

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON GOVERNMENTAL OPERATIONS

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January 8, 2009
Start: 10:05am
Recess: 11:41am

HELD AT: Committee Room
City Hall

B E F O R E:
SIMCHA FELDER
Chairperson

COUNCIL MEMBERS:
Inez E. Dickens
Larry B. Seabrook
Alan J. Gerson
Helen Sears
Darlene Mealy
Domenic Recchia, Jr.
Peter F. Vallone, Jr.

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

Michael Bellew
Chief of Cleaning
New York City Department of Sanitation

Andrea Ciccone
Director of Intergovernmental Affairs
Department of Sanitation

Geraldine Kelpin
Director
Air, Noise, Policy and Permitting Division
New York City Department of Environmental Protection

Jonathan Judge
Community Coordinator
Brooklyn Community Board 14

Isabella Silverman
Legal Fellow
Environmental Defense Fund

CHAIRPERSON FELDER: Good morning ladies and gentlemen. Welcome to the hearing of the Committee on Governmental Operations. My name is Simcha Felder and I am joined by my colleagues. All the way to the left is Council Member Larry Seabrook, Domenic Recchia, Jr. and Inez Dickens. I appreciate, as you can see, that the members of this Committee are always here functionally. That's why this is in fact the best committee in the City Council. I'd also like to acknowledge my staff, the staff from the committee that prepared for today's hearing, Matt Gewolb, on my right, who is the Council of the Committee, and to his right, Israel Rodriguez, the Policy Director Analyst, Policy Analyst of the committee. My Legislative Director, Michael Casertano, and I take the opportunity to introduce to you sitting right behind me to my left my new Chief of Staff, Ari Hoffnung and to his left John Lowe [phonetic], who is going to be involved in a variety of things, including legislation and special projects. I just wanted to mention right at the beginning that if anyone is here for the oversight portion of Street Fairs, that portion of the hearing is going

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2 to be done at a future date because we decided,
3 the last moment I must say and I apologize, to
4 separate the legislation portions from the
5 oversight portions. So the two things we're going
6 to be dealing with today are legislative and not
7 oversight. So let's talk about the introductions
8 that we're considering today. We are going to
9 hear two introductions relating to Street Events.
10 The first Intro, number 899 was introduced by
11 Council Member Gerson. This bill would require
12 the use of ultra low sulfur diesel fuel and
13 generators for Street Fairs and other events. The
14 use of this type of fuel greatly reduces the fine-
15 - again, the use of this type of fuel greatly
16 reduces fine--I guess I'm obsessed with fines,
17 Maria. But we like each other. I'll do it again.
18 Can you rewind the? The use of this type of fuel
19 greatly reduces fine particulate and pollutants in
20 diesel exhaust. The bill also provides for a
21 civil penalty for violations. The committee looks
22 forward to hearing testimony on the merits of this
23 legislation and the feasibility of its
24 implementation. The second introduction is Intro
25 number 908 by Council Member Mealy and would amend

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2 the administrative code in relation to Street
3 Cleaning and the collection and removal of
4 recyclable materials and refuse at street events.
5 The bill is largely a codification of currently
6 existing rules promulgated by the Department of
7 Sanitation though it contains several changes, the
8 most significant of which is the introduction of
9 higher penalties for violations. Before we begin
10 today's formal hearing I would like to emphasize
11 that it is my policy as the Chair of the
12 Governmental Operations Committee, excuse me for a
13 minute.

14 [Pause]

15 CHAIRPERSON FELDER: Before we
16 begin today's formal hearing I'd like to emphasize
17 that its my policy as the chair of this committee
18 to ensure that hearings begin on time, or as
19 Council Member Recchia mentioned I was five
20 minutes late, and I apologize formally again.
21 You're absolutely right.

22 COUNCIL MEMBER RECCHIA: I think
23 when people come into register because you only
24 give them 15 minutes you should add on, make that
25 20 minutes.

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2 CHAIRPERSON FELDER: Today's
3 hearing we will give people 20 minutes as a result
4 of Council Member Recchia's, not to testify, don't
5 get scared, we are going to tell the Sergeant at
6 Arms that they have until 10:30, instead of until
7 10:25 to sign up as a result of my sins of today.
8 So, those individuals that signed to testify
9 within the first 15 minutes of the start of the
10 hearing will be permitted to testify. And
11 additionally I ask witnesses to refrain from
12 repeating points made by previous witnesses. If
13 somebody has already made the point that you want
14 to make you may just say, I agree or disagree
15 without repeating it. And in fact we would
16 appreciate it if you did that. Before we hear
17 from the first panel I'd like to open the floor up
18 to Committee Members to see if anyone here has
19 anything that they'd like to say before we get
20 started. Seeing none, we will begin the
21 testimony. I just ask you to identify yourself
22 and speak into the mic. You are allowed to pull
23 the mic closer if it's easier for you. Thank you.

24 MICHAEL BELLEW: Morning, Council
25 Person Felder and members of the committee on the

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2 government operations. I am Michael Bellew, Chief
3 of Cleaning for the New York City Department of
4 Sanitation. I am here this morning to comment on
5 Intro number 908 on the consideration by the
6 Committee. Intro number 908 proposes to add a new
7 Subchapter 8 to Title 16 of the Administrative
8 Code by setting forth requirements for the
9 collection and disposal of refuse and recyclable
10 materials at street events. Among these
11 provisions include a requirement that sponsors of
12 street events provide separate receptacles in
13 which the public can deposit recyclable materials
14 separately from the regular trash. Additionally,
15 vendors participating in street events would be
16 required to source separate recyclable materials
17 they are generating including metal, glass and
18 plastic recyclables. The Department supports the
19 intent of this legislation. 15 years ago the
20 Department implemented identical requirements for
21 sponsors and vendors at street events through the
22 enactment of a comprehensive rules addressing
23 cleaning and collection requirements during and
24 after street events. These rules are numbered
25 under Chapter 14 of Title 16 of the rules of the

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2 City of New York. Consistent with the Department
3 current rules the sponsors of street fair events
4 throughout the city arrange for the strategic
5 placement of separate receptacles for trash and
6 recyclable materials at appropriate sites--

7 [Off Mic]

8 MICHAEL BELLEW: --receptacles are
9 monitored and all materials, separated, bagged and
10 later placed out for collection at a designated
11 location, either by a private carter or by the
12 department at the end of the night. For the
13 smaller residential block parties, residents must
14 properly place-- properly package and place out at
15 curb side all refuse and recyclable materials
16 generated at the block party in front of their
17 building no earlier than the night before the
18 regularly scheduled refuse or recycle collection
19 day. Until the time for residential collection,
20 residents must keep their receptacles stored
21 within the building or at the rear or side of
22 their premise. Municipal recycling is a major
23 component of the City's solid waste management
24 system. As the Department seeks to divert
25 material away from the solid waste stream,

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2 enhancing recycling awareness and public
3 participation is an important component of the
4 City's overall waste management strategy.

5 Realistically we can recognize the funding for new
6 recycling programs is likely to be restricted due
7 to the significant financial crisis experience at
8 levels of the government. However, the provisions
9 of this proposal registration that are already
10 consistent with the underlying policies of the
11 Department's current rules can help to improve the
12 diversion rate by targeting designated recyclables
13 that may otherwise be discarded in trash
14 receptacles by the general public, both New
15 Yorkers and outside visitors, at street events.

16 The Department supports the underlying intent of
17 Intro 908 as a key measure to promote increased
18 recycling awareness among the public. With that
19 said we ask that the council consider the few
20 issues regarding the legislation and its
21 enforcement. First, the proposed penalty scale
22 disproportionately penalizes small property owners
23 who host block parties. Compared to the current
24 \$25 fine against property owners and commercial
25 businesses and who fail to recycle under Local Law

19, the \$250 fine penalty for failing to recycle at street events seems inconsistent. There is a bill currently before the City Council, Intro number 668, which includes provisions for increasing the fine amounts against property owners who do not recycle. That bill would increase the civil fine from \$25 to \$50 for owners of residential buildings under six dwelling units, and from \$25 to \$250 for owners of residential buildings containing six or more dwelling units, as well as commercial, manufacturing and industrial buildings. Second, it is difficult to issue permit space fines against individual vendors that do not have an address information necessary to appropriately issue a summons. We would be happy to discuss this legislation further with the Council its laudable goals. I welcome the opportunity to answer any questions you might have. Thank you.

CHAIRPERSON FELDER: Thank you.

Before we continue with the other testimony on the other piece of the legislation we'll take some questions from my colleagues on this issue. I just wanted to mention before the questing

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2 something I failed to say earlier is that we had
3 the opportunity, I think it was about two years
4 ago, to give proclamations to all the
5 superintendents from sanitation in the districts
6 around our areas, including Domenic's area. And I
7 don't think that the Sanitation Department and its
8 men and women will ever get the credit that you
9 deserve. But I just wanted to say publicly that we
10 appreciate very, very much, not to detract from
11 the work that firemen and policemen, officers--
12 you know; we understand the importance of that.
13 But I don't that the Sanitation Department and its
14 employees ever get the, you know, thank yous that
15 they deserve. So, I want to take this opportunity
16 just to tell you how much we all appreciate the
17 work that you do. And with that Council Member
18 Dickens has a question.

19 COUNCIL MEMBER DICKENS: Thank you
20 Chair. Thank you Mr. is it Bellew?

21 MICHAEL BELLEW: Yes.

22 COUNCIL MEMBER DICKENS: Okay.
23 Thank you for your testimony. Good morning.

24 MICHAEL BELLEW: Good morning.

25 COUNCIL MEMBER DICKENS: In your

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2 testimony you say that the Department's current
3 rules, that sponsors of street fair events
4 throughout the city arrange for strategic
5 placement of separate receptacles, etc. Now, you
6 go on to talk about private carters. Now, when is
7 it determined that a sponsor of a street fair,
8 what type of street fair, and is it done at the
9 time that the permit is applied for that they are
10 notified that they have to get a private carter?
11 Where is it determined that it's a private carter
12 versus you, the Department would pick up the
13 garbage?

14 MICHAEL BELLEW: Once they apply
15 for the permit SAPU gives them an informational
16 sheet on street fairs. And then three weeks
17 before they have the affair they meet with the
18 District Superintendent and they work out if they
19 are going to have a private carter pick it up or
20 they going to have the Department of Sanitation
21 pick it up.

22 COUNCIL MEMBER DICKENS: Is it that
23 it's required by the Department that a street fair
24 sponsor must have a private carter?

25 MICHAEL BELLEW: No, it's not

2 written anywhere.

3 COUNCIL MEMBER DICKENS: All right.
4 So, it could be that's it done case by case. Is
5 that how it's determined?

6 MICHAEL BELLEW: It's done case by
7 case but the material must be removed whether
8 through private carter or we remove it a charge of
9 a dollar a day.

10 COUNCIL MEMBER DICKENS: At any
11 time does the Department determine either through
12 these meeting or at the time of the application
13 that a sponsor is told they have to have a private
14 carter?

15 MICHAEL BELLEW: No. They're told
16 that they have to move the materials.

17 COUNCIL MEMBER DICKENS: They're
18 told that they are responsible for moving--

19 MICHAEL BELLEW: [Interposing] They
20 are responsible--

21 COUNCIL MEMBER DICKENS: --and that
22 the Department would not?

23 MICHAEL BELLEW: No, no. They're
24 to remove the material and if they choose to
25 decide to get a private carter they can or if they

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2 choose us to remove the material, and we charge
3 them to remove the material.

4 COUNCIL MEMBER DICKENS: All right-

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6 MICHAEL BELLEW: [Interposing] So,
7 it's either way, one way or the other, either they
8 get a private or we remove it.

9 COUNCIL MEMBER DICKENS: Or you
10 would remove it at a charge?

11 MICHAEL BELLEW: At a cost, yes.

12 COUNCIL MEMBER DICKENS: All right.
13 Are those, the fees that you charge, are they
14 commensurate with what private carter charges?

15 MICHAEL BELLEW: Well, we charge
16 them one dollar a bag to remove the materials. I
17 don't know what private carters charge them. We
18 charge them one dollar a bag to remove the
19 material.

20 COUNCIL MEMBER DICKENS: Al right.
21 And also on the residential, the smaller
22 residential block parties, you indicate here in
23 your that the residential block parties would have
24 to keep their garbage that's generated from the
25 block party until their regularly scheduled day.

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Is that correct?

MICHAEL BELLEW: Yes.

COUNCIL MEMBER DICKENS: And so but what about in this private residential parties? Most parties people come from all over the city, particularly saying in Harlem, people come that are visitors to the city and because of the historic nature of Harlem they come to the block parties regularly and so there's a lot more additional refuse at residential block parties frequently City actually, than say maybe in some of the outer boroughs.

MICHAEL BELLEW: In cases like that when they do meet with the District superintendent if they do generate a lot of stuff if we have a truck in the area after the parties over and stuff, we make an exception--

[Off Mic]

MICHAEL BELLEW: We will do that on a case-by-case basis.

COUNCIL MEMBER DICKENS: It's determined during the course of the meetings or...?

MICHAEL BELLEW: Yes.

COUNCIL MEMBER DICKENS: All right.

2 Well, thank you. I just wanted clarification on
3 that. Thank you.

4 CHAIRPERSON FELDER: Council Member
5 Domenic Recchia.

6 COUNCIL MEMBER RECCHIA: Yes.
7 Thank you, Mr. Chairman. And, just for your
8 information Ms. Dickens, at some of these street
9 fairs the Department of Sanitation charges
10 somewhere up to \$10,000 to pick up the garbage in
11 my District.

12 MICHAEL BELLEW: That's personnel
13 and stuff-- the whole package.

14 COUNCIL MEMBER RECCHIA: I
15 understand.

16 COUNCIL MEMBER DICKENS: I want
17 clarification on that dollar.

18 COUNCIL MEMBER RECCHIA: Well, no.
19 That dollar a bag does not include for personnel,
20 it doesn't include for trucks, doesn't include if
21 you want the street sweeper after the affair. It
22 goes--

23 MICHAEL BELLEW: [Interposing]
24 Yeah, let me just clear that up.

25 COUNCIL MEMBER RECCHIA: Yeah,

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clear that up.

MICHAEL BELLEW: In other words if they hire us to clean the area that we charge them for equipment, personnel. If they have just amount of bags, if they hired their own people or they got volunteers and we remove the bags then we'll charge them a dollar a bag.

COUNCIL MEMBER DICKENS: A dollar per bag plus the vehicles?

MICHAEL BELLEW: If we all go in and clean it up. In other words if the Department of Sanitation goes in and cleans up the street fair with mechanical brooms and hand sweepers and equipment, we charge them all for that. Some street fairs they hire their own people, volunteers, they sweep up everything. They might put 50 bags on the corner and then we'll remove the bags at \$50 for the bag. Because they already--

COMMITTEE MEMBER DICKENS:
[Interposing] And no cost for the vehicles?

COUNCIL MEMBER RECCHIA: No, no, no. If we put any vehicles whatsoever into there we would charge them for the vehicles--

2 COMMITTEE MEMBER DICKENS:

3 [Interposing] What I mean is if I put 50 bags out
4 and I don't want you to sweep, I want you to pick
5 up the bags, what would be the cost generated to
6 me?

7 MICHAEL BELLEW: If you did it with
8 your volunteers, just the cost to remove the bags.
9 If we went in there and we had to put in
10 mechanical brooms and sweepers then you would be
11 charged for all that also.

12 COMMITTEE MEMBER DICKENS: Is that
13 written down somewhere that my Chair could get?

14 COUNCIL MEMBER RECCHIA: Yes,
15 that's in the guidelines.

16 COMMITTEE MEMBER DICKENS: Would
17 you provide that to my Chair, the cost of removal?

18 MICHAEL BELLEW: Yes. It's
19 published on the website. It's on the rules.

20 COUNCIL MEMBER DICKENS: All right.

21 COUNCIL MEMBER RECCHIA: But the
22 cost is a dollar a bag, let's say just to do the
23 pick up. Is that a dollar a bag plus the cost for
24 the men, plus the cost for the truck?

25 MICHAEL BELLEW: No. Yeah,

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2 everything, all included if we put people in there
3 and clean up.

4 COUNCIL MEMBER RECCHIA: I don't
5 mean to clean up. Let's just say if you do pick
6 up.

7 MICHAEL BELLEW: Just the pick up
8 is a dollar a bag because you put somebody in
9 there to clean up.

10 COUNCIL MEMBER RECCHIA: Oh, okay.
11 You need clarifying? See, if you represent Coney
12 Island--

13 COUNCIL MEMBER DICKENS:
14 [Interposing] I have to look on the website.

15 COUNCIL MEMBER RECCHIA: If you
16 represent Coney Island, you get to know the
17 Sanitation. I'm always fighting with them. But
18 anyway, let me just get it to-- the big problem
19 with this bill that I see is the enforcement
20 issue. Okay. Because according to this, the way
21 I interpret this bill, okay, is that it's going to
22 be up to the person sponsoring the event to set up
23 different garbage cans or different boxes for
24 cans, for plastics, for glass. Is that correct?

25 MICHAEL BELLEW: Yes.

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2 COUNCIL MEMBER RECCHIA: And if
3 they don't do this, all right, it says the sponsor
4 will get the fine. Okay? I am not clear who the
5 sponsor is. You know? And that has to be clear.
6 Is the sponsor the not-for-profit that's having
7 the event? Is the sponsor a big corporation that
8 just gives money for the event or is the sponsor
9 the person running it? You see? And I just think
10 this is unclear by this bill. That has to be
11 clarified. You know, and the other issue here is
12 you could address the enforcement issue, but also
13 is if a not-for-profit is having the street fairs,
14 because a lot of them do to raise money, they
15 could wind up giving all their money for raising
16 the money for the Sanitation Department or making
17 them their partner in the street fair. Because
18 how is a sponsor, I mean from my district, okay,
19 we have the Brighton Jubilee. Thousands of people
20 come. You can't even walk on the streets. All
21 right? How are you supposed to control everybody
22 from throwing all the garbage into the right bin?
23 It's going to be almost impossible. I mean in
24 Coney Island, I'll tell you right now we're lucky
25 the people throw their garbage in the garbage

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2 pails. I mean let alone trying to decide is this
3 glass, is this plastic, which one to go in. I
4 mean I just don't see it. Because I'm very
5 worried about this because I don't want the
6 vendors on the Boardwalk in Coney Island to get
7 hit with fines on all this bill. You want to
8 address some of that? Or do you agree with me?

9 MICHAEL BELLEW: Yeah, go ahead and
10 talk about that.

11 COUNCIL MEMBER RECCHIA: Just
12 identify your name for the record.

13 ANDREA CICCONE: Andrea Ciccone,
14 Director of Intergovernmental Affairs for the
15 Bureau of Legal Affairs at the Department of
16 Sanitation. Now, Councilman, to answer your
17 question, the legislation proposed under Intro
18 908 specifically imposes the requirement for
19 source separation on the sponsors of the street
20 events and the individual vendors that are
21 source separating the materials they generate
22 whether it be metal, glass or plastic
23 recyclables. There is nothing in this current
24 legislation that's proposed today under
25 consideration that would impose a requirement

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2 on individual visitors whether they be
3 residents on block parties or outside visitors,
4 be it tourists or other outside suburbanites
5 that come to these festivals to actually source
6 separate. We would like to see that. We want
7 to promote that. We encourage that. We want
8 everyone to be aware.

9 COUNCIL MEMBER RECCHIA: We do too,
10 but--

11 ANDREA CICCONE: [Interposing] But,
12 for the most part we are addressing the
13 legislation today and we are happy to sit down
14 and discuss that with the Committee--

15 COUNCIL MEMBER RECCHIA:
16 [Interposing] First of all I don't know who a
17 sponsor is, number one, and that has to be
18 identified, but more important is this-- let's
19 say if a street fair goes for ten blocks and on
20 the beginning and the end of every block you
21 have this, let's say four boxes set up for
22 recyclables, one for paper, one for plastics,
23 one for glass. Does that mean if people don't
24 throw it in the right bin that each one of
25 these set ups could get fined \$250? If you go

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2 ten blocks that's \$500 a block. If you go ten
3 blocks that's \$5,000 for the Sanitation
4 Department is a partner in the street fair.

5 ANDREA CICCONE: Actually, well I
6 beg to differ with that. We wouldn't be a
7 partner in the street fair. It's our
8 obligation and our mission to make sure that at
9 the end of each night of the fair that all the
10 garbage is removed, the streets are cleaned,
11 whether as Chief Bellew pointed out, whether
12 its arrangements made for the Department of
13 Sanitation to remove the refuse and recyclables
14 or a private carter that the sponsor itself
15 engages to remove that. With respect to each
16 block by block, of course a Sanitation Officer,
17 whether it be the superintendent of field
18 officer supervisor, at the end of the night,
19 does in fact go out at the end of the night at
20 the conclusion and meet with the sponsor or
21 representative to make sure that everything has
22 been cleaned up and properly removed. With
23 respect to--

24 COUNCIL MEMBER RECCHIA: I'm not
25 worried about properly-- I'm worried about

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2 during the street fair in front of everything,
3 all these recyclables going in the right place.

4 ANDREA CICCONE: Right and we
5 agree. We agree.

6 COUNCIL MEMBER RECCHIA: Because
7 that is-- the whole problem with this whole
8 bill is the enforcement issue--

9 ANDREA CICCONE: [Interposing]
10 That's absolutely correct.

11 COUNCIL MEMBER RECCHIA: As the day
12 goes on, who is going to oversee that everybody
13 is disposing? And when you have thousands of
14 people coming, I mean it's almost impossible to
15 enforce.

16 ANDREA CICCONE: You know,
17 Councilman Recchia, under our current
18 guidelines, under the rules, which is
19 Subchapter 14 of Title 16 of the rules of the
20 City of New York, and in fact I just handed out
21 to Councilman Dickens my only street fair
22 guidelines, but the rule specifically
23 innumerate the requirements by sponsors or
24 their representatives to ensure that adequate
25 receptacles are strategically placed, perhaps

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2 at each intersection; if more are needed within
3 the middle of the block depending on crowd
4 control. We don't know-- the Community
5 Assistance Unit and the Mayor's Office would
6 determine how many people are expected to
7 attend a festival. It may be a block party in
8 your district or my district; we live districts
9 apart, or a larger San Gennaro type of
10 festival.

11 COUNCIL MEMBER RECCHIA: I'm
12 worried about Coney Island--

13 ANDREA CICCONE: [Interposing] In
14 Coney Island absolutely.

15 COUNCIL MEMBER RECCHIA: Because in
16 Coney Island we have a major--

17 ANDREA CICCONE: [Interposing] It's
18 very large.

19 COUNCIL MEMBER RECCHIA: It's bad
20 enough we have problems with sanitization in my
21 district, you know, with Coney Island. She
22 knows I'm right. I mean that's why we even try
23 to, you know, we raise money and we hire The
24 Doe Fund to help out.

25 ANDREA CICCONE: Right.

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2 COUNCIL MEMBER RECCHIA: Because
3 it's just there's not enough manpower out
4 there. But this I could see the vendors in
5 Coney Island getting hit really bad.

6 ANDREA CICCONE: There is the
7 expectation under the rules and under this
8 legislation which was basically copied from our
9 rules that the vendors also of these individual
10 stands, particular the food vendors or even the
11 retail type vendors that they do source
12 separate the materials that they're generating.
13 With respect to the material that's now being
14 discarded by the visitors at the street fair,
15 that is the sponsor's responsibility. Sponsors
16 as a general rule, and I think Chief Bellew
17 could speak to that a little bit better, but
18 based on our experience at least over the past
19 15 years many of these sponsors, as you point
20 out correctly, are non-profit organizers. They
21 do have a very, very good system in place where
22 they do have representatives that are
23 constantly bagging and--

24 COUNCIL MEMBER RECCHIA:
25 [Interposing] Yeah.

2 ANCREA CICCONE: --removing aside
3 and relining baskets, constantly to ensure that
4 refuse is being properly disposed of and the
5 recyclables, the soda containers and perhaps
6 Styrofoam containers, things like that are
7 being adequately and properly disposed.

8 COUNCIL MEMBER RECCHIA: Thank you.
9 I've taken up enough time but I really think
10 Mr. Chairman, this bill, we really need to sit
11 down and discuss this-- lots of issues that I
12 have because this really affects my district
13 and especially the vendors in Coney Island.
14 Because--

15 ANDREA CICCONE: [Interposing]
16 Councilman, if you have any specific concerns
17 we're happy to sit down and discuss those with
18 you--

19 COUNCIL MEMBER RECCHIA:
20 [Interposing] I have a lot of concerns.

21 ANDREA CICCONE: Okay.

22 COUNCIL MEMBER RECCHIA: You know
23 what?

24 ANDREA CICCONE: The street fair
25 season is upon us.

2 COUNCIL MEMBER RECCHIA: I don't
3 need these not-for-profits to be partners with
4 the Sanitization Department.

5 ANDREA CICCONE: Well, I do want to
6 point out that we are not partners under the
7 rules and guidelines and I provided a hard copy
8 to Councilman Dickens that should be able to be
9 shared with you right at the outset. The rules
10 are very specific. We set forth specific
11 charges that are related to our--

12 COUNCIL MEMBER RECCHIA:
13 [Interposing] No. I don't mind you getting
14 charged, you charging for the pick up.

15 ANDREA CICCONE: But it's the
16 actual cost--

17 COUNCIL MEMBER RECCHIA:
18 [Interposing] Listen of course.

19 ANDREA CICCONE: Okay.

20 COUNCIL MEMBER RECCHIA: Listen, I
21 agree.

22 ANDREA CICCONE: And not any more.

23 COUNCIL MEMBER RECCHIA: I see
24 that. Somebody has to do it and I'd rather see
25 the City get it than a private company. Okay.

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2 What I have the problem with is these fines
3 that are going from \$25 to \$250. Okay? And
4 I'm just talking about-- and if you take a
5 street fair, okay? Some of these not-for-
6 profits might only make \$5,000 and if they get
7 hit with \$1,000, \$1,500 in fines the City is
8 getting one-third of their profit. What's the
9 sense of having it?

10 ANDREA CICCONE: But the
11 legislation proposes the \$250 and we are happy
12 to discuss that.

13 COUNCIL MEMBER RECCHIA: I
14 understand that but realistically, okay, these
15 sponsors have this try to do-- and a lot of
16 them do a great job, but you can't just control
17 the people. It's almost-- the enforcement
18 issue is almost impossible. I know it. I live
19 in Coney Island. I mean I'm there during the
20 summertime. I get all the time-- and we try
21 our best. The Sanitization Department tries
22 their best. But I tell people; if you see
23 something on the floor you pick it up. You
24 know, work with us. And we've been very
25 effective from the time I got elected until now

1
2 we've been very effective. We brought in The
3 Doe Fund to help the Sanitization Department,
4 to work with the Sanitization Department.
5 We've been much more effective, but what I'm
6 afraid of is all these vendors in Coney Island
7 are going to be maybe hit hard with more of
8 these fines that they really, you know
9 especially these economic crisis, you know.
10 We're doing what the governors-- you know,
11 drinking soda, you're going to get fined,
12 you're going to get charged more for vendors
13 trying to make a dollar. You know, I mean how
14 much more are we are going to hurt small
15 businesses?

16 ANDREA CICCONE: We understand. We
17 understand there's an inconsistency between the
18 current fines and the 908.

19 COUNCIL MEMBER RECCHIA: We have to
20 really examine this bill. Thank you.

21 ANDREA CICCONE: We're happy to
22 discuss. Thank you.

23 CHAIRPERSON FELDER: Before, I want
24 to introduce Council Man Helen Sears and since
25 she didn't have a question I'll allow her to

1
2 go, but if it's okay I just wanted to harp on
3 this for a moment. I think it would be
4 impossible for me to clarify or say anything
5 more eloquently than Domenic Recchia but I'm
6 going to do it my own way. I just want to say
7 there are two separate issues that I think
8 we've been discussing. One has to do with the
9 legitimacy of the legislation. When we know
10 throughout the City at this time there are bins
11 everywhere or many places, despite the fact
12 that the City is going to try rolling out the
13 separate bins for recyclables, but right now
14 the majority of the bins in the City take all
15 the garbage in one bin and that's not when
16 there are many people coming. So, my
17 colleague's argument about trying to get people
18 just to throw it in the garbage is reinforced
19 by the fact that if you have many people it's
20 certainly more difficult. And if the City at
21 this point, for whatever the reason doesn't--
22 if we don't expect the City at this point to be
23 doing it should we be expecting people at a
24 fair to do it? That's one issue. We put that
25 to the side? But let's assume that we all

1
2 believe that that should be so, the issue that
3 was raised was that many of the fairs are
4 really profit-- I should say some of the fairs
5 are people who do this for a living. There
6 are-- many of the fairs are done by companies,
7 individuals who do this as a business. They do
8 co-op or partner with a non-for-profit. They
9 will go to a police precinct, council or church
10 or synagogue and say we have an opportunity to
11 perhaps raise some money for you by your
12 sponsoring it. We pay-- they usually give them
13 a certain amount of either a fixed amount, a
14 \$1,000 or a percentage of the proceeds, which
15 is not usually the case because the non-for-
16 profit never trusts the person doing the fair
17 to give them the proper percentage, and that's
18 how they do it. Under the existing regulations
19 the sponsor is responsible. The sponsor, that
20 would be the church, the precinct, council,
21 whatever else. I think that the issue, part of
22 the issue that Council man Recchia had raised
23 was that forget about whether we like it, but
24 if this were to be instituted then there has to
25 be some way to make sure that the

1
2 accountability for the garbage, which could
3 become a very large one, should be somehow on
4 the people that they are subcontracting to, if
5 I can call it that; so that a church gets a
6 \$1,000 and doesn't wind up at the end-- because
7 most of them don't know anything about this.
8 They don't know. Somebody says I can make you
9 money, \$1,000 and then suddenly they get a
10 bunch of tickets and they lose money on the
11 deal. That could be as part of the application
12 requirements. In other words, either that it
13 be clear or you know make sure that the-- I'm
14 just worried about the non-for-profits
15 themselves actually winding up responsible for
16 thousands of dollars of tickets in such a
17 legislation without understanding the
18 consequences of what's going on. And of course
19 if we did agree and somehow we did implement it
20 and I see the quagmire, logistically, for the
21 Department of having to deal separately, you
22 know, with who's going to be responsible for
23 the sanitization and who's going to be
24 responsible as the sponsor of the event. But I
25 think that's the issue that has to be fleshed

1
2 out. I've said enough. With that Council
3 Member Sears and then Council Member Dickens.

4 COUNCIL MEMBER SEARS: Thank you Mr.
5 Chair. If I can add another dimension to what you
6 and Council Man Recchia have said and I'm going to
7 be parochial for a moment and concentrate on my
8 district that has the largest transportation hub.
9 It's a mixed myriad of rentals, co-ops, the
10 largest in the City in the abundance of co-ops.
11 The reason that they have their block parties, or
12 block events, I wouldn't call them parties because
13 they're not, is that every time we impose a tax,
14 whether it's more water tax or it's a property
15 tax, they are having these events. They are
16 generally, in a good many cases, sponsored by that
17 particular residential facility. They can't be
18 responsible. They are, but they can't be
19 responsible when somebody leaves and then discards
20 what they're doing. I mean I could tell you month
21 after month in the spring and summer, I think the
22 world comes to events, because they are so
23 successful and--

24 [Off Mic]

25 COUNCIL MEMBER SEARS: So, I would

1
2 say unless there is really some work on this, I
3 could not support this bill the way it is. And I
4 say that to the Chair because I think it's grossly
5 inequitable. It's absolutely unfair in the
6 increase of the fines and its not taking into
7 consideration the multitude and the myriad of
8 housing mixes that run these things. And they run
9 them so that they could add to the bottom line of
10 their pot that they have to meet all their bills.
11 So, unless something happens with this that takes
12 that into consideration it's really targeting
13 areas that I know you really don't want to do, and
14 I realize what is happening with this and what the
15 thrust of this is, but it's hitting a lot of other
16 groups that are absolutely not responsible for
17 what you are talking about; although they're
18 responsible for that little spot of territory that
19 they have for what they're selling. And when
20 somebody leaves there that's another problem. So,
21 I know where you're coming from but I just don't
22 think that this is quite a good bill. Thank you.

23 CHAIRPERSON FELDER: Thank you. I
24 just want to clarify that for a change, the
25 Department is not the sponsor or the Mayor's

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office.

COUNCIL MEMBER SEARS: I realize.

CHAIRPERSON FELDER: Okay.

COUNCIL MEMBER SEARS: But they're supporting it, with some things to look at so that's what I'm saying.

COUNCIL MEMBER: I'm not saying otherwise. I just want the people who are here for the hearing-- very often the Mayor's Office or the administration pushes a bill and, you know, then we have to hear it. In this case this bill happens to be sponsored by Council Member Mealy.

COUNCIL MEMBER SEARS: I understand.

CHAIRPERSON FELDER: And the next one by Council Member Gerson. So, I'd like people to take it in that context.

COUNCIL MEMBER SEARS: I appreciate that. Thank you.

CHAIRPERSON FELDER: Council Member Dickens.

COUNCIL MEMBER DICKENS: Thank you. Thank you, Chair. One other question. In the case, because in my community most of the block

1
2 parties are sponsored by NYCHA developments, the
3 Tenant Association will have a block party for
4 each development. The Masons might have one.
5 Everything is free. They don't have somebody, a
6 vendor that comes in. Everything is free.
7 Whatever activity and even the food is free. It's
8 just hotdogs or hamburgers that someone is cooking
9 and there's no charge. Who, at events such as
10 that, because that's most of what is in my
11 community, who is responsible for the separation
12 of the garbage, the collection and who pays the
13 fines and the dollar per bag pick up?

14 MICHAEL BELLEW: The person who
15 applies for--

16 COUNCIL MEMBER DICKENS:
17 [Interposing] Who applies would be the Tenant
18 Association of Nature Development.

19 MICHAEL BELLEW: Then they're
20 responsible for that area that they're having the
21 block party on.

22 COUNCIL MEMBER DICKENS: And they
23 would be responsible for paying the \$50 or
24 whatever. Is that what has been going on?

25 MICHAEL BELLEW: They apply for the

1
2 permit and then if the-- in block parties they
3 usually put their garbage with their regular
4 garbage so there's no charge for that. And that's
5 a block party you are talking about.

6 COUNCIL MEMBER DICKENS: I'm
7 talking about a block party that's sponsored by a
8 NYCHA--

9 MICHAEL BELLEW: [Interposing]
10 Yeah, they put that with their regular garbage.

11 COUNCIL MEMBER DICKENS: So then
12 there's no charge to the--

13 MICHAEL BELLEW: [Interposing] It's
14 the other street fairs--

15 COUNCIL MEMBER DICKENS: --Tenant
16 Associate nor to NYCHA?

17 MICHAEL BELLEW: No. That we put
18 with their regular garbage.

19 COUNCIL MEMBER DICKENS: All right.
20 I just wanted clarification on that.

21 MICHAEL BELLEW: Yeah.

22 COUNCIL MEMBER DICKENS: Thank you.

23 CHAIRPERSON FELDER: I just wanted
24 to suggest-- I don't have any more questions. I
25 just wanted to ask, given the discussion about the

1
2 sponsor and the subcontractors, if at some point
3 maybe the Department can think of some creative
4 ways that the subcontractors would be held
5 responsible. You know, forgetting about the
6 legislation, the rules and regulations that exist
7 place some obligation on these fairs to keep the
8 place clean. So, I don't know how. Again, I'm
9 not saying it's an easy task, but if you can think
10 of some ideas I think it would be helpful. The
11 last thing-- I said I don't have any more
12 questions, so we'll leave it at that. But if you
13 can please have somebody remain, because we have I
14 think two or three people who are going to
15 testify, to be able to hear their testimony I'd
16 appreciate it. And then I'd like to go to the
17 witness; I should say the witness on the following
18 bill.

19 MICHAEL BELLEW: Thank you.

20 CHAIRPERSON FELDER: And again,
21 this bill is sponsored by Council Member Gerson.

22 [Pause]

23 CHAIRPERSON FELDER: Whenever
24 you're ready.

25 GERALDINE KELPIN: Good morning

1 Chairman Felder, members of the committee. I'm
2 Gerry Kelpin, Director of the Air Noise, Policy
3 Enforcement and Permitting Division of the Bureau
4 of Environmental Compliance at New York City's
5 Department of Environmental Protection. On behalf
6 of Acting Commissioner Steve Lawitts, thank you
7 for the opportunity to testify on the use of
8 ultra-low sulfur fuel and best available
9 technology in diesel generators that would be used
10 in street fairs and other street events. Mayor
11 Bloomberg's PlaNYC 2030 outlines initiatives on
12 many fronts to improve air quality, and a number
13 of them focus on reducing a mission on-road and
14 off-road vehicles in an effort to ameliorate
15 diesel fuel's negative impacts on public health
16 and the environment. New Yorkers live in a very
17 dense, urban environment where there is increasing
18 recognition that localized pollution effects from
19 various types of equipment, such that at
20 construction sites and even from power plants, can
21 disproportionately affect our living and working
22 nearby. Mandating emission reductions from
23 generators used on the street may potentially
24 reduce such effects and in the interest of
25

1
2 achieving those benefits we offer the following
3 comments on the proposed legislation. The bill
4 requires best available technology for
5 retrofitting generators. I'm just going to do a
6 real brief intro on the different types of
7 technologies that are available and some of the
8 differences. Diesel particulate filters do rely
9 on the engine reaching a certain exhaust
10 temperature to be effective. If the generator
11 doesn't run long enough under load, they sometimes
12 will not reach the temperature for the diesel
13 particulate retrofit. In that case they would
14 look at another type of control technology, which
15 is called the diesel oxidation catalyst. They're
16 able to perform at lower temperatures but capture
17 about 25 percent of the particulate matter, versus
18 85 percent for the diesel particulate filters.
19 Another type of technology that helps out with
20 generators in particular is something called the
21 selective catalyst reduction technology, which is
22 really a catalyst that captures the oxides of
23 nitrogen, which helps reduce emissions of NO_x ,
24 which is very important in the chemistry for the
25 creation of ozone. So, we are looking at lots of

1
2 ways of reducing NO_x concentrations. This
3 particular device focuses on reducing emissions of
4 NO_x when the diesel engines run at low
5 temperatures. Retrofit equipment has to be
6 properly designed to fit the type of equipment
7 that you're looking at, both in terms of sort of
8 the size of the equipment and how it's going to be
9 used. Well, we did lose a little sentence there.
10 Sorry about that. One of the-- sorry about that.
11 Okay. While these issues could possibly be
12 addressed in the rulemaking some of our
13 experiences with implementing other retrofit
14 legislation suggests that reasonable compliance on
15 the part of the legislated population did require
16 additional lead time for them to purchase and
17 install. Given that much of this equipment is
18 provided by rental companies, it's very likely the
19 same principal would apply here. One suggestion
20 that we have would be that some of the retrofit
21 technology, some of the generators be exempt if
22 they are under a certain horsepower. In Local Law
23 77, which deals with construction equipment, we
24 used a 50 horsepower threshold. It's possible
25 that that will eliminate a lot of the street

1 generators that are used in individual booths.

2
3 However, some of the larger generators, the larger
4 uses, would still be covered by that exemption.

5 In order for there to be effective enforcement,
6 issuance of the permit would ideally be tied to
7 some type of proof of fuel use and BAT compliance.

8 We have some suggestions. This might include
9 proof from the rental company or a receipt from a

10 gas station that the generator-fueling tank is

11 filled with ultra-low sulfur diesel. If the

12 generator is to be used for multiple days, proof

13 of purchase might include enough fuel to power the

14 generator for that time period, sort of based on

15 what the fuel consumption rate is per hour.

16 Although it's possible to see that BAT has been

17 installed on the generator testing fuel on site is

18 a really unworkable enforcement technique. So we

19 are trying to figure out another way that one can

20 demonstrate that they're actually using the fuel.

21 Another possible approach to ensuring that ultra-

22 low sulfur diesel and BAT is being used might be

23 to modify some of the permit regime for storage of

24 fuel on sight that are found in the Fire Code.

25 This is something that we've just sort of begun to

1 explore, but the Fire Department does require a
2 permit if 10 gallons or more of diesel fuel are to
3 be stored on site. In this case the storage is in
4 the fuel tank of the generator, is the hypothesis.
5 The Street Activity Permit application asks
6 whether generators will be used at the event and
7 Fire Department then contacts the sponsor
8 regarding the permit requirements. If there were
9 a way to include an amendment that the Fire
10 Department might be able to require a
11 demonstration that ultra-low sulfur fuel has to be
12 used as a condition of the permit, and some
13 demonstration that BAT was installed, we might be
14 able to fold into sort of that mechanism.
15 However, as you said something we were just
16 talking about, there were probably some
17 coordination issues, certainly with the Fire
18 Department, that need further discussion. Just
19 regarding the general drafting on the bill, it
20 might be advisable to actually create or move the
21 definition of BAT from the Subdivision C that it's
22 currently in and actually include as a defined
23 term. That would be consistent with the other
24 Local Laws requiring the use of best available
25

1
2 technology. It's always created in the
3 definition. We find that's its more helpful in
4 setting up the rule making then. We're also
5 thinking that there should be a provision that the
6 BAT retrofit is good for three years; then, in the
7 rulemaking, an authorized sticker could be applied
8 to the generator showing when it was first
9 installed and there would be another physical
10 piece of evidence showing that the retrofit
11 process had been done. We use a three-year
12 provision in several of the other retrofit bills
13 that are out there. Because the generators very
14 often are rentals, there are some issues with
15 that. But it would be something that we would
16 certainly want to explore with those companies.
17 And in the long run it might actually be helpful
18 for them. Finally, effective enforcement depends
19 on a shared database of permits. The significant
20 technological progress the Office of Citywide
21 Events Coordination and Management has made in
22 making data regarding permits accessible should
23 greatly facilitate this aspect of enforcement.
24 The Administration looks forward to working with
25 the committee to craft workable and enforceable

1
2 legislation on generators use in street events.

3 Thank you for the opportunity to testify. If
4 there are any questions I'll try my best to answer
5 them.

6 CHAIRPERSON FELDER: Thank you very
7 much. We've been joined by Council Member Peter
8 Vallone, Jr.; and Council Member Sears has a
9 question.

10 COUNCIL MEMBER SEARS: Thank you
11 Mr. Chair. I'll be very brief. One is that are
12 you supporting the concept of this bill, the bill
13 itself? Or are you supporting the bill with the
14 recommendations that you've made? So I'm a little
15 confused.

16 GERALDIEN KELPIN: I'm sorry. We
17 certainly support the idea of the bill. There are
18 some technical issues throughout the bill that we
19 would have liked to have considered. Some
20 legislation, at the end of the day, that provided
21 a continued reduction in emissions from generators
22 would certainly be favorable upon by the agency.

23 COUNCIL MEMBER SEARS: Okay. Would
24 this in your eyes affect the street vendors and
25 the generators they use? Would this be for all

1
2 generators, those who are licensed vendors that
3 are at the level of a--

4 [Off Mic]

5 GERALDINE KELPIN: [Interposing] My
6 understanding is, this is why we are saying that
7 there should be a certain-- there are a couple of
8 reasons for having a size cutoff. At some point
9 the cost of the retrofit and the emissions
10 reduction just don't make sense. What you're
11 getting for an improvement in air quality for a
12 small generator is fairly minimal in terms of the
13 amount of time that it would be operating. That
14 being said, we're always looking to get as much,
15 you know, emissions reductions as possible. But
16 in every piece of environmental legislation you
17 look at there's always a tradeoff. At some point
18 you have to accept that the burden of
19 implementing, enforcing and the benefit with a
20 cost just doesn't give you all that much. And so
21 that's why we're sort of suggesting that we look
22 at sort of the size profile and come up with some
23 exemption. Now there are lots of possibilities
24 that one could, you know, suggest in terms of sort
25 of tradeoffs or potentially incentives for going

1
2 to a cleaner type of electrical generation at
3 these sights. But again not the subject of the
4 bill; it would have to be something that, you
5 know, sort of the City is working towards
6 electrifying a number of things, off of battery
7 power for instance. There are other issues, EPA
8 for instance-- tell me when you want me to stop.
9 EPA is coming out with new regulations on gasoline
10 generators. They tend to be smaller horsepower;
11 the emissions control on them is being upped.
12 It's a different type of emissions that would be
13 being produced, similar to a gasoline vehicle but
14 the controls would certainly reduce it and
15 sometimes in balance, gasoline-controlled versus
16 diesel-controlled gasoline may be cleaner.

17 COUNCIL MEMBER SEARS: I understand
18 what you are saying, and I actually think that
19 maybe down the road, because the street vendors
20 have these very generators. And you had said
21 something that has to reach a certain temperature
22 before any of this could be effective. That's
23 very disconcerting. Because--

24 GERALDINE KELPIN: [Interposing]
25 Well, if they don't, then you use a technology

1
2 that does not affect them. That's where you go to
3 the diesel oxidation catalyst for example.

4 COUNCIL MEMBER SEARS: Maybe at
5 some time there might be a joint hearing with
6 Safety Consumer Affairs and this committee,
7 because I think that from this it can cover a lot
8 of everything. And the street vendors are a big
9 concern of mine. I think they're unsafe. I think
10 that they issue this stuff that we can't even
11 breathe in, and the City gives them licenses to do
12 this. I think where those generators are located,
13 at the bottom of that cart is very dangerous. I
14 have seen cars back up where they're right on the
15 street, and all they need is to be hit. So I
16 think that the Councilman has opened up something,
17 which is fine; I mean it's really good. Because
18 it means that we look at the global nature of
19 this. I don't think we can exclude-- that's my
20 point. So I think you've raised some issues, and
21 you've answered many, but I think that we need to
22 look at this picture--

23 [Off Mic]

24 COUNCIL MEMBER SEARS: Thank you,
25 Mr. Chair.

2 CHAIRPERSON FELDER: Do you have
3 some questions?

4 [Pause]

5 CHAIRPERSON FELDER: Can you
6 address whether there are any noise benefits, in
7 terms of reducing noise with this legislation?

8 GERALDINE KELPIN: Sometimes the--
9 what you're essentially doing is adding a muffler
10 of sorts, and almost inherent in that there is
11 some reduction with these-- a number of the types
12 of retrofits that are possible you get a little
13 bit of a noise benefit, noise reduction benefit.

14 CHAIRPERSON FELDER: In terms of
15 the benefit for the environment, I mean I know
16 it's hard to quantify, but are we talking about
17 something significant or not?

18 GERALDINE KELPIN: My understanding
19 that this bill also covers other street events
20 which might take into account a movie shoot where
21 those size generators are fairly large.

22 CHAIRPERSON FELDER: Interesting.

23 GERALDINE KELPIN: We've had some
24 experience where they've been able to be
25 retrofitted with the diesel particulate filter,

1
2 which means that whatever their emissions is being
3 reduced by 85 percent. We would consider that a
4 good clean up.

5 CHAIRPERSON FELDER: Do you have an
6 idea what the average cost of retrofitting would
7 be to a vendor?

8 GERALDINE KELPIN: There's a pretty
9 large range. The oxidation catalyst, which my
10 sense is a lot of the generators, just to be on
11 the safe side because all our rules include that
12 as a legitimate reason for not using a DPF, they
13 run maybe \$2,000 or less. There's new technology
14 for some of the larger generators that's called an
15 active DPF, which resolves some of the problems
16 with the temperature profile, but the costs of
17 them are up there.

18 CHAIRPERSON FELDER: Yeah, it's
19 significant.

20 GERALDINE KELPIN: I would say
21 10,000 or more on some.

22 CHAIRPERSON FELDER: But it would
23 seem that it's significant; it's significant no
24 matter what.

25 GERALDINE KELPIN: Right.

2 CHAIRPERSON FELDER: It's just a
3 question of more or more.

4 GERALDINE KELPIN: I mean some of
5 these things are running 24 hours.

6 CHAIRPERSON FELDER: Yeah.

7 GERALDINE KELPIN: You know,
8 especially like in the movie shoots. Very often
9 they are running, you know, eight, ten, twelve,
10 sometimes like a 24-hour period.

11 CHAIRPERSON FELDER: I'm talking
12 about back to the smaller ones like the food
13 vendors or that-- you're saying it's about \$2,000
14 which is--

15 GERALDINE KELPIN: [Interposing]
16 It's still a chunk of change.

17 CHAIRPERSON FELDER: Do you know
18 the average cost difference between the ultra-low
19 sulfur diesel and the regular diesel?

20 GERALDINE KELPIN: Well, actually
21 now all gasoline stations are using ultra-low
22 sulfur and that's where most of this equipment is
23 fueled, so whatever the price of sulfur is it's
24 already been built in. Just the other point that
25 might be made, newer model generators are just--

1
2 have been designed a bit better so that they're
3 actually a bit cleaner from the start and some of
4 the designs have incorporated also noise
5 mitigation already into the way that they've been
6 designed. I guess a thought sort of crept up last
7 night while I was thinking about this, which we've
8 used on some of the other bills but we'd have to
9 do a lot more research on it, is whether there
10 could be a tradeoff with new equipment at some
11 point with some model year engine being equivalent
12 to a retrofit, it being about as clean as we could
13 get. So again, I'm sorry. I didn't have time to
14 really research that but it's something that we've
15 used in other bills and it might be applicable in
16 this particular context as well.

17 CHAIRPERSON FELDER: So if I can
18 ask you to just move one seat over to your right.
19 Right. Correct. We have two witnesses and this
20 way if some issue comes up we can ask you directly
21 without having to go through some process.
22 Isabella Silverman and Jonathan Judge if you can
23 come up please. And I would ask the two witnesses
24 that we'll try to go in the order of the
25 testimony. In other words we started off with the

1
2 bill relating to sanitation. You can sit down.
3 You can both sit down. Do either one of you have
4 any testimony regarding the sanitation bill, the
5 recyclable on the fairs.

6 JONATHAN JUDGE: Yes.

7 CHAIRPERSON FELDER: Okay. Good.
8 So we'll do that testimony first. All right.

9 JONATHAN JUDGE: Okay.

10 CHAIRPERSON FELDER: Whenever
11 you're ready you can just make sure the light on
12 the mic is off and that means it's on. Identify
13 yourself.

14 JOHNATHAN JUDGE: Okay. Sure.

15 CHAIRPERSON FELDER: And go ahead.

16 JONATHAN JUDGE: If I may ask your
17 permission first Chairman Felder, I do address the
18 bill Intro 899 very briefly so, it just goes right
19 through the testimony.

20 CHAIRMAN FELDER: 899 is the, yeah,
21 go ahead.

22 JONATHAN JUDGE: Is that alright
23 because it's very, very short?

24 CHAIRMAN FELDER: Yes.

25 JONATHAN JUDGE: Okay. Thank you.

1
2 Good morning Chairman Felder and members of the
3 Governmental Operations Committee. My name is
4 Jonathan Judge, Community Coordinator at Brooklyn
5 Community Board 14 and I'm here today representing
6 our board Chairman Alvin Berk and District Manager
7 Doris Ortiz, to testify the proposed legislation
8 and the Community Board's role in the street
9 activity process with regard to the proposed
10 legislation. Firstly, concerning Intro 899
11 sponsored by Council Member Gerson, Community
12 Board 14 supports the merits of the legislation
13 and sees such an effort towards creating a cleaner
14 environment as an extremely worthwhile endeavor.
15 We do not believe that the requirements proposed
16 would create an unnecessary burden on the sponsors
17 of the street activity events that keep our
18 communities of Flatbush and Midwood dynamic and
19 thriving. The Board, however, does take issue
20 with the second proposed legislation introduced by
21 Council Member Mealy, primarily on three key
22 points. The role of Community Boards designed to
23 bring cost-effective and efficient coordination of
24 services at the local level are non-existent in
25 the legislation. Number two, these particular

1 requirements, should they be made law, would
2 present in our opinion a wasteful and unproductive
3 burden on both the city and the sponsors of block
4 parties in particular. And three, the legislation
5 appears redundant in light of similar standing
6 rules of the City of New York for the Department
7 of Sanitation. So firstly, on the matter of its
8 redundancy it would be helpful if someone,
9 including the intro sponsor or the Committee,
10 could elucidate the reasons for proposing that
11 these requirements become law despite their
12 existence in the Department of Sanitation's rules.
13 I did hear the Department of Sanitation testimony
14 but it still didn't seem clear what the real
15 reason was. So, that's something that our Board
16 is interested to know more about. Secondly, the
17 important and cost-effective role of community
18 boards in the coordination of City services
19 appears to have been ignored in the drafting of
20 these requirements. According to Chapter 70 of
21 the New York City Charter, City agencies and
22 Community Boards must work together in the
23 coordination of all services affecting the welfare
24 of its communities and residents in any respect.
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1
2 Furthermore, District Managers and their staffs
3 are empowered to perform the coordination of
4 services on a day-to-day basis. Therefore it
5 clearly follows that Community Boards do have a
6 direct role in the coordination of any and all
7 City services relating to street events within
8 their community districts. That is why the
9 Community Boards have been designated as a first
10 step in the Street Activity Permit process, and
11 that is why Brooklyn Community Board 14, in
12 fulfilling its charter mandates, has always
13 directly coordinated these services. In the
14 course of the permit process we discern which
15 block parties require special attention from
16 Police, Fire, Sanitation, Parks or any other
17 agency. We work together with the sponsors and
18 the local agency chiefs to ensure that the
19 sponsors and the agencies respond accordingly.
20 For our Board this has always included a
21 discussion and strategy on clean-up after a street
22 event. In doing so, we provide a tremendous
23 service to the sponsor, who in most cases has to
24 meet with our District Manager only once to
25 resolve most of these matters. Occasionally we do

1
2 request that the sponsor work closely with a
3 particular agency to ensure a certain set of
4 issues are resolved, but again, that is assessed
5 on a case-by-case basis as determined by our
6 Board's experience with the block and the sponsor.
7 Ultimately, our Board's recommendation to the
8 Mayor's Office in any permit application is
9 derived from our previous experiences with the
10 location, the sponsor and the sponsor's
11 cooperation with City agencies. Finally, in
12 looking at the scope of this legislation it would
13 be inappropriate not to recognize that
14 Sanitation's role is only one part of a complex,
15 intermeshing of City agencies that arises through
16 the issuance of Street Activity Permits. To
17 devise this requirement only for Sanitation is a
18 bit short sided. Police, Fire, Parks and
19 Transportation, for instance, should have a more
20 hands-on role and each street event as it may be
21 necessary. Yet, in a time of fiscal crisis such
22 as this to mandate such a role for each agency
23 would prove to be an exceptional burden on the
24 sponsors as well as the agencies, who would have
25 to devote extra resources to coordinate

1 independently with the nearly 100 sponsors from
2 our District alone, never mind the other 58
3 community districts. That is why the most logical
4 and cost-effective agents for coordinating
5 sponsors and agencies to resolve the needs and
6 problems of any particular street event,
7 particularly in this instance regarding sanitation
8 requirements for a block party or the Community
9 Boards. We are just as interested as everyone
10 else in ensuring the smooth operation of safe,
11 clean and neighbor-friendly street events in our
12 district. And because of our first-hand knowledge
13 of our communities our residents and our local
14 agency chiefs, we as a Community Board are the
15 best situated to coordinating that outcome.
16 Therefore, we respectfully request that the
17 Committee consider amending the legislation to
18 improve it in the following ways. One, require
19 that the sponsors meet with the local Community
20 Board District Manager rather than solely with
21 their local Sanitation District Officer to ensure
22 that any service-related issues are coordinated
23 and resolved in advance of the street event taking
24 place, regardless of whether those issues concern
25

1 Sanitation, Police, Fire, Parks or another agency.
2
3 And number two, because block parties are
4 typically organized by small volunteer-based block
5 associations-- and in our district many times by
6 elderly community organizers looking to provide
7 youth with a safe and fun street event during the
8 summer, the legislation should permit the
9 Department of Sanitation to exempt single-day,
10 single-block street events from these burdensome
11 requirements after consultation with the local
12 Community Board. Otherwise we have no objection
13 to such requirements being applied to larger,
14 multi-day and/or multi-block street events as long
15 as there is consultation with the local Community
16 Board. So on behalf of Brooklyn Board 14 we thank
17 you for this opportunity to speak on this very
18 important matter for our communities.

19 CHAIRPERSON FELDER: Thank you for
20 coming and please send our best regards to the
21 Chair, Alvin Berk and the District Manager Doris
22 Ortiz at Community board 14. I have a part of
23 that Community Board. And that Community Board is
24 one of the best, if not the best. I say that
25 publicly, in the area that I serve. On the last

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2 issue, if Sanitation can address whether they
3 would be in favor of the exemption for the block
4 party, one-day block party.

5 ANDREA CICCONE: To respond to that
6 question I would prefer to discuss that with the
7 Commissioner. Again, as we pointed out earlier
8 when we testified our mission is to ensure that at
9 the end of the night, whether it be a 14-day
10 event, a seven-day event or a one-day, a single
11 day event, that at the end of the night that that
12 street is restored to its original condition for
13 cleanliness purposes and all the refuse and
14 recyclables properly removed or stored by the
15 residents on that block. We're happy to discuss
16 that further, but I'd like to discuss it with the
17 Commissioner too.

18 CHAIRPERSON FELDER: We'd
19 appreciate that.

20 ANDREA CICCONE: Thank you.

21 CHAIRPERSON FELDER: The other
22 thing is that you brought up in your testimony
23 about the issues of coordinating, which is sort
24 of-- it's related somewhat to this hearing but
25 more to the oversight portion that we're not

1
2 discussing today. But I just wanted to again
3 mention that as a result of a lot of the
4 complaints that were received by a variety of
5 groups it used to be that the Community Assistance
6 Unit was sort of the sole provider for
7 coordinating these services. As a result of the
8 issues you raised of coordinating between Fire,
9 Police and everyone else the street activity
10 permits unit under Commissioner Korn really,
11 that's the job that they've been doing. I'm not
12 debating now whether it would be better that the
13 Community Board do it, or that the-- this office,
14 the SAPU Office do it, but clearly there the City
15 has been addressing this issue about coordinating
16 it in a constructive way, and we have yet to see
17 whether that's working or not. So appreciate the
18 comments, I just wanted to mention that for the
19 record.

20 JONATHAN JUDGE: Mr. Chairman, may
21 I just make a brief comment on that?

22 CHAIRPERSON FELDER: Yes, please.

23 JONATHAN JUDGE: In particular what
24 our Board was concerned with was the legal
25 requirement to meet with the Sanitation District

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2 Officer. We know for a fact, that with almost 100
3 applicants each year, that becomes an additional
4 burden especially when these are really not
5 problem block parties, and most of the issues are
6 resolved from the get go. So, we were concerned
7 that there should be more coordination and more of
8 an emphasis on coordination at the Community Board
9 side rather than sending everyone to each
10 individual agency. Because we know from our
11 experience and from our relationship with those
12 agencies, you know, who needs to go out of their
13 way to provide extra receptacles and so forth
14 because of problems that come up. So that's our
15 focus with that.

16 CHAIRPERSON FELDER: Would it be
17 fair to say that you're asking for an exemption
18 entirely for those block parties or fairs or block
19 party for a day, but if not an, exemption entirely
20 so that instead of mandating that they see the
21 Superintendent, if those block parties, it would
22 save Sanitation a lot of time and work,
23 coordinated with the Community Boards instead?

24 JONATHAN JUDGE: That's exactly the
25 point that we are trying to bring across.

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Absolutely.

CHAIRPERSON FELDER: Okay, very good, thank you. Do any of my colleagues have any questions? Council Member Dickens?

COUNCIL MEMBER DICKENS: Thank you so much. Mr. Judge, thank you for coming down, for your testimony.

JONATHAN JUDGE: Thank you for having me.

COUNCIL MEMBER DICKENS: Now in your testimony you said that you're supporting intro 899. Is that right?

JONATHAN JUDGE: That is correct.

COUNCIL MEMBER DICKENS: All right, because you feel it's worthwhile because the air we breathe this-- the air we breathe, and you don't think it would pose an unnecessary burden on the sponsors. Now, Ms. Kelpin, thank you for coming down with you testimony.

CHAIRPERSON FELDER: [Off Mic]

COUNCIL MEMBER DICKENS: She indicated in her testimony--

CHAIRPERSON FELDER: [Interposing]
She is no longer--

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[Off Mic]

[Pause]

CHAIRPERSON FELDER: Oh, I

apologize.

COUNCIL MEMBER DICKENS: May I

continue publicly?

CHAIRPERSON FELDER: I should know

better than to--

[Off Mic]

CHAIRPERSON FELDER: --Council

Member Dickens.

[Off Mic]

CHAIRPERSON FELDER: Can you

forgive me?

COUNCIL MEMBER DICKENS:

Absolutely. Pardon me.

JOHNATHAN JUDGE: Sure.

COUNCIL MEMBER DICKENS: He's

caused me to lose my train of thought. Now wait a

minute. Now, yes I do. Now Ms. Kelpin indicated

that there could be an additional cost to do the

retrofitting, etcetera, anywhere from 2,000 to

10,000 depending upon the size. You don't think

that that's a cost that the vendors would pass

1
2 onto the block party sponsors.

3 JONATHAN JUDGE: Well from our
4 experience we have very few street events in our
5 district that tend to use generators. Again, most
6 of them are small volunteer block parties much of
7 what you mentioned goes on in your community in
8 Manhattan. So we didn't see from our Board's
9 perspective that that would be-- most of those
10 events are very expensive events that those
11 sponsors put on, those Community Organizations put
12 on, so we didn't feel that in nature that it would
13 be excessively expensive. Certainly we leave it
14 to the experts to determine what would be the most
15 efficient way to accomplish that objective, but
16 again our support of it was in the merits of
17 trying to use cleaner generators for those street
18 events. If there's a better way and a less
19 expensive way to do that, then our Board of course
20 is always going to be in favor of that.

21 COUNCIL MEMBER DICKENS: All right.
22 Thank you.

23 JONATHAN JUDGE: You're welcome.

24 CHAIRMAN FELDER: Do you have any
25 other questions?

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2 COUNCIL MEMBER DICKENS: No, I
3 don't.

4 CHAIRMAN FELDER: Thank you. The
5 next witness, please. Do you have, excuse me
6 Miss, do you have any testimony regarding
7 Sanitation, the bill regarding the--

8 ISABELLA SILVERMAN: It's not
9 really my specialty but, just from listening, if
10 you have-- of course the street fairs should
11 always provide recycling bins but there will
12 always be contamination. People will always put
13 trash into recycling bins. I mean--

14 CHAIRPERSON FELDER: I understand.

15 ISABELLA SILVERMAN: And then to
16 fine for that, you know then of course that would
17 be a problem.

18 CHAIRPERSON FELDER: Do you want to
19 testify on that?

20 ISABELLA SILVERMAN: No. I don't
21 have any testimony on that, just 899.

22 CHAIRPERSON FELDER: Is it okay? I
23 want to ask permission from my colleagues. If
24 that's the case I'd like to let the people from
25 Sanitation leave if that's okay. So I want to

1
2 thank the people from the Sanitation Department
3 for coming to testify.

4 ANDREA CICCONE: Thank you very
5 much for the opportunity.

6 CHAIRPERSON FELDER: And the
7 witness can go-- next witness, please.

8 ISABELLA SILVERMAN: Yeah, okay.
9 My name is Isabella Silverman and I'm with
10 Environmental Defense Fund. We are an
11 environmental non-profit organization. Thank you
12 for the opportunity to testify. So, Environmental
13 Defense Fund is an environmental non-profit
14 organization. We are a non-partisan environmental
15 organization with more than 400,000 members
16 nationwide. Since 1967 our organization has
17 linked science, economics and law in tackling
18 environmental problems. But before I go to my
19 testimony I just wanted to speak freely to some of
20 the issues that already have been raised. I think
21 that's a little bit more efficient way of doing
22 it, because Ms. Kelpin already covered a lot.
23 First I wanted to talk about the different
24 technologies. And that's also one of our main
25 points. Since 2003 New York City has legislated

1
2 on diesel retrofits. It started with Local Law
3 77, which is about cleaning about construction
4 equipment. And so there was exactly five years,
5 for five years New York City has been
6 legislation on this and the technology has
7 really evolved tremendously. In 2003 when I
8 started working on this we were uncertain whether
9 the retrofit technologies would work on certain
10 applications. Now we know they are working. And
11 the 85 percent reducing technology, the diesel
12 particulate filter, is working on everything
13 regardless of the temperatures and that's very
14 important to notice. Like Gerry Kelpin pointed
15 out there are these active filters that work. And
16 we don't need to go to the diesel oxidation
17 catalysts anymore. We really don't.

18 Technologically the filters work. If there is a
19 temperature issue you use a different kind of
20 filter that makes up for the temperature issue
21 like Gerry Kelpin pointed out. So, we can reduce
22 85 percent of these particulate matter emissions
23 and we do not need to go to diesel oxidation
24 catalysts anymore. The big difference is diesel
25 particulate filters reduce 85 percent of PM

1 emissions and they actually trap. They trap the
2 particulate matter, the black soot coming out is
3 trapped in a filter, whereas diesel oxidation
4 catalysts only reduces the size of the particulate
5 matter particle, and it does not keep trapped. It
6 still escapes into the air. So that's the big
7 difference. We know that PM 2.5, that's fine
8 particulate matter, is particularly harmful for
9 the health our children, us, and is linked to
10 asthma, lung disease, cancer, heart disease. So
11 the question now is, we know the technology works
12 to 85 percent, and we have now the technologies
13 available that go in all types of different
14 vehicles or generators. So the difference is the
15 cost. As usual it's all about money. We can do
16 it technologically but yes, as Ms. Kelpin pointed
17 out, the cost of course for-- you get what you pay
18 for. If you put on a diesel oxidation catalyst
19 for about \$2,000 the particles still escape into
20 the air, they don't get trapped. If you can do a
21 passive diesel particulate filter, the one that
22 you can use if the temperature is high enough then
23 you get 85 percent and that costs around \$7,000.
24 If the temperature is not high enough then you
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2 have to use an active diesel particulate filter.
3 That costs \$15,000. It is 13 to 15,000 dollars
4 definitely. There are much more expensive. And
5 so what the City Council has to weigh here are the
6 costs. We at Environmental Defense Fund, of
7 course we are in favor, and strongly in favor, of
8 this bill and we are urging you to put already in
9 the law that the best available retrofit
10 technology shall reduce 85 percent of particulate
11 matter emissions. So, like it used to be in the
12 other laws, Local Law 77 and the on-road bills
13 that followed, the way those laws were structured
14 it was always, shall use best available retrofit
15 technology; and then the Commissioner shall issue
16 rules determining which technology works for which
17 vehicle, which application. Now we are arguing
18 that is no longer necessary, with all respect. We
19 know the generators that are used for these fairs.
20 We know they can take DPFs. I can give this to
21 you in writing from retrofit manufacturers. So,
22 why go through the complicated procedure of having
23 the Commissioner issue rules when we already know
24 the technology works. And then also what we of
25 course want to prevent is them from just

1 installing the diesel oxidation catalysts. And
2 now that leads me to what Council Member Sears
3 raised. So, what does this law apply to? Is it
4 just the street fairs that have these big
5 generators? Is it the street vendors? I mean
6 that's then a totally new animal. Street vendors,
7 they have something small underneath, that's
8 something totally different. Then Ms. Kelpin
9 pointed out or maybe you put in the 50 horsepower.
10 But in the definition part it should be very clear
11 as to what this applies to. Does it apply to film
12 shoots? Of course for film shoots, there are so
13 many in the City and they go 24-7, absolutely they
14 should have DPFs. And I argue they have the money
15 to put them on, and they rent those so the costs
16 get recovered very fast even though we think 13,
17 \$15,000 sounds like a lot as a top number. And
18 it's probably nothing for a film shoot when they
19 are just renting it and maybe the rental costs are
20 \$50 more a day. But for our health it makes a big
21 difference and also, always notice that these
22 diesel occur right where we walk and breathe and
23 play and open our windows. So it's the exposure.
24 You know, if you are burning coal in a power plant
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1
2 that's bad, but it's at least not right where we
3 breathe it in. So, that's why this is so
4 important to clean up these dirty sources in our
5 streets and street level pretty much where you
6 push a stroller. So, I will not have to read this
7 now. So, and then the sticker idea I thought was
8 great. That there's something in there where the
9 rental company needs to, you know, retrofit it,
10 and then it needs to be certified, there needs to
11 be a sticker on there, it needs to say 85 percent
12 emission reduction. There's three-year rule that
13 Ms. Kelpin brought up which pretty much become
14 obsolete if you already require 85 percent
15 emissions reduction because you can't get anymore
16 than that. Most of them get 90. This active
17 filter costs \$15,000 gets 99 percent of PM. So
18 you would need to do it again three years later.
19 The filter usually lasts about ten years. But
20 what you could put in, of course, in the law is a
21 retirement age because the newer the equipment the
22 cleaner it is. Just because EPA certifies
23 engines, engines have to become cleaner over the
24 years, and they are becoming very clean. So you
25 could put in that a generator shall not be older

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2 than whatever, 12 years. You could put that in.
3 So, you rule out all the old generators. And then
4 the benefits for environment, somebody brought
5 that up as a question, what are the benefits.
6 Let's say if I had to say how many tons of PM will
7 not be released into the air that would be hard to
8 say. I would need more data. But the point I
9 made with health is because where all these
10 people, these thousands of people are going to the
11 street fairs, so that's a pretty good argument.
12 And then you have the costs; I went over that. So
13 these are all the points that were raised before.
14 So I have my written testimony and I pretty much
15 made pretty much all the points already now that I
16 wrote down. So, then I would suggest the changes
17 for Intro 899 would be in that, of course that you
18 would write instead of best available retrofit
19 technology, and I have that in my written--
20 instead of best technology you write, shall
21 utilize EPA or car-verified retrofit technology
22 reducing at least 85 percent of particulate matter
23 pollution. You don't need to specify the
24 technology. You just say the ones that are EPA or
25 car-verified and that's what they need to reduce,

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2 85 percent. So, you rule out all the less
3 effective technologies that way. And then of
4 course because we believe then rulemaking is not
5 necessary, because you already put everything in
6 the law, then you would take out C, where it says
7 the Commissioner shall make determinations. So
8 that would become obsolete. So overall we are
9 strongly supportive of this law and we would like
10 to have it be really effective by putting it in
11 there and make it really clear which it applies
12 to. Because obviously if it's just like a hotdog
13 seller that has some little generator somewhere
14 that would have to be reevaluated. Thank you very
15 much.

16 CHAIRPERSON FELDER: Thank you.

17 We've been joined by Councilman Alan Gerson, who
18 is the sponsor for this bill. I'd appreciate if
19 Council Man Gerson would, if you have comments and
20 questions.

21 COUNCIL MEMBER GERSON: You didn't
22 ask me to keep the comments brief this time by
23 implication.

24 CHAIRPERSON FELDER: That's because
25 it's your bill.

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COUNCIL MEMBER GERSON:

Nevertheless, I'll be brief. And actually, Mr. Chair. I want to start by thanking you for your ongoing incredible leadership with all government operations.

CHAIRPERSON FELDER: [Off Mic]

COUNCIL MEMBER GERSON: In

particular the issue of street fairs, which we have brought to your attention. You have responded totally responsively, and so we thank you on behalf of the community I represent and all of us. You know also I'd be remiss if I did not acknowledge the presence of Gerry Kelpin. She's just among the finest of the finest of civil public servants we have in our City. I'll also be brief here. I would be remiss if I did not say that, because she has been incredibly responsive to any member of environmental issues in lower Manhattan in the aftermath of 9/11 and ongoing and thank you. Ms. Silverman you said it all. So appreciate your testimony. Mr. Chair, I think the suggestions raised by the Environmental Defense Fund and Ms. Silverman strike me as good suggestions that we should evaluate and do so

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2 quickly. I would just want to underscore one
3 point she made about these filters, you know,
4 being often under our windows and on street level
5 where people walk. In street fairs in particular
6 these generators or the pollution presents and
7 especially danger situation to young people
8 because street fairs tend to attract for the
9 obvious reasons children and young people. You
10 know sometimes they have games, sometimes they
11 have amusements, sometimes it's just the fun of
12 running, you know, being on a closed street. And
13 of course these children with developing lungs at
14 street level are particularly susceptible to the
15 toxic emissions. If they could avoided it
16 behooves us as a city to avoid that. And so I
17 thank you for raising that point. And I would
18 just urge that, you know, we have the upcoming
19 street fair season that will begin in earnest you
20 know with the onset of spring. I think it would
21 be a great target to try and adopt this law before
22 then even if we can't, even if it doesn't take
23 effect before then, putting, you know, folks on
24 notice that this is coming or could have an effect
25 even in advance of the legally effective date and

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2 certainly would benefit all communities and assure
3 communities. The only other point I just want to
4 add, the point about movie shoots. There is
5 actually, Mr. Chair, a companion bill to this one
6 that is directed to the usually larger, more
7 intense generators of movie shoots, the powers
8 that be of our City Council have assigned that
9 bill, where Peter? I think to the consumer, to
10 the Environmental Protection Committee and there's
11 a hearing upcoming on that so I just want to
12 reassure everyone on that. And with that I thank
13 my colleagues, I thank you Mr. Chair and I thank
14 the witnesses. I just urge we make the technical
15 adjustments and get this done as soon as possible.
16 Just in closing this continues this Council's and
17 your commitment, Mr. Chair, to the reduction of a
18 diesel particulate and other dangerous toxins in
19 the air we breathe. So, it's a continuation of
20 the work we've done and it's a continuation we
21 should make as soon as possible. Thank you very
22 much.

23 CHAIRPERSON FELDER: Thank you very
24 much. Council Member Dickens?

25 COUNCIL MEMBER DICKENS: Thank you.

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2 Thank you so much Ms. Silverman for your
3 testimony, because you gave me some very good
4 suggestions. You made very good suggestions that
5 I'm going to speak with my colleague about, that
6 maybe he would accept as friendly amendments to
7 his existing Intro, because you give information
8 on staggering based on size of generators that was
9 not considered, and also that if there is a
10 companion bill that's being placed for
11 Introduction, then we maybe need to in this one
12 remove the larger ones so that they're not
13 incorporated in here if there's two. Because what
14 happens in the City Council, as in the State
15 Legislature we frequently have legislation that
16 overlaps and then sometimes conflicts. So one
17 piece of legislation will say one thing and it's
18 left up to the City Agency to determine whether
19 it's a conflict or what. And so, I think we need
20 to start looking at that and you've raised that
21 merely bringing this. I'm so glad you did.

22 ISABELLA SILVERMAN: But you know
23 what? The 50 horsepower, what Ms. Kelpin was
24 referring to, that the ones smaller than 50
25 horsepower are not included. So everything over

1
2 50 horsepower needs to be retrofitted, correct?
3 So it was, yeah. It was not excluding larger ones.
4 But that's in the definition of where this law
5 applies, street fairs. That's excluding hotdog
6 vendors.

7 COUNCIL MEMBER DICKENS: You know
8 I'm glad you did. I'm glad you brought this up
9 because you raised some issues that I hadn't even
10 thought about it in looking this over. So maybe
11 my colleague would consider incorporating some of
12 this.

13 COUNCIL MEMBER GERSON: You know
14 Mr. Chair I have never to date have ever said no
15 to any requests by Council Member Dickens, so I'm
16 sure we will. And again, I concur that these are
17 very fine technical adjustments. I think the
18 original intent was to include the 50 horsepower.
19 I would just be concerned that in the street fair
20 environment, you know, where you have a series
21 stand after stand, after stand utilizing so called
22 small street generators the cumulative effect
23 could be the same if not worse than, you know, a
24 large, one large generator on a movie shoot. So,
25 I would just be careful you know the context and

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2 the environment is all-important. Again, as I
3 said especially with reference to children
4 running, you know, the presence of children in
5 street fair environments. So, I think we should
6 follow up but I would be, you know, aware the
7 technology exists. If these engines or generators
8 have ten-year lives the cost is spread out over
9 ten years in a rental arrangement, typically that
10 these generators are rented for. The cost even
11 for a smaller one, which presumably would have a
12 lower cost than a larger generator, should not be
13 prohibited. We should certainly look into it.
14 But obviously at a certain level an exception
15 needs to be made. But I would be very reluctant
16 to rule out from coverage of this bill the type of
17 generators which are commonly used in stand after
18 stand in street fair environments because that
19 could wind up defeating the purpose. So, I think
20 we should follow up with these technical
21 suggestions in mind, the ones raised by my
22 colleagues and yourself and come up with the most
23 inclusive bill that is feasible.

24 ISABELLA SILVERMAN: Yeah. We
25 absolutely we need look into how big are these

1
2 generators typically in the street fairs. Are
3 they 40 horsepower? Are they 60 horsepower? I
4 really don't know off the top of my head. That
5 would be something that needs to be addressed.
6 Otherwise, yeah, it defeats the purpose of the
7 bill.

8 CHAIRPERSON FELDER: [Off Mic]

9 ISABELLA SIVERMAN: You're a
10 Council Member now.

11 CHAIRPERSON FELDER: [off Mic]

12 COUNCIL MEMBER SEARS: Just a brief
13 comment. Thank you very much for all that you've
14 said because it's very informative. But when I
15 made the comment about the vendors and the streets
16 and small-- it demonstrates the global picture of
17 this issue because when you said that those
18 filters last about ten years that was a question I
19 was going to ask. We need to have in this
20 legislation, and I don't know what the rules are
21 for the City, but how do we know that they're not
22 exceeding that approximate level of aging?
23 Therefore, I think in this legislation, and I
24 direct it to the sponsor, we need to have either
25 it's a recertification that has to be filed when

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2 they're up for re-licensing. But I think that's a
3 very key thing because the City cannot go around
4 inspecting all these things. It's impossible. I
5 think then if we are going to impose this kind of
6 legislation we need to impose another position
7 upon them, regardless of what the City law may be,
8 because this is adding another dimension to what
9 that is. If they're going to comply with a new
10 law for the City then it behooves us to reiterate
11 in that law what may be existing for the aging
12 process. I don't know. Thank you. And thank
13 you.

14 CHAIRPERSON FELDER: Ms. Kelpin, I
15 know you want to speak. I'd also ask if there's
16 anything that you disagree with that was
17 mentioned. In other words I'm not encouraging you
18 to disagree. All I'm saying is that you've been
19 listening for a while to the testimony as well as
20 some other comments. I know you asked to speak,
21 but I would ask you to mention if there's anything
22 that you feel differently about.

23 GERALDINE KELPIN: Thank you.
24 Actually I did want to just clarify a couple
25 points. One of the reasons that we suggested this

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2 three-year renewal was not so much that we want
3 the technology to change out, but it gives us an
4 opportunity to ensure that the equipment hasn't
5 been tampered with. Because although people are
6 certainly, you know, out there doing the right
7 thing, it is easy to remove the inside of a filter
8 and keep the canister, and it is actually doing
9 nothing. So, there-- this at a minimum is a time
10 period that says the Agency could go out and check
11 to make sure, or it requires them to come in and
12 let us know. So it's not so much that we
13 necessarily have to change it out. I would just
14 caution that if the bill were to go to say that
15 generators can be retrofitted with an 85% device
16 that there's inevitably a situation where
17 something comes up and it's not possible. And so
18 I would just say, if the Council is going to go in
19 that direction, I would encourage that they would
20 allow some type of waiver, provision that gets
21 defined. And again, I had thrown out 50
22 horsepower only because we had used it in other
23 legislation. And I mentioned briefly that the
24 size at these street fairs is probably below that
25 range, and one would want to look at for-- no pun

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2 intended, to add, you know, what universe you
3 really want to capture. Some of these very small
4 generators, to put at \$10,000 or \$15,000 device on
5 it, where the person owns it, might cause economic
6 hardship. The whole issue of the rental--
7 actually that will be done over the time as they
8 rent it out. There are some issues for rental
9 companies, because most of the companies rent, at
10 least the tri-state area, so one has to also be
11 sure that if they do put a DPF on, if they send it
12 to New Jersey, will it be okay there as well? Or
13 are they going to take it off and on every time
14 they rent it? And those are some issues that need
15 to be explored. As was said, the technologies
16 have certainly advanced. The surrounding states
17 are really considering things, but you've got to
18 make sure everything is consistent across state
19 lines as well.

20 COUNCIL MEMBER SEARS: One response
21 to that though, and I understand what you're
22 saying-- it's important for us to look at the
23 financial end of it, but if we were to be
24 concerned about one side of the street and what is
25 spitting out of those, and across the street there

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2 may be one that's very small, and it's in a
3 contained environment, as I see different sizes of
4 generators on the same block. As a result, if
5 we're looking at this so we can purify the air as
6 best we can, I don't see-- and I'm only, this is a
7 question, because you raised the issue. I don't
8 see how, if over here we've got one that is as low
9 as you're talking about and could impose a big
10 financial problem, as opposed to over here, where
11 they are obligated to do that. So on one hand we
12 have one side that's looking correcting the
13 environment, and the other side we're allowing it
14 to effect the environment, because at times they
15 go 24 hours. And you made that comment yourself,
16 that in going 24 hours, what it does. So I think--
17 - I agree with you and I think you raise a good
18 point, but I think at the same time we have to
19 look at that very carefully, because we've got--
20 you know, in order to look at that.

21 GERALDINE KELPIN: I certainly I
22 agree. One of the things that would probably be
23 extremely helpful if some people sort of put their
24 heads together, whether or not there are some
25 other kinds of constraints that would move like

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2 some of these smaller generators to either
3 cleaner, newer models, or to change their fuel to
4 gasoline. Because you could have a comparable,
5 and correct me if I'm wrong on this, but at about
6 in the low range of 25 horsepower, you can either
7 go diesel or gasoline. And as I was saying, with
8 the new regulations that EPA is putting out, a new
9 gasoline engine is going to be pretty clean in
10 terms of many of the concerns that we have. If
11 nothing else, it's not running on diesel. So
12 there are some sort of alternatives or some
13 options that are available. I'm not-- right now I
14 can't tell you how it would be best to put them
15 into legislation. But the idea of having some
16 type of, you know, turnover so that you move
17 towards these cleaner options that aren't
18 necessarily a huge financial penalty.

19 COUNCIL MEMBER SEARS: To look at
20 the timeframes and perhaps incentives to doing
21 certain things like that. Thank you very much.

22 CHAIRPERSON FELDER: Before we
23 conclude, I just wanted to first, well obviously
24 thank the witnesses, and thank Council Member
25 Gerson for sponsoring this bill. But as it's

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2 clear that as a result of the hearing and as a
3 result of the questions that my colleagues have
4 posed, we've had some discussions here with the
5 staff that we think that Council Member Dickens's
6 proposal, really, or suggestion that it be
7 consolidated with the other item and Environmental
8 Protection, despite my interest in taking credit
9 for this bill-- it really doesn't make sense for
10 it to belong in this Committee in the future. I
11 think we should work on consolidating it with the
12 other bill, if that's okay.

13 COUNCIL MEMBER GERSON: We can
14 still give you credit.

15 CHAIRPERSON FELDER: Huh?

16 COUNCIL MEMBER GERSON: We can
17 still give you credit.

18 CHAIRPERSON FELDER: Well okay. I
19 don't want to argue with you. Thank you very
20 much. The hearing is hereby closed.
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C E R T I F I C A T E

I, Erika Swyler certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature_____

Date January 29, 2009