

CITY COUNCIL
CITY OF NEW YORK

-----X

TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON FINANCE

-----X

July 29, 2009
Start: 12:04 pm
Recess: 12:21 pm

HELD AT: Council Chambers
City Hall

B E F O R E:
DAVID I. WEPRIN
Chairperson

COUNCIL MEMBERS:
Council Member Maria Baez
Council Member Gale A. Brewer
Council Member Leroy G. Comrie, Jr.
Council Member Lewis A. Fidler
Council Member James F. Gennaro
Council Member Vincent J. Gentile
Council Member Eric N. Gioia
Council Member Vincent Ignizio
Council Member Robert Jackson
Council Member G. Oliver Koppell
Council Member James S. Oddo
Council Member Diana Reyna
Council Member David Yassky

A P P E A R A N C E S [CONTINUED]

David I. Weprin
Sponsor, Intro 598
Chairperson
Committee on Finance

Special Delegation
City Council Members
Johannesburg, South Africa

Kerry Kessler
Attorney for COAD owners

Leroy G. Comrie, Jr.
Chairperson
Committee on Consumer Affairs

William Martin
Committee Clerk
Committee on Finance

1

2 [START 1001]

2

3

MR. JERRY STAFFIERI: Testing for
the Committee on Finance. Today's date is June
(sic) 29th, 2009 and the meeting is being recorded
by Rafael Perez.

4

5

6

7

[END 1001]

8

[START 1002]

9

[Gavel banging]

10

SERGEANT AT ARMS: Quiet please,

11

ladies and gentlemen, please find seats.

12

CHAIRPERSON WEPRIN: Sergeant at

13

Arms, you ready?

14

SERGEANT AT ARMS: Close Sir.

15

[Pause]

16

CHAIRPERSON WEPRIN: Good afternoon

17

and welcome to today's Finance Committee hearing.

18

My name is David Weprin and I chair the Committee.

19

Let me introduce my colleagues that are here and

20

we'll have more joining us. We have Council

21

Member Robert Jackson from Manhattan; Council

22

Member Lew Fidler from Brooklyn; Council Member

23

Oliver Koppell from the Bronx; and Council Member

24

Diana Reyna from Brooklyn and Queens.

25

We also have a special delegation

1
2 in the audience who I met with this morning to
3 talk about our budget and the City and finances in
4 the City and this is a special delegation of City
5 Council Members from the City of Johannesburg,
6 South Africa. Welcome.

7 [Applause]

8 CHAIRPERSON WEPRIN: Today we have
9 three items on our agenda. We have two Land Use
10 items, both of which are seeking a property tax
11 exemption from HPD. And we also have a
12 housekeeping item relating to the Coin Operated
13 Amusement Device tax, also known as the COAD tax.
14 C-O-A-D. Let's begin with the Land Use items.

15 The first item is a Resolution
16 approving a full exemption from real property
17 taxes for affordable rental housing for the
18 elderly located at Finley Plaza in Council Member
19 Helen Diane Foster's District in the Bronx. The
20 property tax exemption will be used to make the
21 rehabilitation of the three buildings in Finley
22 Plaza which consist of 162 units more affordable.
23 Council Member Foster supports this Land Use item.

24 The next Land Use item is a
25 Resolution approving a partial exemption from real

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

property taxes for low income families at the Lavonia Terrace Apartments in Council Member Charles Barron's District in Brooklyn. The property tax exemption will be used to make the rehabilitation of the 17 buildings in the Lavonia Terrace Apartments which consists of 171 units affordable. Council Member Barron supports this Land Use item. Representatives from Council Finance are available to answer any questions you may have regarding the Land Use items.

The last item on our agenda is Intro 598, a housekeeping item that repeals the Chapter related to the Coin Operated Amusement Device tax in the Administrative Code of the City of New York. This Act amends the Administrative Code to remove those portions relating to the duties and responsibility of COAD owners under the COAD tax. The tax was imposed for the privilege of maintaining Coin Operated Amusement Devices such as jukeboxes, pinball machines or mechanical rides placed outside of stores in the City.

Although the tax on COADs was eliminated over ten years ago and rendered ineffective by Local Law 48 of 1997, Chapter 15 of

1
2 the Administrative Code of the City of New York
3 and Section 11-4013 of the Administrative Code
4 still remains on the books. These sections of law
5 set forth duties and responsibilities relating to
6 the imposition of the tax on the Coin Operated
7 Device, the requirement that COAD owners display a
8 stamp indicating payment of the tax. As a result
9 many owners of such devices in New York City have
10 complained that they have erroneously received
11 summonses for their failure to comply with the
12 Section 11-4013 of the Administrative Code which
13 requires COAD owners to conspicuously display the
14 stamps on their COADs.

15 Intro 598 which I am the proud
16 sponsor of would repeal the provisions of the
17 Administrative Code relating to the COAD tax.
18 Specifically the bill would repeal in its entirety
19 Chapter 15 of Title 11 of the Administrative Code
20 which relates to the COAD tax and would repeal
21 Section 11-4013 of the Administrative Code which
22 requires the conspicuous placement of a stamp on
23 the COAD to indicate payment of the COAD tax.

24 Representatives from the Department
25 of Finance are available to answer any questions

1
2 you may have on Intro 598 but before that I'd like
3 to call upon Kerry Kessler, an attorney, who
4 represents several businesses who have received
5 Code summonses and who is a strong advocate for
6 this legislation. Mr. Kessler.

7 MR. KERRY KESSLER: Thank you Mr.
8 Chairman. Good afternoon Honorable members. My
9 office prepared a detailed summary of why this
10 legislation is crucial. The good news is I'm not
11 going to read into the record all of my remarks
12 but I would just rather highlight some of the
13 exhibits to show the Honorable Finance Committee.

14 Mr. Chairman, it was 12 years ago
15 that I last appeared before the Finance Committee
16 regarding this tax. To the credit of the City
17 Council, and I would be remiss if we didn't
18 recognize Finance Chairman Berman and the late
19 Councilman Howard Lasher, this tax was repealed.
20 The tax was actually costing the City money
21 because the administration of the tax was so
22 cumbersome that it was taking scores of Finance
23 Department personnel to administer the tax. It
24 also created an underground illegal industry of
25 people who would somehow manufacture phony stamps,

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

put it on amusement devices and then take them from one location to the other so that they couldn't properly get the money that they were supposed to collect from these operators. And who did it fall on? The legitimate owners.

Now what happened was when we repealed the tax in 1997 and I was present when the Mayor repealed it, unfortunately we left out some language. The police when they do their job and they do their job very well, they still see certain sections of the law on the books. And even though we have tried to tell the NYPD that there's no tax to produce tax stamps and there's no records to keep since there is no tax stamps and there is no tax, they're still writing the tickets.

Matter of fact I thought I was going to be late this morning because there I was in Queens Criminal Court representing a young man who got a ticket for, you know what, failure to keep a tax stamp. And yes... I'm sorry, I thought some one had a question, I apologize.

[Background noise]

MR. KESSLER: I apologize. The

1
2 good news is that thanks to Chairman Weprin, we
3 had to take the time of the Committee and the
4 staff and the Council in general to say please, it
5 may not be the most earth shattering legislation
6 but the industry needs it. More importantly the
7 people who get the tickets aren't even connected
8 with the industry. They're more often than not
9 bartenders, barmaids. The police will give a
10 ticket to anybody. And they have to take a day
11 off from work and I'm only going to highlight one
12 specific case which is in your package here, an
13 attorney who represented this particular woman
14 back in the spring didn't realize the tax was
15 repealed, had her plead guilty to a what's called
16 a disorderly conduct, which is a lesser offense,
17 these are unclassified misdemeanors under the
18 Code.

19 I saw this and I heard about it and
20 I said, and I found out from one of my clients, I
21 said well who is this young lady. Oh she's going
22 to law school in August. I said that's just
23 great. On her record going into law school she
24 has now a disorderly conduct under the penal law.
25 And in this packet you will find my motion and the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

decision of the judge having to exonerate her totally, refund her fine and make sure the record is expunged so that this young lady if she makes it through three full years of law school, passes the bar exam, doesn't have to go to the Committee on Character and Fitness, as anyone who's been a lawyer knows, and having to explain why she got a ticket for not having a tax stamp. And believe it or not it could hold up her admission to the bar.

And lastly, members of the Committee, I want the Committee to know that I'm one of the few attorneys that actually have gone to 25 Elm Street where the Department of Finance, I don't know if they have it any more but they had a huge operation there, this is not a criticism of them. They're very good. They know how to the best of their ability to collect tax. But when I saw the amount of paperwork generated by these good civil servants, you know, this is going back of course 15 years; they would actually send Department of Finance people to all parts of New York State tracking down a tax stamp. It became almost laughable the amount of time we were spending.

1
2 The good news is that we proved to
3 the City budget people both here and in the
4 Mayor's Office that when you don't have tax
5 stamps, the members, the owners and operators buy
6 more machines and the sales tax far exceeds any
7 money that you would possibly lose by a tax. And
8 I would only urge its adoption and hope that
9 sooner or later that this just becomes a distant
10 memory and hopefully laughable at that. However
11 until that time, and I can attest to this, I'm in
12 court, a judge's attention, an assistant district
13 attorney's attention, court clerk's attention, and
14 all the people involved in a court proceeding have
15 to pay attention to a collection--to a ticker
16 rather regarding a tax stamp for a tax that
17 doesn't exist. Thank you Mr. Chairman.

18 CHAIRPERSON WEPRIN: We have been
19 joined by some additional Council Members. We
20 have Council Member Jim Oddo and Vincent Ignizio
21 from Staten Island and Council Member Vincent
22 Gentile from Brooklyn and Council Member Leroy
23 Comrie from Queens. Mr. Kessler you referred to
24 the prior Chairman of this Committee and Herb
25 Berman, and our thoughts and prayers are with him

1
2 today because he just lost his wife. I understand
3 the funeral was earlier today. So please we
4 should all have Herb Berman and his family in our
5 thoughts and prayers today 'cause he served this
6 City with great distinction for many years both as
7 a member of the City Council, as Finance Chair,
8 and a number of other positions at the State level
9 as well.

10 MR. KESSLER: Mr. Chairman if I
11 may--if I can indulge just one moment, I was also
12 remiss in not thanking Council Member Comrie who's
13 Chairman of the Consumer Affairs Committee. This
14 industry of the amusement machines, jukeboxes and
15 whether it's kiddy rides or a Pac-Man, maybe I'm
16 showing my age when I say Pac-Man, provides a
17 certain amount of good entertainment for adults.
18 And we're trying our hardest to bring in more
19 revenue to the City of New York without the
20 necessity of bureaucracy. And I want to thank
21 Chairman Comrie who's working with us on that.
22 Forgive me Councilman for not mentioning that
23 before. Thank you.

24 CHAIRPERSON WEPRIN: Thank you.
25 We've also been joined by Council Member Maria

1
2 Baez from the Bronx. Are there any questions for
3 Mr. Kessler before he leaves with that big stack?

4 MR. KESSLER: And goes back to
5 court Mr. Chairman.

6 CHAIRPERSON WEPRIN: Any questions
7 for Mr. Kessler? Okay thank you Mr. Kessler.

8 MR. KESSLER: Thank you Mr.
9 Chairman.

10 CHAIRPERSON WEPRIN: We're going to
11 have a vote shortly if you want to just hang
12 around.

13 MR. KESSLER: Thank you.

14 CHAIRPERSON WEPRIN: Oh Council
15 Member Comrie has a statement or a question--

16 COUNCIL MEMBER COMRIE:
17 [Interposing] I just want--

18 CHAIRPERSON WEPRIN: --and we've
19 been joined by Councilman Jim Gennaro from Queens.

20 COUNCIL MEMBER COMRIE: I just want
21 to make a brief statement then. Congratulate--I
22 just want to congratulate Mr. Kessler for his
23 efforts to continue to fight to give the amusement
24 owners every opportunity they can to continue to
25 exist and make business and profit for City owned

1
2 businesses within New York City. Thank you Mr.
3 Kessler.

4 CHAIRPERSON WEPRIN: We've also
5 been joined by Council Member Eric Gioia from
6 Queens. I'd like to couple the three items before
7 us, the two Land Use items and Intro 598. If you
8 could couple all three items and read--call the
9 roll.

10 MR. WILLIAM MARTIN: William
11 Martin, Committee Clerk, roll call on the
12 Committee on Finance. Council Member Weprin.

13 CHAIRPERSON WEPRIN: Aye on all.

14 MR. MARTIN: Reyna.

15 COUNCIL MEMBER REYNA: Aye.

16 MR. MARTIN: Baez.

17 COUNCIL MEMBER BAEZ: Aye.

18 MR. MARTIN: Comrie.

19 COUNCIL MEMBER COMRIE: Aye and can
20 you please add me to the Intro 598 please? Please
21 add my name as a sponsor to 598.

22 MR. MARTIN: Fidler.

23 COUNCIL MEMBER FIDLER: Mr.

24 Chairman if I may, I just have to say that the
25 testimony we just heard is absolutely mind-

1
2 bogging. You'd think that we were living in the
3 Twilight Zone. It is just amazing the amount of
4 time and effort and energy that has been wasted by
5 an Administration that clearly, you know, can't
6 see the forest for the trees. And I guess in the
7 Bloomberg world where we balance our budget by
8 fining New Yorkers, willy-nilly, I just hope he
9 doesn't veto this bill.

10 [Laughter]

11 COUNCIL MEMBER FIDLER: And I'd
12 like to ask that my name be added as a sponsor as
13 well if it's not already. And I vote aye on all.

14 CHAIRPERSON WEPRIN: Thank you.

15 MR. MARTIN: Gennaro.

16 COUNCIL MEMBER GENNARO: I vote
17 yes.

18 MR. MARTIN: Gioia.

19 COUNCIL MEMBER GIOIA: I vote yes.

20 MR. MARTIN: Jackson.

21 COUNCIL MEMBER JACKSON: I vote aye
22 and please add my name as a sponsor of that Intro
23 also.

24 MR. MARTIN: Koppell.

25 COUNCIL MEMBER KOPPELL: I would

1
2 just observe this would be good for Kafka if he
3 was still writing stories. I vote aye.

4 MR. MARTIN: Yassky.

5 COUNCIL MEMBER YASSKY: Aye.

6 MR. MARTIN: Gentile.

7 COUNCIL MEMBER GENTILE: I would
8 also, Mr. Chairman, wish to be added as sponsor of
9 that, of the bill and just to add too that this is
10 just another example of the continuing scenario of
11 overaggressive ticketing of this Administration.
12 Regardless of what the law says or doesn't say,
13 tickets are flying out the--off the books into the
14 hands of merchants and motorists and so on and so
15 forth and home owners too. So I vote, proudly
16 vote yes on this.

17 MR. MARTIN: Ignizio.

18 COUNCIL MEMBER IGNIZIO: Those that
19 put your faith in government being the solution,
20 take heed today as we see this, and those who want
21 to put your lives and socialized medicine in the
22 hands of government, just use this as a reason for
23 not doing so. I vote aye on all.

24 MR. MARTIN: Oddo.

25 COUNCIL MEMBER ODDO: I'd just like

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

to associate myself with the remarks of Council Member Gentile and just say that at the end of the Dinkins Administration in 1992 when I was a staffer to former Council Member John Fusco, there was a similar situation. There were bars and tavern owners on Staten Island receiving summonses for not having No Spitting signs on the wall. And the No Spitting signs when back to the days of the spittoon. And this is the worst climate in terms of overzealous enforcement of tickets that I've seen since the days of 1992. And when you have ticket agents in commercial strips in the outer Borough literally standing, waiting for the meter to count down to hand a ticket, that's not creating turnover for parking, that's revenue generation. And that's wrong. We can't talk with one side of our mouth and talk about helping small businesses and with the other side do what this Administration has done. And that's why I'd like to associate myself with the comments with Council Member Gentile and vote yes.

MR. MARTIN: By a vote of 13 in the affirmative, 0 in the negative, and no abstentions, all items have been adopted. Council

1

2 Members, please sign the Committee reports. Thank
3 you.

4

CHAIRPERSON WEPRIN: Thank you.

5

6 I'm going to keep the roll open for a half hour
7 until approximately 12:50. Other than that we're
8 adjourned.

8

[Gavel banging]

9

[Pause]

10

CHAIRPERSON WEPRIN: Are we ready?

11

Go ahead.

12

COUNCIL MEMBER BREWER: Gale

13

Brewer, aye on all items. Thank you very much.

14

[Pause]

15

CHAIRPERSON WEPRIN: Go ahead.

16

MR. MARTIN: Final vote on the

17

Committee on Finance is now 14 in the affirmative,

18

0 in the negative and 0 abstentions. Thank you.

19

[END 1002]

C E R T I F I C A T E

I, Laura L. Springate 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.

A handwritten signature in cursive script that reads "Laura L. Springate". The signature is written in black ink on a light-colored background.

Signature _____ Laura L. Springate _____

Date _____ August 15, 2009 _____