a couple of years ago. It's  
14 going into effect now. Frequently, people  
15 confuse Styrofoam as plastic, am I correct?

16 RON GONEN: It is actually a plastic.  
17 They confuse it as a rigid plastic.

18 COUNCIL MEMBER FIDLER: [interposing]  
19 A rigid plastic.

20 RON GONEN: And that's why--

21 [cross-talk]

22 COUNCIL MEMBER FIDLER: You know, we  
23 really have to be very careful about our terms  
24 here because later on we're going to hear from  
25 someone who's going to tell you that Styrofoam

2 can be recycled and not distinguish being clean  
3 and dirty. So I should distinguish between  
4 types of plastic. The contract with SIMS has  
5 penalties in it that will cost the tax payers  
6 of the City of New York additional money should  
7 the stream contain higher, a higher percentage  
8 of contaminants. Can you speak to that and  
9 speak to, you know, the danger of the--of  
10 polystyrene being mistaken and thrown into that  
11 stream as you anticipate will happen?

12 CAS HOLLOWAY: Sure. Well, I'll  
13 start. You know, I've kept this at a pretty, I  
14 guess, a 10,000 foot level, but when we talked  
15 about the alternately the 50 million dollars in  
16 savings and revenue that could be generated  
17 there are thresholds in terms of the amount of  
18 recyclables that we have to reach before the  
19 City starts to revenue share in the recyclables  
20 that SIMS collects, and then if there's a  
21 certain level of contamination, Ron can go into  
22 the specifics, in other words, non-recyclables  
23 in the recyclable stream including foam, it  
24 doesn't even count. We have to take it and  
25 deal with the disposal costs. So those are

2 some of the issues behind the numbers that I  
3 talked about at a high level. Ron?

4                   RON GONEN: The environmental  
5 benefits of recycling I think are clear to  
6 everybody. There are significant economic  
7 benefits to New York City. If we don't send  
8 things to landfill we save money, and if we  
9 recycle them, we get paid for our paper, and  
10 right now, it's less to process our metal,  
11 glass, and plastic than it is to send it to  
12 landfill. The additional benefit is when SIMS  
13 opens up their facility shortly we begin a  
14 revenue share on our metal, glass, and plastic.  
15 There's a contingency in that contract that if  
16 we bring them more than 20 percent contaminated  
17 MGP stream, that revenue becomes impacted and  
18 the reason for that is they're in the business  
19 of getting recyclables, processing them, and  
20 then selling them to the market. If we start  
21 bringing them contaminated recycling streams,  
22 that impacts their ability to generate revenue  
23 and to their--to be fair to them, they don't  
24 want to share in that. That 20 percent  
25 contamination level, we are perisly [phonetic]

2 close to that right now. And we need to ensure  
3 that New Yorkers clearly understand what they  
4 can and can't recycle and we also have to make  
5 sure that things that are currently in the  
6 refuse stream don't through either confusion or  
7 some other reason end up in the metal and glass  
8 and plastic recycling stream and end up tipping  
9 that 20 percent and putting our revenue share  
10 at risk.

11 COUNCIL MEMBER FIDLER: And is there  
12 a cost number that you can associate with that  
13 20 percent?

14 RON GONEN: Well, any tonnage above  
15 the 20 percent we are required to pay for to go  
16 to landfill, number one. Two is it reduces the  
17 tonnage that counts towards our revenue share.  
18 So in a sense we get both ways.

19 CAS HOLLOWAY: We can send you a  
20 letter because we've actually--I mean, we've  
21 laid out a bunch of these scenarios. So, we--I  
22 don't have the numbers off the top of my head,  
23 but we can give you a follow-up information.

24

25

2 COUNCIL MEMBER FIDLER: I mean, are  
3 we talking about hundreds of thousands? Are we  
4 talking maybe millions?

5 CAS HOLLOWAY: Yeah, definitely,  
6 millions.

7 COUNCIL MEMBER FIDLER: Millions,  
8 okay. Now I just want to go one last topic  
9 before I turn it back to the Chair. You were  
10 talking about what it would take to do a  
11 curbside recycling program, how there were a  
12 number of problems in addition to the fact that  
13 I don't 1,000 more trucks on the street, but  
14 let's say as the Chairwoman mentioned, people  
15 threw that recycling into a separate bag, and  
16 somehow SIMS would be able to take those bags  
17 and remove them from the recycling stream at  
18 whatever the cost would be. When they open  
19 that bag every piece of foam in that bag would  
20 be dirty foam, am I correct?

21 RON GONEN: Once it's mixed in with  
22 the rest of the recyclables, you are correct.  
23 It is now dirty foam. The other issue with that  
24 proposal is, as you've heard earlier, we're

2 trying to reduce the number of plastic bags in  
3 New York City.

4 COUNCIL MEMBER FIDLER: Okay. True.  
5 If you open it up and it's all dirty foam, it  
6 would then in order to be recyclable it would  
7 have to be washed. Is that correct?

8 [off mic]

9 CAS HOLLOWAY: if you mean, if you  
10 had a whole bunch of food service foam that's  
11 in a bag by itself, that's all dirty foam.

12 COUNCIL MEMBER FIDLER: Well, if  
13 you--curbside recycling and I go to my local  
14 Chinese restaurant and the egg foo yung  
15 [phonetic] comes in a Styrofoam container and I  
16 finish eating it and I throw it into the bag,  
17 the expectation would be that before it could  
18 become recyclable, it would have to be washed  
19 either by me as the consumer before I threw it  
20 into the bag or on the other end.

21 RON GONEN: That is correct.

22 COUNCIL MEMBER FIDLER: Is there  
23 anybody in New York that can do that right now?

24 RON GONEN: Not that I'm aware of.

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2 COUNCIL MEMBER FIDLER: Okay. Thank  
3 you.

4 CHAIRPERSON JAMES: So Council Member  
5 Fidler mentioned hardship exceptions. Are  
6 there any hardship exceptions in this bill as  
7 far as we know?

8 RON GONEN: No.

9 CHAIRPERSON JAMES: Okay. And we,  
10 as--the Committee did a hearing on organics  
11 recycling which represents 30 percent of our  
12 waste stream. We did that on Friday and we  
13 look forward to passing that organics recycling  
14 bill before the end of this session. Council  
15 Member Jackson?

16 COUNCIL MEMBER JACKSON: Well thank  
17 you, Madam Chair and good afternoon everyone. I  
18 apologize for me arriving late after the  
19 testimony of the Deputy Mayor, but I was  
20 chairing the Education Committee next door  
21 myself, which ended after 2:00 p.m.

22 CAS HOLLOWAY: It was riveting.

23 COUNCIL MEMBER JACKSON: Say that  
24 again?

25 CAS HOLLOWAY: It was riveting.

2 COUNCIL MEMBER JACKSON: Okay. So I  
3 apologize for not hearing your testimony, but I  
4 am one of the co-sponsors with Diana Reyna of a  
5 pre-considered bill that would recycle  
6 Styrofoam, and as you know, Deputy Mayor, I co-  
7 chaired the New York City Council's Black,  
8 Latino, and Asian Caucus, and I'm sure that you  
9 were informed that we had both parties come in  
10 front of the caucus to discuss Lou Fidler's  
11 bill and we heard from the--I think Ron was  
12 there and some other representatives from the  
13 Mayor's office for about a half an hour give or  
14 take one or two minutes, and we heard from Dart  
15 and other industries and people involved in  
16 that was opposed to Intro 10, I believe 1060 I  
17 believe the number is, and we heard them for  
18 about 30 minutes, about the same time. And  
19 quite frankly I'm not sold on the  
20 Administration's message, and especially after  
21 listening to the other side with respect to  
22 Dart's negotiations or discussions with SIMS  
23 who is the City's recycling contractor and  
24 listening to them and also, you understand that  
25 the Administration also was there. We did not

2 throw anybody out the room so that everyone can  
3 hear what everyone is saying. And what came  
4 across very clear to me is that representatives  
5 from Dart and/or the industry were  
6 communicating and trying to reach an agreement  
7 with SIMS, and basically what I heard loud and  
8 clear from them was that the Administration  
9 basically communicated to them, to SIMS, to  
10 stop discussing and negotiating with them, and  
11 in fact, the proposal that I heard was that  
12 Dart was willing to accept all the recyclable  
13 Styrofoam and pay the city, I think it was 160  
14 dollars a ton. That would increase the coffers  
15 of the City by a couple of million dollars a  
16 year, but it would also--they would clean it  
17 and recycle it into other marketable products.  
18 To me, that sounds like a win/win situation,  
19 and I have not heard anything that say we  
20 should not recycle, but go forward with banning  
21 it totally. So, one of the things that--what  
22 came across at the last hearing, they talked  
23 about dirty Styrofoam, and so the question of  
24 clarity was, what was meant by dirty Styrofoam  
25 versus Styrofoam that was recyclable. And

2 we've heard at that briefing that Styrofoam is  
3 not recyclable, and we've heard from them it is  
4 recyclable. And in fact, they brought in  
5 pellets and they brought in other materials in  
6 which shows that it is recyclable. So I am not  
7 convinced, and I as an individual, I visited  
8 small businesses in my district. One of the  
9 things that we do not want to do, and I say we,  
10 I don't, is to hurt small businesses. And I  
11 say to you, Deputy Mayor, and to everyone here  
12 that if we can ban it, if we can recycle it,  
13 I'm ready to recycle rather than outright ban  
14 it. And so that's where I'm coming from, and I  
15 heard--Ron, what's your last name again?

16 RON GONEN: Gonen.

17 COUNCIL MEMBER JACKSON: Gonen, I  
18 heard you respond to a question about--we  
19 recycle in our home right now. We sort out all  
20 of the stuff that needs to be recycled, and as  
21 a family, we are, the City of New York  
22 encourages, not required, encourages everyone  
23 to clean your bottles, your cans, your  
24 plastics, you're encouraged to do that, and you  
25 should not be putting dirty cans, cat food

2 cans, or whatever, dog food cans, or anything  
3 else into the recycling. So I, you know, I was  
4 surprised when you were saying that it's not  
5 expected for people to clean the recyclable  
6 items. That's one thing. And number two is  
7 I've heard this Administration in response to  
8 my colleagues about everything you said, so I'm  
9 willing to hear from everyone else that gives  
10 testimony, and I hope that you stay around to  
11 come back in order to respond to some of the  
12 things that the industry and Dart and others  
13 that are in favor of recycling Styrofoam. I  
14 hope that you stay around for that so that we  
15 can get back into more questions.

16 CAS HOLLOWAY: Well, Council Member,  
17 I personally won't be able. We'll certainly  
18 have people from the Administration who are  
19 here, but a couple of things. I mean, first of  
20 all, I do hope that you will read pages eight  
21 through 16 that's in my testimony, but from  
22 point two in my testimony that is food service  
23 products made from EPS Foam cannot be recycled  
24 in New York City. I spoke at length about just  
25 about every argument that has been made by the

2 industry claiming that EPS foam is recyclable.

3 It isn't. There--and I'll tell you why. There

4 are two requirements for something to be

5 recyclable. First, the product has to be

6 capable of being taken and reused in the

7 manufacture of another product, and EPS foam

8 can meet that criteria if it's treated the

9 right way. But second, it must also be capable

10 of being collected in an established recycling

11 program. That is the criteria that the Federal

12 Trade Commission has established to call

13 something recyclable, and that means that more

14 than 60 percent of people in an area have

15 access to it. So it's not enough that you can

16 take clean foam and make it into a pellet and

17 make the pellet into something else. That does

18 not make it recyclable. There has to be the

19 infrastructure capable so that the public has

20 access to actually take the stuff somewhere

21 where it can be reused. Now, Dart, in the last

22 25 years, and if you go to their website, there

23 are--all of the 20 locations that they have

24 around the country, they don't have a single

25 location in New York State where the public

2 could take this foam even if they wanted to.  
3 When I asked them why they haven't done  
4 anything in New York for 25 years, they said  
5 that they were in California. The only reason  
6 that we are even engaged in this discussion is  
7 because I personally made it by my business to  
8 set them up with the Department of Sanitation  
9 and asked our vendor, SIMS, to work with them  
10 to set up a pilot program. What they have  
11 offered, SIMS, is to buy them a machine that is  
12 capable of densifying this Styrofoam so that it  
13 can be economically transported. Buying a  
14 machine, and the analogy I used in my testimony  
15 is like asking somebody to start a newspaper  
16 and buying them the printing press but no  
17 reporters, managers, editors or advertising.  
18 That does not make something recyclable, this  
19 box. You have to have an entire network that  
20 is where the public is able to actually recycle  
21 this stuff. Where is the stuff? Well, Dart's  
22 own material show that 73 percent of food  
23 service items end up in the home. That means  
24 that it has to be collected at the home. That  
25 means that you have to start a curbside

2 recycling program. That would cost--that would  
3 take 1,000 extra truck routes and cost 70  
4 million dollars a year. That's just our  
5 initial analysis. So, to--you will hear, I am  
6 certain, when we are gone and you may even see  
7 foam that has been repurposed and reshaped into  
8 all kinds of other stuff, and that's great, but  
9 that doesn't make it recyclable in New York  
10 City. Dart knows that. They can't call it  
11 recyclable legally in New York City because the  
12 public doesn't have access to recycle it. Dart  
13 has made no investment in doing so in the last  
14 25 years. Under the way that Council Member  
15 Fidler has adjusted this bill, they have  
16 another year to try, and I welcome them to do  
17 that, but based on my experience, they're not  
18 going to get there.

19 COUNCIL MEMBER JACKSON: Okay. Well,  
20 you know, I hear you loud and clear. I think  
21 that, you know, from what I've heard from them  
22 is that they were willing to enter into  
23 negotiations with SIMS and basically DOS,  
24 whether it was Ron or you or somebody else

2 basically told them, "Shut the doors. Stop  
3 negotiation."

4 CAS HOLLOWAY: Well, that's not true  
5 and SIMS can speak for itself, but I will tell  
6 you something Council Member--

7 COUNCIL MEMBER JACKSON:  
8 [interposing] I know you may think it's not  
9 true and it may be not true, but we basically  
10 heard from them that basically the discussions  
11 they were having were shut down.

12 CAS HOLLOWAY: Well, SIMS can speak  
13 for itself, but I can tell you that one of the  
14 explicit provisions of the draft agreement that  
15 is floated around here is that there would be  
16 no foam that had any oil or grease could be  
17 taken. Now, all food service products that  
18 have any kind of food in it have oil and  
19 grease. So the company itself is saying that  
20 it can't take these materials, and I mean, it's  
21 just--to look at the evidence and what was  
22 actually offered, which was basically to buy a  
23 box and put it in a factory and have nothing to  
24 be able to collect it or even take the stuff  
25 that they produce is not recycling.

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2 COUNCIL MEMBER JACKSON: So, Deputy  
3 Commissioner, you're saying that a pilot  
4 project--I called you Deputy Commissioner,  
5 Deputy Mayor. A pilot project did take place  
6 with--

7 CAS HOLLOWAY: [interposing] Yes.

8 COUNCIL MEMBER JACKSON: with Dart  
9 and SIMS to recycle--

10 CAS HOLLOWAY: [interposing] Correct.

11 COUNCIL MEMBER JACKSON: Styrofoam.

12 CAS HOLLOWAY: Correct.

13 COUNCIL MEMBER JACKSON: And that,  
14 you're saying that pilot project did not work.

15 CAS HOLLOWAY: Correct.

16 COUNCIL MEMBER JACKSON: That what  
17 you're saying?

18 CAS HOLLOWAY: Yes.

19 COUNCIL MEMBER JACKSON: I heard I  
20 believe you and/or Ron said that basically it  
21 was picked up in a normal course of recycling  
22 and that some of the--some or all of the trays  
23 broke into pieces and you could not separate  
24 that out, and in essence that's what made it

25

2 dirty where it could not be recycled. Is that  
3 correct?

4 CAS HOLLOWAY: Well that's part of  
5 it, sure.

6 COUNCIL MEMBER JACKSON: I'm asking  
7 whether or not that's correct.

8 CAS HOLLOWAY: That's part of the  
9 reason, but SIMS will have to speak to the  
10 specifics. It was their pilot.

11 COUNCIL MEMBER JACKSON: Okay. Okay.  
12 Well, are you--let me ask a question. Are you--  
13 -if in fact New York City could recycle  
14 Styrofoam, would you be in favor of that or  
15 would you be in favor of banning it totally?

16 CAS HOLLOWAY: Well, I have said from  
17 the beginning and also by the way, this bill  
18 does not ban foam totally. All it does is it  
19 prohibits the use of this foam, which is used  
20 for many other things which are cleaner, for  
21 single-serving food service products that you  
22 use for 10 minutes and sit in a landfill for  
23 500 years, but I've said from the beginning and  
24 this is why we set Dart up, I set them up with  
25 our vendor, was to see whether or not this

2 recycling was viable, and they got the same  
3 results that had been shown in many other  
4 jurisdictions. The vendor came to its own  
5 conclusion and you'll hear from the directly,  
6 that it's not viable. Now, maybe they can come  
7 up with another approach that could work and  
8 the bill, I guess, gives them a year to try,  
9 but we do have 25 years of evidence.

10 COUNCIL MEMBER JACKSON: Okay. Well,  
11 have you seen the testimony from Harry Nespoli,  
12 the President of Sanitation Association--

13 CAS HOLLOWAY: [interposing] No.

14 COUNCIL MEMBER JACKSON: against this  
15 particular bill 1060?

16 CAS HOLLOWAY: No.

17 COUNCIL MEMBER JACKSON: Okay. Okay.  
18 Alright. Thank you very much.

19 CHAIRPERSON JAMES: Thank you for  
20 your testimony, and I look forward to working  
21 with you in the future. Thank you very much.  
22 Our next witness is the minority leader of the  
23 New York State Assembly, Brian Kolb. Did I  
24 pronounce your name correctly? I apologize.  
25 Thank you, sir. Sorry.

2 BRIAN KOLB: Well good afternoon,  
3 Madam Chairwoman and to all the other Council  
4 Members here today. I do have a letter that I  
5 will read here as part of the record, and if I  
6 also would be allowed to make some just some  
7 separate comments. And first and foremost, I  
8 think with Council Member Fidler, one of his  
9 early statements was to keep an open mind and  
10 hopefully all the City Council Members as you  
11 consider this legislation will do just that.  
12 I'm not here to represent the industry. I'm not  
13 here to be a lobbyist or the food service  
14 industry. I'm here to represent 1,500  
15 employees, men and women in my district, the  
16 131<sup>st</sup> Assembly district in Canandaigua area and  
17 Ontario County. These 1,500 employees need to  
18 have a voice, and basically what they do at  
19 their manufacturing facilities, these are blue  
20 collar jobs, men and women that work hard every  
21 day producing food container products. And in  
22 that light, I urge you to reconsider this  
23 legislation that bans the use of polystyrene  
24 food service containers, and instead explore  
25 alternatives that will reduce waste without

2 harming the economy of New York State. This  
3 proposed polystyrene ban is another example of  
4 over-regulation driving jobs, families, and  
5 businesses out of New York State. By nearly  
6 every ranking New York State is one of the  
7 worst tax and business climates in the nation  
8 and the reason is simple, the government keeps  
9 getting in the way. New York State and my  
10 Assembly district is home to several companies  
11 that manufacture polystyrene food containers.  
12 The measure in front of this Committee will not  
13 only hurt businesses and consumers in New York  
14 City, it will also eliminate jobs in Upstate  
15 New York. Implementing this unnecessary  
16 regulatory measure will severely injure our  
17 economy at a time when we can least afford it.  
18 There are more than 1,500 polystyrene  
19 manufacturing jobs in New York State, all of  
20 which could be in jeopardy if New York City  
21 bans this material. This proposal is a clearer  
22 front that New Yorkers who rely on  
23 manufacturing jobs to put food on their table.  
24 This ban would directly result in the loss of  
25 1,000 or could eliminate up to 1,563

2 manufacturing jobs and 47.5 million in lost  
3 wages alone, and as a side note, for every  
4 manufacturing job that is lost, that'll be  
5 another four to five jobs that are lost right  
6 along side that. Banning polystyrene foam will  
7 force businesses to use products that are more  
8 expensive, cutting into their bottom lines and  
9 hindering their ability to retain or create  
10 jobs. Not only can polystyrene be cycled,  
11 successful programs are already in place in  
12 several municipalities. Reducing waste and  
13 increasing recycling are laudable goals.

14 However, this ban will not accomplish those  
15 objectives but will hurt many hardworking New  
16 Yorkers and businesses. Instead of advancing a  
17 measure that puts people out of work, New York  
18 City should jump at the opportunity to be a  
19 true innovator in waste management. A course  
20 of action that explores recycling options will  
21 protect the livelihoods of thousands of  
22 families and local economies across New York.  
23 As elected public servants we need to end the  
24 practice of piling regulation after regulation  
25 on the backs of people who make up the

2 foundation of our economy. This Committee has  
3 the opportunity to take a meaningful step in  
4 that direction. The mounting list of  
5 regulatory burdens makes it harder for New  
6 Yorkers to make ends meet, makes it more  
7 challenging for businesses to prosper and  
8 create jobs, and makes it impossible for our  
9 economy to fully recover. I urge this  
10 Committee to put a stop to this regulation  
11 before families, businesses, and communities  
12 across New York suffer another devastating blow  
13 to their economic well-being. And just a  
14 couple side notes, as I conclude, and I'd be  
15 more than willing to take any questions or  
16 comments. For the record, I wrote to back on  
17 March 18<sup>th</sup>, 2013, to Mayor Bloomberg about this  
18 issue. On July 9<sup>th</sup>, 2013 I wrote to Governor  
19 Andrew Cuomo about this issue, and on August  
20 23<sup>rd</sup> I also wrote to Lieutenant Governor Bob  
21 Duffy on this issue. And as of today, not one  
22 response. This is a troublesome time for me  
23 not only as an elected official but as a  
24 community member. This is home. These  
25 facilities are the livelihood of 1,600 people.

2 And today, the Mayor's representative was  
3 saying, "Well we're dealing with half of one  
4 percent of the volume of the waste stream."  
5 But there was no mention about the jobs that  
6 would be lost and the income that would be lost  
7 to those families that directly produce those  
8 products. I'm absolutely a strict advocate of  
9 protecting our environment. There's no doubt  
10 about it, and I think if problems that are  
11 created by man can be solved by man, whether  
12 it's from technology, whether it's a cleaning  
13 trays, whatever it has to be done so that not  
14 only the local communities in New York City are  
15 looked out after, but also the Upstate  
16 communities. New York State is a community of  
17 one. When New York City suffered an  
18 unspeakable tragedy back on September 11<sup>th</sup>,  
19 2001, and there was an abundance of materials  
20 that had to be dealt with due to that tragedy,  
21 Upstate landfill and recycling facilities were  
22 put to work to help this city, and in the same  
23 token there are many things continued today  
24 that Upstate New York certainly trying to work  
25 in conjunction with our neighbors in Downstate,

2 and especially in the environmental area,  
3 worked very closely to try to help this city  
4 with its refuse needs. And so I guess as  
5 you're considering this and I know there is a  
6 proposal to do a pilot recycling program. I  
7 would really encourage you to do that first.  
8 Throw every bit of effort first into recycling,  
9 every bit of effort first to try to make sure  
10 that we don't lose any jobs. Make every effort  
11 first that the local communities in New York  
12 City, those small businesses, those people that  
13 can least afford one additional penny or two  
14 cents of cost. Those are the people we should  
15 be thinking about first. So this is not about  
16 an industry. I'm trying to put people's faces  
17 on the type of ban that you're considering  
18 right here, and certainly no one wants to hurt  
19 the environment. You know, we all have  
20 different approaches and we all have different  
21 opinions, including those that are talking  
22 about the ban. I understand that and I respect  
23 their opinion, but I would also like you to  
24 respect and think about the negative impacts of  
25 this ban that we'll have on men and women and

2 their families and their daughters and their  
3 sons in Upstate New York. And it's a five and  
4 a half hour drive away, but I would certainly  
5 encourage you, maybe you should come up and  
6 meet these folks every day, and see what they  
7 do every day to work to put food on their  
8 table. And certainly, I understand, I really  
9 do, the emotion and the caring that is  
10 expressed by the Council Members that are in  
11 favor of the ban as well as the environmental  
12 groups. I understand it and I respect it, but  
13 I also think sometimes we get so caught up in a  
14 mission that we forget about there are people's  
15 faces involved all across the state in our  
16 local communities in New York City and  
17 certainly in our communities Upstate. And I'm  
18 asking you to consider these things and try to  
19 explore every single option first before a ban  
20 is put in place. And one last note, and I  
21 think if you really look at the real life, you  
22 know, we never had recycling, and everybody  
23 said we can't implement recycling. It's going  
24 to cost too much money. We can't separate waste  
25 streams, and isn't it amazing today how much

2 recycling we really done. Even in my home  
3 every day when I go out to put our refuse out  
4 at the curb, there's one small bag of household  
5 garbage and a huge container three feet high  
6 full of recyclables. And I think we should  
7 challenge the industry and the Department of  
8 Sanitation to work at a recycling effort first  
9 and foremost and just think about those jobs  
10 locally and those jobs Upstate because we got  
11 to be in this together. So, I plead with you as  
12 a former business guy. I've been in the State  
13 Government now for 13 years. I'm usually  
14 sitting where you are, so this is an  
15 interesting experience for me. But I've also  
16 spent 25 years in the private sector owning my  
17 own business working for small start-up and  
18 large companies, and what I can tell you when--  
19 and I hear this from my colleagues in the State  
20 Assembly when we're dealing with budget time  
21 that people from New York City believe that  
22 Upstate is a drain on New York City,  
23 financially. And what I'm telling you is these  
24 types of policies is what puts a drain on  
25 Upstate employment, why people are leaving our

2 state and going to greener pastures, literally  
3 because of the fact it's much more difficult to  
4 own a business in New York, the regulatory  
5 environment, the taxes, and I'm not just  
6 talking about income tax. I'm talking about  
7 property taxes, sales taxes, and the like, and  
8 I guess what I'm just trying to do one more  
9 time today with you through me is to put the  
10 face of 129,000 constituents I represent, up to  
11 1,600 employees of my district and four times  
12 that for the people that have auxiliary jobs  
13 thanks to that. So, please, do everything you  
14 can to reconsider this ban, and I thank you for  
15 allowing me to speak today.

16 CHAIRPERSON JAMES: Thank you,  
17 Assembly Member. Just a couple of questions.  
18 This product is the only product that these  
19 1,600 men and women manufacture?

20 BRIAN KOLB: Actually there are  
21 several products, but this is one of the, what  
22 I'll call the majority pieces of business.

23 CHAIRPERSON JAMES: And is New York  
24 City the only market that they handle?

2 BRIAN KOLB: In our State it's the  
3 largest market.

4 CHAIRPERSON JAMES: Okay. And I'm  
5 sure you're aware that Albany County just  
6 recently issued a ban, is that true?

7 BRIAN KOLB: I have not seen Albany  
8 County. I know that state government has issued  
9 a ban on polystyrene products within state  
10 public facilities, but I don't know about the  
11 entire county.

12 CHAIRPERSON JAMES: State government,  
13 New York State Government?

14 BRIAN KOLB: Yes.

15 CHAIRPERSON JAMES: And obviously,  
16 your conference was opposed to that?

17 BRIAN KOLB: I don't believe we had a  
18 vote in that particular case, since we're  
19 outnumbered two to one in the State Assembly,  
20 but there are members of our conference who are  
21 in support of it and others that were not.

22 CHAIRPERSON JAMES: I understand.  
23 Council Member Fidler?

24 COUNCIL MEMBER FIDLER: Thank you  
25 Assemblyman Kolb. It's not my job as a Council

2 Member to represent Canandaigua, but as a human  
3 being I certainly consider that, you know,  
4 important, and along the lines of the questions  
5 that the Chair just asked, you know, if we ban  
6 Styrofoam coffee cups, are we going to drink  
7 less coffee? And I don't think so. So my  
8 question to you would be, is it not possible as  
9 we move into the future that Canandaigua moves  
10 into the future and the plant that is currently  
11 producing Styrofoam cups moves towards  
12 producing the alternative products that we will  
13 then absolutely need?

14 BRIAN KOLB: Well, first of all,  
15 Councilman, I don't think this has anything to  
16 do with the amount of coffee you drink, it's  
17 about the containers that are being produced,  
18 and I feel that you're talking about different  
19 material, and I know your personal beliefs  
20 about that. I believe that recycling is a  
21 better alternative. I've used the paper  
22 products and the organic products and quite  
23 frankly they don't do the job, and again, I'm  
24 not here to be a salesperson for Styrofoam  
25 products, but I can tell you this, that I see

2 more people put two or three cups of an organic  
3 cup in one cup because it can't hold the heat  
4 properly compared to Styrofoam and practical  
5 use. And certainly, I think that again, it's  
6 not about wanting to move forward. We're  
7 dealing with an existing technology that we  
8 believe is just like other technologies that  
9 we've used, whether it's glass, plastic, is  
10 look at opportunities to utilize those  
11 materials. It's not about keeping the head in  
12 the sand. It's about exploring opportunities  
13 before you get to a ban.

14 COUNCIL MEMBER FIDLER: Well, I  
15 really was expecting a more direct response to  
16 my question, but the--obviously what my point  
17 was, New Yorkers aren't going to drink less  
18 coffee and since they don't pour it into my  
19 hands, they're going to be poured into a cup of  
20 some kind. If it's not Styrofoam it's going to  
21 be another kind of cup. Now with all due  
22 respect to your criticism of other kinds of  
23 cups, I haven't gotten coffee from places that  
24 I buy coffee at in a Styrofoam cup in quite a  
25 while, and I have never found--this morning

2 when I stopped on Nostron [phonetic] and bought  
3 a cup of, a large cup of decaf, okay, and I  
4 took it with me into my car on my way into City  
5 Hall, it was not in a Styrofoam cup. So my  
6 question again is, is it possible that your  
7 plants in Canandaigua can be retooled to make  
8 alternative products if we do ban Styrofoam  
9 that will be absolutely necessary to replace  
10 them?

11 BRIAN KOLB: Well, that particular  
12 plant I can't answer for precisely because I'm  
13 not the owner of the company. I'm not subject  
14 to all the things and capabilities the  
15 equipment can do. I would guess, though, most  
16 of that equipment and the training and the  
17 people that manufacture in that particular  
18 facility is a different process altogether for  
19 an alternate material versus polystyrene. So  
20 my comment would be, my guess would be, it  
21 would be a significant amount of capital  
22 investment to change that facility over to  
23 another type of manufacturing, whether it's  
24 organic materials or any other material for  
25 that matter.

2 COUNCIL MEMBER FIDLER: Well, of  
3 course, but you know, industry all the time  
4 changes and retools to move the needs as  
5 society and the market changes. I cert--we may  
6 have a different view of say guns, but  
7 certainly wouldn't encourage more guns because  
8 we have New York State jobs at stake in making  
9 guns and gun manufacturing, because there's a  
10 plant Upstate that makes guns. I don't think  
11 any of colleagues would share that point of  
12 view. You know, but the idea, and I think you  
13 kind of said it but didn't say it, is it  
14 possible? Yes, it is possible that a plant can  
15 shift. It may require an investment. It may  
16 require some assistance from government and  
17 loans, but I understand I do believe that the  
18 state of New York makes some of that available,  
19 and I would certainly hope that if and when we  
20 pass this ban that Canandaigua will find its  
21 way to making the alternative products that we  
22 will need, okay, if we don't find a  
23 manufacturer here in the City itself.

24 BRIAN KOLB: Well, the only reason I  
25 didn't say 100 percent, Councilman, that they

2 couldn't do it or could do it is because I  
3 don't know for sure. So I'm not trying to evade  
4 your question.

5 COUNCIL MEMBER FIDLER: I don't know  
6 for sure either, Assemblyman.

7 BRIAN KOLB: And I'm a--

8 COUNCIL MEMBER FIDLER: [interposing]  
9 I don't want to express a lack of compassion  
10 for the people who have the job, nor do I want  
11 to compare Styrofoam to guns, but it is  
12 essentially the same argument.

13 BRIAN KOLB: Well, basically, I don't  
14 know if you're ever owned a business. I've  
15 owned a business, and I've worked for small  
16 start-up and large manufacturing companies, and  
17 one of the businesses I was in was in ceramics,  
18 and all the equipment which is millions of  
19 dollars investment to manufacture ceramics  
20 products could not be used for other production  
21 of other items other than ceramics, and the  
22 only reason I can't speak directly to your  
23 question is because I do not work in that plant  
24 and say exactly what are those foam making  
25 machines capable or not capable of, but I can

2 tell you that as a manufacturer as an owner of  
3 a business, if I've already invested millions  
4 of dollars in my equipment and facilities and  
5 now because of a government regulation I now  
6 have to throw that out the window because of  
7 something you believe is the right thing to do,  
8 that's exactly the type of mentality why jobs  
9 are lost. So all I'm saying is there's cause  
10 and effect, whether you agree with it or not, I  
11 understand. So I get that. I know where you're  
12 coming from. I'm just trying to give you a  
13 perspective from a guy that's worked in the  
14 trenches and owned a business and employed  
15 people in this state in manufacturing and they  
16 provide a value and service based on the  
17 products that are available to sell now whether  
18 it's in New York State, New York City or in the  
19 entire world.

20 COUNCIL MEMBER FIDLER: And we all  
21 value our manufacturing industry and you know  
22 Assemblyman you work across the river from a  
23 city called Rensselaer, and Rensselaer was once  
24 called the--oh, I'm sorry, Troy. It was once  
25 called the Collar City. How many people here

2 have detachable collars on their shirts? Well,  
3 that's what Troy used to make. Troy hasn't  
4 folded up. They figured out a way to move with  
5 the times to keep people employed, to continue  
6 manufacturing. I trust and hope that  
7 Canandaigua can do the same. I hope the  
8 governor will help you should we pass that ban,  
9 because I recognize it might have a very  
10 serious effect in the short term on  
11 Canandaigua. For all we know, the industry  
12 that they would move into which would be green  
13 and burgeoning, at least in the City of New  
14 York green industry is burgeoning, will  
15 actually help Canandaigua. I thank you for  
16 your testimony. I really appreciate the  
17 concerns you raise, but I don't look at them as  
18 hopeless as you seem to. So, but thank you for  
19 coming.

20 CHAIRPERSON JAMES: And we want to  
21 thank you Assembly Member, and we want to take  
22 you up on your field trip, but only in the  
23 summertime, okay?

24 BRIAN KOLB: Actually, it's a  
25 beautiful country all year long.

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2 CHAIRPERSON JAMES: Thank you, sir.

3 Next panel, Michael Westerfield representing  
4 Dart Container Corporation, Gary Frederick,  
5 George Cruzon. I hope I'm--I apologize if I  
6 mispronounced your name. Alan Shaw representing  
7 Plastic Recycling, Mitch Goodstein and lastly  
8 Richard Master representing MCS Industries.  
9 It's a panel of six. Choose amongst you. And  
10 we're now going to move the hearing to--We're  
11 going to put the time clock on speakers. Each  
12 speaker will have three minutes to provide  
13 testimony. We will provide some latitude, but  
14 as the Council Member Arroyo said, not much.  
15 We have at least. We have seven or possibly  
16 eight more panels to go. Thank you.

17 [off mic]

18 MICHAEL WESTERFIELD: Go ahead?

19 CHAIRPERSON JAMES: Choose amongst  
20 you who will begin first.

21 MICHAEL WESTERFIELD: I'll go ahead  
22 and start, yeah. Chairperson James, honorable  
23 Committee Members. Yes, it's on, yeah.  
24 Chairperson James, honorable Committee Members,  
25 honorable Council Members thank you for this

2 opportunity to speak to you today. My name's  
3 Michael Westerfield. I'm the Corporate Director  
4 of Recycling Programs for Dart Container.

5 Dart's a family-owned company. We manufacture  
6 food service containers made out of paper, made  
7 out of plastic, made out of foam, made out of  
8 gas. We're here today to voice our opposition

9 for bill 1060 and voice our support for 7195

10 which would include foam in the residential  
11 recycling program. Throughout the day we've  
12 heard that foam's not recyclable and that dirty

13 food service foam is not recyclable. We've

14 been recycling dirty food service foam since

15 1990. I included a letter in your packet,

16 exhibit one, that's from a municipality we

17 partnered with since 1994 and that is recycling

18 the dirty food service containers. I also took

19 pictures of our wash system that we have where

20 we was the dirty materials so you can see how

21 that's done, and that's on exhibit number two.

22 And then I have some pellets here of the clean

23 product. You can see. You can pass this around

24 if you want. Our offer is a comprehensive

25 solution. It's not just one piece like they

2 want you to think it is. The plan is to have  
3 New York residents put their foam food service  
4 containers in with their metal, glass, and  
5 plastic just like they do all their other  
6 recyclables. It would not require any new  
7 trucks. It would take advantage of the  
8 existing infrastructure program. Once  
9 collected, by the same DSNY trucks, it'd get  
10 delivered to a sorting facility. That facility  
11 is operated by SIMS. They have two of them.  
12 They will sort the material until they have  
13 40,000 pounds of it. At that point we've  
14 guaranteed a buyer for that material. We've  
15 guaranteed a buyer for five years, and we've  
16 guaranteed a price of 160 dollars per ton. The  
17 buyer's name is Plastic Recycling Inc, and  
18 you're going to hear from them in just a  
19 moment. We've also presented SIMS a contract  
20 confirming this offer. In addition, we sent  
21 them a second contract that would pay for  
22 infrastructure with their facility. Initially  
23 we agreed to 500,000 dollars. Later they said  
24 they need more, and so we said we're open to  
25 that. In terms of oil and grease, the Mayor's

2 office asked us about this after the BLAC  
3 hearing. We followed up with them and let them  
4 know that that was a boiler plate bell spec  
5 [phonetic] statement and that was for motor oil  
6 and grease, not food service, and we sent them  
7 clarifications. So I'm surprised that they  
8 mentioned that, but in the contract that you  
9 have, which is exhibits three and four, we  
10 included that the amended version of the bell  
11 specifications in there. We're confident that  
12 our program will work, and the reason we know  
13 that is because we've already partnered with  
14 others in California to do this same thing.  
15 Burrtec Waste is doing this curbside. They're  
16 sorting it just like SIMS is. They have not  
17 experienced problems with the contamination.  
18 SIMS was quoted themselves in Cranes [phonetic]  
19 on Friday saying that regarding the bits and  
20 pieces of foam, they said, "I wouldn't worry  
21 about it coming from foam cups." They're more  
22 concerned about it coming from packaging foam  
23 like this, not food service. Burrtec is doing  
24 both types of foam and they're not having a  
25 problem with it. I encourage you to contact

2 them. If you see exhibit five, there's a  
3 letter of reference from them. We're also  
4 confident it'll work because we currently  
5 operate two wash and dry facilities. That's  
6 given us the knowledge to build a facility  
7 large enough to serve New York City, and that's  
8 what we're offering. Plus, number three, we've  
9 been working with Plastic Recycling Inc. Last  
10 year they processed 60 million pounds of this  
11 unrecyclable material, 60 million pounds, and  
12 it's both foam and rigid. Four, we did a test  
13 with SIMS and I don't know why the Mayor's  
14 office said it didn't work, but it did work. We  
15 collected the material. They sorted it for us.  
16 I've got a picture of it for you. You can see  
17 exhibit seven and then from there we took the  
18 material over to Plastic Recycling Inc. and we  
19 converted into those pellets that you see up  
20 there in front of you. So the test was a  
21 success, and we did that by the way without  
22 even washing it. We'll get a higher quality  
23 pellet once we wash it. So what's in it for New  
24 York City? Well, what's your experience with  
25 foam? I bet that most of you, your experience,

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2 I know you said you're not seeing it at food  
3 service establishments. Most of your  
4 experience is with the big bulky white stuff.  
5 This type of stuff when you buy a new TV or a  
6 new stereo, well that's included in the  
7 program. So are ice chests. So are egg cartons.  
8 So are meat trays. All these different types  
9 of foam are included. Plus, in talking to  
10 SIMS, the last time we talked to them about  
11 this issue, they did not have a market for the  
12 rigid number six plastic. So, if you turn over  
13 any of this foam, the big chunks like this,  
14 you'll see a number six on it. That's the same  
15 resin that's used to make Chips Ahoy  
16 containers, Swiffer packs here, red Solo cups,  
17 pots, all the same thing. We'll buy that  
18 material too. So right now it's going in the  
19 recycling stream, it's going to SIMS, and last  
20 time I talked to them about this, they said it  
21 was going to landfill. We'll pay 160 dollars a  
22 ton for that, and that's guaranteed as well.  
23 So the City has a lot to gain, because when all  
24 these materials go to landfill, it's over two  
25 million dollars that's being spent. When we

2 recycle it, it's more than four million  
3 dollars. And so you ban this and this, look at  
4 all the other stuff that's still on the table.  
5 There's a lot of stuff out there that's not  
6 going to get recycled without this program.  
7 And by the way, this is the type of stuff  
8 that's more likely to break into bits and  
9 pieces. It's not the food service foam. So the  
10 problem they're talking about with  
11 contamination is not going to go away, and the  
12 Mayor's office introduced a new recycle  
13 everything campaign. That campaign, if you're  
14 a resident and your hear recycle everything,  
15 that means recycle everything, right? You're  
16 going to still put these things in. So they're  
17 going to have to deal with it one way or  
18 another. We're offering a solution that's not  
19 going to cost them money, because we're paying  
20 for the material and we're paying for the  
21 infrastructure to make this happen. So why do  
22 we need legislation to make this happen? Well,  
23 as many of you know, we've been making the  
24 rounds quite a bit trying to get this deal  
25 done, but we've experienced incredible amounts

2 of interference from Mr. Gonen, who just spoke  
3 a little while ago, and it's quite detailed,  
4 but I'm going to skip that in the interest of  
5 time for you, and I'm going to focus on one  
6 piece. So if you take a look, exhibits nine  
7 through 13 display or show all the  
8 interference, but if you focus on number 12, as  
9 a result of this Freedom of Information Act  
10 request we intercepted a letter that was from  
11 Mr. Gonen to SIMS and it was right after we  
12 sent them the contracts, and he's telling SIMS  
13 what to say. This is what it says, "What we'd  
14 like you to say--what we'd like for SIMS to say  
15 is, number one, foam is a contaminant in the  
16 metal, glass, and plastics stream. As such it  
17 is counted against New York City's  
18 contamination reach which negatively impacts  
19 New York City's revenue share agreement with  
20 SIMS. Number two, SIMS conducted a test with  
21 Dart to recycle foam in quarter two, this test  
22 failed." Well, we know that's not true. We  
23 just showed you the pellets from the test.  
24 "Number three, SIMS has never received a viable  
25 contract offer for the recycling of foam." We

2 just sent them a contract. That's why I sent  
3 them this messaging. And you know, one thing  
4 he mentioned too, he said SIMS spent nearly 50  
5 million dollars on this new facility. That's  
6 true, and SIMS also has one customer. They  
7 need to very careful with how they work with  
8 the Department of Sanitation when that's their  
9 only customer. Regarding the recent pilot  
10 recycling amendment, for Intro 1060, we do not  
11 support it, and the reason we don't support it  
12 is quite simple. The person that has total  
13 control of whether or not recycling foam is  
14 deemed a success is the Commissioner of  
15 Sanitation. That's exactly who we've been  
16 experiencing all these problems with, and we  
17 don't have any faith that we're going to be  
18 give an honest shot here. The other part of it  
19 is, whether this program lasts for three months  
20 or it lasts years and years, it's going to take  
21 the same investment from us. We're going to  
22 have to spend millions of dollars on this wash  
23 facility. Would you make that investment for  
24 something potentially could last three months  
25 because you're dealing with the Commissioner

2 that hasn't been playing fair? You know, we're  
3 not prepared to do that. So to wrap things up,  
4 as a business its stepped up to plate, and  
5 we've done everything the Mayor office asked  
6 and more. We ask you to support the recycling  
7 bill from Council Member Reyna and Jackson.  
8 After all, everybody wins with this proposal.  
9 The environment wins because all this stuff  
10 that's sitting on the table with me gets  
11 recycled. The small businesses win because  
12 they can use products that cost less and work  
13 better than alternatives, and in terms of the  
14 tax payers, they win because instead of  
15 spending two million dollars to landfill all  
16 this stuff, they can generate more than four  
17 million dollars by recycling it. It's a six  
18 million dollar swing. So with that, we  
19 respectfully ask for you to oppose Intro 1060,  
20 support 7195. Thank you.

21 ALAN SHAW: Okay, I'm Alan Shaw, and  
22 I own a company called Plastic Recycling. We're  
23 out of Indianapolis and we've partnered up with  
24 Dart to be able to handle this program in New  
25 York City. I started Plastic Recycling back in

2 1988 and my mission statement was to take  
3 projects that no one else wanted to handle, and  
4 we started out by taking yogurt cups with foil  
5 laminated to it that no one else wanted to  
6 handle and it went to landfills. We moved onto  
7 the second phase where we took record industry  
8 strap like CD's, DVD's, VHS and what we did  
9 with that material, we recycled it and we sell  
10 it to the foam egg carton producers which make  
11 the foam egg cartons out of that material. We  
12 sell them about 15 million pounds. So now we  
13 like to close that loop and be able to take the  
14 egg cartons and recycle those back into another  
15 product. We also do those with cups and plates  
16 of the foam. So I get kind of offensive when  
17 someone says recycling program can't work.  
18 We're a success story, that we started with  
19 zero pounds, and like Mike said, we recycle  
20 over 60 million pounds last year, and we're the  
21 largest recycler of foam or recycler of  
22 polystyrene in the Country. The last thing  
23 that we've recycled is hangers. No one said  
24 that coat hangers and close hangers could be  
25 recycled. Well, we're doing it every day and

2 turning them into useful products. And we  
3 supply food products. We got an FDA approval  
4 on our resin, so we're able to go back in to  
5 FDA uses such as cutlery for fast food  
6 restaurants. Chipotle's is using our material  
7 at 100 percent back into their cutlery. Another  
8 big product that we did was we take the record  
9 industry scrap which is the clear CD cases.  
10 Went to 3M and approached them about using it  
11 back into their scotch tape dispensers. So as--  
12 by the end of next year, 100 percent of every  
13 scotch tape dispenser made by 3M is going to be  
14 using our resin. Which all this record  
15 industry, back when we started back in 1990  
16 with the record industry, all that material was  
17 being landfilled or incinerated. So we found  
18 homes for all that material. So our next  
19 challenge now is to go after the polystyrene  
20 foam and we're willing to make that commitment  
21 to do that with you guys. We just would like  
22 to have that opportunity.

23 RICHARD MASTER: I'm Richard Master,  
24 CEO of MCS Industries, headquartered in Easton,  
25 Pennsylvania. We're the largest manufacturer

2 of picture frames and wall décor in the United  
3 States. Historically, picture frames have been  
4 made from wood and metal. The industry has in  
5 the last decade moved increasingly toward  
6 plastic resin as its primary material source.

7 MCS is a vertically integrated manufacturer and  
8 produces most of its products from recycled  
9 plastic resins. Recycled EPS is a primary  
10 material source. In fact, we used over 12  
11 million pounds of recycled resin last year and  
12 require nine million pounds of recycled EPS.

13 EPS is our principle manufacturer for extruded  
14 materials. I brought with me samples of our  
15 products which you can buy at Walmart, Target,  
16 Michaels, Home Depot, excuse me, and Lowe's  
17 stores and many other retailers. They're--if  
18 you please, we can bring them up to you at this  
19 point. We've sort of shrink wrapped a bunch of  
20 them together, but you'll be able to identify  
21 them. MCS sources condensed EPS scrap from  
22 scrap dealers throughout the United States and  
23 overseas, and when we get "dirty material" I  
24 send it to Alan Shaw in Indianapolis and he  
25 cleans it up for me. He can clean paper out of

2 it. He can clean some organics out of it. We  
3 also do our own recycling and pelletizing, but  
4 he has superior technology in that area, and  
5 it's advanced and, you know, we're moving in  
6 that direction as well to do the same thing.  
7 We need more material not less. In fact, we  
8 just completed a transaction to import over  
9 300,000 pounds a month from Pana Chemical in  
10 Japan to take condensed EPS fish boxes  
11 generated at the Tokyo fish market into our  
12 North American plant. And I talk to Pana and I  
13 said, "Can you do a video and show the fish  
14 market in New York City how to do this?"  
15 Because it's really a phenomenal thing to see.  
16 A ban on EPS would significantly hurt our  
17 business and hurt our 900 employees in North  
18 America. We oppose the ban and strongly urge  
19 New York City Council to enact EPS recycling  
20 legislation to include foam. Thank you.

21 GARY FREDERICK: Good afternoon,  
22 Council Members. Princeton Moulding Group is a  
23 subdivision of Aflex Inc. We are a  
24 manufacturer of decorative picture frame and  
25 architectural extruded mouldings. Samples are

2 right in front of me and I believe they are  
3 being distributed to you. We're located in  
4 North Brunswick, New Jersey, merely 40 miles  
5 south of here. We began manufacturing our  
6 moulding products in the 2006-2007 time frame.  
7 Our products contain approximately 98 percent  
8 recycled EPS. We currently purchase EPS from a  
9 variety of sources including regional and local  
10 collectors, recyclers, manufacturers, and  
11 freight carriers. From our perspective, EPS  
12 food containers should not be banned. EPS is a  
13 highly recyclable thermoplastic that once it's  
14 collected can be made available to businesses  
15 and manufacturers like Princeton Moulding  
16 Group. My industry is currently dominated by  
17 foreign competitors who manufacture and import  
18 mouldings into the US. EPS recycling in those  
19 countries has enabled an entire industry to  
20 flourish. The real problem that we had is we  
21 can't get enough of it, and simply to the point  
22 we would not like EPS banned because we need  
23 more of it, not less. Thank you.

24 MITCH GOODSTEIN: Good afternoon,  
25 Council. My name is Mitch Goodstein and my

2 company is Foam Pack Industries and we're  
3 located in Springfield New Jersey. Our company  
4 is family owned and operated since 1943. We've  
5 been recycling EPS foam since 1972. We started  
6 our recycling program because in our business  
7 we had no idea what to do with our excess  
8 material. So we decided to take it upon  
9 ourselves to actually make equipment at that  
10 time to process the EPS foam. Our foam  
11 recycling program to date has recycled over 200  
12 million pounds of foam. That's including food  
13 service foam and packaging foam. All of the  
14 coolers that you see on the table here, the  
15 clam shells, egg cartons, those are things that  
16 we've been recycling since 1972. To put that  
17 in perspective, we take in 267 tractor trailer  
18 loads of foam per month. That's a lot of  
19 tractor trailers. Everybody has seen a tractor  
20 trailer load? Each tractor trailer holds  
21 approximately 1,500 pounds of foam. We're  
22 taking in 267 of those per month. So there is  
23 an outlet for this foam. So whatever they're  
24 saying beforehand, the Mayor's Office, EPS foam  
25 is 100 percent recyclable. There are outlets

2 for it. I have tried in the past myself to  
3 contact people in New York City to try to  
4 recycle foam. I have never gotten an answer. I  
5 have done it in New Jersey for many years and  
6 we have been very successful incorporating  
7 taking many different types of foam, especially  
8 food service foam and packaging foam. So there  
9 is an outlet for it. The thing is that we have  
10 to educate the people, the businesses, the  
11 residents that you can recycle this material.  
12 As far as collecting it curbside, you could do  
13 that, but you can also have depots where a  
14 resident can come and drop the foam off. I  
15 personally get foam in from all over the  
16 country. People send stuff to me in a shoe box  
17 and I accept it. They're will--if people are  
18 willing to recycle if you put the program in  
19 place. If you ban it all together and not go  
20 through every avenue to try to make it  
21 successful, you're not teaching anybody  
22 anything. You're not teaching the kids of the  
23 future that this material is 100 percent  
24 recyclable. If you just all of the sudden just  
25 say let's put it off to pasture, we're not

2 recycling everything. We're not--everything's  
3 not included anymore. So, for that I feel that  
4 you should oppose the proposition 1060 for  
5 that. Thank you.

6           GEORGE CRUZAN: I'm going to switch  
7 gears a little bit. Good afternoon. I'm glad  
8 to address the Committee. I am Doctor George  
9 Cruzan [phonetic]. I have been a professional  
10 toxicologist for more than 35 years and have  
11 been certified in toxicology by the American  
12 Board of Toxicology for more than 33 years.  
13 Study of the health and environmental effects  
14 of styrene and research to understand any  
15 effects has been a main focus of my career  
16 since 1990. I am here to tell the City that  
17 the assertions or allegations by Ron Gonen or  
18 the Administration that there are any health  
19 concerns about styrene and polystyrene food  
20 service products, which have been used safely  
21 for 50 years and are sanctioned by the US FDA  
22 are unfounded. This is simply not true from  
23 any scientific standpoint. Styrene itself was  
24 classified in 2011 as reasonably anticipated to  
25 be a human carcinogen in the 12<sup>th</sup> edition of

2 the report on carcinogens by the US Department  
3 of Health and Human Services. That evaluation  
4 is disputed by many and is currently under  
5 review by the National Academy of Sciences.  
6 However, food service products are not made of  
7 styrene, which is a liquid, and therefore would  
8 not be able to contain any food. It needs a  
9 container to hold styrene. Food service  
10 products may be made of polystyrene, large  
11 chains of styrene molecules chemically bonded  
12 together and therefore completely different  
13 properties. Polystyrene has not been  
14 classified as a carcinogen by the National  
15 Institute of Health or any other body despite  
16 what you might have read in the New York Post.  
17 Based on the science and testing, here's what  
18 government agencies and health experts do say  
19 about the safety of polystyrene foam products.  
20 From the National Toxicology program, Doctor  
21 Lindenbaum [phonetic], the Director, said, "Let  
22 me put your mind at ease about polystyrene  
23 foam. The levels of styrene from polystyrene  
24 containers are hundreds if not thousands of  
25 times lower than have occurred in the

2 occupational setting. In finished products,  
3 certainly styrene is not an issue." The  
4 Harvard Center for Risk Analysis conducted a  
5 panel of international experts and reported in  
6 2002 that the very low levels of styrene  
7 present in foods, whether naturally occurring  
8 or from polystyrene food service products do  
9 not represent a concern to human health.

10 Doctor Otis Brawley, the Chief Medical Officer  
11 of the American Cancer Society in 2011 said,  
12 "Consumers don't need to worry about  
13 polystyrene cups and food containers. I see no  
14 problem with polystyrene foam cups." US Food  
15 and Drug Administration based on scientific  
16 tests over five years, FDA has determined that  
17 polystyrene is safe for use in food service  
18 products. Polystyrene meets the FDA's  
19 stringent standards for use in packaging both  
20 to store and to serve food. Now, I will say  
21 there is a small amount of unreacted styrene  
22 within polystyrene, and some of this may  
23 migrate into food in the container. The  
24 results of a 2013 study show that the maximum  
25 amount of styrene that could migrate from

2 polystyrene food contact packaging is  
3 calculated to be 6.6 micrograms per person per  
4 day, and that's about a millionth of a  
5 teaspoon. So we're not talking very much  
6 styrene, and that would be the total from all  
7 food that's stored in polystyrene, not just the  
8 brief time that single-service food containers  
9 are used. The FDA's acceptable daily intake  
10 value of styrene is 90,000 micrograms per  
11 person per day, and so this gives an adequate  
12 margin of safety. Now you need to also be aware  
13 that several foods naturally contain styrene,  
14 and some examples are strawberries, coffee, and  
15 cinnamon. And so if you're concerned about  
16 getting styrene migrating from your foam cup  
17 into your coffee, you need to know that there  
18 is more styrene in the coffee than there is in  
19 the cup, and it doesn't matter whether you put  
20 that styrene in a ceramic mug or a paper cup.  
21 The same amount of styrene is present in the  
22 coffee, and like I said, it's more than  
23 migrates out of the cup. Whether naturally  
24 occurring in foods, in beverages such as  
25 strawberries, coffee beans or cinnamon or

2 produced synthetically, most people encounter  
3 styrene as a part of their daily lives, though  
4 in small amounts. Scientific studies have shown  
5 that small amounts of styrene consumers may be  
6 exposed to are not harmful. Styrene does not  
7 stay in the body for long and is rapidly  
8 metabolized or excreted. So in conclusion, no  
9 government agencies consider polystyrene to be  
10 a carcinogen nor to pose any health risk. Thank  
11 you.

12 CHAIRPERSON JAMES: Thank you. So, I  
13 guess this email from Mr. Ron Gonen who's no  
14 longer in this room is somewhat of a smoking  
15 gun. A number of individuals have expressed  
16 concerns with regards to this email that you  
17 received. Is it your position that the  
18 Administration has not negotiated with the  
19 industry in good will?

20 MICHAEL WESTERFIELD: I can't draw  
21 that line across the board, but certainly Mr.  
22 Gonen is not--has not negotiated in good faith.  
23 The very first time we met with him, you know,  
24 he posted an article in Waste and Recycling  
25 saying that he was open to recycling and that

2 if you--if there's an industry that had a  
3 product like Styrofoam that there wasn't a  
4 market for he expected the industry to step up.  
5 So we met with him. We did step up and he told  
6 us that foam recycling was out of his control.  
7 Those are his words, out of his control, and  
8 that he'd be proceeding with the ban. We've  
9 seen no different the whole entire process.

10 CHAIRPERSON JAMES: In addition to  
11 Mr. Gonen, the Deputy Mayor indicated that he  
12 had been working with industry for some time,  
13 but yet the industry did not come forward with  
14 a product or recycling program for the City of  
15 New York. Was that an accurate statement or  
16 not?

17 MICHAEL WESTERFIELD: It's accurate  
18 in that he did set up meetings for us, but he's  
19 probably not aware of all the interference from  
20 Mr. Gonen throughout the process.

21 CHAIRPERSON JAMES: There's also a  
22 letter that you have submitted from I believe a  
23 letter to the Department of Sanitation  
24 Commissioner which indicates that Mr. Gonen had  
25 interfered with your contract negotiations with

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2 SIMS and he's basically misled members of the  
3 City Council and that you are open to a  
4 discussion with the Sanitation Commissioner to  
5 get the program fully working and equipment  
6 installed at SIMS, but you do not believe that  
7 it can happen before the end of this  
8 Administration, but you want every opportunity  
9 to help SIMS recycle polystyrene foam and rigid  
10 polystyrene, a solution that benefits everyone.  
11 Is that an--are you still committed to this  
12 paragraph?

13 MICHAEL WESTERFIELD: Absolutely.

14 CHAIRPERSON JAMES: Do you believe  
15 that you could work with the next  
16 Administration?

17 MICHAEL WESTERFIELD: Yes.

18 CHAIRPERSON JAMES: Do you think that  
19 you could get a recycling program in place  
20 within the year that has been put forth as a  
21 compromise by Council Member Fidler?

22 MICHAEL WESTERFIELD: I think we can  
23 get one in place, but the problem is that the  
24 sole person to determine this is going to be  
25 the Commissioner's office, and we've been

2 working with the Commissioner's office and  
3 they've been the ones that have been  
4 interfering with this whole process. So, we're  
5 troubled by that. You know, our fate would be  
6 in the person's hands that's been going against  
7 us the entire time.

8 CHAIRPERSON JAMES: But you also  
9 recognize that the Commissioner and all may  
10 change in 37 days?

11 MICHAEL WESTERFIELD: Correct.

12 CHAIRPERSON JAMES: Thirty-six days.

13 MICHAEL WESTERFIELD: But sometimes  
14 not everything changes the way you expect it  
15 to. We understand that there's a few different  
16 people that are in line for that job or that  
17 are lobbying for that job.

18 CHAIRPERSON JAMES: So if we were to  
19 pass the bill which has been put forth by  
20 Council Member Fidler, that would give you some  
21 opportunity to negotiate, correct?

22 MICHAEL WESTERFIELD: Possibly,  
23 depending on who gets that job.

24 CHAIRPERSON JAMES: So it all hinges  
25 on who gets that job?

2           MICHAEL WESTERFIELD: We still have  
3 the--well, yes, because you have a Commissioner  
4 in place right now that has been--his  
5 department has interfered with us every step of  
6 the way. We're not confident that's going to  
7 change, and you're asking us to spend millions  
8 of dollars setting up a program that could  
9 conceivably only last for a few months. You  
10 know, that's just not a good investment.

11           CHAIRPERSON JAMES: The--

12           MICHAEL WESTERFIELD: [interposing]  
13 The other thing on that point, though.

14           CHAIRPERSON JAMES: Yeah.

15           MICHAEL WESTERFIELD: You know, if  
16 the program that we created, if it didn't work,  
17 a ban is still on the table. Nobody's taking  
18 that right away from the City Council. None of  
19 this legislation does. The recycling bill  
20 doesn't do that. So in the sense, with the  
21 Reyna/Jackson bill, it could be a pilot if it  
22 didn't work, right? Because you still have the  
23 right to ban foam food service containers.  
24 We're confident we're going to make a program  
25 that works for you, but if we don't it's still

2 on the table. Nobody's taking that away. So I  
3 don't know why, you know, we'd want to agree to  
4 a ban bill with somebody that has complete  
5 oversight, one person. I trust you. I trust  
6 the City Council a heck of a lot more than I  
7 trust one person.

8 CHAIRPERSON JAMES: Are you prepared  
9 to make infrastructure improvements?

10 MICHAEL WESTERFIELD: Yes, and we  
11 sent SIMS a contract for that, and what  
12 happened was they thought the cost might be  
13 higher, might be millions of dollars than the  
14 500,000 that we initially agreed to with them.  
15 So what we agreed to do is send a consultant in  
16 there to do an appraisal for what it would  
17 cost. They were going to do two appraisals.  
18 That meeting was going to be on August 6<sup>th</sup>, and  
19 due to more interference from Mr. Gonen that  
20 meeting was cancelled. We're still open to  
21 doing it. I talked with SIMS last week.  
22 They're still open if this Intro 1060 doesn't  
23 pass.

24

25

2 CHAIRPERSON JAMES: Would your  
3 program also include additional trucks on the  
4 street?

5 MICHAEL WESTERFIELD: No, it would  
6 piggy back onto the existing program, and the  
7 thing that's nice about this program--

8 CHAIRPERSON JAMES: [interposing]  
9 Existing recycling program?

10 MICHAEL WESTERFIELD: Correct. Most  
11 packer trucks, those are the types of trucks  
12 that pick up the material, they come back full  
13 by weight, not by volume, and foam isn't going  
14 to add much to the weight or the volume based  
15 on the waste--the characterization report done  
16 by the City in 2004-2005.

17 CHAIRPERSON JAMES: And how do you  
18 deal with the clean foam versus the dirty foam?

19 MICHAEL WESTERFIELD: Well that's the  
20 beautiful part. See, we're partnering with  
21 Plastic Recycling Inc. We're going to build a  
22 multimillion dollar facility to wash this.

23 CHAIRPERSON JAMES: And where are you  
24 going to build this multimillion dollar  
25 facility?

2 MICHAEL WESTERFIELD: It'll be on  
3 their existing premises.

4 CHAIRPERSON JAMES: Which is where?

5 MICHAEL WESTERFIELD: In  
6 Indianapolis, Indiana. And we'll ship the  
7 material by rail so it will not be adding  
8 traffic here in New York or South Brooklyn.

9 CHAIRPERSON JAMES: So it'll go to  
10 SIMS and then ship by rail from SIMS to  
11 Indiana?

12 MICHAEL WESTERFIELD: It'll go to  
13 SIMS with the metal, glass, and plastic that's  
14 currently going there, so no additional trucks,  
15 and then from there they'll sort it into 40,000  
16 pound increments. We'll pick that up by rail,  
17 and then it'll get delivered to Indianapolis.  
18 So it will not burden the traffic here any  
19 further.

20 CHAIRPERSON JAMES: SIMS has--I don't  
21 know if SIMS has access to rail. You're going  
22 to need some trucks to get from SIMS to the  
23 rail, correct?

24 MICHAEL WESTERFIELD: I asked if they  
25 had access to rail and they said they did.

2 CHAIRPERSON JAMES: So we'll ask SIMS  
3 during the next panel. I think I'll come back  
4 on a second round. Council Member Fidler?

5 COUNCIL MEMBER FIDLER: Thank you.  
6 I'll save my questions for Dart to last.  
7 Doctor, I don't recall your name, but you  
8 indicated that styrene has been determined to  
9 be a carcinogen by the Federal Government as  
10 long ago as 1967. Is that correct?

11 GEORGE CRUZAN: No.

12 COUNCIL MEMBER FIDLER: Then what  
13 was your opening statement?

14 GEORGE CRUZAN: My opening statement  
15 talked about how long I had been a  
16 toxicologist.

17 COUNCIL MEMBER FIDLER: No, you  
18 mentioned at some point that styrene was  
19 designated--

20 GEORGE CRUZAN: [interposing] As a--

21 COUNCIL MEMBER FIDLER: [interposing]  
22 as a possible carcinogen in--

23 GEORGE CRUZAN: [interposing] in  
24 2011.

2 COUNCIL MEMBER FIDLER: Oh, I'm  
3 sorry. 2011?

4 GEORGE CRUZAN: Yes.

5 COUNCIL MEMBER FIDLER: Okay, I got  
6 the year wrong. I'm sorry.

7 GEORGE CRUZAN: Okay, and that has--

8 COUNCIL MEMBER FIDLER: [interposing]  
9 So--

10 GEORGE CRUZAN: [interposing] That is  
11 under dispute, and the National Academy--

12 COUNCIL MEMBER FIDLER: [interposing]  
13 Yeah, I'm sure the American Chemical Council  
14 will come up here and dispute it.

15 GEORGE CRUZAN: [interposing] No,  
16 it's not the American Chemical Council.

17 COUNCIL MEMBER FIDLER: [interposing]  
18 Doctor, let me--

19 GEORGE CRUZAN: The National--

20 COUNCIL MEMBER FIDLER: [interposing]  
21 The way this works is I ask the questions.

22 GEORGE CRUZAN: Fine.

23 COUNCIL MEMBER FIDLER: And you  
24 answer the question I ask. So the next  
25

2 question, okay, is in the manufacture of  
3 polystyrene, is styrene used?

4 GEORGE CRUZAN: Absolutely.

5 COUNCIL MEMBER FIDLER: Okay. So the  
6 person who probably should have been listening  
7 to your testimony and being concerned I believe  
8 has left the room, and that would be Assembly  
9 Member Kolb who represents 1,600 workers who  
10 have to handle styrene and the manufacture of  
11 polystyrene. Is that correct?

12 GEORGE CRUZAN: No.

13 COUNCIL MEMBER FIDLER: No? There's  
14 no concern? There's no health concern for  
15 workers who are handling styrene?

16 GEORGE CRUZAN: I didn't say that.  
17 You asked if those workers in that plant had a  
18 concern for styrene, and what they are buying  
19 is polystyrene pellets that are made by someone  
20 else and converting them into foam products.

21 COUNCIL MEMBER FIDLER: Oh, so the  
22 people who make the polystyrene pellets should  
23 be concerned then, right?

24 GEORGE CRUZAN: There should be some  
25 concern, but--

2 COUNCIL MEMBER FIDLER: [interposing]

3 Thank you.

4 GEORGE CRUZAN: polystyrene is quite  
5 volatile and so if you don't want to lose half  
6 of your product in the manufacture of  
7 polystyrene, you do it in a closed system, and  
8 so there is very little exposure to workers  
9 making polystyrene from styrene.

10 COUNCIL MEMBER FIDLER: Okay. But  
11 there is exposure as we know.

12 GEORGE CRUZAN: There is exposure of  
13 every person to styrene.

14 COUNCIL MEMBER FIDLER: I heard  
15 that. Mr. Shaw, are any of the other companies  
16 that recycle polystyrene, does the municipality  
17 in which your businesses exist, did they do  
18 curbside recycling of polystyrene?

19 GARY FREDERICK: In my neighborhood,  
20 personal neighborhood where I live and also  
21 where I have my factory they do not, and that's  
22 why many people don't think that polystyrene is  
23 recyclable, because most people don't collect  
24 it.

2 COUNCIL MEMBER FIDLER: How about  
3 Indianapolis, Mr. Shaw?

4 ALAN SHAW: No.

5 COUNCIL MEMBER FIDLER: Right.  
6 Because there's a huge difference between  
7 people dropping it off at the depot, okay, who  
8 you know--and having it actually picked up in a  
9 City the size of New York. Wouldn't you think  
10 that might be the case? Or the city size of  
11 Indianapolis?

12 ALAN SHAW: Well, they--

13 COUNCIL MEMBER FIDLER: [interposing]  
14 Why don't you just testify Mr. Fish [phonetic],  
15 you don't have to whisper to him.

16 UNKNOWN: They used to say that  
17 about cans and glasses, Mr. Fidler, and about  
18 paper as well.

19 CHAIRPERSON JAMES: You're out of  
20 order. The question--I understand that, Ken.  
21 Thank you. We respect you, but the question is  
22 to the panelist, and if you would refrain--

23 ALAN SHAW: [interposing]  
24 Indianapolis has a big incineration program. So  
25

2 there's--I mean, for them to have the recycling  
3 the incentive is not there, because they--

4 COUNCIL MEMBER FIDLER: [interposing]

5 Well, I mean, but your plant's right there in  
6 Indianapolis. I mean, we won't have to figure  
7 out a way to get it from SIMS by truck, by  
8 rail, whatever to Indianapolis where it could  
9 be washed in a plant that hasn't been built and  
10 then recycled in Indianapolis, right?  
11 Indianapolis right there.

12 ALAN SHAW: Right.

13 COUNCIL MEMBER FIDLER: Why aren't  
14 they curbside recycling? They'd rather burn it?

15 ALAN SHAW: They don't have the--they  
16 haven't a recycling for the styrene.

17 COUNCIL MEMBER FIDLER: Have you  
18 spoken to the municipal government of  
19 Indianapolis and said, "Hey, I got a business  
20 right here in Indianapolis. We can recycle  
21 this stuff. We shouldn't have to import it  
22 from Japan. I mean we could do it right here."  
23 I mean, have you gone to the government of  
24 Indianapolis?

25 ALAN SHAW: No.

2 COUNCIL MEMBER FIDLER: Oh, but  
3 you're here in New York? Okay.

4 ALAN SHAW: Correct.

5 COUNCIL MEMBER FIDLER: Alright.

6 RICHARD MASTER: The City of  
7 Bethlehem, it's a 75,000 people has a  
8 densifier. It has a drop off area and people do  
9 take their Styrofoam and then they densify it  
10 and they sell it at a profit.

11 COUNCIL MEMBER FIDLER: But they  
12 don't have curbside recycling, which requires  
13 trucks and gas and--

14 RICHARD MASTER: [interposing] It  
15 would be the next progressive step for the city  
16 of Bethlehem and they're considering it.

17 COUNCIL MEMBER FIDLER: Well, let me  
18 know when they do--

19 MICHAEL WESTERFIELD: [interposing]  
20 Every recycling program requires those same  
21 things. I don't get where you're going with  
22 this.

23 COUNCIL MEMBER FIDLER: Well, I'm--

24 MICHAEL WESTERFIELD: [interposing]  
25 plastic.

2 COUNCIL MEMBER FIDLER: I was just  
3 curious about these folks who are in the, you  
4 know, purportedly in the business of recycling  
5 foam, whether or not, you know, their hometown  
6 is behind them. Okay? That they're doing it in  
7 their cities.

8 MICHAEL WESTERFIELD: [interposing]  
9 They don't have the means to help a city out  
10 like we do here. New York City has a critical  
11 mass. They need more material not less. This  
12 would be a good deal for them.

13 COUNCIL MEMBER FIDLER: Well, why  
14 hasn't Dart gone to Indianapolis and asked them  
15 to recycle it? Why haven't you come to the  
16 city of New York before today, before the  
17 prospect of it being banned?

18 MICHAEL WESTERFIELD: Because you're-  
19 -with all due respect, your recycling rate is  
20 extremely low. It's about 15 percent.  
21 California's is over 60 percent. The state  
22 agency came to us and wanted to partner with us  
23 on a recycling program, and that's exactly what  
24 we did. When somebody has a rate this low,  
25 usually they're worried about other things, not

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2 something that's one half of one percent of the  
3 waste stream.

4 COUNCIL MEMBER FIDLER: So speaking  
5 of misleading Council Members, you've told  
6 Council Members that there are 127  
7 municipalities in California--

8 MICHAEL WESTERFIELD: [interposing]  
9 No, that's not true.

10 COUNCIL MEMBER FIDLER: that recycle.  
11 No?

12 MICHAEL WESTERFIELD: It's in  
13 writing. It's 67.

14 COUNCIL MEMBER FIDLER: Oh, I'm  
15 sorry, 167.

16 MICHAEL WESTERFIELD: No, 67.

17 COUNCIL MEMBER FIDLER: Okay. And 93  
18 of them are distinct neighborhoods within the  
19 city of Los Angeles, which as you know, does  
20 not recycle, okay. I mean, it's like telling  
21 the Council that--

22 MICHAEL WESTERFIELD: [interposing]  
23 So, here's a brochure--

24 COUNCIL MEMBER FIDLER: [interposing]  
25 Bankstonhurst [phonetic] and Bay Ridge and

2 Crown Heights and East Flatbush, those are all  
3 distinct municipalities. That's 93 of them.  
4 Give me the sheet about--

5                   MICHAEL WESTERFIELD: [interposing]  
6 I'm glad you brought up LA, because we need to  
7 clarify that. You know, here's a brochure for  
8 New York City and it says at the bottom, "empty  
9 and rinse before recycling." This is for the  
10 metal, glass, and plastic program. LA's is no  
11 different. Says right here, "Clean Styrofoam  
12 and other polystyrene products, plates, cups,  
13 containers, and packing material." If you call  
14 LA and you ask them if they recycle dirty food  
15 service containers, they're going to tell you  
16 no they don't. They want them clean.

17                   COUNCIL MEMBER FIDLER: Right, the  
18 distinction that you did not--

19                   MICHAEL WESTERFIELD: [interposing]  
20 Just like--

21                   COUNCIL MEMBER FIDLER: [interposing]  
22 did you not make when your first spoke with me  
23 in my office.

24

25

2 MICHAEL WESTERFIELD: We did, but you  
3 weren't listening like you're not listening  
4 now. We did. I'm sorry.

5 COUNCIL MEMBER FIDLER: I've listened  
6 to an awful lot, sir. I've listened to an awful  
7 lot. In fact, of 160 sites that you say in  
8 California recycled, 92 were neighborhoods in  
9 Los Angeles, 22 were unincorporated locations  
10 with no local government, counties with no  
11 uniform policy, and one case, one that was just  
12 merely a hill, okay? The list contained 46  
13 actual sites. Of those 46 cities, four  
14 actually had Styrofoam food container bans,  
15 total bans, okay? Only about half of the 46  
16 were found to do any curbside recycling,  
17 Styrofoam recycling and even those generally  
18 said foam should be clean before being placed  
19 in the bin. Now let's talk about the smoking  
20 gun for a second. I have a letter here from  
21 SIMS.

22 MICHAEL WESTERFIELD: Do we have an  
23 opportunity to respond?

24 COUNCIL MEMBER FIDLER: I don't think  
25 it requires a response.

2 MICHAEL WESTERFIELD: So you make  
3 accusations and we don't get an--

4 COUNCIL MEMBER FIDLER: [interposing]  
5 Listen, you know what--

6 MICHAEL WESTERFIELD: [interposing]  
7 The city of LA has a list of all their cities--

8 COUNCIL MEMBER FIDLER: [interposing]  
9 Mr. Westerfield, let me tell you this--

10 MICHAEL WESTERFIELD: [interposing]  
11 in their jurisdiction--

12 COUNCIL MEMBER FIDLER: [interposing]  
13 Let me tell you something. I don't take your  
14 word. I don't take Ron Gonen's word. We reached  
15 out directly, okay, to find out those facts--

16 MICHAEL WESTERFIELD: [interposing]  
17 Your research--

18 COUNCIL MEMBER FIDLER: [interposing]  
19 because if I believed you could recycle, I'd be  
20 putting forward to this Council a recycling  
21 bill, because I'm the author of the recycling  
22 plastics, rigid plastics bill, okay? I was  
23 part of this Council when we restored recycling  
24 to the city of New York which after 9/11 was  
25 cancelled for a year, which is probably one of

2 the reasons why our recycling rate dipped from  
3 21 to 15. So I believe in recycling, okay? I'm  
4 not, you know, I didn't take your word at face  
5 value and I don't take the Administration's  
6 word at face value. This is--this was a  
7 document. This is research that was done by me,  
8 by my council directly by calling the places in  
9 question. Alright? So it's not--I'm not  
10 repeating Ron Gonen's words.

11 MICHAEL WESTERFIELD: We're not  
12 questioning your beliefs at all. October 9<sup>th</sup> at  
13 the BLAC hearing you started off by saying  
14 about, talking about the research that you did,  
15 and the first thing you said is that, "I want  
16 you all to know foam is not a plastic." So if  
17 that's the type of research that you conduct,  
18 if that's what your findings are, I'm sorry,  
19 but we've got to disagree with you, and we will  
20 be happy to provide anybody in the Council or  
21 Committee that wants proof of what we're  
22 saying. We'll be happy to do that for you, and  
23 I think we already have.

24 COUNCIL MEMBER FIDLER: Okay. So  
25 let's talk about your smoking gun letter. On

2 June 7<sup>th</sup> Tom Attabridge [phonetic] sent a  
3 letter. It says, "We have explored processing  
4 and marketing options with representatives from  
5 the EPS industry and assisted them in  
6 performing certain tests. At this point in time  
7 we have found no markets for the quality of EPS  
8 that is being produced by sorting from MGP. As  
9 a result, any EPS we receive ends up as a waste  
10 residue product. We must landfill, and  
11 ultimately is factored into the value cost of  
12 recycling for our company and the City."

13 That's dated June 7<sup>th</sup>. Smoking gun email--

14 MICHAEL WESTERFIELD: [interposing]

15 Are you going to circulate a copy of that so we  
16 can see that?

17 COUNCIL MEMBER FIDLER: Yeah, you've  
18 see it. I'm sure you have. Here it is. It's a  
19 copy of the SIMS letter, okay? On June--I'm  
20 sorry, your memo, okay, from Ron Gonen or your  
21 email from Ron Gonen to SIMS is dated July  
22 23<sup>rd</sup>, a full six/seven weeks after that was  
23 written, okay. So clearly words were not put  
24 into their mouth and was in context, because  
25 you know, everything's got to be put in

2 context, guys, was a response to questions that  
3 they were receiving from Council Members who  
4 had met with you and wanted to understand what  
5 the truth was, and they asked Mr. Gonen for a  
6 suggestion as to what, you know, "What do you  
7 want us to say? Our letter of June 7<sup>th</sup> was  
8 pretty clear." So, you know, let's lay that  
9 out. Now, are you aware of what the annual  
10 revenue of SIMS is and their revenue stream  
11 from New York City?

12 MICHAEL WESTERFIELD: Is that a  
13 rhetorical question?

14 COUNCIL MEMBER FIDLER: No, it's a  
15 question.

16 MICHAEL WESTERFIELD: No. As far as  
17 the letter goes that SIMS wrote there, SIMS  
18 told me personally that they did not write that  
19 letter. That that letter was brought to them  
20 and they were asked to sign that letter, and so  
21 they refused and they didn't sign it until the  
22 City agreed to add "at this time" to that  
23 language. If you go through the full request,  
24 you'll see a suspicious letter there from

2 somebody else that went to SIMS around that  
3 same time and as an attachment.

4 COUNCIL MEMBER FIDLER: Well, we of  
5 course, also again didn't take the City at  
6 their word so we called SIMS and we spoke to  
7 them directly to find out whether or not there  
8 really was any wiggle room here. So, you know,  
9 I don't know why they would be lying. You know,  
10 the reason I asked you the question about  
11 revenue is that SIMS operates on a revenue of  
12 7.1 billion dollars annually. Their revenue  
13 from the City of New York is less than 50  
14 million dollars. So I'm just kind of wondering  
15 why SIMS would be--feel the pressure to lie--

16 MICHAEL WESTERFIELD: [interposing]  
17 Why would they invest--

18 COUNCIL MEMBER FIDLER: [interposing]  
19 When you're ostensibly offering them additional  
20 revenue?

21 MICHAEL WESTERFIELD: So, they  
22 invested 50 million dollars of their own money.  
23 Are we in agreement with that?

24 COUNCIL MEMBER FIDLER: No, that's  
25 their revenue.

2 MICHAEL WESTERFIELD: No, they  
3 invested 50 million--

4 COUNCIL MEMBER FIDLER: [interposing]  
5 That's what they--

6 MICHAEL WESTERFIELD: [interposing]  
7 dollars in the South Brooklyn facility, the  
8 brand new facility. They shared it with the  
9 City. I believe they each did 50 million  
10 dollars or close to that, for 50 million  
11 dollars in revenue? I mean, that's a separate  
12 issue, but 50 million dollars is what they put  
13 into this thing. They don't want to upset the  
14 City, their one customer, for that 50 million  
15 dollars.

16 COUNCIL MEMBER FIDLER: They  
17 certainly had the opportunity to tell me, to  
18 tell my staff that they looked at this as an  
19 opportunity for additional revenue. They're in  
20 business to make money. They did not do that.  
21 They were offered every opportunity to say  
22 that, and they did not. Okay. I just want to  
23 show you exhibit A of the contract that you  
24 offered to SIMS. Now, you've explained that  
25 oil--you meant by oils and grease, you didn't

2 mean food oils and food grease, okay. Does  
3 liquid residue include water?

4 MICHAEL WESTERFIELD: Include what?  
5 I'm sorry?

6 COUNCIL MEMBER FIDLER: Water.

7 MICHAEL WESTERFIELD: Yes.

8 COUNCIL MEMBER FIDLER: So, when you  
9 said--

10 MICHAEL WESTERFIELD: [interposing]  
11 Well in what sense?

12 COUNCIL MEMBER FIDLER: Well, when  
13 you say that you'll allow the maximum allowable  
14 level of contaminant, that you'll allow SIMS is  
15 liquid residue of one percent, which I assume  
16 is of weight.

17 MICHAEL WESTERFIELD: You know, I  
18 wish we could have this type of dialogue. It's  
19 interesting that it's being brought up now, and  
20 the last time they raised the oil and grease  
21 issue was after the BLAC hearing they asked us  
22 about it. We would address these. Like I said  
23 before, this is from the Association of Post  
24 Consumer Plastic Recyclers. It's a boiler  
25 plate bale spec form. That's all it is. We're

2 happy to negotiate with you. You know, what  
3 happens is you're buying this material by  
4 weight. The last thing we want to do is buy  
5 something where it has full tubs of water in it  
6 or big things of motor oil. You know, those  
7 aren't things that have value for us. They're a  
8 contaminant. So we want as little as possible.  
9 That's all we're saying here, and if that needs  
10 to be changed, we're happy to change it. I  
11 checked with another facility like SIMS before  
12 I submitted this to them, and they thought  
13 these specs were very fair. So, but if they're  
14 not fair and they need to be changed, we're  
15 happy to do it. We just want to negotiate with  
16 the City.

17 COUNCIL MEMBER FIDLER: You just want  
18 to continue to move the, you know, the line in  
19 the sand until December 31<sup>st</sup>, when we're all  
20 gone.

21 MICHAEL WESTERFIELD: Absolutely  
22 not. We're committed to this. You know, if the  
23 ban goes down in defeat, we're still going to  
24 be here.

2 COUNCIL MEMBER FIDLER: Well, how  
3 committed to this would you feel--I mean, I  
4 heard you just say that, you know, you want to  
5 put the cart before the horse. Let's try  
6 recycling after 20 something years of not  
7 having tried it and I'll make my investment  
8 here, alright? And the Council still has the  
9 power to ban it if it doesn't work. Let's say  
10 two years from now the next Council, which I'm  
11 not be part. I'm sure you're very happy about  
12 that. Alright. Besides it's not working and  
13 they want to ban it. How will you feel about  
14 your multimillion dollar investment then?

15 MICHAEL WESTERFIELD: Well, I'm  
16 hoping at that point if that happened it would  
17 mean that the program failed.

18 COUNCIL MEMBER FIDLER: Alright. So,  
19 what, you mean if the program failed, alright.

20 MICHAEL WESTERFIELD: I mean, if  
21 they're judging--

22 COUNCIL MEMBER FIDLER: [interposing]  
23 But you--

24 MICHAEL WESTERFIELD: [interposing]  
25 a ban--

2 COUNCIL MEMBER FIDLER: [interposing]

3 But you will not accept--the next  
4 Administration, I mean, in all likelihood,  
5 almost every single commissioner of the next  
6 Administration will change from this one. This  
7 was a change election, guys, okay. I mean,  
8 that the next commissioner will not be fair,  
9 will not look at what you've presented, would  
10 not look at, you know, this fully negotiated  
11 plan, alright, and say, "Okay, it could be  
12 done. I'm not going to do it anyway." Why would  
13 they do that?

14 MICHAEL WESTERFIELD: The ban bill is  
15 a ban bill until you prove otherwise. The  
16 recycling bill allows us to have the  
17 opportunity to actually recycle. That's what  
18 we want to do.

19 COUNCIL MEMBER FIDLER: But we're  
20 giving you a finite amount of time to show  
21 otherwise, and it is before the ban goes into  
22 effect.

23 MICHAEL WESTERFIELD: You're putting  
24 all of the authority in one person's hands.

2 COUNCIL MEMBER FIDLER: And we're  
3 giving you--

4 MICHAEL WESTERFIELD: [interposing] I  
5 trust--I trust the people sitting up here a lot  
6 more than I just one commissioner.

7 COUNCIL MEMBER FIDLER: We are giving  
8 you another year to establish what you haven't  
9 established--

10 MICHAEL WESTERFIELD: [interposing]  
11 You won't even be here.

12 COUNCIL MEMBER FIDLER: to my  
13 satisfaction, alright. Since this discussion  
14 began in March that you can in fact do this  
15 with a curbside recycling program in a city the  
16 size of New York, okay. That it won't--you  
17 know, you dismiss and poo poo the idea that  
18 this stuff can be in the truck, the existing  
19 truck and that there won't in fact be 70  
20 million dollars and 1,000 more truck routes  
21 necessary, because we can't really intermix the  
22 recycling. It becomes dirty, alright? I mean,  
23 so you know, you can't poo poo--

24 MICHAEL WESTERFIELD: [interposing]  
25 We're washing it. That's the point. So we can--

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2 COUNCIL MEMBER FIDLER: [interposing]  
3 In Indianapolis.

4 MICHAEL WESTERFIELD: take the dirty.  
5 Yes.

6 COUNCIL MEMBER FIDLER: Alright.

7 MICHAEL WESTERFIELD: By rail.

8 COUNCIL MEMBER FIDLER: And I won't  
9 even get into the weed of how environmentally  
10 sound washing it is, but we'll get into that  
11 another time.

12 MICHAEL WESTERFIELD: What do you  
13 think happens to all the other plastics?  
14 They're getting washed, sir.

15 COUNCIL MEMBER FIDLER: You know--

16 MICHAEL WESTERFIELD: [interposing]  
17 What do you think happens to the aluminum cans  
18 in that process--

19 COUNCIL MEMBER FIDLER: [interposing]  
20 I understand that.

21 MICHAEL WESTERFIELD: and all the  
22 energy used--

23 COUNCIL MEMBER FIDLER: [interposing]  
24 They don't have to be as clean as--

25 MICHAEL WESTERFIELD: in the paper.

2 COUNCIL MEMBER FIDLER: Styrofoam has  
3 to be. So let me ask you about these two  
4 things that we find on Dart's website. Okay?  
5 Dart, foam recycling is here. Okay? And the  
6 fourth bullet point is, "food service  
7 containers MUST be cleaned and rinsed." And  
8 then here, we have a section called "Recycling  
9 Specifications." It says, "Foam food tray and  
10 lunch trays must be either rinsed off or  
11 minimally contaminated." And then in italics,  
12 "No food remnants." Why?

13 MICHAEL WESTERFIELD: That facility  
14 that that's going to does not have a wash and  
15 dry equipment to wash it and dry it. We have  
16 plenty of programs where they drop it off. If  
17 that program is like the one that we're  
18 designing for New York, then you could do that.

19 COUNCIL MEMBER FIDLER: So you're  
20 acknowledging then that dirty foam is not  
21 acceptable at Dart Recycling?

22 MICHAEL WESTERFIELD: Not at all  
23 places. At some places it is. Some places it's  
24 not.

2 COUNCIL MEMBER FIDLER: Because I bet  
3 in those places you'll clean it.

4 MICHAEL WESTERFIELD: Some places  
5 have wash and dries. Some don't.

6 COUNCIL MEMBER FIDLER: So without  
7 the ability to wash the foam, that would be  
8 picked up in the trucks and thrown in to the  
9 recycling trucks with everything else, assuming  
10 it doesn't break into little itty bitty pieces,  
11 and assuming that we get a new scanning device  
12 at SIMS--

13 MICHAEL WESTERFIELD: [interposing]  
14 That Dart pays for.

15 COUNCIL MEMBER FIDLER: and is able  
16 to send--is able to--you'll pay for and  
17 maintain so the tax payers don't have to  
18 maintain it, and assuming that he's going to  
19 build a plant in Indianapolis, and that SIMS  
20 can put it on a train, okay, which they  
21 probably will need a truck for. We'll find out  
22 a little bit later. I don't really know the  
23 answer to that. That it can then be recycled  
24 into picture frames in eastern Pennsylvania.

2 MICHAEL WESTERFIELD: Yeah, that's  
3 the contract.

4 GARY FREDERICK: That's the  
5 contract.

6 COUNCIL MEMBER FIDLER: Got it.  
7 Okay.

8 CHAIRPERSON JAMES: Thank you.

9 COUNCIL MEMBER FIDLER: I'd like to  
10 flap my arms and fly.

11 CHAIRPERSON JAMES: Thank you,  
12 Council Member. Council Member Arroyo?

13 GARY FREDERICK: I'd like to see that  
14 as well.

15 CHAIRPERSON JAMES: Go ahead. You're  
16 rushing.

17 COUNCIL MEMBER ARROYO: Thank you.  
18 I had a question about the Deputy Mayor's  
19 testimony and the back and forth here kind of--  
20 I'd lost my train of thought, but I'm speaking  
21 to Dart--hello? Hello? [off mic] Hi. I want  
22 to be clear. It is--you're asserting that  
23 recycling Styrofoam is absolutely possible in  
24 but it within the existing recycling program  
25 that the City's running?

2 MICHAEL WESTERFIELD: Yes, we have  
3 programs set up with other places that sort the  
4 way, you know, like SIMS sorts, and they're  
5 doing it and it's working. They're collecting  
6 it on their trucks just like the same type of  
7 trucks that the City uses, and they're not  
8 having issues. It's not contaminating their  
9 paper supply. It's not contaminating their  
10 plastic, their metal, their glass. That's what  
11 they said. The letter is included in the  
12 packet, and I welcome you to call them.

13 COUNCIL MEMBER ARROYO: So we  
14 wouldn't have to put an additional thousand  
15 truck routes at a cost of 70 million dollars  
16 per year into the system?

17 MICHAEL WESTERFIELD: That's correct,  
18 and the 2004/2005 waste characterization report  
19 that's on the LA Bureau of--I'm sorry, New York  
20 Department of Sanitation website. It says that  
21 it's only one half of a percent. So it's very  
22 small, so yes, it could ride for free,  
23 essentially on the existing packer trucks.

24 COUNCIL MEMBER ARROYO: So, on the  
25 technology that would help SIMS, I guess

2 they're in the room and at some point they'll  
3 testify, but that there is absolutely  
4 technology available that can help separate one  
5 item from the other?

6 MICHAEL WESTERFIELD: Yes. We had--  
7 we had never tested that before, and so that  
8 was the test that we did with SIMS, is they ran  
9 it through their facility.

10 COUNCIL MEMBER ARROYO: I'm sorry,  
11 say that again.

12 MICHAEL WESTERFIELD: So we had never  
13 used an optical sorter to sort foam before,  
14 Dart hadn't, and that's new technology that's  
15 being used here. It's not new technology, but  
16 it's new to sort foam with that. So we did a  
17 test with SIMS at their Jersey City facility  
18 and that's the pellets that you see, that's  
19 what that came from. So--

20 COUNCIL MEMBER ARROYO: [interposing]  
21 This stuff?

22 MICHAEL WESTERFIELD: Yeah, exactly.  
23 That's the fluff. So we chopped it up  
24 afterwards, but that's what we received. They  
25 were able to sort the foam. They were able to

2 sort the rigid plastic, this type of stuff too  
3 and when we got it and we looked at it, the  
4 food service containers like this and these  
5 hinge trays, they came, they were intact. We  
6 got these in whole pieces. This type of stuff  
7 and the packaging foam that's used for new TV's  
8 and new stereos like this, this was broken up  
9 but we still had large chunks of it. And again,  
10 this isn't part of the ban. So it's going to  
11 come their stream regardless. At least this way  
12 we can capture the big pieces of this, and we  
13 certainly capture all the food service  
14 containers.

15 COUNCIL MEMBER ARROYO: So, the--I'm  
16 not going to talk about the smoking gun,  
17 either. I just, I find it disturbing that  
18 there is a great amount of disagreement about  
19 what the Administration has done or not done or  
20 the attempts to intervene in what you, I think,  
21 used the terms good faith. You absolutely  
22 believe that given an opportunity, you can make  
23 a recycling program work?

24 MICHAEL WESTERFIELD: Absolutely.

2 COUNCIL MEMBER ARROYO: Thank you,  
3 Madam Chair.

4 CHAIRPERSON JAMES: I don't know who  
5 provided this, but I was just--I've just been  
6 handed some sort of advertisement which talks  
7 about the City of Los Angeles, and I'm confused  
8 because in the city of Los Angeles, according  
9 to this, there's two bins that consumers use, a  
10 blue bin and a black bin. The blue bin is for  
11 Styrofoam which is clean, and the black bin for  
12 Styrofoam which is not clean, and it clearly  
13 says that the items placed in the black bin are  
14 not recyclable, but the vast majority of the  
15 polystyrene products are in fact not clean. So  
16 the vast majority of the products in New York  
17 City, by extension, would not be recyclable.

18 MICHAEL WESTERFIELD: If you look up  
19 to the upper left underneath the word where the  
20 heading where it says blue bin.

21 CHAIRPERSON JAMES: Yeah.

22 MICHAEL WESTERFIELD: So the first  
23 bullet point says "clean Styrofoam and other  
24 polystyrene products, plates, cups, containers,  
25 and packaging material go in the blue bin for

2 recycling." What they're doing just like on the  
3 New York City piece, they're asking for their  
4 residents to clean the material before they put  
5 it in the bin. And that goes all the materials  
6 they want clean just like New York City says,  
7 "empty and rinse before recycling" on their  
8 metal, glass, and plastics.

9 CHAIRPERSON JAMES: But let's say you  
10 would--you eat out. You eat a--okay. So--

11 MICHAEL WESTERFIELD: [interposing]  
12 Yeah, this is really--this is for the  
13 residential recycling program, not--

14 CHAIRPERSON JAMES: [interposing]  
15 This is for residential not for commercial?

16 MICHAEL WESTERFIELD: the commercial.  
17 Yeah, you got it.

18 CHAIRPERSON JAMES: And for  
19 commercial, it would be incumbent upon the  
20 establishment to clean?

21 MICHAEL WESTERFIELD: Commercial,  
22 this, the program that we're working on here  
23 would not address the commercial. The city  
24 doesn't collect commercial on their trucks.

2 CHAIRPERSON JAMES: Okay. Just  
3 residential. Got it. Okay. Thank you. Council  
4 Member Reyna.

5 COUNCIL MEMBER REYNA: Thank you  
6 Madam Chair. I just wanted to go back a  
7 second. These particular emails, it's the first  
8 time I'm seeing and reviewing and there's a  
9 dialogue regarding what SIMS should refer to in  
10 negotiations with Dart, is that what I'm  
11 concluding?

12 MICHAEL WESTERFIELD: I'm not clear  
13 on that. That's one unfortunate thing is we  
14 don't what these are all about. We looked at  
15 the timing of it, and the timing of it is that  
16 we just submitted the two contracts to them,  
17 and--

18 COUNCIL MEMBER REYNA: [interposing]  
19 This is--I'm sorry, just one second. As far as  
20 the timeline is concerned, this is email sent  
21 July 22nd at 6:18 p.m. from the Administration  
22 to Tom Outerbridge from SIMS, correct?

23 MICHAEL WESTERFIELD: Yes, yeah,  
24 that's exhibit number 11. Were you talking--

2 there's exhibit number 12 was the one we were  
3 referring to earlier.

4 COUNCIL MEMBER REYNA: And is this  
5 before or after the pilot?

6 MICHAEL WESTERFIELD: After. There  
7 really wasn't a pilot. We asked them if we  
8 could see some material and they wanted to see  
9 if they could sort it with their optical  
10 sorter. So it was kind of a little test for  
11 both of us, but it was never termed a pilot.

12 COUNCIL MEMBER REYNA: Okay.

13 MICHAEL WESTERFIELD: We needed  
14 material.

15 COUNCIL MEMBER REYNA: One second.  
16 The actual, whether we call it a pilot or not,  
17 that exercise took place when?

18 MICHAEL WESTERFIELD: I don't recall.  
19 I'd have to look at the timeline, look at my  
20 notes. I think it was late spring when we  
21 actually collected the material, and the our  
22 testing was probably May, probably around May.  
23 So April/May I would put the whole thing at.

24 COUNCIL MEMBER REYNA: And how long  
25 was the exercise?

2 MICHAEL WESTERFIELD: They--

3 COUNCIL MEMBER REYNA: [interposing]

4 Six weeks, two months?

5 MICHAEL WESTERFIELD: Oh, no, no,  
6 hours. Just a few hours. They ran the machine  
7 for a few hours. You know, these optical  
8 sorters can be trained to identify all sorts of  
9 different materials, and so the machines are  
10 very expensive. It's 500,000 dollars for one of  
11 these. So they stopped sorting something they  
12 would normally sort so they can sort, you know,  
13 this type of stuff here, and so they couldn't  
14 afford to keep it on and sort it for longer. So  
15 that's why it was just something they did for  
16 hours, not a--certainly not a day.

17 COUNCIL MEMBER REYNA: So in six  
18 hours?

19 MICHAEL WESTERFIELD: I think that  
20 sounds--

21 COUNCIL MEMBER REYNA: [interposing]  
22 A 12 hour day?

23 MICHAEL WESTERFIELD: That sounds  
24 about right. I think it was along the lines of  
25 six hours.

2 COUNCIL MEMBER REYNA: For a six hour  
3 exercise, we've determined that a ban is better  
4 than recycling?

5 MICHAEL WESTERFIELD: I didn't.

6 COUNCIL MEMBER REYNA: They City of  
7 New York did or SIMS did? Who did?

8 MICHAEL WESTERFIELD: Well, I don't  
9 know. I mean, you know, I go back on that foil  
10 [phonetic] request also earlier. There was a  
11 memo in there. Ron Gonen knew that Dart was  
12 going to meet with SIMS to talk about a  
13 recycling solution, and he asked, he pressed  
14 SIMS for that letter that you eventually got,  
15 that it was dated June 7<sup>th</sup>. This was in March.  
16 And SIMS says, "No, I don't want to write that  
17 letter. I want to talk to Dart first, do my due  
18 diligence." So they were pushing for a ban  
19 long before we even got to get into this  
20 discussion.

21 COUNCIL MEMBER REYNA: Who's they?

22 MICHAEL WESTERFIELD: Ron Gonen.

23 COUNCIL MEMBER REYNA: Well, it  
24 wasn't a secret. It was part of the State of  
25 the City Address from Mayor Bloomberg.

2 MICHAEL WESTERFIELD: And he said  
3 before that to DNA Info New York, he said on  
4 February 6<sup>th</sup>, he was quoted in there saying,  
5 "I'm going to ban" or "I'm going to introduce  
6 legislation to ban foam." He went rogue on  
7 this issue.

8 COUNCIL MEMBER REYNA: Who is he?

9 MICHAEL WESTERFIELD: Ron Gonen,  
10 prior to the Mayor, announcing it on February  
11 14<sup>th</sup>. So this has been an agenda for him this  
12 whole time.

13 COUNCIL MEMBER REYNA: Again, it's  
14 part of Mayor Bloomberg's address at the State  
15 of the City.

16 MICHAEL WESTERFIELD: Correct.

17 COUNCIL MEMBER REYNA: And so this  
18 isn't new news. It would have to be a Deputy  
19 Commissioner's mission to get that done if it's  
20 part of the Mayor's agenda, right? So that's  
21 not in question. What I'm understanding is that  
22 this exercise of determining that recycling is  
23 not possible got concluded in six hours.

24 MICHAEL WESTERFIELD: I think it was  
25 concluded before that based on the person that

2 we've been--based on all the interference. I  
3 think it was concluded before, on February 6<sup>th</sup>  
4 when Mr. Gonen was quoted in DNA Info.

5 RICHARD MASTER: [off mic] You  
6 established that material could be sorted out  
7 and separated.

8 MICHAEL WESTERFIELD: Right. Yeah, I  
9 mean, the test itself was a success. We  
10 determined that it could be sorted, both the  
11 foam and the rigid, and then we were able to  
12 convert--

13 COUNCIL MEMBER REYNA: [interposing]  
14 You were there?

15 MICHAEL WESTERFIELD: No, I was not.

16 COUNCIL MEMBER REYNA: Who was  
17 present?

18 MICHAEL WESTERFIELD: Dart picked it  
19 up. The only people that were present were  
20 SIMS employees.

21 COUNCIL MEMBER REYNA: SIMS and?

22 MICHAEL WESTERFIELD: SIMS employees,  
23 that's all. Their workers.

24 COUNCIL MEMBER REYNA: So no external  
25 oversight over this exercise other than--

2 MICHAEL WESTERFIELD: [interposing]  
3 Not that I'm aware of. This wasn't a formal,  
4 you know, pilot. So I'm not aware of anybody  
5 else.

6 RICHARD MASTER: [off mic]

7 COUNCIL MEMBER REYNA: And I know  
8 that City Council was not invited to any  
9 exercise that would prove otherwise that the  
10 recycling sorting effort required to be able to  
11 recycle Styrofoam, polystyrene was concluded  
12 not possible or possible.

13 MICHAEL WESTERFIELD: That's why I  
14 was surprised when I saw this that some of the  
15 foil information said tell them the test  
16 failed, because on exhibit 12, that's exactly  
17 what they tell them. The next page there's  
18 exhibit 12. I think it's on the back side of  
19 that.

20 COUNCIL MEMBER REYNA: But if we can  
21 just stay on exhibit 11, which continues to  
22 just go into random seven points, the last  
23 point being post contract offer is to pay no  
24 more than one million. In 2012 New York City  
25 spent 1.95 million on disposal of foam. How do

2 they plan to make up the cost difference?

3 Sounds to me like this is more of a cost issue  
4 than anything else.

5           MICHAEL WESTERFIELD: Well, I think  
6 what he was doing was he was picking holes in  
7 our contract, and what the contract said is  
8 we'll guarantee this price for you for five  
9 years, and if for some reason we left, which  
10 would be foolish, because the City Council can  
11 still ban us, but if we left, we would pay you  
12 a million dollar penalty for the next three  
13 years. So we were just--we were trying to give  
14 the contract more bite--

15           COUNCIL MEMBER REYNA: [interposing]  
16 So this is referring to a million dollar as in  
17 a penalty?

18           MICHAEL WESTERFIELD: Exactly. No,  
19 we offered a million dollar penalty if we  
20 walked away after five years, and so it looks  
21 like to me that that's what he's addressing.

22           COUNCIL MEMBER REYNA: So--

23           MICHAEL WESTERFIELD: [interposing]  
24 Because the contract itself, I mean, we've  
25 already put it on the record, it would, you

2 know, it would probably cost Plastic Recycling  
3 Inc upwards of four million dollars if all  
4 these things get recycled. So the contract's a  
5 lot more valuable than that.

6 COUNCIL MEMBER REYNA: The--my--I had  
7 my staff just look into what would be the  
8 capacity for rail and barge at SIMS, and it's  
9 been concluded because we know that EDC had an  
10 extensive rail extension constructed that  
11 there's rail at what would be the SIMS  
12 facility. So that question has been answered  
13 as far as investment is concerned by rail. And  
14 therefore, one can conclude that SIMS has  
15 access to rail. Whether or not they use the  
16 rail is a different question, but they have  
17 access to rail and therefore, that presents the  
18 verification that a contract to recycle is  
19 possible to ship out or to rail out. Is that  
20 right?

21 MICHAEL WESTERFIELD: Yes, without  
22 impacting, you know, the City. We're not  
23 talking about any new trucks here, let alone  
24 1,000. We're not talking about new trucks to  
25

2 come and pick it up from either their Jersey  
3 City facility or their south Brooklyn facility.

4 COUNCIL MEMBER REYNA: And as far as  
5 this particular exhibit 11 list of questions,  
6 what is bale's density?

7 MICHAEL WESTERFIELD: Oh, so we were  
8 asking for a certain bale weight. So what's  
9 going to happen is they're going to take this  
10 material and bale it up just like they do their  
11 cardboard, their paper, and so we wanted to  
12 make sure it has a certain weight, because you  
13 can only fit I think it's 52 bales onto a--

14 COUNCIL MEMBER REYNA: [interposing]  
15 So that's the maximum density it's referring  
16 to, when you say bale's density?

17 MICHAEL WESTERFIELD: Yeah, we're  
18 looking for a--we want a certain weight for the  
19 bales. So--

20 COUNCIL MEMBER REYNA: [interposing]  
21 And the bales--

22 MICHAEL WESTERFIELD: So here's an  
23 example for you. I could take all this material  
24 here on the table, and I could squeeze it with  
25 my hands like this, and it's going to weight a

2 certain amount, or I can use a pressure of a  
3 machine to compact it, and I'm going to have a  
4 lot of weight. We want them to use the proper  
5 baling equipment that will give us the desired  
6 weight.

7 COUNCIL MEMBER REYNA: Does SIMS have  
8 the proper bale equipment?

9 MICHAEL WESTERFIELD: Yes, they do.

10 COUNCIL MEMBER REYNA: And what is  
11 the difference between bale's density and  
12 minimum load weight?

13 MICHAEL WESTERFIELD: So minimum--  
14 bale density is the weight per bale, and the  
15 minimum load weight would be for the full rail  
16 car, you know, how much weight can be put on  
17 there.

18 COUNCIL MEMBER REYNA: And in this  
19 particular question, the interest as far as the  
20 administration was concerned was, can SIMS meet  
21 these requirements?

22 MICHAEL WESTERFIELD: Yes, that's how  
23 it appears.

24

25

2 COUNCIL MEMBER REYNA: And is your--  
3 do you have an opinion as to whether or not  
4 SIMS meeting these requirements?

5 MICHAEL WESTERFIELD: Yes,  
6 absolutely.

7 COUNCIL MEMBER REYNA: They can?

8 MICHAEL WESTERFIELD: Yeah, we--we  
9 did this--you know, we don't have any leverage  
10 here with SIMS, so we're trying to make this  
11 contract as, you know, as user-friendly as we  
12 can. Right? We want to make this deal work.  
13 Obviously, you know, we manufacture a lot of  
14 product. We want to keep selling it. We won't  
15 be able to if this product gets banned here.  
16 We're trying to make a contract that works for  
17 everybody and we've been open with it. We've  
18 shared it with everybody. That's why it  
19 bothers me that some of the feedback is coming  
20 back now at this hearing when they've had  
21 months and months to bring it back to us.

22 CHAIRPERSON JAMES: Thank you.

23 CHAIRPERSON JAMES: And if--I'm  
24 sorry.

2 CHAIRPERSON JAMES: Council Member  
3 Reyna, last question.

4 COUNCIL MEMBER REYNA: Chair, the  
5 curbside recycling issue came up, right? The  
6 issue of more increased trucks, and clearly  
7 this Administration has failed to reduce trucks  
8 because they haven't met their own commitment  
9 to reducing capacity reduction as far as  
10 permitted capacity in the city of New York is  
11 concerned, but they were interesting enough  
12 throwing to the Council the issue that this  
13 particular recycling method of Styrofoam or  
14 polystyrene would increase trucks. All of a  
15 sudden now they're interested in decreasing  
16 trucks or status quo.

17 CHAIRPERSON JAMES: Question.

18 COUNCIL MEMBER REYNA: The curbside  
19 recycling, in your opinion, is there going to  
20 be, and in your assessment more so than  
21 opinion, an increase in trucks?

22 MICHAEL WESTERFIELD: No.

23 COUNCIL MEMBER REYNA: Why?

24 MICHAEL WESTERFIELD: We've done this  
25 with other partners. There's a letter from

2 Burrtec in there. It's one of the exhibits,  
3 and they're doing it now. They didn't have to  
4 add any new trucks to their route when they did  
5 it.

6 CHAIRPERSON JAMES: Thank you.

7 COUNCIL MEMBER REYNA: Because it's  
8 the same curbside recycling.

9 MICHAEL WESTERFIELD: Same curbside.  
10 The product's 95 percent air and it's a very  
11 small percentage of the waste stream.

12 COUNCIL MEMBER REYNA: Thank you very  
13 much.

14 CHAIRPERSON JAMES: Council Member  
15 Jackson? Briefly.

16 COUNCIL MEMBER JACKSON: Thank you,  
17 Madam Chair, and I will ask only a couple of  
18 questions, and I'll try to be as brief as  
19 possible as I--let me just say that as I  
20 indicated earlier in speaking to the  
21 Administration, both sides were in front of the  
22 Black, Latino, and Asian Caucus, and I came  
23 across clearly not believing and believing that  
24 someone was not telling the truth. And that's  
25 the same conclusion that I come to now. And let

2 me tell you what I do as the Chair of the  
3 Education Committee. When I believe people are  
4 lying to me or not telling the truth, I ask now  
5 and every witness that comes in front of my  
6 committee to raise their hand and swear that  
7 you're telling the truth, and I'm asking you  
8 now to raise your hand and swear that you are  
9 telling the truth here today. If you--all of  
10 you. If you're telling the truth, raise your  
11 hand swear or affirm that you're telling the  
12 truth.

13 MICHAEL WESTERFIELD: I swear and  
14 affirm I'm telling the truth.

15 [off mic]

16 COUNCIL MEMBER JACKSON: Now, you had  
17 said the representative Dart, that SIMS had  
18 told you they did not write the letter that Lou  
19 Fidler referred to and I don't have that  
20 letter. I'd like to have a copy, Council  
21 Member, my colleague, and that basically that  
22 they told you they did not prepare it and they  
23 were told to sign it. Is that the truth?

24 MICHAEL WESTERFIELD: That's  
25 absolutely--

2 COUNCIL MEMBER JACKSON:

3 [interposing] Because I believe that Dart is  
4 going to come--I mean, that SIMS is going to  
5 come up here and say that's not the truth. And  
6 are you willing to take a lie detector test on  
7 that?

8 MICHAEL WESTERFIELD: Absolutely,  
9 yes.

10 COUNCIL MEMBER JACKSON: No, I'm  
11 serious.

12 MICHAEL WESTERFIELD: I'm dead  
13 serious.

14 COUNCIL MEMBER JACKSON: I'm serious  
15 because in order to get to the truth--

16 MICHAEL WESTERFIELD: [interposing] I  
17 wrote it down. I've got the date and the time  
18 that we talked on the phone. I can tell you  
19 exactly who I talked to on the phone. They  
20 warned me that this letter was coming. I think  
21 it was June 5<sup>th</sup>. The letter came on June 7<sup>th</sup>.  
22 They said that they were brought this letter.  
23 They weren't comfortable signing it, so they  
24 had them add language that said "at this time  
25

2 there's no markets" because they were actively  
3 negotiating with Dart.

4 COUNCIL MEMBER JACKSON: Okay. Now,  
5 Lou Fidler's bill, initial bill was to ban  
6 Styrofoam totally, and I'm not going there. If  
7 we can recycle it and not impact small  
8 business, that's what I want to do. Now, and I  
9 referred to the questions and the comments that  
10 were made by Ron and others that dirty  
11 Styrofoam is not recyclable. Okay? And I had  
12 said earlier and speaking to Mr. Gonen about  
13 the fact that the City residents are encouraged  
14 to rinse all recyclable products, glass,  
15 bottles, cans, everything, and in fact--where's  
16 my--where's the--here. It says it right here.  
17 Empty and rinse before recycling. And what--  
18 what LA says, it says that "the following items  
19 are not recyclable and should not be placed in  
20 your blue bin." The blue bin, of course, is  
21 clean styrofoam, glass bottles and jars,  
22 aluminum beverage cans, tin and paper, blah,  
23 blah, aerosol, paint cans must be empty and  
24 dry. All plastics, all of this goes in the  
25 blue bin, but this is the stuff that goes into

2 the black bin which is basically going to the  
3 landfill. Paper or boxes with grease or food  
4 residue, treated wood and wood products, cloth,  
5 fabrics, these items belong in your black bin  
6 and this is not recyclable. So you're telling  
7 me, and I have here that Styrofoam is  
8 recyclable. Is that a truth or is that a lie?

9 MICHAEL WESTERFIELD: It's the truth.

10 COUNCIL MEMBER JACKSON: Thank you.

11 No further questions.

12 CHAIRPERSON JAMES: The next panelist  
13 is Thomas Outerbridge who is now on the hot  
14 seat, but you look very cool and collective. I  
15 know. So, Mr. Outerbridge, I know you prepared  
16 comments and I don't know if you want to read  
17 from these prepared comments given all that  
18 you've heard this afternoon. Do you want to  
19 just speak from the heart and just answer,  
20 respond to a number of the comments that have  
21 been made?

22 THOMAS OUTERBRIDGE: Yes, good  
23 afternoon.

24 CHAIRPERSON JAMES: Good evening.

2 THOMAS OUTERBRIDGE: Good evening.

3 Speaker James, members of the Committee. Yes,  
4 I can skip my prepared remarks. I think--but I  
5 will say my name is Thomas Outerbridge. I am  
6 the general manager for Sims Municipal  
7 Recycling. So we are the company that has a  
8 long term contract with the Department of  
9 Sanitation to process all of the metal, glass,  
10 and plastic that the City collects with the  
11 curbside program. And many of you may know we  
12 just, or we're literally eight days or a couple  
13 of weeks away from completing construction of  
14 our new major new recycling facility in  
15 Brooklyn, which is designed to service the  
16 curbside program for decades to come. So we do  
17 have a very strong interest in the composition  
18 of recyclable stream that is collected by the  
19 City. It basically drives the business. We  
20 want to see it grow. I think the biggest  
21 opportunity for growth is really participation.  
22 We know half of the recyclable are still going  
23 in the trash, and we want it to grow also by  
24 trying to expand the array of materials that we  
25 accept in the curbside recycling program, and

2 last year we did work with the City to--on a  
3 very major expansion of the types of plastics  
4 we accept, and then lastly I think a more long  
5 term objective is really to move the consumer  
6 product stream in the direction where it  
7 becomes, where it is more and more recyclable  
8 or basically what the average household throws  
9 away. More and more of that belongs in the  
10 recycling bin. I really--I guess, primarily I  
11 was going to talk about 1040 is it, or 1060  
12 seems to be the principle topic today. 1060A,  
13 but the intro about designated polystyrene as a  
14 recyclable material. If the expectation is that  
15 that is going to go into the metal, glass,  
16 plastic bin for us to receive and process and  
17 market right now. We're not a position to take  
18 that, and I'm sure we'll talk about why.  
19 Likewise, for the pilot program. If again, the  
20 expectation is that somebody's going to deliver  
21 that to us and we're going to be able to  
22 process and sell it right now, we're not in a  
23 position to do that. I do--we are here to  
24 support 1060A, including the amendment that  
25 allows the Commissioner to drop the restriction

2 if in fact the material becomes recyclable  
3 within a year. In general this is the type of  
4 legislation that we support, understanding that  
5 recyclability is not always going to drive  
6 product design. There's all kinds of product  
7 safety issues that are factors as well, but by  
8 in large where there's a recyclable alternative  
9 to a non-recyclable product, we would like to  
10 see incentives for that recyclable alternative  
11 or bans, restrictions, disincentives for the  
12 non-recyclable alternative. We do get  
13 approached by manufacturers and product  
14 designers to test materials through our system  
15 and we do that, and they come to us of their  
16 own accord, really, to see if their material  
17 can be recyclable given our circumstances which  
18 really--we take the material in the way it  
19 comes from the City. We run it through our  
20 system and then we see if we can find customers  
21 for that material, and I think that when the  
22 City puts in place a restriction like this, a  
23 proposal like that, actually I have no doubt it  
24 drives a lot more of that interest on the part  
25 of manufacturers and product designers and

2 retailers. So it is the type of measure we  
3 support.

4 CHAIRPERSON JAMES: Are you prepared  
5 now to recycle foam?

6 THOMAS OUTERBRIDGE: No.

7 CHAIRPERSON JAMES: Are you--have you  
8 had discussions with Dart with regards to  
9 investment in infrastructure so that you could  
10 perhaps recycle this product?

11 THOMAS OUTERBRIDGE: Yes.

12 CHAIRPERSON JAMES: You indicated in  
13 your testimony that you would require some  
14 incentive, some financial incentives?

15 THOMAS OUTERBRIDGE: In my testimony?

16 CHAIRPERSON JAMES: Yeah.

17 THOMAS OUTERBRIDGE: No.

18 CHAIRPERSON JAMES: In your comments  
19 just a few minutes ago you said something about  
20 incentives or disincentives. Explain that--

21 THOMAS OUTERBRIDGE:[interposing]

22 Oh, no, no. In general we support government--

23 CHAIRPERSON JAMES: [interposing]

24 Okay.

25

2 THOMAS OUTERBRIDGE: providing  
3 incentives whether they be in the form of the  
4 City has great procurement clout, right? In  
5 terms of its purchasing power or restrictions  
6 for industry to move in the direction of  
7 creating a more and more recyclable stream of  
8 material that's out there.

9 CHAIRPERSON JAMES: Are you asking  
10 for incentives with respect to this particular  
11 product in the event that you get to a point  
12 where you can recycle foam?

13 THOMAS OUTERBRIDGE: Well, it's not a  
14 matter of incentive so much. What we need is a  
15 market for the material.

16 CHAIRPERSON JAMES: Do you believe  
17 that there's a market currently for this type  
18 of product?

19 THOMAS OUTERBRIDGE: from what we  
20 understand, the material that we produced is  
21 not--I think actually was--I don't this  
22 contradicts what was said earlier. Currently  
23 they're talking about building a facility--

24 CHAIRPERSON JAMES: Right.

2 THOMAS OUTERBRIDGE: to process this  
3 material. So that to me is--means that there  
4 isn't a place to take it. And they're saying  
5 there's, as I say, many millions of dollars  
6 associated with building that facility. So I  
7 think that's maybe where some of the, you know,  
8 confusion exists. Theoretically there could be.  
9 Is there today a place where--

10 CHAIRPERSON JAMES: [interposing]  
11 Right.

12 THOMAS OUTERBRIDGE: I could ship  
13 truck loads of material, I--that's what I  
14 understand is that there is not today.

15 CHAIRPERSON JAMES: There is not as  
16 far as you understand?

17 THOMAS OUTERBRIDGE: Right.

18 CHAIRPERSON JAMES: Are you  
19 accessible by rail? Do you have access to  
20 rail?

21 THOMAS OUTERBRIDGE: We have rail  
22 siting in Brooklyn, yes.

23 CHAIRPERSON JAMES: Just in Brooklyn.  
24 And were you directed by the Administration or  
25 anyone in part of the Administration or advised

2 or counsel or received any emails to direct you  
3 on what to say with regards to this bill?

4 THOMAS OUTERBRIDGE: There's--well,  
5 this has been going on since we first did this  
6 test last spring. We were asked to test  
7 sorting material through our facility and some  
8 people say it was a success, and some people  
9 say it was a failure. I mean, it all depends  
10 on what you mean by success or failure. We  
11 produced some sample bales of material of the  
12 quality that we can produce given our sorting  
13 system and shipped that, and the current  
14 processors for polystyrene that are out there  
15 today could not take it in its current form.

16 CHAIRPERSON JAMES: So would you  
17 describe it as a failure?

18 THOMAS OUTERBRIDGE: Again it depends  
19 on what it is you're trying to--which question  
20 you're trying to answer. What we found is that  
21 our optical sorters, we could identify this  
22 material to the extent that it wasn't--it was  
23 of a particular particle size because in our  
24 system the material goes through screens and a  
25 whole variety of sorting equipment. Eventually

2 it hits the optical sorter. So the material  
3 that had arrived at the optical sorter, and we  
4 didn't--the point here was to produce a sample  
5 bale of material that would represent the  
6 quality of the type of polystyrene we would  
7 produce in our sorting system. It didn't--it  
8 was a lot of other things that we would  
9 eventually look at like recovery rate, capture  
10 rate. In other words, am I capturing 90  
11 percent of the polystyrene in the material or  
12 75 or 98, all those things matter eventually,  
13 but the point here was just a very simple  
14 objective to determine whether or not, how well  
15 our optical sorters would see the polystyrene  
16 and eject the polystyrene. And then, to make a  
17 sample bale that we then turned over to Dart to  
18 take to whatever processors they wanted to.  
19 That was sort of the end of our role in that  
20 project.

21 CHAIRPERSON JAMES: That sounds like  
22 failure to me.

23 THOMAS OUTERBRIDGE: Well, again, I  
24 would say that the--again, if you're looking at  
25 the efficacy of optical sorters.

2 CHAIRPERSON JAMES: Yes.

3 THOMAS OUTERBRIDGE: You could say  
4 that there's a qualified success. If you're  
5 looking at that did this result in a  
6 establishing a market that I could take  
7 material to, the answer is no.

8 CHAIRPERSON JAMES: Thank you.  
9 Council Member Jackson.

10 COUNCIL MEMBER JACKSON: Thank you.  
11 And it is afternoon, still afternoon. Good  
12 afternoon. How you doing?

13 THOMAS OUTERBRIDGE: Good thank you.

14 COUNCIL MEMBER JACKSON: I guess you  
15 heard my questions. So were you one of the  
16 individuals that were--were you the individual  
17 that told the representative from Dart that  
18 Sims did not prepare the letter and it was put  
19 in front of you to sign or was that somebody  
20 else. Do you know?

21 THOMAS OUTERBRIDGE: It was not me.

22 COUNCIL MEMBER JACKSON: It was not  
23 you. Do you know who it was?

24

25

2 THOMAS OUTERBRIDGE: No, I don't. And  
3 actually if that's the letter that I signed I  
4 wrote it, so I--

5 COUNCIL MEMBER JACKSON:  
6 [interposing] I don't know. I don't have the--  
7 Council Member Fidler, you have the letter--

8 THOMAS OUTERBRIDGE: [interposing]  
9 I'm not sure what letter we're talking about.

10 COUNCIL MEMBER JACKSON: Whatever the  
11 letter is that you made reference to.

12 COUNCIL MEMBER FIDLER: [off mic]

13 COUNCIL MEMBER JACKSON: So your name  
14 is Tom Outerbridge, the General Manager, right?

15 THOMAS OUTERBRIDGE: Yes.

16 COUNCIL MEMBER JACKSON: Okay. It's  
17 dated June 7<sup>th</sup>. Is that the letter that you  
18 wrote? Is this the one that Dart was referring  
19 to, the June 7<sup>th</sup> letter or there's some other  
20 letter? I'm just trying to get--

21 THOMAS OUTERBRIDGE: [interposing] I-  
22 -you're asking--I don't know what letter he's  
23 referring to, but if it's the letter that I--

24

25

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2 CHAIRPERSON JAMES: [interposing] Mr.  
3 Jackson, if you can give that to a Sergeant of  
4 Arms, if he could see the letter--

5 COUNCIL MEMBER JACKSON:  
6 [interposing] I gave it--I just have it to--

7 CHAIRPERSON JAMES: [interposing]  
8 that would be greatly appreciated, thank you.

9 COUNCIL MEMBER JACKSON: the Chief  
10 Sergeant of Arms.

11 CHAIRPERSON JAMES: Please be  
12 reminded this is not a deposition or a court  
13 room hearing.

14 COUNCIL MEMBER JACKSON: No, it's not  
15 a deposition, Madam Chair. But the--

16 CHAIRPERSON JAMES: [interposing]  
17 Thank you. I understand--

18 COUNCIL MEMBER JACKSON:  
19 [interposing] Madam Chair--

20 CHAIRPERSON JAMES: He's reviewing  
21 the letter and let him--

22 COUNCIL MEMBER JACKSON: But Madam  
23 Chair, may I please express myself? Just like  
24 you've expressed yourself as the Chair,  
25 rightfully so, as a member I formerly chaired

2 this--I've been a member of this body for 12  
3 years, and I say to you, your questions  
4 regarding to him was trying to get to your  
5 conclusion of that that recycling pilot was a  
6 failure, okay. So you tried to get your  
7 objective, and I just want to try to reach my  
8 objective as far as the truth is concerned.

9 CHAIRPERSON JAMES: Thank you, Mr.  
10 Jackson. Let's allow Mr. Outerbridge to answer  
11 the question.

12 THOMAS OUTERBRIDGE: Yeah, I'm not  
13 sure, are you asking if I wrote this letter?

14 COUNCIL MEMBER JACKSON: Yeah. Dart,  
15 you heard the testimony that Dart said that a  
16 letter was put in front of Sims in order to  
17 sign and the representative, I don't know if it  
18 was you or somebody else, and that's why I  
19 asked you, was told that they did not prepare  
20 the letter.

21 THOMAS OUTERBRIDGE: Right, and I--  
22 what I'm not sure which letter he was referring  
23 to, if it's this letter, I wrote this letter.

24 COUNCIL MEMBER JACKSON: Okay. If he  
25 was referring to that one, you wrote it. And

2 I'm going--he's not on the stand now, but I'm  
3 looking because I'm trying--as I said before  
4 and you may have been here, the two groups came  
5 in front of the Black, Latino, and Asian Caucus  
6 and each one had over half an hour each, and I  
7 came across with somebody's not telling the  
8 truth, and that's why I asked the panel in  
9 front before to please raise their hand to  
10 swear that they're telling the truth, because  
11 it's clear to me, it's clear to me that there's  
12 a conspiracy going on here. It's clear to me.  
13 It may not be clear to others. And quite  
14 frankly, if we as a City can recycle instead of  
15 banning where your company Sims will earn  
16 money, or the City of New York will earn money,  
17 then I think that that's what we should do.  
18 And so I guess, I don't have any other  
19 questions. I wanted to know whether you were  
20 the one that they were making reference to.

21 THOMAS OUTERBRIDGE: If they were,  
22 then no, that would not be correct.

23 COUNCIL MEMBER JACKSON: Tom, can you  
24 check and see [off mic]

2 CHAIRPERSON JAMES: Mr. Outerbridge,  
3 if we were to get a point where we could  
4 recycle this product and if there was proper  
5 investment, would you be in support of that?

6 THOMAS OUTERBRIDGE: Abs--I mean,  
7 look that's our business. We want--the more  
8 material the better, but recycling means  
9 something very specific to me in this context.  
10 If we're talking about the New York City  
11 curbside recycling program, it's not a  
12 hypothetical proposition. We need to be able  
13 to receive the material in the condition that  
14 it comes in.

15 CHAIRPERSON JAMES: I understand.

16 THOMAS OUTERBRIDGE: We need to run  
17 it through our system, and then the quality of  
18 the material that we produce is something that  
19 I have to be able to sell to customers who will  
20 either process it further or and so I guess the  
21 reason that to me the--actually this last  
22 version of the bill is a very fair approach  
23 because it really gives the industry a year to  
24 make a infrastructure, build this  
25 infrastructure that will allow them to actually

2 take our material. And frankly, if it's lack of  
3 trust of the Commissioner, I think that  
4 basically--I don't know quite how to say this  
5 politely, but basically, what I've heard here  
6 tonight doesn't--I don't think that has a whole  
7 lot of credibility behind that as a reason not  
8 to go forward with this.

9 CHAIRPERSON JAMES: No, I understand.  
10 So curbside collection continues to challenge  
11 us. Infrastructure challenges us, creating a  
12 market and trust, but come January 1, all bets  
13 are off. Council Member Arroyo?

14 COUNCIL MEMBER ARROYO: Thank you,  
15 Madam Chair. Okay. So the test or the effort  
16 that was undertaken earlier this year, get--all  
17 things considered the current equipment, the  
18 capacity of that equipment to appropriately  
19 sort brings you to the point where you believe  
20 recycling is not feasible?

21 THOMAS OUTERBRIDGE: Today.

22 COUNCIL MEMBER ARROYO: Today, but  
23 that doesn't mean that with deliberate attempts  
24 that a recycling program for this product can  
25 be created successfully.

2 THOMAS OUTERBRIDGE: I think you can  
3 basically create a recycling infrastructure for  
4 anything. It depends on who's going to pay for  
5 that and do the economics support it, or is it  
6 subsidized, but--so it's certainly possible?

7 COUNCIL MEMBER ARROYO: Okay. So the  
8 industry's commitment to work out a process to  
9 make that recycling program possible is not pie  
10 in the sky?

11 THOMAS OUTERBRIDGE: Well, it depends  
12 what you mean by commitment. I mean, there's--I  
13 would say that if there is a commitment to do  
14 that, then there's nothing to fear about this  
15 bill because you build the infrastructure and  
16 the ban does not go into effect.

17 COUNCIL MEMBER ARROYO: Now, central  
18 to this conversation has been 1060A, but there  
19 is another bill on the agenda here which is the  
20 bill proposed by Council Member Jackson and  
21 Reyna on a recycling program. Do you have an  
22 opinion about that piece of legislation?

23 THOMAS OUTERBRIDGE: Yeah, because  
24 all that I don't--the Commissioner can't  
25 designated it--well, he can des--he can call it

2 whatever he wants, but I mean, he can't  
3 designate it as a plastic to be included in the  
4 curbside recycling program because we can't  
5 take it now.

6 COUNCIL MEMBER ARROYO: Because you  
7 don't have the infrastructure currently.

8 THOMAS OUTERBRIDGE: Well, we need to  
9 build infrastructure, but more importantly,  
10 there's no one that can take the material that  
11 we would produce.

12 COUNCIL MEMBER ARROYO: I see.

13 THOMAS OUTERBRIDGE: Now they could  
14 build--the facility, I think what they're  
15 talking about it, and this is where, you know,  
16 with the actual build of this why they're even  
17 talking about. They're concerned to spend  
18 several million dollars to build the washing  
19 plant, all of that is feasible. They--alright?  
20 This equipment can be put in place and then  
21 they can actually take the material.

22 COUNCIL MEMBER ARROYO: Now, we had  
23 a hearing, I think it was on Friday and we  
24 discussed another type of waste stream,  
25 organics, and the desire for there to be a

2 program that would process that kind of waste.

3 We don't have the infrastructure for that today

4 either. That doesn't mean that we shouldn't

5 attempt it. I guess that's not a question.

6 That's just a statement. Thank you, Madam

7 Chair.

8 CHAIRPERSON JAMES: Council Member

9 Fidler.

10 COUNCIL MEMBER FIDLER: Yeah, I'll

11 try. Your position is as General Manager. I

12 share Council Member Jackson's desire to get to

13 the truth because we certainly have had a lot

14 of conflicting stories here. As General Manager

15 of the Sims operation in New York City, is

16 there anyone in New York City above you in the

17 food chain here?

18 THOMAS OUTERBRIDGE: For my program

19 our division, no, I report to the President of

20 North America.

21 COUNCIL MEMBER FIDLER: So you're the

22 guy in charge of New York City?

23 THOMAS OUTERBRIDGE: For--not New

24 York City, but yes.

25 COUNCIL MEMBER FIDLER: For Sims?

2 THOMAS OUTERBRIDGE: Our program,  
3 yes.

4 COUNCIL MEMBER FIDLER: Sorry about  
5 that. So you don't qualify, you know, dirty  
6 plastic, dirty foam, you know. Alright. So  
7 you're the guy in charge. So if Sims asserts--  
8 I'm sorry, if Dart asserts that someone in Sims  
9 claims that the letter that you guys wrote,  
10 alright, was not written by you, it would have  
11 had to have been someone under you without your  
12 authorization and without your knowledge who  
13 saw some other letter. Is that correct?  
14 Because there's nobody above you.

15 THOMAS OUTERBRIDGE: Right. Well, I'm  
16 not--again, I'm--I guess if there-- I would  
17 like to maybe know who it is. I don't know.  
18 It's a--

19 COUNCIL MEMBER FIDLER: Right. I bet  
20 I would too if I was running the business.  
21 Now, Sims is a for profit company, right?

22 THOMAS OUTERBRIDGE: Yes.

23 COUNCIL MEMBER FIDLER: For profit in  
24 the business of recycling.

25 THOMAS OUTERBRIDGE: Yes.

2 COUNCIL MEMBER FIDLER: So if--I'll  
3 ask you directly and I'm sorry that Council  
4 Member Jackson's not here. If Dart had made a  
5 viable proposal to you that could actually be  
6 done that would make Sims money to recycle  
7 foam, would you have told the Sanitation  
8 Department, "Hey, we can do this."

9 THOMAS OUTERBRIDGE: Yes.

10 COUNCIL MEMBER FIDLER: Okay. Then  
11 the last question I have and I apologize to  
12 having written on this. I don't know if you saw  
13 this email that Councilwoman Reyna referred to  
14 at great length dated July 22<sup>nd</sup>, exhibit 11,  
15 okay? It's from Ron Gonen to you and David  
16 Hurschler [phonetic] and it has seven points,  
17 alright, regarding the contract offer that Sims  
18 put on your table. If--are you familiar with  
19 this?

20 THOMAS OUTERBRIDGE: I would--I can  
21 remember if it came to me.

22 COUNCIL MEMBER FIDLER: Could I ask  
23 the Sergeant at Arms to show it to him, and  
24 please ignore my note to Councilwoman Reyna

2 that I wrote on it. It's not part of the  
3 document. What? No, it was--

4 THOMAS OUTERBRIDGE: [interposing]

5 Actually, I--

6 COUNCIL MEMBER FIDLER: [interposing]

7 It was a question, yeah. It wasn't directed-- I  
8 read this email as being a serious  
9 consideration by Deputy Commissioner Gonen of  
10 the contract proposal and we're asking you  
11 questions about it and whether or not it was  
12 viable. Is that how you interpreted this  
13 email?

14 THOMAS OUTERBRIDGE: That's  
15 certainly part of it. I mean, there was a lot  
16 of back and forth.

17 COUNCIL MEMBER FIDLER: Well, this  
18 email itself, he asked you seven questions.

19 THOMAS OUTERBRIDGE: Right.

20 COUNCIL MEMBER FIDLER: I mean, he  
21 did make a comment that you know, your  
22 contract's for 20 years and Sims--Dart was  
23 offering five years. Now, granted that was an  
24 assertion, but it was certainly something he  
25 wanted to call to your attention. But, you

2 know, this other stuff, can Sims meet these  
3 requirements? Does Sims have the equipment and  
4 space to separate? I mean, all of those  
5 questions would indicate a serious  
6 consideration by the Deputy Commissioner of the  
7 contract offer. Asking you whether or not you  
8 could in fact do it. Isn't that what it says?

9 THOMAS OUTERBRIDGE: Yeah, no, it's a  
10 combination of questions as well as I would say  
11 concerns that aren't necessarily questions.

12 COUNCIL MEMBER FIDLER: Concerns,  
13 right. I mean, if you were negotiating a  
14 contract and someone showed your council even  
15 the contract and say, "Hey, I'm not an expert  
16 in, you know, bale, minimum bale density. I  
17 mean, do you have the equipment to do this?"  
18 And maybe your answer is yes, and apparently it  
19 was. So, at least--well according to Dart. So I  
20 just kind of question whether or not the  
21 characterization that we heard earlier of  
22 exhibit 11 as showing bad faith is actually  
23 true. It seems to me it shows good faith and  
24 that's the only other point I'd like to make.  
25 Look, I don't think we've ever met personally

2 before. I think we did speak on the phone, and  
3 I know you've spoken to my Counsel Brad Reed  
4 [phonetic] and I just want to get to the heart  
5 of the allegation that's being made here. Has  
6 Sims been pressured in any unfair and improper  
7 way to give answers today or in the past to  
8 write letters that you don't believe were true?

9 THOMAS OUTERBRIDGE: No.

10 COUNCIL MEMBER FIDLER: Thank you.

11 CHAIRPERSON JAMES: Nothing further.

12 THOMAS OUTERBRIDGE: Can I thank you  
13 very much for you and your staff for all the  
14 work that this has--this is actually more  
15 exciting than the typical sanitation hearing.

16 CHAIRPERSON JAMES: It was very--it  
17 was very exciting, very exciting. Very  
18 exciting

19 THOMAS OUTERBRIDGE: I know it's not  
20 normally the most glamorous.

21 CHAIRPERSON JAMES: Look forward to  
22 working with you.

23 THOMAS OUTERBRIDGE: Yes, thank you.

24 CHAIRPERSON JAMES: Thank you, sir.

25 Brandon Sexton, are you still here? No.

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2 Brandon? Eric Goldstein? Are you representing  
3 Brandon, Ma'am? Are you representing Brandon,  
4 or is that for the record? If you don't have  
5 to, it's fine.

6 UNKNOWN: She signed up. I'll just  
7 put it--[off mic]

8 CHAIRPERSON JAMES: Okay. Thank you.  
9 We'll call you shortly. Brian Fleury? Brian?  
10 Okay. And Yah Ting Lieu [phonetic]? I'm sorry?  
11 She's gone? Robin Barton? Is Robin--you're not  
12 going to testify? Thank you, ma'am. You sat  
13 through all of this, you would think you would  
14 want to--but thank you. Saleen Shah? I  
15 apologize if I mispronounce the name. Cecil  
16 Corbin-Mark, hey. Okay, at this time we can  
17 make noise. Yay. I'm getting silly. I'm  
18 tired. And Jesse Glaytonhouse [phonetic]?  
19 Glickenhau, thank you. Is that-- One more?  
20 One more. Michelle, Michelle Wynfield  
21 [phonetic]. Michelle Wynfield going once? Is  
22 that--are you Ms. Wynfield, ma'am? No? She's  
23 leaving. Felipe? Felipe? How do you pronounce  
24 your last name, sir? Ventegeat [phonetic], I  
25 love it.

2                   ERIC GOLDSTEIN: Thank you, Chair  
3 James. Good afternoon Council Member Fidler,  
4 Council Member Arroyo. My name is Eric  
5 Goldstein with the Natural Resources Defense  
6 Council. We're here to be here today to  
7 strongly support Intro 1060A and the Council's  
8 efforts to prohibit the use and distribution of  
9 polystyrene food and beverage containers in New  
10 York City. There are many reasons to support he  
11 proposed legislation, but one thing is clear.  
12 Food waste and yard waste account for more than  
13 25 percent of the City's residential waste  
14 stream. A city-wide food waste organics  
15 composting program, which this committee and  
16 this council has been helping to advance  
17 through its pilot legislation could save the  
18 City millions of dollars a year in annual  
19 disposal costs, and if you want a cost-  
20 effective food waste composting program to  
21 succeed, you've got to remove polystyrene food  
22 containers from the waste stream. That's what  
23 San Francisco is doing. That's what Portland  
24 is doing. That's what Seattle is doing. That's  
25 what the nation's leaders of sustainability are

2 doing and that's what New York City should be  
3 doing as well. The proposal to ban polystyrene  
4 food and beverage containers is now being  
5 attacked by industry representatives to protect  
6 their own economic interests. The industry  
7 backed proposal would call for the Commissioner  
8 to designate polystyrene foam as recyclable.  
9 Apparently the industry would then subsidize,  
10 agree to subsidize the collection of these  
11 recyclable by paying the City's recycling  
12 contractor for up to five years. But what would  
13 happen after the industry payments to the  
14 City's recycling contract are ended? The City  
15 would be stuck with tons and tons of collected  
16 polystyrene and with no economical place to  
17 recycle it. The industry proposal is a wolf in  
18 sheep's clothing. The city of San Jose with a  
19 population of close to a million has recently  
20 enacted a ban on polystyrene foam for beverage  
21 containers and food containers. Industry  
22 lobbyists there made exactly the same push.  
23 They offered to recycle polystyrene instead of  
24 prohibit its use for food and beverage  
25 containers. Here's what the city of San Jose

2 recently stated in its official documents in  
3 response to the question of why not just  
4 recycle foam food service ware. Here's what  
5 San Jose says. "San Jose is nationally  
6 recognized for having one of the most  
7 innovative recycling programs. The city and its  
8 partner recycling companies have made several  
9 attempts to include EPS recycling as part of  
10 the City's recycling program. However, there  
11 are no effective and efficient ways to recycle  
12 EPS. This is due to the low market value of  
13 the material and the high rate of food  
14 contamination which makes it impossible to  
15 recycle." Said the City of San Jose just two  
16 months ago. We do however, believe that  
17 language in Intro 1060A must be amended in at  
18 least one respect. The bill wording needs to be  
19 modified to make crystal clear that in order  
20 for the Sanitation Commissioner to find that  
21 polystyrene foam could be recycled and thus  
22 eligible for designation as a recyclable in New  
23 York City's program, he or she should be  
24 required to specifically find that it's  
25 economically practicable for the City to

2 collect polystyrene food and beverage  
3 containers for recycling over the long term,  
4 not just for several years during which the  
5 industry would subsidize the program.

6 Subsidized collection of polystyrene food  
7 containers is not recycling. One last point.

8 In response to Commissioner Reyna's question,  
9 and I'm sorry she's not here now to hear this.

10 Regarding the economics, potential economic  
11 impacts of this proposal on residents.

12 CHAIRPERSON JAMES: Please quiet.

13 Please take your conversations outside. Thank  
14 you.

15 ERIC GOLDSTEIN: Thank you. At NRDC,  
16 we're sensitive to the equity issues associated  
17 with environmental policies and we can say that  
18 we have not found adverse impacts to residents  
19 reported in any of the dozens of cities and  
20 towns around the nation that have implemented  
21 polystyrene bans on food containers and  
22 beverage containers. Resident who are concerned  
23 about the economics of this plan have a simple  
24 solution. They can buy reusable cups and food  
25 ware and save money that way. It this proposal

2 of industry to recycle polystyrene is such a  
3 great idea, we challenge them to show us the  
4 list of big cities around the country that are  
5 implementing successful polystyrene food  
6 container recycling collection programs and  
7 actually recycling those materials. Despite all  
8 that you've heard today, they haven't produced  
9 that list. And so, Intro 1060A gives them one  
10 more chance to demonstrate that they can  
11 produce an economically practical environmental  
12 responsible recycling program. We don't think  
13 they'll be able to do that, but this  
14 legislation gives them more than a fair chance  
15 to do so. We appreciate all your good work,  
16 Chair James, and you, Council Member Fidler and  
17 to your staffs and indeed to every member of  
18 this panel and we stand ready to work with you  
19 in the weeks ahead.

20 BRIAN FLEURY: Good evening, Chair  
21 James and the rest of the Council. My name is  
22 Brian Flurry. I'm here on behalf of WeCare  
23 Organics. WeCare Organics is the long term  
24 contractor for the New York City Department of  
25 Sanitation Composting facilities. We're

2 speaking today in support of the proposed  
3 polystyrene ban, 1060A. WeCare is a New York  
4 State based agricultural environmental  
5 management company who provides a variety of  
6 goods and services to the agricultural and  
7 environmental industry, including composting  
8 and product marketing of compost and value  
9 added soils. WeCare finds innovative and cost  
10 effective ways to beneficially recycle and re-  
11 use organic-based waste products such as yard  
12 waste, bio-solids and food waste. There are  
13 certain contaminants contained within these  
14 organic based waste streams that make it more  
15 difficult and costly to recycle, such as  
16 polystyrene foam. As the city works towards  
17 its goal of food waste recovery and recycling,  
18 the issue of contaminants in this recoverable  
19 waste stream needs to be addressed in order to  
20 keep costs down and ultimately create a  
21 marketable end products such as compost and  
22 composted mended soils. One of the  
23 contaminants most often found in recycling food  
24 waste is polystyrene foam, due to its use in  
25 many restaurants, convenience store, and

2 households. It becomes extremely challenging to  
3 remove in the composting operations because it  
4 breaks down into many, many, small pieces.

5 Even with advanced mechanical equipment, many  
6 times it cannot be removed. The goal of any  
7 composting operation is to create high quality  
8 value added compost. By improving the quality  
9 of the incoming organic waste stream, less  
10 contaminants, it will improve the quality of  
11 the end product and assist in keeping  
12 operational costs down. Speaking as the  
13 operator of the City's composting operations,  
14 we have worked hard along with DSNY's  
15 composting division to clean up the incoming  
16 waste streams that have been creating a high  
17 end compost product for many years now. This  
18 season, the Staten Island compost facility was  
19 actually sold out of compost because the demand  
20 has gotten to a point that exceeds the supply  
21 of this valuable product. For these reasons,  
22 our company, WeCare Organics, fully supports a  
23 ban on polystyrene foam. We value our  
24 relationship with New York City and especially  
25 department of DSNY's Bureau of Waste Prevention

2 Re-Use and Recycling and the dedicated and  
3 environmental conscious professional within it.

4 CECIL CORBIN-MARK: I too want to  
5 add my thanks to you, Chairwoman James for your  
6 distinguished leadership of this committee.

7 It's been a pleasure working with you. I look  
8 forward to working with you in other capacities  
9 in the future.

10 CHAIRPERSON JAMES: [off mic]

11 CECIL CORBIN-MARK: Bang, you did.  
12 I also want to say good afternoon to the other  
13 members of the Committee, Council Member  
14 Jackson, my own Council Member who I've worked  
15 with for a long period of time in his 12 years  
16 in office have served district seven well, and  
17 I certainly thank him for his work and  
18 leadership to help our west Harlem District  
19 thrive over the last couple of years. Council  
20 Member Arroyo, thank you for your service as  
21 well, and Council Member Fidler, thank you for  
22 your introduction of this bill. My name is  
23 Cecil Corbin-Mark. I'm the Deputy Director and  
24 Director of Policy Initiatives at WE ACT for  
25 Environmental Justice, and I'm here today--I'm

2 here today to testify in support of the Intro  
3 1060A. My organization has worked for a number  
4 of years on organizing people in northern  
5 Manhattan to be engaged in policies that impact  
6 the health of their community, and from our  
7 standpoint, this is definitely one of those  
8 policies that we wanted to add our voice to.  
9 Our model for change is real simple. We  
10 organize with residents in northern Manhattan  
11 to identify key environmental and environmental  
12 health problems in our community, and we engage  
13 in participatory based research, projects to  
14 generate evidence of the problems. We have  
15 long-standing partnerships with academic  
16 partners such as Columbia University's Mailman  
17 School of Public Health, the Children's  
18 Environmental Center there, the National  
19 Institute of Environmental Health Center  
20 Sciences and the Center for Environmental  
21 Health in Northern Manhattan at Columbia. A  
22 lot of--I'm going to sort of skip through a lot  
23 of what I was going to say, but one of the key  
24 things that the centers that we've been engaged  
25 in participatory research has documented is

2 that in northern Manhattan rates of asthma  
3 morbidity and mortality are still the highest  
4 in New York City. There's six times higher than  
5 the national average, and according to a recent  
6 report of research base--a research study based  
7 at Harlem Hospital Center that is testing every  
8 school age child under the age of 13 in a 24  
9 block area of central Harlem, 26 percent of the  
10 children in central Harlem have asthma.

11 Columbia Center for Children's Environmental  
12 Health Research also confirms the high  
13 prevalence of poor respiratory health in  
14 northern Manhattan. Communities with 35 percent  
15 of the children being diagnosed by a local  
16 physician as having or may be having asthma.

17 Additional findings from that center strongly  
18 suggest that as with lead reduction or exposure  
19 to air pollutants, polycyclic aromatic  
20 hydrocarbons or PAH's, pesticides, and flame  
21 retardants that when you reduce these things,  
22 there will be substantial benefits to the  
23 individuals. In addition, there are studies  
24 that come out of the center that have linked  
25 the presence of PAH's to low birth weight,

2 smaller head circumference, and these are all  
3 again, indicators of the presence of diesel in  
4 our community. The exposure of our residents to  
5 these particular particulates and fine  
6 particles in particular of diesel, in diesel  
7 are clearly established also as triggers for  
8 asthma. With the short and long term health  
9 effects of these pollutants, one of the reasons  
10 that we're here today to testify in opposition  
11 to this particular bill is because as you heard  
12 Deputy Mayor Cas Holloway--it's been a minute.  
13 Sorry. Testify that the requirement to do the  
14 curbside collection because 73 percent of these  
15 polystyrofoam single-service food containers  
16 end up in the homes, the requirement introduce  
17 more trucks along the way for example to pick  
18 up these containers at the home would result in  
19 a negative impact on communities in northern  
20 Manhattan, and particularly I think it would  
21 result in a negative impact on communities  
22 wherever you have high rates of asthma in the  
23 City. So we're definitely not in favor of it  
24 for that reason alone, because our communities  
25 already bear a disproportionate burden of poor

2 air quality, low air enforce--low environmental  
3 enforcement and definitely poor health outcomes  
4 over the long term. Secondly, I think it's  
5 important to point out that anything that  
6 doesn't, that can't sort of follow that old  
7 adage, ashes to ashes and dust to dust, should  
8 not be in our stream of products. It shouldn't  
9 be the things that we put our food in. The  
10 fact that polystyrene can--single-service food  
11 containers can actually not biodegrade, we  
12 think is a problem, and the ability to be able  
13 to ban them we think is a wise move for the  
14 future of our City and for the health of those  
15 in the City as well, especially those most  
16 burdened neighborhoods. So, I'll stop there,  
17 and I will allow you to ask any questions, and--  
18 -well not allow you. You can ask any questions  
19 that you want. And I'll be here waiting for  
20 you.

21 SALEEN SHAH: Thank you so much,  
22 Chairwoman James all the Council Members here  
23 today, committee members. My name is Saleen  
24 Shah, I'm a community organizer as Citizens  
25 Committee for New York City. We're celebrating

2 our 40<sup>th</sup> year now in the City and we're very  
3 fortunate to live in the most civically engaged  
4 city in the world--in the United States, New  
5 York City, and I can say now on behalf of  
6 Citizens Committee for the first time, we--you  
7 know, many times we don't have grassroots  
8 support for environmental legislation bills.

9 Sometimes non-profits are the main people, the  
10 main folks responsible. Now we do have  
11 grassroots support of block associations,  
12 tenant associations, community gardening  
13 groups, student based groups. So I'm very happy  
14 to say that we have that now. And constituents  
15 to us don't just mean small businesses, it  
16 means residents, students, grandparents,  
17 families. Over the past few years neighborhood  
18 groups across the city have done the  
19 environmental work necessary to improve their  
20 communities from growing fresh organic produce  
21 locally, building composting systems, and rain  
22 water harvest systems in community gardens  
23 without even being told to do so. They just  
24 knew it. They were residents, they decided what  
25 the issues were. Residents turned themselves

2 into tree stewards for the trees on their  
3 blocks when called upon, and all these local  
4 under the radar projects involve an enormous  
5 amount of time, dedication, and energy that  
6 everyday New Yorkers are known for sweat equity  
7 into tons. Residents from grassroots groups,  
8 when they see serious issues in their  
9 neighborhoods, they come together form  
10 consensus on what issue to address and in a  
11 short amount of time put together specific high  
12 impact local projects that solve these issues.

13 Dear Council Members, hundreds of groups  
14 working in your very own districts from block  
15 associations to community gardening groups to  
16 tenant associations to student groups, that's  
17 children in the fourth and fifth grade, some of  
18 them were here this morning at the rally, have  
19 come together and joined with environmental  
20 groups and the Council Members to fight the  
21 good fight, getting what may well be a known  
22 carcinogen by supporting common sense  
23 legislation that sharply reduces the production  
24 of anachronistic polystyrene products and bans  
25 it in the greatest city in the world. All

2 these neighborhood groups cannot be wrong.  
3 Here's what they said to us about the same old  
4 tired argument about recycling Styrofoam. One,  
5 you cannot sell it. There's no market for it.  
6 There's only maybe two companies in California  
7 that make these picture frames. Two, you can't  
8 dispose of it without poisoning the  
9 environment, and three, it's unhealthy. So  
10 basically it's a matter of environmental  
11 justice. Why vote to distance New York even  
12 further from the progressive beacon it once  
13 was? In voting no that residents will not stop  
14 advocating for what's right for their children,  
15 their block and their community, the thing that  
16 is sure to stop over time is industries  
17 behaving badly, and that you know is the truth.  
18 Thank you.

19 JESSE GLICKENHAUS: Thank you, Chair  
20 James and other Council Members. My name is  
21 Jesse Glickenhau. I'm a third year law  
22 student at NYU school of law and I'm speaking  
23 today on behalf of NYU's environmental law  
24 clinic. I will focus on two aspects of my  
25 research, first giving a picture of cities and

2 municipalities that have banned polystyrene and  
3 next looking at recycling programs. We've heard  
4 today that there have been over 70 bans of  
5 polystyrene foam throughout the country going  
6 back to 1989. In my research I've identified  
7 already 61 municipalities that have banned  
8 polystyrene food containers, cities including  
9 San Jose as we've heard, the third largest city  
10 in California, Seattle, Portland, Oregon have  
11 all banned some form of polystyrene. I will  
12 just give examples of five bans that have been  
13 approved or come into effect just this fall.  
14 At least three municipalities have voted to  
15 approve bans in the last two months alone. In  
16 November 12<sup>th</sup> the Albany County legislator in  
17 New York voted by a ratio of 2:1 to ban  
18 polystyrene food containers. That same day,  
19 Watsonville, California voted 6:0 to extend a  
20 ban on polystyrene that had covered food  
21 containers since 2009 to include products sold  
22 in stores. In October Orange County,  
23 California voted 5:2 to ban polystyrene. In  
24 addition to the bans that have been voted, at  
25 least two other bans are coming into effect

2 this fall; Brooklyn, Massachusetts approved a  
3 ban on polystyrene take-out food and beverage  
4 containers in 2012. That comes into effect on  
5 December 1<sup>st</sup> this year. San Raphael,  
6 California voted to ban--voted for a ban in  
7 2012 of polystyrene in food packaging  
8 containers and the ban came into effect on  
9 October 31<sup>st</sup> this year. In contrast, only a  
10 handful of municipal polystyrene recycling  
11 programs exist throughout the country and some  
12 of them do not accept polystyrene food or  
13 beverage containers. Some recycling programs  
14 require residents to drop off their polystyrene  
15 at a recycling center instead of offering  
16 curbside. So just two examples, one example is  
17 a limited polystyrene recycling program which  
18 began in Roswell, Georgia on October 31<sup>st</sup> this  
19 year. It does not accept food containers. It  
20 requires consumers to drop off recycling at a  
21 recycling facility. Doesn't offer curbside.  
22 Dauphin County Pennsylvania started a program  
23 in 2012 for recycling and but again, people  
24 need to bring their polystyrene to the city  
25 recycling center. Doesn't offer curbside. Many

2 municipalities cite a lack of economic  
3 polystyrene recycling as one of the reasons for  
4 these bans. So in conclusion, over the 61 bans  
5 that I've looked at since 1989, nine have been  
6 passed or come into effect in 2013. Other  
7 cities including Portland, Maine, and  
8 Washington DC are currently considering  
9 polystyrene bans. However, only a handful of  
10 cities have attempted polystyrene food  
11 container recycling. I hope that the New York  
12 City Council will help make New York the next  
13 city to join this movement and ban polystyrene  
14 foam food ware. Thank you.

15 FELIPE VENTEGEAT: Thank you, Madam  
16 Chair, members and staff of the City Council  
17 Committee on Sanitation and Solid Waste  
18 Management. I am Felipe Ventegat. I'm the  
19 President of CIVITAS Citizens. CIVITAS  
20 supports the proposal to ban polystyrene Intro  
21 1060A and 369. And we oppose the proposal to  
22 allow polystyrene to be permitted on a pilot  
23 basis as part of the City's New York recycling  
24 program. CIVITAS is a not for profit  
25 organization established in 1981 and dedicated

2 to the improvement of neighborhoods, life in  
3 the--in Manhattan. Our four main areas of  
4 concerns are land use, public transportation,  
5 street scape and the environment. As part of  
6 the commitment to improve the environment in  
7 east Harlem and the Upper East Side, CIVITAS  
8 has put in motion a three pronged recycling  
9 program to meet the challenge laid down by the  
10 mayor of doubling the City's rates by 19--by  
11 2017. First we established a program to bring  
12 recycling to public schools of East Harlem and  
13 the Upper Eastside. We began in East Harlem  
14 and since October, CIVITAS volunteers have been  
15 partnering with the skills staff of cafeteria  
16 culture at PS7 on 120<sup>th</sup> Street to make  
17 recycling a part of the student's daily lives  
18 and to challenge--and the challenging setting  
19 of the school cafeteria. In that process we see  
20 the polystyrene trays being used once and then  
21 being put into the garbage. The hope is that  
22 lifelong lessons about the importance of  
23 recycling to our city and planet will take hold  
24 and that these students will take these lessons  
25 home to their families. Our second initiative

2 is to tackle the difficult but no less  
3 important task of making it possible for  
4 residents of New York City Housing Authority  
5 sites in our communities to engage in recycling  
6 like everyone else. We have found that they  
7 have the will and the desire there, but there's  
8 no recycling infrastructure in place. Our  
9 third program is directed at improving the  
10 recycling rate in the many apartment buildings  
11 within our geographic area of concern. To this  
12 end, we began in the Upper Eastside by  
13 partnering with Department of Sanitation to  
14 facilitate participation in its well thought  
15 out apartment building recycling initiative.  
16 It's been well established that methane gases  
17 released from landfills are at least 20 times  
18 more damaging with respect to global warming  
19 than carbon dioxide. It is also equally well-  
20 established that polystyrene placed in  
21 landfills does not decompose in any meaningful  
22 sense and could be around for at least 500  
23 years. Legislation that will ban the use of  
24 polystyrene in our city is urgently needed.  
25 Styrene is a fossil-based chemical that has

2 been designated by respected scientists,  
3 scientific authorities as a carcinogen. There  
4 is little question that when they come in  
5 contact with a heated food or beverage, styrene  
6 and benzene chemicals leak from the container.  
7 Plus it is a great source of comfort to know  
8 that earlier this year New York and five other  
9 major cities joined together to announce that  
10 they will no longer use polystyrene trays for  
11 servicing foods in their school cafeterias, and  
12 that they will act in a joint purchasing agent  
13 for newly designed and safe alternative. Why  
14 then should polystyrene be allowed in food  
15 establishments outside the schoolhouse? The  
16 dangers to the health of consumers is no less  
17 outside the school house than within. Indeed,  
18 there's a question of environmental justice  
19 that lurks beneath this issue. The principle  
20 advantage of polystyrene products is their low  
21 cost. You don't find polystyrene coffee cups in  
22 Starbucks. You're almost certain to find them  
23 in fast food outlets in lower income  
24 communities. The proposed legislation that  
25 would compel the Department of Sanitation to

2 treat polystyrene as a recyclable apparently on  
3 a pilot basis is misguided. It merely succeeds  
4 in returning the same toxic product into  
5 commerce to be used by consumers who probably  
6 will feel assured that it is somehow better for  
7 them since it has been "recycled." What is  
8 more, the recycling process of polystyrene is  
9 cumbersome and impractical. Guidelines to  
10 municipalities put out by manufacturers of this  
11 product warn that it is necessary first to  
12 scrub food containers clean and place them in  
13 clear plastic bags, separate and apart from all  
14 other recyclables. Indeed, municipalities are  
15 told that there should be separate collection  
16 bins, one for polystyrene food products and  
17 another for polystyrene used as packaging.  
18 Anyone who has dealt with recycling understands  
19 that success depends in large part on making  
20 the process clear and simple. It is difficult  
21 enough to educate citizens to put designated  
22 recyclable items in green bins and blue bins.  
23 That is one reason why many states and  
24 municipalities have opted for a single stream  
25 of recyclable in order to increase the level of

2 participation. The thought of requiring  
3 residents to sort out polystyrene from all  
4 other recyclables somewhat boggles the mind.  
5 The end result is that most polystyrene  
6 products will end up in landfills or float in  
7 the air or in the surrounding waters. For all  
8 these reasons, CIVITAS urges that polystyrene  
9 be prohibited for food, beverage, and household  
10 uses.

11 CHAIRPERSON JAMES: Thank you for--

12 FELIPE VENTEGEAT: [interposing]

13 Thank you and we'll be available for questions.

14 CHAIRPERSON JAMES: Thank you very  
15 much. Do any of my--I don't think any of my  
16 colleagues have any questions. I want to thank  
17 this panel for your testimony and thank you for  
18 your patience. Andrew Moesel representing the  
19 New York State Restaurant Association, Raynuh  
20 Gonzales representing La Nueva Balita, Astrid  
21 Portillo, James Moncion representing the Nelson  
22 Paella Restaurant, Julio Jimenez, Marcelo  
23 Morocho, and Pablo Martinez, Martinez, excuse  
24 me. Here we go. Hola. There's some other

2 seats. There's two more seats, gentleman. You  
3 may begin. Ladies first maybe?

4                   ASTRID PORTILLO: Hello, my name is  
5 Astrid Portillo. I'm the owner of Mi Pequeno  
6 El Salvador Restaurant. We've been open for  
7 over 20 years and over these years we have not  
8 found another product as effective and  
9 affordable as the Styrofoam. The foam product  
10 keeps my food warm, and it fits perfectly from  
11 what I sell. Other products, for example,  
12 plastic cost way more than the foam. The  
13 difference for a 16 ounce box of cups  
14 [phonetic] is 31 dollars with 70 cents, which  
15 is twice the amount that I pay now. We do not  
16 receive help from any source. The income we  
17 get is from every sale we make and our sales  
18 fluctuate. One week could be good and the next  
19 week could be really slow. What I'm trying to  
20 say is that there's days that I don't have  
21 enough money to pay my workers. So they end up  
22 paying like one day or more for their pay  
23 checks. This is why the 31 dollars and 70 cents  
24 makes a big difference for us small business  
25 owners, and I'm here in front of you because I

2 want to be part of the solution. If other  
3 states already recycling foam products like New  
4 Jersey and California, why can't we do the  
5 same? Also, if banning foam products is a good  
6 thing, why don't we have the City come into our  
7 businesses and ask them if the ban will benefit  
8 us or it will harm us. We pay taxes. We bring  
9 jobs to the community and I believe we deserve  
10 that. I'm asking for your help to stop the ban.  
11 If my expenses keep rising there's no telling  
12 if my restaurant or other family's business  
13 will be open for more years to come. Thank you.

14           LOUIS MALDONADO: Thank you Council.  
15 Good afternoon. My name is Louis Maldonado,  
16 Tacos Morelos in Queens, New York. I want to  
17 acknowledge the people who came from restaurant  
18 owners, they are in the second floor. This  
19 morning we was 45 people all together. They  
20 told us to be here at 1:00. We were sharp at  
21 1:00. Unfortunately right now it's past 5:00,  
22 they have to leave, but the people who are here  
23 representing 2,000 restaurant owners.

24           CHAIRPERSON JAMES: They were  
25 noticed.

2           LOUIS MALDONADO: I appreciate that  
3 very much. The reason why we are here and so  
4 were the co-workers who I just mentioned, we  
5 are here to defend our rights. We are in  
6 business for over 20 years. I never see any  
7 year badly as this year. Unfortunately, the  
8 cost of the alternative they are putting go  
9 over the budget that I put into survive. One  
10 example is I pay for 500 pieces 20 dollars for  
11 the Styrofoam cups, and I tried the  
12 alternative. I request that. They give me 250  
13 pieces for 45 dollars. So, this put me in the  
14 very difficult situation where I have to  
15 somehow offset the extra cost that I'm going to  
16 go into it. I can with the other restaurant  
17 owners, we say what is going to happen? And  
18 it's very sad, but unfortunately we probably  
19 going to have to let go few people. If each  
20 restaurant owner leave one people out of a job,  
21 we are talking about 20,000 people out of work.  
22 Unfortunately, in my place, the last one that I  
23 hired was Juan. Juan has to go, but the sad  
24 part is that he four kids plus his wife. So  
25 we're not talking about only persons, we're

2 talking about five people. The City, and I've  
3 been here since 1:00, and I see the  
4 representatives from the City, from the Mayor  
5 Bloomberg. I hear people from the processing  
6 plants where they recycle and whatnot. They say  
7 there's going to be a billion dollar, but they  
8 can use the same facility and stuff like that.  
9 Why they don't find an alternative for here for  
10 New York? Maybe that can create another 17,000  
11 jobs here in New York. Why we should go to,  
12 you know, why we should go to either across the  
13 river? That's my question. So we are here to  
14 defend our rights, but at the same time to  
15 respect the law. Like I just said, we pay  
16 taxes, business taxes plus personal taxes. So  
17 we hope that you guys listen to us and be part  
18 of the solution as well. Thank you.

19 JAMES MONCION: Hi. I'm James  
20 Moncion. I own an restaurant in Brooklyn.  
21 It's called-- My name is James Moncion. I have  
22 a restaurant in Brooklyn. It's called Nelson  
23 Paella Restaurant. It's after my dad. He owned  
24 his own chain of restaurants. They're  
25 immigrants. I was born here, so kind of second

2 generation type of thing. I got hold of this  
3 ban proposal quite some time ago, and I got  
4 concerned. There was a meeting that was set up  
5 with Councilwoman Diana Reyna, and also with  
6 Ron, I forgot his last name, Gonen, yes. And we  
7 sat down. We spoke with regards to the ban, how  
8 he felt about it. I expressed to him my  
9 concerns that it was more--it's more of a  
10 financial issue for me. You know, being  
11 educated here, growing up here, you know  
12 environmental issues were always top priority  
13 in school. I believe in recycling and all  
14 that, but Mr.--the meeting took place October  
15 24<sup>th</sup>. Mr. Ron, he got back to me with an  
16 alternative 10 days later after the meeting was  
17 held. And this is the email that he sent me  
18 which basically just listed three different  
19 alternatives for the Styrofoam plate that I  
20 use, which is a three compartment nine-inch  
21 plate. The difference in prices which  
22 contradicts what he was saying earlier about it  
23 being two cents more. It's actually six cents  
24 more for me. I then responded back to him to  
25 his email somewhat outraged. So excuse me if I

2 get a little invested. I told him, "Good  
3 afternoon. After our meeting at Agrimolico on  
4 Knickerbocker Avenue I was expecting a follow-  
5 up meeting or visit with regard to the  
6 presentation that you submitted to me on said  
7 date. Excuse me. I found many inaccurate  
8 information and I have questions concerning the  
9 matter as a whole. Not withstanding, I have  
10 reviewed your email and feel this is a drastic  
11 over step. Here is why. The nine inch foam  
12 plate with the three compartments that we use  
13 at my restaurant would be six cents more per  
14 plate. Not so bad eh? Well, actually, it is  
15 pretty bad. I sell about 500 foam plates per  
16 day, which for the day would cost me 30 dollars  
17 extra. Still not too shabby you say. Hang  
18 tight. For the week that's 210 dollars,  
19 equivalent to the salary of my lowest paid  
20 employee. For the month I'd be paying over 800  
21 dollars extra solely on the three compartment  
22 plate, not including all other packaging  
23 material that must be replaced if this ban were  
24 to go through, ie, small to-go containers,  
25 eight ounce coffee cups, 16 ounce milk shake

2 cups, etcetera. The extra 840 dollars per  
3 month that I'd be paying if this ban were to go  
4 through is greater than what I currently pay in  
5 my telephone, internet, TV, and gas bill  
6 combined. In essence, I'm looking at two  
7 options. A, get rid of my delivery guy in order  
8 to make up for the extra costs and take a hit  
9 on deliveries, and/or I could add that to my  
10 ownership responsibilities which I give about a  
11 month or two before I become another small  
12 business statistic in New York City. Or B,  
13 pass down the extra cost onto my customers,  
14 which will surely put me on the for sale list  
15 faster than I say bon a petit. This ban is a  
16 slap to the face to all the small business  
17 owners. Either help the environment and  
18 contribute to the unemployment rate or  
19 contribute to the environment by closing our  
20 business down, further slowing down economic  
21 growth. I really do appreciate your effort to  
22 help, but you need to stop looking at this  
23 matter as a pennies and nickels dilemma. I'd  
24 greatly appreciate it if you could take the  
25 time to discuss the facts of your presentation

2 and address the discrepancies in these  
3 findings. I'm available any night after 6:00  
4 p.m. or we can table this discussion for the  
5 City Council hearing set for the 25<sup>th</sup> of  
6 November. Truly yours, James Moncion." That  
7 was sent November 4<sup>th</sup>. It is now November 25<sup>th</sup>.  
8 Not once did I get a reply from Mr. Ron, and it  
9 bothers me--excuse me. It bothers me--this is  
10 my first restaurant. It's bad enough vicious  
11 the Health Department can be with inspections.  
12 I don't need another extra 840 dollars of extra  
13 cost per month added to what I already have in  
14 overhead costs. The day that I met with Diana  
15 Reyes--I'm sorry, Reyna, I specified to her  
16 before leaving because I had to rush out. I do  
17 deliveries. I run the business. I help in the  
18 kitchen. I pretty much do it all, and before I  
19 ran out I told her, "Do not, please do not  
20 allow this to past through." I turn to you and  
21 I tell you the same thing. Thank you.

22 CHAIRPERSON JAMES: Next. Anyone  
23 else?

24 MARCELO MOROCHO: My name is Marcelo  
25 Morocho from, Compton Bronx. The name is El

2 Nuevo Delicioso. I am 22 years in the business.  
3 What I come to right here is 22 years, a lot of  
4 time in the business, and I say now this time  
5 is very tough. I never was like that. When I  
6 hear this one, they will change something. They  
7 will do something. That I come for. Say we  
8 have to stay together. We have to explain to  
9 you right here what I feeling. I feeling is in  
10 the Bronx is poor people. In the Bronx is not  
11 like downtown. The Bronx if they change, they  
12 do something I will pay more money. What I  
13 have to do? Close the business. I got like 14  
14 employees, both business. I got two  
15 restaurants. And please, as they come all  
16 together, like you can hear something. You can  
17 something or you can help. That's all I got to  
18 say. Thank you.

19 PABLO MARTINEZ: Hello. My name is  
20 Pablo Martinez. [speaking Spanish]

21 UNKNOWN: I will do the translation.

22 PABLO MARTINEZ: The Dominican  
23 Restaurant [speaking Spanish]

24 UNKNOWN: He's owner of a Dominican  
25 restaurant for over 10 years.

2 PABLO MARTINEZ: [speaking Spanish]

3 UNKNOWN: He has a question.

4 PABLO MARTINEZ: [speaking Spanish]

5 UNKNOWN: This wonderful reunion is  
6 worth it to me.

7 PABLO MARTINEZ: [speaking Spanish]

8 UNKNOWN: He spend more than five  
9 hours here.

10 PABLO MARTINEZ: [speaking Spanish]

11 UNKNOWN: Is the value on this.

12 PABLO MARTINEZ: [speaking Spanish]

13 UNKNOWN: Why instead of going  
14 through all this, why one of the counselors,  
15 one of the elects don't come to us and ask.

16 PABLO MARTINEZ: [speaking Spanish]

17 UNKNOWN: To come to our places and  
18 see the real life the restaurant owners go  
19 through in the day, on the daily basis.

20 PABLO MARTINEZ: [speaking Spanish]

21 UNKNOWN: and the difference in the  
22 price for the styrofoam versus the alternative  
23 is greater than what we can support.

24 PABLO MARTINEZ: [speaking Spanish]

25 UNKNOWN: He's hoping that this--

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2 PABLO MARTINEZ: [speaking Spanish]

3 UNKNOWN: meeting--

4 PABLO MARTINEZ: [speaking Spanish]

5 UNKNOWN: pays off to be here for  
6 five hours. Thank you for listening.

7 CHAIRPERSON JAMES: Thank you. Just  
8 [speaking Spanish] Gentleman.

9 ANDREW MOESEL: Hi, my name is  
10 Andrew Moesel. I am here on behalf of the New  
11 York State Recycle Association. The New York  
12 City chapter has about 5,000 restaurants.  
13 Statewide we have about 10,000 members.

14 CHAIRPERSON JAMES: So can I--before  
15 you testify, because obviously you're on  
16 different sides--

17 ANDREW MOESEL: [interposing] Sure.

18 CHAIRPERSON JAMES: different sides  
19 of the aisle. Are there any questions for the  
20 individuals who represent the actual  
21 restaurants? Okay. Council Member Jackson.  
22 Council Member Arroyo?

23 COUNCIL MEMBER ARROYO: I want to  
24 thank you for taking time from your busy  
25 schedules. I know that I visited a couple of

2 you about three months ago over the summer. So  
3 I was there. I saw what it is that you go  
4 through and the challenges that this  
5 legislation can potentially cost you, and I've  
6 been articulating that statement throughout the  
7 process here, but I just want to thank you for  
8 taking time from your business to be here.

9 CHAIRPERSON JAMES: And Council  
10 Member, can you translate in Spanish?

11 COUNCIL MEMBER ARROYO: [speaking  
12 Spanish].

13 CHAIRPERSON JAMES: Gracias.  
14 [speaking Spanish] Jackson.

15 COUNCIL MEMBER JACKSON: Thank you.  
16 Well first let me thank you for coming in, and  
17 I've looked at the two documents, one for 500  
18 pieces at 20 dollars and 250 pieces at 45  
19 dollars. But my understanding is that the 250  
20 pieces at 45 dollars, these are plastic, is  
21 that correct?

22 LOUIS MALDONADO: Yes.

23 COUNCIL MEMBER JACKSON: Well,  
24 couldn't you use just a cardboard paper rather  
25 than--

2 LOUIS MALDONADO: [off mic]

3 COUNCIL MEMBER JACKSON: Okay, well  
4 what if they put the cardboard and they line it  
5 with plastic lining--have a lining of plastic  
6 inside and some of them are just totally paper.  
7 So what if they lined the tray with a little  
8 lining of plastic?

9 LOUIS MALDONADO: I cannot even  
10 imagine what would be the cost for that  
11 particular beautiful thing that you just  
12 described.

13 COUNCIL MEMBER JACKSON: Okay. I'm  
14 just wondering. Because some people may say,  
15 "Oh, come on. This is a set up here." You  
16 know, "You may have told these people to put  
17 down this price to show that it's going to cost  
18 almost twice as much or more than twice as  
19 much." What do you say to that?

20 LOUIS MALDONADO: Well, we are in  
21 business for over 20 years, and my customers  
22 they trust me and I would not be here to make a  
23 statement that is not true, and I would not be  
24 here wasting all these hours to tell you  
25 something that is not true. I'm here because

2 I'm concerned about my business. I'm here  
3 concerned about my employees, and I'm here  
4 because I care, not to cheat or to give you the  
5 wrong information by any way.

6 COUNCIL MEMBER JACKSON: Well, some  
7 people may say that you've been put up by the  
8 Restaurant Association or by the chemical  
9 companies or Dart in order to try to get you  
10 here to give testimony to show that you're  
11 going to be negatively impacted by this  
12 particular. Did Dart or anyone else tell you  
13 had to be here?

14 LOUIS MALDONADO: In our business,  
15 and I think I spoke by the majority of that,  
16 this is on the one on one basis, not the  
17 government, not the companies from recycling or  
18 anybody come to by bank account and deposit any  
19 money in my bank account. I work. I don't know  
20 if you know that we wake up at three in the  
21 morning, go to the Bronx, bring the groceries  
22 over to our restaurant, help the cooks to  
23 prepare the food, go home at 10 at night.  
24 That's our hours of work. So, we don't receive  
25 anything from anybody. What we do is what we

2 get, and what the profit that we come out of it  
3 is what we survive with. Jimmy, you want to say  
4 something?

5 JAMES MONCION: I would just like to  
6 add that I pretty--like I said earlier, I  
7 pretty much do everything by myself in my  
8 restaurant. I literally had to leave my  
9 restaurant at 1:00 in the afternoon with no one  
10 there. Mind you, I have an inspection pending  
11 at any moment. I could risk another B, maybe  
12 even a C. I could risk--well, I'm putting at  
13 risk a 500 dollar penalty fee that they, the  
14 inspector would give me if I'm not present, and  
15 I'm literally still here not rushing to get  
16 out, but rushing to make sure that I--tomorrow,  
17 I still have a restaurant. A week from now, I  
18 still have it, a month from now I still have  
19 it. I've only been open seven months, seven,  
20 my first shot. This is not about being paid  
21 for anything. Like--

22 COUNCIL MEMBER JACKSON:  
23 [interposing] Okay. I'm just asking to--for you  
24 to respond to that because, you know, some--you  
25 know, what happens periodically is one side

2 will communicate with their people to come in  
3 and give testimony. The other side would do  
4 that. That's just the way it is sometime, and I  
5 wanted to know whether or not they corralled  
6 you owners to come in here and wear those t-  
7 shirts to show that you're a, you know, you're  
8 part of a big huge movement, but I heard what  
9 you said that if in fact the ban was  
10 implemented, thousands of jobs would be lost in  
11 your opinion.

12 LOUIS MALDONADO: That information is  
13 correct.

14 COUNCIL MEMBER JACKSON: Okay. Thank  
15 you. Thank you, Madam Chair.

16 CHAIRPERSON JAMES: Did the  
17 Administration when they came and met with you  
18 at the meeting with Council Member Reyna, did  
19 they talk to you about a hardship exception?

20 JAMES MONCION: I'm sorry, can you  
21 say that again?

22 CHAIRPERSON JAMES: Hardship  
23 exception, did they talk to you about any  
24 exceptions in the law?

25 JAMES MONCION: NO.

2 CHAIRPERSON JAMES: No?

3 JAMES MONCION: None whatsoever. As  
4 far as that was concerned, it was all  
5 Styrofoam. Which coming to this meeting and  
6 hearing that the supermarket meat trays are  
7 exempt and other stuff such as ice coolers are  
8 exempt, that comes a shock to me because then  
9 it just further shows me that this is a  
10 straight blatant attack to restaurant owners.

11 CHAIRPERSON JAMES: Thank you.

12 JAMES MONCION: And on my--

13 CHAIRPERSON JAMES: [interposing]  
14 Council Member--

15 JAMES MONCION: Oh, I'm sorry.

16 CHAIRPERSON JAMES: Council Member  
17 Reyna?

18 COUNCIL MEMBER REYNA: One question.  
19 I just wanted to obviously thank every business  
20 who came here. The time that's costing you  
21 money and there's value in that, and every  
22 employee associated to your restaurant indirect  
23 or direct because they have families to feed as  
24 well as your own, but I do want to understand.  
25 I loudly hear your opposing the legislation

2 that bans Styrofoam, but do you support any of  
3 the other bills, including the one that  
4 Reyna/Jackson sponsor? [speaking Spanish]

5 It's always longer in Spanish. I told you. So--

6 LOUIS MALDONADO: That's the beauty  
7 of the language.

8 COUNCIL MEMBER REYNA: That's right.  
9 It's a language of love. So I was asking  
10 briefly in Spanish, reinforcing the fact  
11 whether or not you're in opposition or support  
12 of the other pieces of legislation that are  
13 here today being introduced and heard for the  
14 very first time, if not for the second time,  
15 but there's four pieces of legislation, not  
16 just the ban. Is there any position?

17 LOUIS MALDONADO: I'm pro the  
18 recycling. I've always been for it. I just  
19 don't think that the ban is good for anybody.

20 [off mic]

21 COUNCIL MEMBER REYNA: Can you just  
22 say that into the record?

23 MARCELO MOROCHO: I agree with that  
24 100 percent.

2 COUNCIL MEMBER REYNA: Which, which  
3 part?

4 MARCELO MOROCHO: Recycling, we can--  
5 we can do the extra work. The City can  
6 collaborate with us without penalty us on that.

7 CHAIRPERSON JAMES:: Thank you so  
8 much. [off mic]

9 ANDREW MOESEL: Thank you. I've  
10 handed in my testimony, but I'll just go  
11 through it. I'm one of the lobbyists here, so I  
12 will talk more sort of the legislation or these  
13 fine people who actually run our City's great  
14 restaurants. Philosophically, we are actually  
15 supportive of removing polystyrene from the  
16 waste stream. I think probably the only people  
17 who can really appreciate this are probably the  
18 people on this panel here, but we're really  
19 trying to view these series of bills that are  
20 coming through the Council right now sort of  
21 holistically. And it was sort of mentioned  
22 earlier that getting polystyrene out of the  
23 waste stream is critical in order for us to  
24 begin organic separation and composting which  
25 we actually think in the long run is going to

2 save restaurants a lot of money while being  
3 environmentally friendly. But as we've heard  
4 from from these great people and over and over  
5 again our concerns are costs, just live  
6 everyone else's. So therefore looking at this  
7 legislation, I mean, we would hope or wonder if  
8 there could be some kind of cost trigger based  
9 on these studies and research that the  
10 Administration and other people are doing, much  
11 like it was tied to the paid sick leave earlier  
12 this year, a similar construct. A hardship  
13 provision is something that we actually hadn't  
14 thought of, but perhaps that's another are we  
15 could explore in order to try to divert some of  
16 the economic impacts on our restaurants. At  
17 the very least, we'd like to see some of these  
18 studies and research more publicly available.  
19 Clearly, there's been some concerns about the  
20 information on these cost effective  
21 alternatives getting out there, and it would be  
22 great if the City could codify in the  
23 legislation to create some kind of hotline,  
24 website, or outreach in the form of meeting,  
25 perhaps, and make sure that restaurants know

2 what kind of alternatives are out there if this  
3 legislation is to go through. We are also  
4 supportive of recycling and the provision to  
5 allow recycling if that become feasible,  
6 although I think I'm more confused about that  
7 the beginning of today, or the end of the day  
8 than I was at the beginning about where that  
9 stands. Lastly, and this is something that  
10 actually hasn't come up through the course of  
11 the hearing. Everyone's talked about the cost  
12 of containers, but one thing that we're  
13 concerned about is the cost of the fine  
14 associated with this. As we know, as you heard  
15 restaurants are suffering getting fined more  
16 and more every day from every single agency,  
17 and so if this does go through, we would  
18 perhaps like to have a warning provision put  
19 into the bill so that a restaurant unwittingly  
20 or perhaps ignorant of the new law even after  
21 the phase in period, if an inspector came in  
22 and found it they would get a warning first,  
23 and it would only be for repeat offenders where  
24 they would receive the fine, which is pretty  
25 hefty. So thank you. We hope that we can

2 continue working on this bill and make sure it  
3 works for the entire restaurant industry.

4 CHAIRPERSON JAMES: So you're open to  
5 a hardship or a hold harmless clause and a bill  
6 that would focus more on education and training  
7 as opposed to a penalty?

8 ANDREW MOESEL: Correct.

9 CHAIRPERSON JAMES: And you're--  
10 obviously you support recycling?

11 ANDREW MOESEL: Correct.

12 CHAIRPERSON JAMES: Okay. Any other  
13 questions? Thank you. Jennifer Prescott?  
14 Amanda Evanguard [phonetic]? And Nancy Easton?  
15 Thank you. Thank you.

16 COUNCIL MEMBER FIDLER: Madam  
17 Chairperson, I have to apologize to this panel  
18 and the remaining panels. As I told you about  
19 five hours and ten minutes ago I have a long  
20 standing commitment tonight that I really have  
21 to get to, not to mention the fact that four  
22 weeks after quintuple bypass surgery, my wife  
23 will kill me if I don't leave. I am going to  
24 leave my Counsel Brad Reed behind. He is  
25 intimately familiar with the issues and he will

2 report back to me, but I do apologize, you  
3 know, to all the people who have waited here  
4 that I can't remain further, but I will know  
5 every word that is said, I promise you that.  
6 Thank you.

7 CHAIRPERSON JAMES: I'm going to  
8 allow your Counsel to ask some questions if  
9 you--okay. Lou Fidler is recovering from double  
10 bypass surgery. Quadruple, excuse me. He  
11 apparently just came out of the hospital, what  
12 a mere two weeks ago? Two and a half weeks and  
13 he's back at work. Let's give him a round of  
14 applause.

15 [applause]

16 CHAIRPERSON JAMES: Not too loud.

17 JENNIFER PRESCOTT: Good evening,  
18 Chairperson James and the members of the  
19 committee. My name is Jennifer Prescott.

20 CHAIRPERSON JAMES: Is that mic on?  
21 It's on?

22 JENNIFER PRESCOTT: Oh, it's not,  
23 okay. My name's Jennifer Prescott, and I am  
24 testifying on behalf of District Three Green  
25 Schools Group. The D3 Green Schools Group is

2 made up of public, private, and religious  
3 school parents who are volunteering to make our  
4 children's schools more environmentally  
5 sustainable. Members of our group have  
6 testified before your committee in the past  
7 about food and tray waste composting and the  
8 pilot we began in the spring of 2012 in eight  
9 District Three public schools, and we are  
10 thrilled that thanks to the efforts of the  
11 Departments of Sanitation and Education, and  
12 thanks to your support for legislation for  
13 further expanding the program. And I'm here  
14 today on behalf of our membership to testify in  
15 support of Intro 1060, restricting the sale or  
16 use of single-service expanded polystyrene food  
17 packaging materials. We support 1060 and  
18 applaud the inclusion of single-service trays  
19 in cafeterias in the definition of the  
20 restricted items, and this will effectively  
21 eliminate the use of expanded polystyrene trays  
22 in schools hopefully forever. Every day, New  
23 York City public schools use and discard  
24 850,000--that's 850,00 daily Styrofoam trays  
25 from school meals, and those trays are either

2 landfilled or incinerated at a high cost to tax  
3 payers and to the environment, and as testimony  
4 has supported today, the trays cannot be  
5 recycled and will never biodegrade, and when  
6 they are placed in the food waste composting  
7 bins by mistake, they can break into small  
8 pieces and contaminate the compost. Styrofoam  
9 lunch trays are only used by students for 20  
10 minutes each day, yet once discarded they are  
11 in the environment forever. In addition to  
12 disposal issues, EPS may pose significant  
13 health risks to our children, and it's  
14 troubling to me today that very little has been  
15 said about that. In 2011, styrene was listed by  
16 the US Department of Health and Human Services  
17 as reasonably anticipated to be a human  
18 carcinogen, and studies have documented the  
19 migration of styrene molecules into food and  
20 drinks. In addition, if forks puncture the  
21 surface of a foam tray, small amounts of  
22 styrene could be ingested by our children. As  
23 evidence supporting the toxicity of styrene  
24 continues to mount, it's use in schools or for  
25 any food delivery or storage purpose is

2 increasingly troubling. Simply put, parents do  
3 not want their children eating off of Styrofoam  
4 cafeteria trays anymore, and contrary to the  
5 one doctor that testified today about this  
6 being a subject that has not been concluded, I  
7 would just ask anyone in this room or on this  
8 panel to consider the safety of Styrofoam any  
9 time they pour their child a hot steaming cup  
10 of hot chocolate in a Styrofoam cup. If that  
11 issue is still out there in the air and has not  
12 been concluded, we want--it would give any  
13 reasonable person pause. Parents in many  
14 District Three schools and more than 30 schools  
15 throughout the City have taken matters into  
16 their own hands and have raised funds to enable  
17 their PTAs to purchase compostable fiber trays  
18 as replacement for foam trays, and for many of  
19 these schools dedicating a percentage of their  
20 PTA budget to purchase non-toxic trays is a  
21 tremendous burden. That is a lot of bake sales.  
22 So we're diverting precious funds so vitally  
23 needed for other educational programs. However,  
24 the vast majority of public school children  
25 city-wide, mostly in low income communities,

2 continue to eat off of Styrofoam trays. We  
3 agree with Chairperson James and many of this  
4 panel that this is an environmental justice  
5 issue. Eating off of non-toxic cafeteria trays  
6 should not just be a luxury afforded to  
7 children who attend schools where PTAs have  
8 successful fund raising campaigns. It should be  
9 a universal right throughout the City. And we  
10 applaud you for supporting Intro 1107 this fall  
11 calling for 400 schools to be added to existing  
12 food waste composting pilot by January 1<sup>st</sup>,  
13 2015. While expanding the composting program  
14 city-wide, it is imperative to simultaneously  
15 eliminate Styrofoam cafeteria trays to preserve  
16 the quality of the compost. Eliminating  
17 Styrofoam trays and replacing them with  
18 compostable fiber trays will reduce waste  
19 disposal cost, increase collection deficiencies  
20 and improve the quality of compost. And we  
21 support the elimination of commercial Styrofoam  
22 food service packaging called for in Intro 1060  
23 because it will positively impact recyclability  
24 of our school's waste stream. A sizable number  
25 of public school children bring lunch from home

2 and children--and teachers often buy lunch off  
3 campus, but eat and dispose of their lunch  
4 waste in school. To the extent that this take-  
5 out food, it's currently packaged in Styrofoam  
6 containers, and a switch to compostable paper  
7 recyclable rigid plastic packaging by food  
8 vendors will decrease the school's garbage  
9 waste stream and increase the amount of  
10 captured recycling for composting. In addition  
11 to expressing our support for Intro 1060, we  
12 would like to express our opposition to the  
13 other bills being considered today and those  
14 are bills Intro 380 and Intro 0369, and  
15 T20137195. In conclusion, more than 100 cities  
16 and municipalities across the country have  
17 already banned the sale and use of expanded  
18 polystyrene packaging and food service  
19 products. We support this bill 1060 in order  
20 to protect public health and to eliminate  
21 expanded polystyrene from our waste stream.  
22 This will pave the way for expanded polystyrene  
23 to be replaced by more environmentally friendly  
24 recyclable and compostable alternatives or  
25 better yet, reusable alternatives that reduce

2 the overall waste stream. A similar bill was  
3 considered by New York City Council more than  
4 two decades ago and was not passed. It is  
5 distressing to think of all the Styrofoam trays  
6 and packaging filling our landfills today that  
7 could have been prevented if only action had  
8 been taken then, and we applaud you for  
9 considering this bill today and urge you not to  
10 let vested interests derail the progress. Don't  
11 let another 20 years go by before we eliminate  
12 this material from our schools, from our waste  
13 stream, from our City, from our lives, and we  
14 urge you to act today to pass Intro 1060.

15 [off mic]

16 AMANDA EVANGUARD: Okay. Thank you  
17 Madam Chair and Committee members. My name is  
18 Amanda Evanguard and I am a product design  
19 junior at Parson's New School for Design.

20 JIN HILL: And i--my name's Jin Hill  
21 [phonetic] and I also go to Parsons Product  
22 design.

23 AMANDA EVANGUARD: And we are going  
24 to read a letter for you on behalf of Joel  
25 Towers, Executive Dean at Parson's New School

2 for Design and Alison Mears Dean of School of  
3 Design Strategies, and Emily Moss, Director of  
4 BS Urban Design, BS Environmental Studies, and  
5 Jessica Core, Assistant Professor of Design of  
6 School of Design Strategies. "Five years ago  
7 the School of Design Strategies of Parsons, the  
8 New School for Design, began an exploration  
9 with Styrofoam out of schools in several New  
10 York City public schools to investigate how we  
11 could use design to reduce waste in New York  
12 City. Our work ranged across four different  
13 courses within Parsons and engaged over 100  
14 Parsons undergraduate students, conducting  
15 research, ideation, prototypes and co-design  
16 workshops with New York City public school  
17 students from kindergarten through high school.  
18 Our Parsons and public school students were  
19 proud that their design work played an  
20 instrumental role in the development Trayless  
21 Tuesdays, reducing polystyrene waste by 2.4  
22 million lunch trays per month. We feel a duty  
23 to these students who care so much about their  
24 city to make a difference here today. As  
25 designers and educators, we know that there is

2 no easy answer or quick solution to the many  
3 problems that modern cities face. We know that  
4 often one solution can lead to consequences  
5 somewhere else, but designers have a  
6 responsibility to actually understand all of  
7 the issues and complexities and to prioritize  
8 based on deep analysis. Through our work, we  
9 have found that the utmost priorities, the  
10 health of our environment and our citizens who  
11 depend on it. We must prioritize this over all  
12 other factors. During our work, one of the most  
13 disturbing discoveries was the ration of the  
14 usefulness to consequences in the life cycle of  
15 polystyrene containers. No other product on  
16 earth has such an absurd ratio. A polystyrene  
17 container has an average useful life of about  
18 30 minutes or less but lasts over one million  
19 years in its non-usable state as waste. Think  
20 about this ratio, 30 minutes of use for an  
21 eternity of toxic waste. In our Urban Design  
22 Program we ask our students to re-imagine the  
23 City. Today, we ask this of you. How will you  
24 re-imagine our great city?"

2 JIN HILL: "We already have an  
3 example of the power of government to produce  
4 innovation and re-imagine our work [phonetic].  
5 LED technology has been in existence for 50  
6 years, and yet only within the last three years  
7 has LED technology began to reshape our homes  
8 and institutions with truly innovative  
9 developments. The kick starter reescalation  
10 when Congress signed into law the ban on  
11 incandescent bulbs over 50 watts they also  
12 began a revolution in design producing break-  
13 throughs that we could not even imagine five  
14 years ago. In the realm of food container  
15 waste and recycling, we already have scientists  
16 and designers at work developing new  
17 compostable materials, corn based containers,  
18 and new ways to use paper and bamboo fibers.  
19 Like the story of LED technology, innovation  
20 requires a force of government, business,  
21 science, and design to work together. Let us  
22 work together today to make New York the most  
23 innovative city in our nation. On behalf of the  
24 faculty, students, and future designers of our  
25 City, we fully support bill number 1060A and

2 ask for your vote on yes to make this moment  
3 the tipping point. This is our moment to change  
4 the story and allow ground-breaking innovations  
5 to rise, reducing one of the most toxic and  
6 permanent waste products on earth.

7 AMANDA EVANGUARD: Thank you.

8 CHAIRPERSON JAMES: This is when you  
9 testify. Apparently they are doing  
10 construction on the outside of the building.

11 UNIDENTIFIED: Madam Chair,  
12 Committee Members and staff, thank you for  
13 allowing me this opportunity to speak in  
14 support of city-wide polystyrene ban. I'm a  
15 ninth grader at Hunter College High School, and  
16 I would just like to say that the people on  
17 this panel deciding the results for this case  
18 aren't the people who have had the experience  
19 of eating off these polystyrene lunch trays.  
20 Some kids eat off these trays more than once a  
21 day every single day until they graduate high  
22 school, which could be up to 13 years, which  
23 would be 2,340 polystyrene trays a day if they  
24 only eat one meal or 4,680 for kids that also  
25 eat breakfast at school. These kids who are

2 going to have to continue using polystyrene, if  
3 it is continued to be allowed--I'm kind of  
4 skipping over parts here. I'm informed enough  
5 to know that I don't want to ruin my health and  
6 my environment by continuing the use of  
7 Styrofoam. I don't want to use a container once  
8 and then have it sit around for the next  
9 billion years because it's a non-renewable  
10 resource and it's not biodegradable. I don't  
11 want to have to worry every time I buy a coffee  
12 or hot chocolate that I'm going to be bringing  
13 another piece of trash into use that I will use  
14 for 10 minutes but will remain on earth for 10  
15 hundred years. I don't want to have to be in a  
16 situation where if I want a meal or a hot drink  
17 I'm going to get a portion of extra large  
18 poisonous styrene along with it. I don't want  
19 to have to give up eating at a huge amount of  
20 restaurants, not because their food is bad, but  
21 because their packaging is bad. And at least  
22 I'm fortunate enough to be able to make the  
23 choice to eat at places where they don't use  
24 polystyrene, but for people who are in a less  
25 financially fortunate situation than me will

2 have to continue eating at these places if  
3 polystyrene isn't banned. I think the worst  
4 thing about polystyrene is that this is what  
5 kids are eating off of. The government is  
6 literally feeding their children, their future,  
7 off of a poison that could negatively affect  
8 the health of kids for the rest of their lives  
9 or the health of the planet indefinitely. I'm  
10 fortunate to go to a school where the parents  
11 and the PTA had the time and resources to  
12 devote money to buying trays that would not  
13 give their children second-hand styrene as they  
14 ate off of them, but I am much luckier than the  
15 majority of New York City Public school kids. I  
16 actually had the experience of eating off  
17 school lunch trays for six years before they  
18 were replaced at my school, so I understand how  
19 these children whose only meals in a day  
20 at school are accompanied with such a  
21 detrimental problem that could be so easily  
22 fixed by banning polystyrene. I'm here to ask  
23 you to please vote for this important bill to  
24 ban polystyrene food containers from all of New  
25 York City.

2 CHAIRPERSON JAMES: Thank you, and  
3 you have a wonderful voice, and I thank you for  
4 being loud, and I think we have to do some  
5 musical chairs, okay. Let's see if you can  
6 match her enthusiasm.

7 DEBBY LEE COHEN: I'll try.

8 CHAIRPERSON JAMES: Okay.

9 [off mic]

10 DEBBY LEE COHEN: My daughter on her  
11 own will. That was her own will not my  
12 writing, her writing. Madam Chair and  
13 Committee members, thank you for allowing us  
14 this opportunity to speak in support of Intro  
15 1060A. I'm Debby Lee Cohen, Director and  
16 Founder of Cafeteria Culture which was founded  
17 as Styrofoam Out of Schools. We're a grassroots  
18 organization and we're working creatively to  
19 eliminate polystyrene trays and to achieve zero  
20 waste public school cafeterias in New York  
21 City, which actually we see as quite possible  
22 and that's very, very exciting. Our unlikely  
23 partnership with the Office of School Food in  
24 Parsons resulted in Trayless Tuesdays, which  
25 to-date has eliminated over 80 million

2 polystyrene trays from manufacturing landfills,  
3 incinerators, and our children's lunches  
4 without any additional cost to New York City.  
5 I highlight that. No additional cost to New  
6 York City for an alternative piece of service  
7 ware. Department of Education's current request  
8 for proposals or RPF for compostable plate.  
9 It's part of a collective purchasing agreement  
10 and with five other of the largest cities and  
11 the largest school districts in the US and the  
12 whole point of it is to lower the cost to make  
13 healthy alternatives an affordable option in  
14 order to replace the 2.9 million polystyrene  
15 trays that are used in those six cities  
16 including ours. I say that also because  
17 collective purchasing might be an interesting  
18 idea for us to look at and for the government  
19 to help to support in terms of restaurants  
20 coming together rather than everybody coming  
21 alone and saying, "oh, I'm suffering, and I'm  
22 suffering." We could have done that with  
23 schools too. We could have done that as a  
24 city, and we suggested to Department of Ed, the  
25 Office of School Food four and a half years ago

2 the idea of co-purchasing with LA. They looked  
3 at us like we were crazy, and guess what, four  
4 and a half years later it's actually happening.

5 The chemical styrene, it's a major component of  
6 these food containers and as you all know, it's  
7 been categorized as a reasonably anticipated to  
8 be carcinogen by the US Department of Health

9 and Human Services. Styrene is toxic and  
10 polluting from start to forever and thereafter.

11 Thirty some New York City public schools  
12 already are self-funding the additional cost of  
13 compostable trays thanks to incredible parents

14 who could afford alternatives. But guess what,  
15 we work in a lot of schools in New York City

16 where most of the parents cannot afford extra  
17 funds to switch out the trays. They have so

18 many problems and I encourage all of you to  
19 visit a cafeteria if you can in a public school

20 in New York City and see what's going on. It's  
21 pretty shocking if you haven't seen it and also

22 very moving. To date, I have yet to meet a

23 parent regardless of income, and I've met many,  
24 who when educated on styrene wants their child

25 to continue eating school food off of a

2 polystyrene tray. Serving hot acidic and fatty  
3 foods in styrene containers is a threat to the  
4 health of our children and our families and our  
5 grandparents are our neighbors, especially to  
6 those in low income neighborhoods who are more  
7 than likely to be eating off these toxic  
8 containers on a regular basis. There's really  
9 an amazingly big environmental education  
10 disparity in this city. I witness this daily  
11 as I'm in schools teaching and presenting to  
12 parents. Low income neighborhoods are still  
13 full delis, bodegas that are serving hot food  
14 in polystyrene while middle to high income  
15 neighborhoods have foam free restaurants like  
16 Starbucks and Whole Foods and probably  
17 customers who think that people don't even use  
18 that stuff anymore. I've had people say that to  
19 me. "You mean, people still use that?" And  
20 when I ask them where do they live, most of  
21 them live in mid-Manhattan somewhere. Nobody  
22 has yet to prove that these containers will  
23 ultimately cause cancer just as 40 years ago  
24 there was no proof that smoking caused cancer.  
25 Forty years passed before the tobacco industry

2 could be held accountable and there was finally  
3 enough evidence to make the case. Just imagine  
4 how many lives could have been saved during  
5 that period if legislators had decided not to  
6 wait. We now have 40 years worth of studies  
7 about styrene lynching [phonetic] into foods,  
8 and that was Brendon Sexton's [phonetic]  
9 testimony. I believe you all have a copy of it.  
10 Nobody read it out loud, but he cites many  
11 studies from the past 40 years about this. And  
12 to dismiss these as unimportant is exactly what  
13 Dart and the American Chemistry Council hope  
14 legislators will do. They're paying strategist  
15 big bucks to persuade elected officials and  
16 everybody else they can find that a food  
17 container made of toxic styrene should be  
18 considered good and worthy of recycling. I  
19 personally have washed thousands, and I mean  
20 thousands, a very, very dirty polystyrene  
21 trays. If you didn't come for the rally today,  
22 there are big puppet out there. I washed most  
23 of those trays and for many puppets that I've  
24 built with students all over New York City I  
25 can tell you first hand tomato sauce, ketchup,

2 and salad dressing which are the main  
3 components on polystyrene trays do not wash off  
4 easily and they do not wash off with cold  
5 water. It takes very very hot water. There's  
6 something different about the surface on  
7 polystyrene than other kind of plastics. That  
8 was talked about over and over again. You can  
9 wash this in a second, this kind of cup, this  
10 kind of hard rigid plastic cup. You know, it  
11 takes a second with a little bit of cold water.  
12 That is not true with a polystyrene tray and I  
13 question then who is going to be responsible to  
14 monitor any particles of styrene that may come  
15 off the tray when it's being washed with very  
16 very hot water and being scrubbed, or with  
17 great pressure. Nobody should be eating or  
18 drinking from containers made of styrene, not  
19 our kids, not our parents, not our neighbors.  
20 We have a choice, and creating a climate  
21 resilient city will take innovative design  
22 strategies and strong communities. This isn't  
23 just in terms of re-thinking construction and  
24 energy, but it's a re-consideration of  
25 consumption and post-consumption choices.

2 Polystyrene is out dated and its destructive to  
3 both our health and natural world. It no longer  
4 belongs in our City's waste management plan.

5 Congratulations and thank you for all the great  
6 work city council members that you've done. We  
7 have a stunning Solid Waste Management Plan  
8 now, and furthermore, using polystyrene has  
9 become a stigma associated with food service  
10 for low income populations. And if you haven't  
11 noticed that yet, ask some high school girls in  
12 a cafeteria. You always see you go into high  
13 schools you can see there will be a group of  
14 young girls who will not be holding a tray, and  
15 I've asked them over and over again, I said,  
16 "How come you're not eating lunch?" They don't  
17 want to be seen with a tray. I notice now that  
18 that continues. My own children, I see other  
19 children, they want to make sure they're  
20 holding a Starbucks cup. They don't want to be  
21 holding a Styrofoam cup or Dunkin Donuts cup.  
22 There's already a class issue. Look at the cups  
23 that are here. We urge you to vote for Intro  
24 1060A and to take this incredible opportunity  
25 to set our city as a leader in climate smart

2 policy, inspire other cities and they'll surely  
3 follow suit. Thank you for your dedication and  
4 everything else that you do for this city.

5           HELEN GREENBERG: Hello, I am so  
6 optimistic and I'll tell you why. My name is  
7 Helen Greenberg and I work with School Foods  
8 back in 2005 to get rid of Styrofoam lunch  
9 trays in my kid's title one school. A  
10 financial model was set up where individual  
11 schools could pay for the difference in the  
12 cost, and I'm thrilled to see the expansion of  
13 the paper pulp trays that are produced in the  
14 United States throughout the schools in New  
15 York. My mom, Doris Greenberg, she couldn't be  
16 here, but she's been a long time patient of  
17 Sloan-Kettering Cancer Hospital here in New  
18 York and she was so inspired with what we were  
19 all doing here she started questioning Sloan-  
20 Kettering with their Styrofoam cups and saying,  
21 "Hey, what's up?" And several years later with  
22 my mother really hocking them, they got rid of  
23 their Styrofoam cups. So if you have a major  
24 cancer hospital saying no more Styrofoam cups  
25 for our patients when they're sitting in their

2 chemo lounges and getting all kinds of  
3 chemicals in their body, you're going to serve  
4 hot tea in paper cups. We're not going to  
5 continue the cancer. So that's our fantastic  
6 hospital here where people come from all over  
7 the world to be treated. Dart gave  
8 Councilwoman Inez Dickens 2,500 dollars this  
9 year. Actually, more specifically, Ariana Dart  
10 [phonetic] of Sarasota gave Inez Dickens 2,500  
11 dollars this year. Her husband, Robert Dart  
12 probably would have made the contribution but  
13 he and his brother renounced their US  
14 citizenship in 2001 in order to avoid taxes. I  
15 have the link. To Ms. Dickens and the other  
16 members of the Council who received campaign  
17 contributions from Ariana Dart on behalf of her  
18 husband Robert Dart and the Dart Container  
19 Corporation, do not put the financial needs of  
20 the Dart Container Corporation ahead of the  
21 needs of the children and other citizens of the  
22 City of New York. I'm doing it. Every  
23 community in this city would suffer without a  
24 ban on polystyrene. Do not under estimate the  
25 political ramifications of this issue. Every

2 voter in the City will know how you voted on  
3 this issue. I remind the Council, you do not  
4 work for Dart. You work for New York City. Do  
5 not sell your vote to Dart. Thank you. And I  
6 am so grateful for all the work that you do.

7 CHAIRPERSON JAMES: Next panel Marco  
8 Carrion, Norman Brown, Matt Mckinney, and Paul  
9 Petron. Only two, three? [off mic] And  
10 Michael Botchner. Jennie Romer? Ms. Romer?  
11 Christopher Chin? Andrea Botenato [phonetic]?  
12 Bonaiuto? I'm sorry. How do you pronounce  
13 that? Okie dokie.

14 [off mic conversation]

15 CHAIRPERSON JAMES: Thank you.

16 BRUCE HODGES: My name is Bruce  
17 Hodges. I'm the business representative from  
18 the International Association of Machinists and  
19 Aerospace Workers. I represent workers, about  
20 130 unionized workers up at GENPAC, which is a  
21 manufacturer of polystyrene products up in  
22 Middletown, New York, about 70 miles. A bunch  
23 of them drove down today. I'd like everybody  
24 that's here from GENPAC to stand up. Stand up  
25 please. I just want you to see that--it's easy

2 to say there's 1,500 jobs upstate that are at  
3 risk with this ban. I just want you to see that  
4 there's real people attached to that. These  
5 folks good paying jobs in communities upstate  
6 where there's not a heck of a lot of good  
7 paying jobs. Very hard working folks, and this  
8 would be very detrimental to them, obviously.  
9 The Middletown plant is one of several that  
10 GENPAC has. It's strategically placed close to  
11 this market because this is their biggest  
12 market. So if this market was to dry up, then  
13 obviously the viability of that plant would be  
14 very much in question and is a good a chance  
15 that these folks would lose their jobs. And  
16 that's something that we really can't afford in  
17 upstate New York. We've already had a drain of  
18 jobs for many, many years. Some of these folks  
19 have got 25, 30 years invested with this  
20 company. And it's easy for somebody to say,  
21 "well, tough cookies. You're going to be out  
22 of a job." But, you know, tell that to somebody  
23 that's got that many years. They're within 10  
24 years of retirement. It's kind of late for them  
25 to try to start over again, and it's very

2 difficult in a lot of these communities upstate  
3 to be able to start over and get the same kind  
4 of income that they're receiving right now.

5 So, and as you look at these folks, you know,  
6 we've heard a lot about polystyrene and the  
7 dangers of it. Nobody--not to be flippant here,  
8 but nobody's got any arms growing out of their  
9 heads or anything. Everybody's in relatively  
10 good health up there at GENPAC working with  
11 this material, and people from the company can  
12 respond better than I do, but I've been there.  
13 I've been out on the shop floor. These people  
14 are very hard working people. They're committed  
15 to this business. Like I said, many of them  
16 have a lot of years and unless you just took  
17 and gutted the entire plant, the question was,  
18 "Well, can't they just convert and start making  
19 this material, these containers out of  
20 different product?" It really isn't that easy.  
21 When you're set up to make stuff with  
22 polystyrene, basically you'd have to completely  
23 gut the facility to start all over again. And  
24 as it was said way earlier today, by the  
25 Assemblyman, it's a very hard state for

2 businesses to do business in, and if a business  
3 was looking at having to do that kind of a  
4 major modification, I bet they wouldn't do it I  
5 New York State. I bet they'd go some other  
6 state. And that's something we just can't  
7 afford to have happen. So, I thank you for your  
8 time and your patience in going this late as  
9 you have today.

10 CHAIRPERSON JAMES: Thank you. You  
11 support the recycling aspect of this bill,  
12 right?

13 BRUCE HODGES: Absolutely. I mean,  
14 if there's an aspect--and the one thing that I  
15 noted during the day was that if there's  
16 exemptions like the meat containers, which they  
17 can't control, you're still going to have that  
18 in the product stream. So it makes sense to me  
19 that recycling is really the best way to go  
20 because you're still going to have that  
21 contamination because there's exemptions to the  
22 rules that you want to put in place here or  
23 that are being proposed.

24 CHAIRPERSON JAMES: Thank you.  
25 Doesn't matter.

2                   NORMAN BROWN: Well, first of all,  
3 I'm not quite sure Bruce caught the context of  
4 what you asked him regarding the recycling  
5 portions of this bill. The amendment, the  
6 particular amendment we do not support. We  
7 consider it a beard, an excuse so you can say  
8 you're in favor of recycling. It's ludicrous  
9 to think a year without any sort of test  
10 standards would be a fair examination of  
11 whether recycling is feasible or not. We've sat  
12 all day, the members here sacrificed a lot to  
13 come down here. We sat all day, heard a series  
14 of absolutely ludicrous statements coming from  
15 Mr. Fidler who's clearly close minded on the  
16 case. Had I known about his disability I might  
17 have felt different about the character of the  
18 way he attacked people. Now, the employees  
19 here, we're used to being the last people to be  
20 heard from. You've heard from everybody else  
21 in--you know, you're attempting to do something  
22 you think is very good for the environment  
23 here, and we all consider ourselves  
24 environmentalists. They consider themselves  
25 environmentalists. You know me from my work on

2 MTA Board as a Labor Representative on the MTA  
3 Board. I'm very accustomed to being on the side  
4 of the environmentalists. In coming here  
5 though today tests that common reaction I have  
6 to environmentalists. We started with this  
7 statements on the--your--Mr. Fidler's press  
8 conference to begin the day, and this  
9 individual over here the attractive hair cut  
10 stated he was not concerned about employment.  
11 That's what I expected. Haven't heard an  
12 environmentalist yet that will acutally come  
13 out and say they are concerned about  
14 employment. The lady over here said, "oh" and  
15 told one of our members, "You just have to  
16 transition." There's no transition. They're  
17 losing their jobs. Now you talk about hardship  
18 thing for the bodega owners and restaurateurs.  
19 You're talking about protecting these people's  
20 income for the length of this contract? I don't  
21 think so. Very low on your list. We've known  
22 you for a long time. Just had an election in  
23 New York, about a tale of two cities. This is a  
24 class issue. You're beating down working class  
25 people with petty little picky to increase the

2 quality of your compost. I yield to nobody in  
3 the quality of my compost. I got two compost  
4 bins in the back yard made out of recycled  
5 plastics. Put it on my grave when I die. Big  
6 deal. There's many ways to increase the quality  
7 of your compost. You're composting these  
8 people's jobs here. That's what it comes down  
9 to. And now as a union, we're never a one issue  
10 organization. We'll come to you many times in  
11 the future. You got a long career. We got a  
12 long, hopefully a long life as an organization  
13 here too and we'll do what we can on each issue  
14 one by one. We're not one issue organization.  
15 However, to our members, this is the nuclear  
16 option. You're ending their employment. Don't  
17 think you're not. Don't pretend that putting a  
18 beard on this as an amendment here. There's an  
19 excuse for taking these people's jobs. Thank  
20 you very much.

21 [off mic]

22 CHAIRPERSON JAMES: Sir, you're out  
23 of order. Thank you. Do you support any of  
24 the bills that are before us?

2 NORMAN BROWN: Yeah, the  
3 Jackson/Reyna bill.

4 CHAIRPERSON JAMES: Which is a  
5 straight recycling bill.

6 NORMAN BROWN: Yeah.

7 CHAIRPERSON JAMES: Thank you. Next?

8 NORMAN BROWN: Yeah, yeah, I'm  
9 finished.

10 MICHAEL BROTCNER: I thank Madam  
11 Chair and the Sanitation Committee for the  
12 opportunity to testify. My name is Michael  
13 Brotchner, and I am the Executive Director of  
14 Sustainable South Bronx, a non-profit  
15 organization based in Hunts Point. Today I'm  
16 here as a representative of my organization,  
17 our members, and the community at large who are  
18 working together to make the South Bronx a  
19 greener and healthier place. I'm here to  
20 express our utmost support for Intro 1060, the  
21 proposed restriction on the sale and use of  
22 expanded polystyrene. We believe strongly that  
23 the proposed legislation would reduce the very  
24 negative health and environmental impacts that  
25 polystyrene imposes on New York City,

2 especially in neighborhoods such as the South  
3 Bronx. First, the South Bronx is one of the  
4 main neighborhoods when one can see how  
5 polystyrene has a detrimental impact on the  
6 environment. Polystyrene has a strong presence  
7 in the South Bronx's restaurants and bodegas,  
8 and as a result, it's one of the reasons why  
9 the South Bronx has the lowest recycling rate  
10 of any New York City neighborhood.

11 Furthermore, Sustainable South Bronx is one of  
12 the stewards of the South Bronx Greenway and we  
13 have seen firsthand from our cleanup efforts  
14 how Styrofoam can seem to live forever in the  
15 urban environment. Second, data suggests that  
16 polystyrene is shipped out of the New York City  
17 area at a cost of 80 dollars per ton. With an  
18 estimated 20,000 tons of Styrofoam entering the  
19 City's waste stream each year, the cost to the  
20 City annually is 1.6 million dollars. These are  
21 funds that could potentially be dedicated to  
22 supporting Department of Sanitation programs  
23 that educate residents of communities like the  
24 South Bronx about the benefits of recycling.  
25 Third, beyond the impact to the waste stream,

2 we firmly believe that polystyrene has an  
3 impact on the health and well-being of  
4 individuals. Polystyrene contains toxic  
5 substances which is suspected carcinogens. The  
6 south Bronx already has significant public  
7 health issues, so we are in favor of limiting  
8 any health--additional health risks or exposure  
9 to toxins, especially when there are safer and  
10 greener alternatives to Styrofoam that also  
11 create green jobs. We urge this committee and  
12 the Council over all to support 1060 and to  
13 join other cities across the country in  
14 restricting polystyrene use. Polystyrene  
15 damages public health, serves as a barrier to  
16 recycling and wastes the City's financial  
17 resources. It's time for New York City to stop  
18 using it. Thank you very much.

19 CHRISTOPHER CHIN: In the interest of  
20 time, I'll go ahead. My name is Christopher  
21 Chin, and I'm the Executive Director at COARE,  
22 the Center for Oceanic Awareness Research and  
23 Education, and we are here to emphatically  
24 support bill 1060 to ban the use of food  
25 service expanded polystyrene, and we also

2 oppose any measure which would designate EPS as  
3 recyclable. Polystyrene litters our streets.  
4 It pollutes our streams and waterways and it  
5 poisons our oceans. The only way that we can  
6 stop finding this and having to clean it up is  
7 to actually stop using it. Styrofoam may have  
8 made sense or it may have seemed to make sense  
9 at some point, but then again, so did lead  
10 based paint and asbestos, and now we know  
11 better. Now we know that these are health  
12 concerns and we've started to move away from  
13 those. Styrofoam doesn't make sense anymore,  
14 especially when alternatives exist, especially  
15 when there are alternatives that are better for  
16 the environment and that are economically  
17 priced or that are comparably priced. I'm  
18 afraid I was misheard earlier when I--I was  
19 understood as having said that I wasn't  
20 concerned about jobs, and that is certainly not  
21 the case. What I was saying is that jobs are  
22 not a concern. Bill 1060 will not threaten  
23 jobs in New York City. It will not threaten  
24 jobs in New York State or anywhere else. Nearly  
25 every manufacturer of polystyrene of expanded

2 polystyrene in this state manufactures other  
3 products. In fact, if you look at GENPAC's  
4 website, their front page features almost a  
5 dozen different things. None of those are made  
6 from expanded polystyrene. As far as the cost  
7 and the effect on small business, this is  
8 certainly something that is a concern as well,  
9 but unfortunately right now, some retailers or  
10 some distributors see some of all these  
11 alternative products as more of a boutique  
12 item, and they're not easy to come by. So it's  
13 sort of like buying that can of oil at the gas  
14 station. That's not where you want to get it.  
15 So in California we've done a lot of co-opting  
16 and there have been a lot of collective buying  
17 and it's--we find that it's easier to find  
18 those price points of up to two cents or a  
19 penny, or sometimes they're even less for the  
20 alternative products. This is not a nanny law.  
21 This is smart legislation that can help guide  
22 public perception. Without smart policy we'd  
23 still be driving around without seatbelts.  
24 We'd be smoking on air planes, and we'd still  
25 be using lead based paint. Recycling is not the

2 answer. This material is not easily  
3 recyclable. Even in California where we try,  
4 where we try earnestly to recycle polystyrene,  
5 it just isn't happening. Only a minuscule  
6 amount is actually being recovered. So, 1060 is  
7 the right thing to do. Even if you believe  
8 that recycling will work or has the potential  
9 to work, there's the clause in there that will  
10 allow this to happen. So there's no reason to  
11 vote against this bill. So even if you believe  
12 recycling's the right thing to do and will  
13 work, please vote for this as well. 1060 is the  
14 right thing to do now and it's the right thing  
15 to do for our future.

16 JENNIE ROMER: Hi, thank you for  
17 having me. My name is Jennie Romer. I'm an  
18 attorney and I work pro-bono. I've worked pro-  
19 bono for the last five years in building,  
20 developing a informal coalition or network of  
21 cities around the country and non-profit groups  
22 that care about this issue. So, I--it's  
23 unfortunate that Council Member Jackson is not  
24 here because I have an answer to his question.  
25 He said that someone was not telling the truth,

2 and I'd like to point that Dart has a history  
3 of obstructing the truth. In 2010 the  
4 Sacramento County District Attorney  
5 investigated Dart's recycling claims, and  
6 issued a cease and desist order, because they  
7 felt that Dart wasn't telling the truth. And  
8 also Dart says that they recycle food service  
9 EPS in LA, yet you can point--I'd like to point  
10 to the letter from LA city that said that's not  
11 happening, and the report from the Los Angeles  
12 Department of Public Works that says that's not  
13 happening for food service EPS. They can't point  
14 to a single successful EPS recycling program in  
15 the country, and they've had a lot of time to  
16 do it, but I've seen this happen in a lot of  
17 other cities, exactly the same thing. It's like  
18 groundhog's day. Dart comes in and says like  
19 with the same thing with the city of San Jose,  
20 "Oh, give us a year and we'll develop a great  
21 recycling program." But it just doesn't happen.  
22 It's a great delay tactic to make sure that the  
23 City Council doesn't take any real progressive  
24 action on the issue. And then next I'd also  
25 like to just point out that the American

2 Chemistry Council funded the restaurant group  
3 that was here earlier today, the Restaurant  
4 Alliance, and the people that were giving  
5 testimony were influenced by the American  
6 Chemistry Council or at least they were given--  
7 they were given information, all the statistics  
8 by the American Chemistry Council and it wasn't  
9 out of the American Chemistry Council's, you  
10 know, good will. It was an attempt by chemical  
11 lobbyist to preserve and--to preserve the  
12 marketplace for their product. So I'd just like  
13 to make sure that you take that into account.  
14 And same for--and as Christopher mentioned,  
15 GENPAC makes a lot of other types of products  
16 and we're seeing companies transition to  
17 alternative products. And that transition just  
18 happens faster when there is a ban, when the  
19 demand for Styrofoam goes down the demand for  
20 other types of products goes up. And as far as  
21 the cost to local businesses of these  
22 alternative types of products, I volunteered  
23 for a couple years with the San Francisco  
24 Department of the Environment, so I can attest  
25 that they threw really great fairs about six

2 months before that legislation went into  
3 effect. After it was adopted, because they  
4 didn't want to spend the time and energy and  
5 money to have these fairs before the ban was  
6 adopted, but after it was adopted they had  
7 great fairs where they had manufacturers come  
8 in to various districts in San Francisco and  
9 show what types of products they had and how  
10 much they cost and that way local businesses  
11 could get better prices for those products. So  
12 these options are available. It's worked  
13 elsewhere. There are 100 jurisdictions and it  
14 can work in New York City. Thank you.

15                   ANDREA BONAIUTO: Hello. My name is  
16 Andrea and I work for a great company called  
17 Susty Party. Susty is short for Sustainable,  
18 and yes, you guys have in front of you a couple  
19 of little like promo post cards that show--they  
20 have our wonderful compostable products on  
21 them. Now, we're based in Brooklyn and we are a  
22 very small company. As of a year and a half ago  
23 there were two employees, the co-owners, and  
24 you know, they--it stayed that way for a couple  
25 of years, but as of a year and a half ago it

2 was two. Now we have six, and our cups that  
3 you actually see on the little post card right  
4 here are made by 75 percent blind labor. So we  
5 work with a wonderful facility that trains and  
6 employs blind and visually impaired individuals  
7 for green collar jobs. And they make all of our  
8 cups along with a variety of other products.  
9 And we've made six jobs for the blind so far,  
10 just in our cup production and we're on track  
11 to make about 26 by the end of 2014. So we're  
12 very proud of that and we're very happy about  
13 that. And I'm sure our home base, our office  
14 here is going to grow tremendously in the next  
15 year as well. So, we talk about making jobs.  
16 You're looking at a company right here that is  
17 definitely expanding rapidly. We also make  
18 plates, bowls, straws, napkins, the first ever  
19 bio-plastic table cloth, a variety of other  
20 products all made in the USA, all completely  
21 compostable, and everything's non-toxic.  
22 Everything's renewable. So we definitely meet  
23 those standards, and we are a small company. We  
24 have been, you know, struggling, penny pinching  
25 for a long time, but we are also a B

2 corporation, which means that we hold our  
3 economic, social, and environmental values  
4 equal. So we definitely take all of those  
5 aspects into account working with blind and  
6 visually impaired individuals and then also  
7 obviously the environmental side, and then  
8 economically, it is a business. So we  
9 definitely have to expand and grow to create  
10 more of a market for compostable products, and  
11 we've seen that market grow. We work with huge  
12 organizations, corporations like Ironman  
13 [phonetic]. We supply all of their cups.  
14 Barracuda is a very large company that we  
15 supply all of their compostable table ware for,  
16 etcetera, etcetera. So I just wanted to make  
17 the point that the market is growing and we  
18 would love to work with any City Council  
19 Members on providing the compostable tableware  
20 that, you know, restaurant owners need. We do  
21 have those nine inch three compartment plates  
22 that someone was mentioning before, and then  
23 the cups that you also see here are lined with  
24 a polylactic [phonetic] acid. There minutes  
25 already? A PLA which is--basically it's a

2 paper cup, but that thin PLA lining which is  
3 also compostable allows it to be hot or cold.  
4 So there are very much different alternatives  
5 and technologies available, and at the same  
6 time we're making new technologies to actually  
7 make it happen, whatever it is that we want to  
8 do.

9 CHAIRPERSON JAMES: So can you talk a  
10 little bit about cost? What are the costs of  
11 this product compared to foam products?

12 ANDREA BONAIUTO: So, you know, I  
13 wasn't really sure what to expect here so I  
14 didn't prepare an entire list of the costs,  
15 but the products that you see on this guy here,  
16 and I have some straws, whoever wants to take  
17 them you're more than welcome.

18 CHAIRPERSON JAMES: Okay.

19 ANDREA BONAIUTO: The cost really  
20 depends on volume.

21 CHAIRPERSON JAMES: Okay.

22 ANDREA BONAIUTO: So we do we have a  
23 whole retail line and those costs are obviously  
24 not very economical if you're talking about  
25 like the restaurant. They're great for parties.

2 And then we do have a bulk side that comes in  
3 loose cases. They're not in retail packs, and  
4 anywhere from one case to 10,000 cases we can  
5 handle.

6 CHAIRPERSON JAMES: Okay.

7 ANDREA BONAIUTO: And again, those  
8 prices do vary depending upon the quantity. You  
9 know, it just comes down to like shipping costs  
10 and everything else. So, we--it--we've  
11 definitely priced it out next to competition,  
12 next to non-compostable and it is more, but it  
13 doesn't have to be that much more.

14 CHAIRPERSON JAMES: And to the other  
15 young lady, the restaurants that testified  
16 earlier, clearly the cost of the product was  
17 more.

18 ANDREA BONAIUTO: Yes.

19 CHAIRPERSON JAMES: You know, you  
20 can't argue against that. What do you say to  
21 those restaurants. I know you indicated that  
22 they were influenced by the Restaurant  
23 Association. That may be true, but the reality  
24 is is that the document they presented to us  
25

2 doesn't suggest that there is a higher increase  
3 associated with this product.

4 JENNIE ROMER: Right, and I'd be  
5 happy to talk to my contacts in San Francisco  
6 that put together that fair I mentioned to get  
7 some prices to you.

8 CHAIRPERSON JAMES: Okay. And in  
9 regards to the business upstate, is this the  
10 only product that you manufacture? Someone  
11 indicated that they checked your website. It's  
12 the only--

13 NORMAN BROWN: [interposing] Yes,  
14 just another--well, you know, it's one thing to  
15 throw stones about misinformation, but it's  
16 another-- I mean, they can sit and repeatedly  
17 say, "Oh, yeah, they can change to something  
18 else." Lou was telling them they should start  
19 making paper cups. I mean, it's--I'm a  
20 mechanic; it's ridiculous. Now, but the--you  
21 know, the short answer is, no. Their jobs are  
22 exclusively dedicated to--excuse me, not Dart,  
23 but GENPAC as a corporation, I didn't look at  
24 their website. I don't live on the computer.  
25 You know, the website may show they do, GENPAC

2 as a corporation may have many different  
3 products. I'll yield that they are trying to  
4 be truthful in their view of truthfulness, but  
5 the--in this particular location they're  
6 dedicated--their operation is dedicated to  
7 manufacturing food containers, not packaging  
8 products, not other types of polystyrene. You  
9 got something to say, Bruce?

10 BRUCE HODGES: Well, no. They do  
11 like a plastic kind of a plate up in  
12 Middletown, but their major--and like I said, I  
13 think the representative of the company can  
14 answer that better, but their major product is  
15 polystyrene material. They do have other  
16 materials that they can make there. They do,  
17 but their big runner, the big revenue generator  
18 for them are the Styrofoam containers like for  
19 take-out service.

20 CHAIRPERSON JAMES: Thank you. Brad,  
21 you have a question?

22 BRAD REED: Sure. I realize this  
23 hearing has become a test of stamina and  
24 everyone here has passed. But one of the  
25 people that was going to be on this panel is a

2 salesman from Penn Jersey Paper, and I just  
3 wanted to say since we're talking about cost of  
4 alternative products, they actually before they  
5 left they left a price guide, foam versus their  
6 other offerings, foam versus compostable plate.  
7 It was one penny difference. Container, they  
8 have different sizes, like clam shell  
9 containers, but it was roughly one to three  
10 cents difference for a non-compostable  
11 alternative, and starting at seven cents for a  
12 compostable. And for a hot cup, if you want to  
13 go to a hot cup, two cents difference. So I  
14 just wanted to get that into the record. Thank  
15 you.

16 CHAIRPERSON JAMES: This panel,  
17 thank you for your stamina. Maggie Clark,  
18 Doctor Maggie Clarke and Jason Merrit. There's  
19 one more. Sorry. You can begin your testimony,  
20 and after her testimony, the last panel is  
21 primarily representatives from Dart  
22 Corporation, and that's the last remaining  
23 panel.

24 MAGGIE CLARKE: I'm Maggie Clarke.  
25 I have a PHD in Environmental Science. I have a

2 great deal of expertise/experience in solid  
3 waste, zero waste, since the 1980s. The idea of  
4 requiring manufacturing changes to reduce  
5 pollution is not new. The Pollution Prevention  
6 Act of 1990 was the first, but more recently  
7 there are laws enacted at all levels of  
8 government with the purpose of making  
9 manufacturers more responsible to take back  
10 hard to reuse or recycle products. This was  
11 called Extender Producer Responsibility. One  
12 hoped for outcome of EPR laws is to motivate  
13 manufacturers to design products with the  
14 environment in mind. But such redesign is not  
15 insured by these laws. In other cases where a  
16 product is causing harm to the environment, a  
17 ban is the most reliable option to accomplish  
18 this. Bee harming pesticides have been banned  
19 in Europe because of course we need bees in  
20 order to have food and live. Coal tar pavement  
21 products have been banned in the District of  
22 Columbia due to their health effects and  
23 toxicity to the environment. Sweden has banned  
24 mercury containing products from being sold  
25 since mercury is toxic to many species.

2 Polystyrene is also bad for the environment in  
3 many ways and that's why over 100 cities have  
4 banned it. Suffolk County on Long Island was  
5 the first US jurisdiction to institute a ban on  
6 polystyrene food packaging in 1988. By the  
7 way, all of these statements are footnoted and  
8 you can look them up if you've got a copy of  
9 this. Following are some descriptions of some  
10 environmental impact to polystyrene manufacture  
11 and disposal. A brief evaluation of  
12 recyclability and alternative and my  
13 recommendations. With regard to landfills, the  
14 length of time to degrade in the environment  
15 commonly cited 500 years in landfills is based  
16 on respirometry tests done by the garbage  
17 project of the University of Arizona. 1986,  
18 EPA had a report on solid waste which named  
19 polystyrene manufacturing process as the fifth  
20 largest creator of hazardous waste. In the  
21 ocean, polystyrene and other plastics are  
22 concentrated in areas heavily littered with  
23 plastic debris such as the five ocean gyres.  
24 It's not just the one in the Pacific and not  
25 just the one in the Atlantic. There are five.

2 The other three are in the southern hemisphere.

3 In areas where the water temperature is lower,  
4 polystyrene is ingested by marine animals. I'm

5 sure we're all familiar with that, but there's

6 a recent study which shows an additional

7 problem in the ocean. So in addition to these

8 trash gyres consisting of plastic fragments, a

9 recent study indicates that polystyrene starts

10 to break down above 86 degrees Fahrenheit,

11 which is regularly attained in tropical and

12 subtropical waters. Produced by experiment,

13 styrene trimer was left in the water. It's a

14 polystyrene bi-product, a suspected carcinogen,

15 has in some studies indicated thyroid hormonal

16 disruptions and is a nervous system toxicant.

17 In ground water, styrene acrylonitrile or sand

18 trimer, a bi-product of the production of

19 acrylonitrile, styrene plastics was identified

20 as one of the ground water contaminants at

21 Reich Farm Superfund Site in Toms River in New

22 Jersey, resulting in a childhood cancer cluster

23 there. There've been studies published by the

24 Foundation for Advancements in Science and

25 Education, determining that polystyrene

2 drinking cups leads materials into the liquids.  
3 We've heard about that. The CDC states that  
4 our bodies contain styrene. Styrene is well  
5 absorbed by inhalation and oral routes, poorly  
6 absorbed through the skin, and once absorbed,  
7 styrene is widely distributed through the body  
8 with highest levels in the fat. We certainly  
9 don't need any more of a body burden and of  
10 course, many of these things that are in the  
11 fat or in the body that stays in the body for  
12 any length of time combines with other kinds of  
13 carcinogens which come into the body and we're  
14 exposed to so many we can't list them all, and  
15 those have synergistic effects with one  
16 another, and so, you know, as with the World  
17 Trade Center air which had so many carcinogens,  
18 that's why we have so many different types of  
19 cancers. So we don't want to be adding to our  
20 body burden. In the air, the National Burden of  
21 Standards Center for Fire Research identified  
22 57 chemical by-products released during  
23 combustion of polystyrene foam, some of which  
24 are carcinogenic, for example, benzene and  
25 toluene. At higher temperatures combustion

2 produces CO2 which of course is a greenhouse  
3 gas, and carbon monoxide which is a pollutant  
4 that affects human health in many ways,  
5 including headache, dizziness, and so forth by  
6 starving the blood for oxygen. Therefore, both  
7 manufacturer and incineration and polystyrene  
8 can produce adverse impacts on human health.  
9 With regard to the recyclability I have a few  
10 short comments. There's no argument that you  
11 can recycle clean polystyrene. However, foam  
12 polystyrene is 90-95 percent air making  
13 shipping to markets difficult and costly.  
14 Trucking it to disposal or market adds  
15 proportionately to air pollution and greenhouse  
16 gas emissions compared with other denser  
17 materials. The Resource Recycling magazine,  
18 which is one of the places that the recycling  
19 community goes to for information, in their  
20 most recent issue said that there is lack  
21 luster demand and ample supply which continue  
22 to push recycled polystyrene prices lower in  
23 November of this year. So the market is not  
24 very good. That makes--that impacts the  
25 recyclability, of course. The cost of

2 recycling polystyrene foam is very expensive  
3 and citing a 2006 California Department of  
4 Conservation report, the processing of foam  
5 costs 3,320 dollars a ton compared with about  
6 89 dollars a ton for glass. And with regard to  
7 New York City, this isn't in the remarks, but  
8 we must remember that New York City's capture  
9 rate and its recycling programs is only 50  
10 percent. So half of any polystyrene that would  
11 be collected in any new recycling program for  
12 it would still be disposed of. You wouldn't be  
13 recycling 100 percent of any such new recycling  
14 program. They'll be plenty left as litter as  
15 well, which will end up in the ocean. And this  
16 is why recycling in this case and in most cases  
17 is the worst environmental choice compared to  
18 prevention. That's why the hierarchy says  
19 prevention, re-use, recycling and so forth in  
20 that order. There are alternatives. They've  
21 been spoken about. I don't need to repeat that.  
22 They're environmentally friendly. And I'll wrap  
23 up that since prevention of pollution is always  
24 superior to recycling, I therefore urge a vote  
25 against both Intro 380 and the pre-considered

2 bill as need to pursue pilots to recycle  
3 organics and materials that are much more cost-  
4 effective than polystyrene would be. I  
5 recommend a vote in favor of 1060A to ban  
6 polystyrene and in favor of Intro 369 to  
7 require food service containers be made of  
8 materials currently designated as recyclable in  
9 New York City.

10 CHAIRPERSON JAMES: Thank you, Doctor  
11 Clarke. Is there any questions? Thank you,  
12 Doctor Clarke. Our last panel is--take care.  
13 Good night. Rod Kucera, James Cusma, Moishe  
14 Grossman, Betsy Stiner, Darren Suarez, Michael  
15 Kahoe, Mark Spencer, and the next--I'm going to  
16 call up the next few names and you can sit in  
17 the first row. Paul Poe, Edward Rider, and  
18 James Eli--Eei? James Ei [phonetic]. Thank  
19 you.

20 MARK SPENCER: I'd like to thank the  
21 Chair and the Council for letting us testify  
22 tonight. My name is Mark Spencer, I'm the  
23 business manager for Sustainability for Pactiv.  
24 I've worked for this company for over 30 years.  
25 Most recently in new product development where

2 my responsibilities include developing new  
3 sustainable packaging materials for the food  
4 service market. Pactiv is one of the largest  
5 food service packaging companies in the United  
6 States and we manufacture all different types  
7 of packaging, not just polystyrene foam.  
8 You'll hear today that foam is a safe  
9 recyclable and vey green material. I've also  
10 included in my packet some detailed information  
11 about the city of Highland Park where we have  
12 been successfully recycling foam for over two  
13 years. Pactiv has over 54 manufacturing plants  
14 throughout the world, but our largest plant is  
15 right here in New York State. It's located in  
16 Canandaigua, New York, right between Syracuse  
17 and Rochester, and it's in Ontario County. Our  
18 plant has over 800 full time skilled and part  
19 time employees. We are Ontario County's second  
20 largest employer. We pay over 44 million  
21 dollars in payroll and benefit dollars every  
22 year, and we spend over 6.5 million per year on  
23 electrical power annually. We have over 220  
24 acres in size and we've been in business since  
25 1965. We are responsible corporate citizen and

2 we share New York's desire to protect the  
3 environment. Our track record shows this. This  
4 plant which is right in your backyard makes  
5 foam food service packaging and these types of  
6 bans on specific material are devastating to  
7 our employees, local suppliers and the New York  
8 State economy. What you may not know is that  
9 the unintended consequences of a foam ban takes  
10 jobs out of New York and moves them to Asia.  
11 The majority of green materials that you are  
12 forcing restaurants to switch to come from over  
13 seas at two to three times the price. The next  
14 logical choice for packaging once you ban foam  
15 is molded fiber, which is the next lowest cost  
16 material and that comes from bamboo, begass  
17 [phonetic] or sugar cane. I urge you to vote  
18 no on this ban, especially 1060, and support  
19 New York jobs in its economy. Thank you for  
20 your time and please consider recycling these  
21 materials. We've also brought some employees  
22 that would like to talk too.

23 JIM CUSMA: Thank you for allowing  
24 us to speak today. My name is Jim Cusma  
25 [phonetic]. I'm in my 18<sup>th</sup> year with Pactiv at

2 the Canandaigua plant. We make a single-use  
3 food service and consumer packaging product.  
4 The Pactiv plant in Canandaigua has been an  
5 active service since 1966 and employs over 800  
6 people. I'm one of those 800, the guy that, you  
7 know, they don't care about the job, if he's  
8 got a job or not. Well, I do. Alright? I got  
9 four kids, nine grandchildren that depend on  
10 me, okay? So saying that the job doesn't  
11 matter is wrong. In making the largest private  
12 employer in Ontario County is Pactiv. One  
13 reason why we're so successful is that we ship  
14 millions of pounds per year of safe and cost-  
15 effective foam and oriented polystyrene  
16 containers to New York City for use by your  
17 restaurants, street vendors, hotels,  
18 businesses, schools, and the ordinary citizen.  
19 I heard somebody saying that they weren't going  
20 to be allowed to sell it in stores, is that  
21 correct or no? So you're telling me as a  
22 private citizen I can't buy something? That I  
23 use everyday. That doesn't make sense to me.  
24 We're all concerned that some of us will lose  
25 our jobs at the proposed legislation to ban the

2 use of polystyrene food service containers by  
3 the New York restaurants and street vendors is  
4 passed into law. It is an unfair ban that will  
5 have a negative impact on the hard working  
6 people of Canandaigua, New York and other  
7 upstate communities. The truth is polystyrene  
8 is recyclable. We do it every day at our  
9 Canandaigua plant on a large scale. Every piece  
10 of scrap that comes out of our machines is  
11 captured in tubs, taken into the reclaim room,  
12 reprocessed, re-pelletized and brought back out  
13 to the extruders and made into foam plates,  
14 foam cups, foam balls. Rather than banning  
15 polystyrene product and just shifting the  
16 problem, the use of other packaging material  
17 like coated paper could cost more as paper  
18 weighs more and the cost of shipping is  
19 greater. Therefore, costing not only the  
20 vendors more, but the consumers who frequent  
21 these businesses. So in closing, as the father  
22 of four and the grandfather of nine, I ask you  
23 to vote no on this ban of the use of  
24 polystyrene foam materials and I ask you to

2 reconsider the recycling. And thank you for  
3 allowing me to speak today.

4                   ROD KUCERA: Good evening, Madam  
5 Chair and Council Members. My name is Rod  
6 Kucera and I am not a lobbyist. I was raised  
7 in Binghamton, New York and I've lived in  
8 upstate New York most of my adult life. I  
9 graduated from Rochester Institute of  
10 Technology with a Bachelor of Science in  
11 Mechanical Engineering in 1990, and I've worked  
12 at Pactiv continuously now for the last 23  
13 years. I currently live in Fairport, New York  
14 with my wife and four children. We've move out  
15 of state with the company twice during my  
16 career with multiple year work assignments at  
17 Pactiv's other locations in Covington, Georgia  
18 and Corsicana, Texas, but each time we have  
19 voluntarily elected to relocate back to New  
20 York because we love it here. The landscape is  
21 beautiful. The schools are exemplary, and the  
22 quality of life is second to none. I am  
23 currently the plant manager of Pactiv's  
24 Canandaigua, New York facility, and we made the  
25 six hour drive to New York City last night, Jim

2 and I did, to voice our strong opposition to  
3 the proposed legislation that would unfairly  
4 ban the sale and use of polystyrene foam  
5 containers by city restaurants and street  
6 vendors. Now, we also got lost last night  
7 trying to find our hotel and saw a lot more of  
8 the City than we had bargained for. Pactiv is  
9 one of the leading suppliers and manufacturers  
10 of plastics, food service packaging products as  
11 Mark indicated, including the polystyrene foam  
12 henchley [phonetic] containers, plates, bowls,  
13 and school lunch trays, the proposed ban would  
14 directly impact. Pactiv's Canandaigua plant is  
15 one of our largest manufacturing facilities and  
16 we would be seriously impacted by the proposed  
17 legislation since we currently supply New York  
18 City area restaurants, street vendors, hotels,  
19 businesses, schools and ordinary citizens with  
20 millions of pounds of safe and very cost-  
21 effective foam containers. And I just do want  
22 to point out that expanded foam polystyrene is  
23 considered to be a plastic compound and food  
24 service containers are not beaded polystyrene.  
25 So they don't break down into little pieces as

2 was erroneously claimed earlier today. I'm  
3 extremely proud to share with you that Pactiv  
4 Canandaigua plant has been in continuous  
5 operation as Jim and Mark indicated since 1966  
6 and that we continue to invest millions of  
7 dollars in our plant in our community. The  
8 Canandaigua site also includes an 800,000  
9 square foot regional mixing center, which is a  
10 distribution center for Pactiv and a technology  
11 center that houses Pactiv's state of the art  
12 materials development technology and also a  
13 Reynolds Consumer Products Customer Service  
14 Calls Center. All include, Pactiv's  
15 Canandaigua's site has over 800 full time  
16 skilled and part time employees. These include  
17 salaried managers, engineers, scientists,  
18 specialists and hourly associates like Jim. We  
19 are Ontario County's largest private employer  
20 with annual payroll spending of over 44 million  
21 dollars per year, and that's in salaries and  
22 benefits. We also spend over 6.5 million  
23 dollars per year for utilities and 7.6 million  
24 dollars per year in corrugated that we purchase  
25 from a packaging corporation of America plant

2 located in Syracuse, New York. Not to mention  
3 the millions of dollars per year that we pay in  
4 state and local taxes and spend in our upstate  
5 community for goods and services to support the  
6 plant operations. It's a sad reality that the  
7 proposed ban of foam polystyrene containers  
8 that is being discussed today will result in  
9 job losses in Canandaigua and throughout New  
10 York State. The ban would likely shift jobs  
11 from New York to other states or countries like  
12 China that make similar products out of  
13 different materials like paper or begass  
14 [phonetic]. Doing so will be another  
15 devastating blow to New York's recovering  
16 manufacturing sector and is completely  
17 unnecessary. Rather than unfairly ban foam  
18 polystyrene containers, why not recycle them  
19 like we do every day in our plant? We frankly  
20 would not be a viable business if we were  
21 unable to cost-effectively recycle foam  
22 polystyrene scrap. I'm also pleased to report  
23 to the Council that Pactiv's Canandaigua plant  
24 recently began using virgin polystyrene resin  
25 with post-consumer recycle content. So there

2 is a market for this material contrary to what  
3 was said earlier today. So let's work together  
4 to address a litter and landfill issue in a  
5 more constructive manner for our largest city  
6 and the fine citizens of New York State. Thank  
7 you for your time in allowing me to speak  
8 today. Please oppose the proposed ban and  
9 support the recycling bill. Thank you.

10 CHAIRPERSON JAMES: Do you want to  
11 get back through Rochester?

12 ROD KUCERA: Pardon me?

13 CHAIRPERSON JAMES: You got lost  
14 coming here. Do you know how to get back? It's  
15 a joke.

16 ROD KUCERA: I think we might stay  
17 the night. It's getting a little late.

18 DARREN SUAREZ: Members of the New  
19 York City Council, thank you for your time  
20 today. I'm Daren Suarez from the New York  
21 State Business Council, and the Business  
22 Council urges the member in the New York City's  
23 Council to listen and to wait--listen to the  
24 waste and toxicology experts and the large and  
25 small businesses from New York City and across

2 New York State, and today I urge the City  
3 Council to reject the prohibition of the widely  
4 used safe, clean, and recyclable product. The  
5 Business Council is the leading business  
6 organization in New York State representing the  
7 interests of small, large businesses throughout  
8 the state. Over 75 percent of our members are  
9 small businesses and many of those businesses  
10 are located right here in New York City. The  
11 Business Council of New York State is just one  
12 of many organizations representing a  
13 significant number of people who believe that a  
14 prohibition on polystyrene food containers is  
15 unwise and unwarranted. There's little doubt  
16 that a prohibition will have significant cost  
17 to the City's businesses. Small restaurant  
18 owners have testified that a ban will cause  
19 them economic hardship that could change their  
20 employment levels. Additionally, you've heard  
21 from businesses and facilities that could not  
22 easily retool to produce non-polystyrene  
23 products and the effects on their employment  
24 levels. You've also heard today about the  
25 merits of the adoption of a recycling program.

2 We strongly support the adoption of such a  
3 program. Members of the business community are  
4 committed to the development of polystyrene  
5 recycling program that works for New York City,  
6 and they will also include the subsidization of  
7 the market for post-consumer styrene materials.  
8 The development of markets for post-consumer  
9 waste often requires intervention to develop a  
10 specific marketplace for that material. New  
11 York has an opportunity to be a leader in the  
12 development of a market of a post-consumer  
13 waste polystyrene. In this discussion today,  
14 the food safety benefits of polystyrene and  
15 food safety packaging cannot be lost.

16 Polystyrene packaging meets the needs of  
17 demanding consumers who often require an  
18 economical and high quality food service  
19 products. Consumers enjoy the benefits of  
20 sturdy and strong polystyrene food containers  
21 and polystyrene packaging insulates extremely  
22 well to maintain food temperature, which can  
23 reduce food waste due to spoilage or damage and  
24 packaging leakage. The US Food and Drug  
25 Administration which regulates the safety of

2 food contact packaging has approved the use of  
3 polystyrenes since 1958, and so to have  
4 governments around the world. The Business  
5 Council strongly supports government actions to  
6 address real environmental and health issues  
7 including climate change, consumer safety,  
8 recycling and remanufacturing, but we are  
9 concerned that fears and misinformation at  
10 times drive government action and not science  
11 and reason. Today, you have heard from numerous  
12 experts and I urge you to continue to do your  
13 due diligence to listen to all sides before the  
14 advancement of a prohibition of this product.  
15 You've heard a significant amount of  
16 conflicting material today and it behooves you  
17 and the people of New York to not rush to  
18 judgment and instead investigate some of the  
19 conflicting statements. Thank you very much.

20 MOISHE GROSSMAN: Good evening,  
21 Council Members and thank you for giving me the  
22 time, the overtime actually to give my short  
23 argument over here. I'll be very down, you  
24 know, and without even using my paper and talk  
25 to the people over here. I actually deal with--

2 my name is Moishe Grossman. I own a company  
3 called All One Source Supplies in New York  
4 City. For the last 10 years I have been--prior  
5 to that 15 years a buyer at a larger company  
6 which is now in New Jersey. I am a customer of  
7 all three of the Styrofoam manufacturers that  
8 happen to be here, but I'm not being paid off  
9 from anybody. As of 9:00 this morning I was in  
10 credit hold by all three manufacturers. I am a  
11 Sandy survivor. My business was located in  
12 Greenpoint, New York right off the water and my  
13 entire warehouse and computers, everything was  
14 totally destroyed, and thank God my warehouse  
15 was full of Styrofoam. Would it had been  
16 paper, I wouldn't have been sitting here. I  
17 would have been out of business. So, that's  
18 what I'm trying to put some humor to my--into  
19 this situation. And--

20 CHAIRPERSON JAMES: [interposing] is  
21 your warehouse over on Troy Avenue?

22 MOISHE GROSSMAN: I--now I am on  
23 Troy Avenue. We moved actually November 1<sup>st</sup> of  
24 right now, just--

2 CHAIRPERSON JAMES: [interposing]

3 Over near--

4 MOISHE GROSSMAN: [interposing] just  
5 my birthday of Sandy.

6 CHAIRPERSON JAMES: Near Albany  
7 Public Housing?

8 MOISHE GROSSMAN: I'm not familiar  
9 with the neighborhood. If it's that old  
10 Enterman's [phonetic] building, if you--okay.  
11 Just to add onto that, the color of my face  
12 looked different prior to Sandy. This is all  
13 stress related what you're looking at right now  
14 and I hope it's going to be behind me one day.  
15 So as a distribute again, I could sell foam. I  
16 could sell paper, whatever it is, but I am a  
17 New York City--I was born, raised in New York,  
18 as resident of New York and again, being hit by  
19 Sandy--every distributor my size, if they had  
20 to make a move, the next move was to New  
21 Jersey. I decided to stay in New York City  
22 because I like New York City and I deal with  
23 New York City vendors and that makes my  
24 business more exciting for me, and I all can  
25 tell you right now is I like the way everyone

2 breaks it down to pennies. Two cents per cup  
3 and people think, "What is two pennies? What's  
4 two pennies all about?" Well a case of cups is  
5 a thousand cups in a case, two pennies times a  
6 thousand, 20 bucks a case. The manufacturer on  
7 my left side over here, they probably bring in  
8 from Canandaigua, New York a trailer load of a  
9 product which is less than 10,000 dollars a  
10 load. The same truck--they are also  
11 manufacturers of paper, okay? Now whoever  
12 spoke about the Trayless Tuesdays, which was  
13 represented to the City of New York, Pactiv is  
14 the manufacturer from the Trayless Trays for  
15 Tuesday, which is a paper product, and that  
16 trailer load is at least twice amount of  
17 dollars per weight in the container than  
18 Styrofoam that they're bringing into New York.  
19 So, hey, why do they--why sell foam? Sell the  
20 paper. It's a bigger--you know, you bring in  
21 more, your you sell more, but no, they're  
22 looking at the New York market, metro New York  
23 can pay the price. We try to help the New  
24 Yorkers. And again, misleading information.  
25 Trayless Tuesdays, I'm not going to break it

2 down to pennies. It's three dollars per case  
3 more for the City of New York. So whoever said  
4 before that it was at no cost more for the  
5 City, it's wrong information. I am saying  
6 facts. I know my studies and I'm saying fact.  
7 And if Councilman was there to say I should  
8 raise my right hand, I'm here to raise it. I'm  
9 saying these are facts over here. So let's not  
10 break it down to pennies. It's a lot of money.  
11 These poor people that were sitting here before  
12 and saying the Styrofoam and even Penn Jersey  
13 Paper over there, again, breaking it down to  
14 pennies. It sounds like nothing, but when you  
15 deliver a truck load, like I said before,  
16 10,000 dollars to the distributor and let's say  
17 the distributor delivers down to the same big  
18 restaurant supplier, puts on his little mark-  
19 up. It's 11,000 dollars. The same product. If  
20 it would have been paper, again, from the same  
21 manufacturers, it's two or three times the  
22 amount. The case of eight ounce hot cups made  
23 in USA, I would say the lowest price would be  
24 probably between 25 and 28 dollars, which the  
25 same load would be 25,000 dollars, and I don't

2 know when it comes down to pennies what it  
3 comes down, but between 10,000 and 25, that's a  
4 lot of dough. I can tell you that.

5 CHAIRPERSON JAMES: Tuesday's they  
6 buy in bulk and that's why there's savings.

7 MOISHE GROSSMAN: It's the--Trayless  
8 Tuesday is 500 per case on a little three pound  
9 bolt versus the tray, but again, the same case  
10 five compartment tray, the cost to the City is  
11 15 and a half dollars. Cost of the Trayless  
12 Tuesday is 18 and a half dollars. They're  
13 still paying more money for the piece of paper  
14 product. So it's not like they're saving  
15 anything. I know going into the technicality of  
16 the recycling versus non-recycling. That I'll  
17 leave to the bigger people out there. And what  
18 they said before that the people were losing  
19 their jobs is very simple. All these  
20 manufacturers from Dart to GENPAC to Pactiv,  
21 they all have paper manufacturers, but they're  
22 on other sides of the country. So they're not  
23 going to bring it over to New York because we  
24 have to be nice to the people of New York. If  
25 foam is banned in New York, the employees are

2 banned. They're out of the door. Then they  
3 make the product. And one thing I have to add  
4 on which no one said it today, and that's  
5 something I'm saying new tonight. He was saying  
6 that a paper comes from the Far East. There is  
7 zero Styrofoam coming from the Far East because  
8 it doesn't pay to bring from over there, and  
9 that's one very, very, very strong thing. I am  
10 a distributor again. I bring in containers and  
11 containers from China. It hurts me. Believe it  
12 or not, if I could--and the same product could  
13 be bought over here but it's probably three  
14 times the price if I'm correct. So, it's a no-  
15 brainer that Styrofoam is economical for the  
16 people that can't pay more. My customers are  
17 paying. If I--if I have 30 day customer that  
18 pays, I'm the luckiest person. Average,  
19 anywhere between 16 and 91.20. for these small  
20 invoices from Styrofoam. Now, if the bulk of  
21 this going to be paper, it's only going to hurt  
22 my pocket to sit longer and wait for the money  
23 from the customers. So obviously, I oppose the  
24 Resolution 1060 to ban the polystyrene and if  
25 recycling can be worked out, again, I'm not in

2 the technical part of it, but I do know that  
3 Dart and all the other manufacturers they have  
4 the capability of recycling and if that could  
5 be done that would be beautiful.

6 CHAIRPERSON JAMES: Thank you.

7 MOISHE GROSSMAN: Thank you very  
8 much.

9 CHAIRPERSON JAMES: Thank you.

10 MICHAEL KAHOE: Madam Chair, members  
11 of the Committee, my name is Mike Kahoe, I'm  
12 with MB Public Affairs, which is a research  
13 company in Sacramento. We were put under  
14 contract with American Chemistry Council to do  
15 an economic and fiscal impact evaluation of the  
16 proposal. And just by way of background my own  
17 history is about 30 years dealing with  
18 regulatory and environmental agencies including  
19 managing the California Environmental and  
20 Regulatory Agencies as Deputy Cabinet  
21 Secretary. Knowing that everybody probably  
22 wants to go through details of an economic  
23 study and the numbers at this time of night, I  
24 provided--

2 CHAIRPERSON JAMES: [interposing]

3 Thank you for that.

4 MICHAEL KAHOE: I have provided with  
5 you a one page summary of the report. If you  
6 want the full report we can provide that to you  
7 as well. I just wanted to highlight a few  
8 points, because in fact the study we did  
9 encapsulates a lot of the economic factors that  
10 have been talked about today and including--you  
11 were a very good intro for this. Just to start  
12 up, the background of the study, we actually  
13 had considerably better data than what we  
14 usually have for these types of studies and  
15 that we were given access to confidential  
16 individual sales data. It was broken down by  
17 end market. We were able to then also apply  
18 that using some of the federal data to break  
19 that down geographically. The overall approach  
20 that we took basically to look primarily at the  
21 direct cost, compare what's being spent now on  
22 the plastic foam products and what the lowest  
23 cost alternatives would be. I mean, it was  
24 frequently mentioned a lot of those differences  
25 are in fact two cents an item, some cases one

2 cent. For some of the larger items the boxes  
3 and the trays, it gets a little higher, but the  
4 flip side of that is that the two cents premium  
5 per product that costs two cents to begin with.  
6 So in fact, it may be a two cents increase, but  
7 by a percentage base you're talking about  
8 increasing that portion of a business' cost  
9 structure by 100 percent. All told as of 2012  
10 total sales in New York City of foam products  
11 such that would be affected by the bill were 97  
12 million dollars. When we looked at the market  
13 basket of low cost alternatives we looked at  
14 the average premium for buying the least costly  
15 alternative was 94 percent. So applying, taking  
16 those two numbers to gather the total cost  
17 increase would be 91 million as a result of  
18 this ban. In practice, again, as discussed not  
19 everybody's going to go for the low cost  
20 alternative for other purposes because the  
21 lowest cost alternative doesn't meet all the  
22 products performances a business will need.  
23 They maybe go for a higher price product, but  
24 in fact, this is kind of the low cost estimate  
25 of what the direct impacts would be. What that

2 means for an individual business is obviously  
3 going to differ depending on how important that  
4 is to their overall cost structure. Give a  
5 couple examples, for a full service restaurant  
6 the national average, this will of courses vary  
7 for the City and also for individual business,  
8 but the national average is that these products  
9 make up 0.3 percent of their total cost. For  
10 their profits margins, the national average is  
11 three percent. So if you double the cost of  
12 these products, you're in fact effecting up to  
13 10 percent of their profit margin. For the  
14 limited services restaurants the products are  
15 much more important. They take up 1.6 percent  
16 of the total cost. They have a slightly higher  
17 average profit margin of five to six percent,  
18 but without putting those two numbers together,  
19 doubling the cost of these products can affect  
20 up to a quarter of the existing profit margins  
21 of this type of company. And it also has to be  
22 put in context. This is a time obviously when  
23 there's a lot of other cost pressures out  
24 there. Payroll taxes gone up. Federal income  
25 tax rates have gone up and a lot of the

2 businesses will be affected by this or not  
3 taxed as corporations. They're taxed as sole  
4 proprietorships, partnerships, LLC's, and other  
5 forms that are taxed at personal rates on a  
6 pass through basis. Food prices, we're in a  
7 period of escalating food prices. It's been  
8 going on for a couple of years now and they're  
9 likely to continue. The ever present nobody  
10 knows what the Affordable Care Act will mean  
11 for employee costs as well as the continuing  
12 economic uncertainty. So this is another cost  
13 that comes on top of this point. We also  
14 estimate fiscal impacts, what will be the cost  
15 to the City of this ban. This comes from two  
16 components. One, decreased tax revenues as cost  
17 increased businesses and therefore their  
18 taxable income goes down. The other is the--  
19 what are the actual procurement costs to the  
20 City agencies. Given the timeframe we had for  
21 the study, we weren't able to obtain the actual  
22 procurement data from the City's as it is  
23 currently, but we had looked at this issue  
24 previously a few years ago, and we had some of  
25 the older data from freedom of information law

2 request that we had submitted at that point. So  
3 we were able to update that based on our old  
4 information as well as procurement cost that we  
5 have from a number of other states and cities,  
6 but again these are estimates, but they are in  
7 the range of 14 to 18 million dollars a year.  
8 And finally, I just want to touch a point.  
9 Again, we tried to focus on what the direct  
10 cost would be, but we also give at least some  
11 discussion what the broader economic impacts  
12 would be. We didn't do a full input/output or a  
13 econometric model on any of this, but we had  
14 looked at previous studies that address similar  
15 issues and kind of looked at scaling that down  
16 and included that in the report. But  
17 fundamentally the situation is going to be,  
18 again, when you have--whenever you make this  
19 kind of change, there's obviously going to be  
20 costs as you remove a product and they'll be  
21 benefits as you bring the additional products.  
22 But again, as discussed by a lot of the  
23 previous members, people testifying, we're  
24 talking about basically apples and oranges in  
25 this case. When you look at foam, plastic foam

2 products they tend to be manufactured near  
3 their markets. It's much cheaper to transport  
4 the inputs and because of their light weight  
5 and their bulk, you don't want to transport the  
6 finished product as far. For a lot of the  
7 alternatives including paper, begass, a lot of  
8 the others, it's flipped around. The transport  
9 of the inputs is much higher than the transport  
10 cost for the final product. So those tend to be  
11 more centralized. In this case, again, as by  
12 previous witnesses, the current products to the  
13 plastic foam products are manufactured in the  
14 region, primarily through the upstate  
15 manufacturers. Those are the jobs that would be  
16 lost is those projects that removed from the  
17 market. When you look at the alternatives and  
18 then you look at the product flows right now, a  
19 lot of paper products likely, more than likely  
20 come from the Southeast US. When you're  
21 looking at the begass, some of the compostables  
22 and even some of the pulp products, those  
23 primarily come from overseas. So in fact, in  
24 this situation where you are talking about yes,  
25 there will be jobs created as a result of this

2 is different products are bought, but the  
3 incidents would be different. This is the  
4 region that would sustain the economic impacts.  
5 Other regions would be the ones that sustain  
6 the economic benefits. So again, if you want  
7 more detail, we'd be happy to provide you the  
8 full report and take any questions you have.

9 CHAIRPERSON JAMES: You can provide  
10 that full report to the Committee and I thank  
11 you.

12 MICHAEL KAHOE: Sure.

13 CHAIRPERSON JAMES: I thank this  
14 panel, and the last are four--last four  
15 remaining witnesses please come forward.

16 ED RIDER: Want me to get it over  
17 with? Madam Chairman and Committee Members, I  
18 want to thank you for staying around this  
19 evening to listen to our arguments. Thank you  
20 very much. My name is Ed Rider, I'm Vice  
21 President of Engineering with Genpak. I've  
22 been with the company for 44 years. I'm a  
23 resident of the Middletown, New York area which  
24 is just 75 miles north of here, and I'm proud  
25 to say that our team has designed most of the

2 products that the food service containers that  
3 you use here in the city today. We as tax  
4 payers of Orange County have been paying taxes  
5 supporting services here in New York City for  
6 the past 44 years. Foam products are mostly  
7 made in America, including several  
8 manufacturers here in New York State. Those  
9 manufacturers in New York employ of 1,200 hard  
10 working fellow workers of which Genpak employs  
11 165 employees and we have 12 or so representing  
12 here. Why has foam, PS foam containers been so  
13 successful as a food packaging product? Not  
14 just here in America, but throughout the world.  
15 First, because expanded polystyrene foam  
16 consists of 95 percent air. It provides  
17 exceptional insulation features and protection,  
18 keeps the food hot or cold and protects from  
19 outside contaminants. In fact, one thing that  
20 hasn't been mentioned here at all is the food  
21 service temperature that this product delivers  
22 to the ultimate customer. We maintain between  
23 120 and 130 degrees on any food product, 30 to  
24 40 minutes after its been filled at the  
25 restaurant. That means when you get it back at

2 your office or your apartment you still have a  
3 safe temperature and certainly improves the  
4 quality of the product you're eating. There's  
5 no other alternative that deliver that  
6 temperature quality. Foam is lightweight,  
7 durable, moisture resistant and easy to  
8 manufacture. Foam containers are low cost  
9 because they consume low energy requiring no  
10 water for processing and efficient use of the  
11 material. We virtually have no waste in our  
12 manufacturing facility as was point out with  
13 Pactiv. Paper products have two and a half  
14 times more greenhouse gas emissions for their  
15 products, and that's simply the energy they use  
16 to dry it and process it, and we know, we make  
17 it in China ourselves. We know exactly what it  
18 takes to make these products. The polystyrene  
19 foam is manufactured close to the principle  
20 markets to reduce transportation costs. A ban  
21 in New York City would have an immediate and  
22 dire effect on the State businesses supplying  
23 products to New York City Schools, restaurants  
24 and food service establishments and food  
25 service containers. Foam products save money

2 for the City and its businesses generally  
3 selling for less than 50 percent of the common  
4 substitutes such as pulp fiber and coated paper  
5 products. As you heard plenty of testimony  
6 talking about that today. PS foam complies with  
7 all health codes and FDA approvals. In fact,  
8 our facility is inspected each year for food  
9 safety and food protection processes, and we're  
10 proud to have an excellent rating for that  
11 facility for the past 20 years. PS foam--the  
12 polystyrene foam industry has led the efforts  
13 to recycle used foam products and have numerous  
14 successes, including the successes in Los  
15 Angeles and in Toronto. In fact, according to  
16 the New York City Department of Sanitation's  
17 own website plastic alternatives such as paper  
18 coated--paper coatings with plastics, one of  
19 the most common alternatives to foam is not  
20 recyclable at all. That's on your own website.  
21 Anyway, the bottom line is we would like to  
22 have you consider not banning foam because in  
23 fact, when you do you will be out sourcing jobs  
24 to China and other outside sources other than

2 the United States. Say no to the ban and yes  
3 to jobs. Thank you.

4 CHAIRPERSON JAMES: Thank you. To  
5 any of the panelists after you testify if any  
6 of you want to address the issue, some  
7 individuals have talked about the possible  
8 health hazards and the fact that it's non-  
9 biodegradable, could you--could someone just  
10 speak to that issue when you get a chance?

11 [off mic conversation]

12 ED RIDER: Well, in fact, you know,  
13 I think a lot of the paper products that we  
14 have out there today, if it was surely tested  
15 as much as ours, polystyrene foam was, we'd  
16 find it to be much worse. But you know, in all  
17 the years that we've been supplying 44 years of  
18 products, we've never had a single person  
19 report any kind of health issues, and in fact,  
20 when we first started and we talked about the  
21 school lunch trays, it was a typical one, and  
22 you know, back 20 something years ago they were  
23 talking about going to permanent ware in the  
24 schools and eliminating those trays. The first  
25 thing is that permanent ware alone because

2 there's losses during the school year. It was  
3 going to cost them more than the trays were  
4 costing them. In addition to that, the  
5 dishwasher systems they'd have to put in would  
6 require at least one or two more jobs, you  
7 know, that they'd have to pay for in those  
8 schools, and then the water usage was huge, and  
9 the cost of the water usage alone and the  
10 environmental effects of that was also  
11 tremendous. In addition to that, even your  
12 dinnerware that you have at home, as soon as  
13 you start putting any kind of scratches on to  
14 it at all, if you actually have that tested for  
15 mold pores, you're going to find numbers of 100  
16 and 125 points which is in fact even with the  
17 best dishwashing systems, that's what occurs.  
18 You never find--we've never seen a single test  
19 on our product that was more than 10 to 15.

20 CHAIRPERSON JAMES: Thank you. Next?

21 JAMES EI: Hi, I'm James Ei  
22 [phonetic], members of the Council. I'm an  
23 employer at Genpak, Middletown, New York.  
24 We're 75 miles north of Orange County. I'm here  
25 representing 161 employees at Genpak. Most of

2 us our members of the International Association  
3 of Mechanics or Machinists and Aerospace  
4 Workers, District 15. We have manufactured  
5 polystyrene foam service products for New York  
6 for the past 44 years. I believe there are many  
7 strong reasons for you to reconsider your  
8 efforts to ban our product. I'm proud that our  
9 products we make provides and insulated secure  
10 leak tight and food safe container. I know that  
11 myself, excuse me, would not want to have to  
12 use some other alternative which tends to leak,  
13 seep, either stain in your seats in your  
14 vehicle or your table. Many of the  
15 alternatives, mainly paper products, are  
16 sourced from outside the US and are required  
17 huge amounts of water, energy and materials to  
18 produce, then we burn all the fuel to transport  
19 them here from Asia. We've all had that with  
20 the soups in the cups. We've went through that  
21 where it's so hot and stuff like that. I'm not  
22 going to go into that. Our operation, we never  
23 waste one single pound of material. We only  
24 waste--the only waste from our facility is from  
25 our cafeteria in the front are in the form of

2 napkins and other foods wastes. We recycle 100  
3 percent of all our plastic trim back into  
4 additional containers every day. Don't  
5 outsource our jobs. We need to continue to  
6 produce safe, reliable containers for the  
7 hardworking people of New York City. Thank  
8 you.

9                   GEORGE BRADDON: Hello. My name is  
10 George Braddon, and I come from a company  
11 called Commodore, and it's a business that my  
12 father started in 1981. I've been working in  
13 my dad's business since I was in 9<sup>th</sup> grade. My  
14 father's an engineer and an entrepreneur. My  
15 mother's a school, retired school teacher, and  
16 so I thought I would use this opportunity to--  
17 and I'm an engineer as well, and it makes me  
18 sort of a logical thinker, and my mom's a  
19 teacher. So just a--I think my father's story  
20 is like the story of the American dream, right?  
21 He started out with 30,000 dollars and over a  
22 very long period of time grew a business with  
23 175 employees. It was the largest employer in  
24 the Village of Bloomfield which is tiny. I  
25 think the graduating class is like 45 or 50

2 kids, right? It's a pretty small school. And  
3 so I just want to go through a few things here.  
4 The foam container, like I've--I love this  
5 material, and I'm surprised that people who are  
6 environmentalist don't love this material,  
7 because it's less. This takes less natural  
8 resource to make than this. This weighs 20  
9 grams, this weighs 10 grams. So if you ban this  
10 and it's replaced with this, you're doubling  
11 the amount of natural resources that are going  
12 to be used. I don't know. To me, that just  
13 doesn't make any sense. Why would you use twice  
14 as much natural resource to get the same job  
15 done? I submitted a paper here and it shows  
16 what the cells in the foam look like. Right?  
17 This is a little slice of foam and you can look  
18 and see the air pockets, and you can kind of  
19 feel them, right? I mean, it's--it just makes  
20 sense. So it uses less, and there's a picture  
21 of the pellets that make this hinged container.  
22 It's a little teeny pile of pellets that makes  
23 this and gets this home to your house in a nice  
24 hot sense. When it comes to litter, all litter  
25 is bad. This is litter is worse than this

2 litter? I don't know why. I don't know why  
3 that would be. Is it worse than this? By the  
4 way, this material that this cup that you're  
5 letting me have water out of is exactly the  
6 same material as this material which is exactly  
7 the same material as this, except for here we  
8 foamed it. Kind of like the soap in the  
9 bathroom. Sometimes it comes out as a liquid.  
10 Sometimes it comes out as foam. And when it  
11 comes out as foam you use half as much. That's  
12 sort of the idea. That's an idea to extend  
13 natural resources. So, you know, I think we saw  
14 today that polystyrene foam is recyclable.  
15 They're recycling millions of pounds of it. Is  
16 that true about paper? Is Starbucks recycling  
17 those cups? No. No, it's not recyclable. So,  
18 we're switching from something that is  
19 recyclable to something that's not because we  
20 don't like this stuff. We hate this stuff. We  
21 hate it. I don't know why we hate that stuff. I  
22 love this stuff. It's safe. This stuff is safe.  
23 There's--this is not styrene. This is  
24 polystyrene. There's traces of styrene in it  
25 and guess what, they regulate how much styrene

2 can be in this, and it's 190,000<sup>th</sup> of what's  
3 acceptable. And I guess we already went over  
4 this. Foam's not filling up the landfills,  
5 right? One half of one percent, it's not  
6 exactly filling up our landfill. So, and foam  
7 used in New York State, it's made in New York  
8 State. Foam used in the United States is made  
9 in the United States and you got to--you got  
10 ban it and I don't--I just can't understand  
11 why, why do you want to ban that? This is a  
12 great use of natural resources. It's safe. It's  
13 recyclable. You know? It's go--it's a  
14 material going a long ways. I just don't get  
15 it. And then for members of the Committee, if  
16 you want to come to our plant and see how it's  
17 made, I think you'd have a--I think if you  
18 walked in there and you saw the stuff being  
19 made you'd have a hard time hating this stuff,  
20 because you're just melting plastic pellets,  
21 right? And you're injecting a gas in there at  
22 high pressure. It come out of a di and it's on  
23 a roll, and you take that roll and you know,  
24 you stamp it out, and it's perfectly clean and  
25 safe and nice. I think if you saw it you'd be

2 like, "Huh." And when I talk to people they  
3 say, "I hate this stuff." And I'll be, "Really,  
4 why?" And by the end of the conversation,  
5 "Well, okay." I guess the world isn't flat.  
6 Thank you very much.

7 CHAIRPERSON JAMES: So the testimony  
8 that was given earlier about the United States  
9 Department of Health and Human Services  
10 designating foam as a natural carcinogen, what  
11 do you--

12 GEORGE BRADDON: Well they--that's  
13 styrene, and styrene is a liquid. This is not  
14 styrene. This is polystyrene. These are long--  
15 you know, this is water, right?

16 CHAIRPERSON JAMES: Right.

17 GEORGE BRADDON: And I know, I took  
18 high school chemistry, that's H<sub>2</sub>O, hydrogen and  
19 oxygen. I never drink water thinking, "Oh,  
20 shit, that's going to explode." Right? Because  
21 hydrogen's explosive, but the same thing with  
22 this. You know, this is not--this is not  
23 styrene. This is polystyrene. There's trace  
24 amounts of styrene in it, less than you have in  
25 a strawberry, less than you have in cinnamon,

2 less than you have coffee, beer. So it's not  
3 a--there's no--there is no safety risk with  
4 this material.

5 CHAIRPERSON JAMES: And although it's  
6 not biodegradable, the fact that it only  
7 represents less than one percent of our waste  
8 stream, do you believe that when you balance  
9 the interest of jobs versus--

10 GEROGE BRADDON: [interposing] Well,  
11 there's--when--okay, so when it comes to a  
12 landfill, what they do is they put--they do  
13 this plastic membrane, right, and they seal  
14 this thing off and they membrane the top of it  
15 and their whole goal is don't want things to  
16 rot and change in there, right? So this one  
17 here, if I put this in a landfill that's next  
18 to your house in 10, 20, 30, 50 years, this is  
19 never going to pollute your water that's in  
20 your--the stream next to the landfill, whatever  
21 it may be. This is never going to pollute that.  
22 Right?

23 CHAIRPERSON JAMES: But it--

24 GEROGE BRADDON: [interposing] So  
25 because it's not going to change into something

2 else. I take a newspaper, I soak that in water  
3 and put it in the water, I'll shake that up. I  
4 actually have one in my bag there, I didn't  
5 bring it up because I didn't think it would--  
6 you do that and you look at that water that's  
7 been filled with the newspaper, right? I do  
8 the same thing with foam and I could take it--  
9 you know, this isn't--this is not--it's not  
10 like polluting in the sense that it's changing  
11 into something and that something is dangerous,  
12 right? This isn't going to--this isn't going to  
13 do that.

14 CHAIRPERSON JAMES: Right.

15 GEROGE BRADDON: That's like having  
16 sand in a landfill or having a rock in a  
17 landfill. Alright? That's never going to  
18 pollute your water. This is never going to  
19 pollute anything, never going to make anybody  
20 sick ever.

21 CHAIRPERSON JAMES: Thank you. Next?

22 PAUL POE: Madam Chair, Committee  
23 members, my name is Paul Poe and I do work with  
24 Dart. I'm in the Government Affairs and  
25 Environment Department. I'm going to talk just

2 briefly on a couple things today, and some of  
3 them my colleagues here have hit on, but one of  
4 the words that's been left out of this entire  
5 conversation, I haven't heard it once today is  
6 life-cycle inventory or life-cycle assessment  
7 of the products, and alternative products to  
8 foam. And as you know Dart we do make, like  
9 Michael said we make paper products and we make  
10 plastic products and some of those are foam.  
11 When--and that has been said if you look at the  
12 life cycle of a product, the amount of natural  
13 resources it takes, and I come from the paper  
14 industry and we make paper products and I'm not  
15 here to bad mouth paper because I love paper,  
16 but just the amount of taking a tree, stripping  
17 it down, taking the cellulose, getting the  
18 lignin [phonetic] out, then you know you have  
19 to pulp it and then you have this whole process  
20 where you use massive amount of energy and  
21 water. And that's not in foam manufacturing  
22 process. Far less energy, no water, and when  
23 you get a product and compare them one to one,  
24 there are two important things that we should  
25 talk about and one is the functionality, it's

2 ability to do its job compared to the foam cup  
3 and a paper cup. And it might surprise a lot  
4 of people, but hot/cold paper cups are up to 30  
5 percent plastic. They're either lined with  
6 polyethylene or they're lined with wax, and  
7 neither one of those are able to be reprocessed  
8 in a recycling facilities for paper. So, you  
9 know, in the back end as my colleagues again  
10 have said, when it goes into the landfill,  
11 paper--and landfills are pretty much, they're  
12 medically sealed and not much does decompose in  
13 there now. But there is methane that's  
14 produced. Not only will this not pollute your  
15 water, it won't create methane. And as was  
16 noted earlier and I didn't understand why the  
17 guy said this, methane is over 20 times more  
18 volatile as a greenhouse gas than carbon  
19 dioxide. And so when you have a biogenetic  
20 decomposition you're creating methane, and  
21 you're not going to get that from foam. In the  
22 paper making process with cups, and again, we  
23 make them, there's going to be contact with  
24 inks and glues. We don't have that in a foam  
25 cup. There's a big issue in Europe with

2 mineral oil. I don't know what's printed--what  
3 inks are used in some cups, but that's--there's  
4 a migration problem and it's a real issue. And  
5 just in comparison on the back end, for a  
6 polyethylene coated hot cup you have three  
7 times the waste and twice the energy to make  
8 that same cup one to one. You add a paper  
9 sleeve to that, you have five times the waste  
10 going into a landfill. So if you're--if you  
11 don't recycle either one and they go directly  
12 to the landfill, you're going to have five and  
13 three times the amount of waste. For a cold  
14 cup, polyethylene it takes just about three  
15 times the energy and you have two and a half  
16 times the waste. And for a wax coated cup it's  
17 five times the waste. So you landfill one wax  
18 coated cup or one foam cup. That wax cup is  
19 five times the waste. So I think that--I really  
20 wanted to hit on the value of foam and its  
21 alternatives, and it is economical and it is  
22 environmentally. So, if you have any questions?

23 CHAIRPERSON JAMES: Yeah. So what is  
24 your first name?

25 PAUL POE: Paul.

2 CHAIRPERSON JAMES: And your last  
3 name?

4 PAUL POE: Poe.

5 CHAIRPERSON JAMES: Poe. So I don't--  
6 I'm just paraphrasing. A number of individuals  
7 have attacked your company. They've indicated  
8 that Dart is not credible that you, this is  
9 nothing more than a delay tactic. You know,  
10 they talked about, you know, you have--you  
11 built all these tax shelters and things like  
12 that and that you're not unfortunately any  
13 testimony submitted by Dart really should be  
14 questioned and challenged because of the  
15 credibility of your company. What do you say  
16 to that?

17 PAUL POE: I think it's misguided,  
18 and in my testimony the numbers I quoted here  
19 are our numbers, but I've also quoted in my  
20 testimony an Australian study that actually  
21 came up with higher numbers and we don't--  
22 weren't involved in this study and I just  
23 wanted to put in that in there for comparison.  
24 And they come back with even higher numbers of  
25 energy consumption, higher numbers of power

2 that's needed, more raw material like I said,  
3 and emission. The emissions at a paper mill are  
4 much greater. They have boilers. They have all  
5 kinds of machinery that's necessary for the  
6 paper making process. I mean, if you've ever  
7 been near a paper mill, you can smell it. And  
8 depending on if they use craft process to make  
9 their paper, you can smell it from far away,  
10 and you don't have that with us. And to your  
11 point and the reason I did try to cite another  
12 study is to show that we are credible. We even  
13 probably underestimated what some other studies  
14 out there have said.

15 CHAIRPERSON JAMES: And you're  
16 prepared to make investments in the City of New  
17 York?

18 PAUL POE: Yes, we are.

19 CHAIRPERSON JAMES: Okay. Is there  
20 any other questions from my colleagues? I want  
21 to thank this panel. I want to thank all of  
22 you. I want to thank Council Member Maria  
23 Carmen del Arroyo for hanging with me to the  
24 end as well as Counsel Brad from Council Member  
25 Lou Fidlers--you don't have a last name? Reed,

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2 Brad Reed from Council Member Lou Filder's  
3 office, and I thank you all and that concludes  
4 this hearing.

5 [gavel]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify there is no relation to any of the parties to this action by blood or marriage, and that there is no interest in the outcome of this matter.



Date 12/13/2013