

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON HEALTH

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December 18, 2013

Start: 12:32 p.m.

Recess: 1:23 p.m.

HELD AT: 250 Broadway - Hearing Room
16th Floor

B E F O R E:
Maria Carmen Del Arroyo
Chairperson

COUNCIL MEMBERS:

Inez Dickens
Daniel R. Garodnick
Mathieu Eugene
Julissa Ferreras
Rosie Mendez
Joel Rivera
Deborah L. Rose
Peter F. Vallone
Albert Vann
James G. Van Bramer

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

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CHAIRPERSON ARROYO: We're ready?
Okay. Good afternoon everyone. I'm sorry for the delay. We're kind of all over the place today. My name is Maria Del Carmen Arroyo, Chair of the Committee on Health, and today the Committee will be voting on two pieces of legislation. The first is Proposed Intro 933A, which would establish an animal abuse registry and will prohibit people convicted of animal abuse crimes from owning an animal and establish criminal penalties for failing to comply with the law. This bill sponsored by Council Member Vallone will ensure that animals do not end up in the hands of those likely to mistreat them. We'll hear from the prime sponsor in a minute. The second piece, Proposed Intro 1210A which would include electronic cigarettes in the Smoke-free Air Act, sponsored by Council Member Gennaro, Council Speaker Christine Quinn and myself. And this legislation would prohibit the use of electronic cigarettes wherever smoking is prohibited in the City. Before I turn over to Council Member Vallone and then Council Member

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Gennaro who have worked really hard on both of these pieces of legislation. I want to thank the Committee Staff for the work that they've done to get us to today, Kelly Taylor, Counsel to--our batting--what do you call that before somebody comes up to bat? Pinch hitting. For Dan Hayfits [phonetic] who brought, welcomed his little girl into the world last week, baby Vivian. Dan and mommy are doing well and we wish them all well. So Kelly, thank you for your work. We have Cristabel Ponn [phonetic], policy analyst somewhere. Oh, he's in the background. Francisco and Jeff Compana [phonetic]. It's not on here. Okay, there you go. Thank you, Jeffery. Thank you guys for the work that you've done to get us to today. And now, Council Member Vallone, congratulations. I know that you have been working on--

COUNCIL MEMBER VALLONE:

[interposing] Congratulations to you too.

CHAIRPERSON ARROYO: [interposing]

this for a while.

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2 COUNCIL MEMBER VALLONE: I know that
3 you and your staff have been working on this
4 very hard for a long time. You know, our
5 animals give us so much. We only have to look
6 at today's papers that a dog that jumped on the
7 tracks and did not move away from his owner
8 despite a train bearing down on them. They both
9 wound up going under the train and surviving.
10 But we see this every day, and today we give
11 our animals a present for Christmas. Today we
12 give them the present of protection. Today we
13 are saying to animal abusers, "If you abuse an
14 animal, you cannot have another one." Right
15 now, unbelievably, there is no law against
16 that. You can abuse and torture ten animals
17 and go to a shelter the next day and lie and
18 get ten more animals. We're going to put a
19 stop to that. This animal abuse registry is
20 much like, is almost exactly like the gun
21 offender registry and a sex offender registry.
22 It will be maintained by the City, and if you
23 are on this registry, this list will be
24 provided to the pet stores and animal shelters
25 and animal rights groups who will be able to

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2 check this list and if you do get an animal
3 while you're on this list, you'll be guilty of
4 a misdemeanor. So we are protecting our
5 animals, and not just in New York City because
6 as everyone knows, what we do here is copied
7 all over the place, and I'm very hopeful that
8 other cities and other countries will now take
9 this exact same step to protect their animals.
10 It seems like a common sense step. Again, I
11 want to thank you, Maria, and your staff. Some
12 of the objections the administration had raised
13 were they didn't think the Health Department
14 was the proper agency. We worked with them. We
15 said an agency designated by the Mayor because,
16 you know, we've all worked with the Mayor-elect
17 de Blasio. We know how much he loves animals,
18 and I think he's going to have a whole new
19 agency to deal with animals. So let him
20 designate who should keep this list. So we got
21 through all the problems we had and I am very
22 proud of you guys and the fact that this is the
23 last bill that I'm passing and it's one that I
24 really felt strongly about and my mom wouldn't
25 let me come home for dinner if I did not get

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this done, and now I can eat for Christmas. So thank you all and I look forward to voting aye.

COUNCIL MEMBER GENNARO: Thank you, Madam Chair. Thank you for your work on the bill 1210A. At first I want to congratulate Peter Vallone for his great bill that he's doing here today, and I look forward to voting on Pete's bill when we get to the full Council, and I thank you and your staff as I've said. Madam Chair, as we all know, Intro 1210A would create parody between how tobacco products and cigarettes are regulated. Currently, about 18 million Americans live in jurisdictions that regulate the use of e-cigarettes in the same way as tobacco products, although our country has not seen fit to ban these products, and we're not doing a ban. It is interesting, I think notable, that to date the following countries, Argentina, Australia, Brazil, Canada, Hong Kong, Israel, Jordan, Panama, Singapore and Turkey have banned the importation, the sale and the use of these products for their own health reasons. You can check with their respective health ministries, but this bill is not a ban. It was simply, as you

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2 said Madam Chair, cover the use of these devices
3 in the Smoke-free Air Act. We're doing the same
4 thing as we did with tobacco cigarettes with
5 regard to the so-called tobacco shops or what we
6 call tobacconists, like the parallel entities,
7 these lounges that are going to come into
8 existence and already in existence are free to
9 have people smoke the e-cigarettes there as long
10 as they get 51 percent or more of their revenue
11 from the sale of these devices just as we did
12 with the tobacconists, and I think it is notable
13 also that just in the last couple of days we have
14 the executive summary, which I sent out to all
15 the Council Members, of a study that was prepared
16 on behalf of the world health organization that
17 urges all jurisdictions around the country or
18 around the world rather to, you know, regulate
19 these devices in the same way tobacco is
20 regulated. People who testified in favor of
21 this, of course, that we know is the Health
22 Commissioner who also made a comment the other
23 day in the New York Times in an Op-Ed [phonetic]
24 because there was some op-eds arguing for these
25 devices, and what the Commissioner said in his

1 letter to the editor, just kind of read some
2 excerpts from it, that some of the columnists who
3 came out in favor of the e-cigarettes indicated
4 that they should be regulated by the Food and
5 Drug Administration as, you know, drug delivery
6 devices. These are the people arguing in favor of
7 these devices, and the Commissioner indicated in
8 his letter to the editor that he certainly
9 agreed, but he also indicated that the e-
10 cigarette companies themselves block this. They
11 don't want to go to the FDA to be classified a
12 drug delivery devices. They would have to conduct
13 rigorous studies to demonstrate that these
14 devices are safe and have some effect in helping
15 to stop people from smoking. So they didn't want
16 to do this, so they sued the FDA in federal court
17 arguing that cigarettes should instead be
18 regulated as tobacco products and they won. So
19 good for them. So more than happy to oblige them
20 and have them regulate it as tobacco and I wish
21 to thank you madam Chair and your staff of the
22 Bloomberg Administration and Commissioner Farley
23 [phonetic], the Campaign for a Tobacco Free Kids,
24 the Cancer Action Network, the American Academy

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of Pediatrics, and the Coalition for a smoke-free City, global advisors for smoking policy, my staff and all your staff to bring us to this good day, and this--and I think I'll just add one other, you know, tid-bit in that you know, the people who--these devices are widely touted as being able to, you know, help one, you know, wean one selves off cigarettes, but the people who make them are, you know, not in the drugs. To say that they're not in the tobacco cessation business. You know, they're in the addiction business. And so, you know, this is what we're dealing with, and you know, to have these become, you know, common place in public libraries, subway cars, council hearings, day care centers, it's just not a city that I envision, and I think it's, you know, high time that New York City caught up with the state of New Jersey, the state of North Dakota, the state of Utah, many other jurisdictions throughout the country. As I said, 18 million people, you know, live in jurisdictions where these are regulated equally, and I think it's time for New York City to get in step with the times. And so this concludes my

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statement, Madam Chair, and I thank you for your indulgence.

CHAIRPERSON ARROYO: Thank you. Thank you both for your comments, and now I ask the Clerk to call the roll. I recommend a yes vote on--are we going to couple these and vote aye on both or? Okay. So we'll do that.

CLERK MARTIN: William Martin, Committee Clerk. Roll call vote, Committee on Health. Items are coupled. Council Member Arroyo?

CHAIRPERSON ARROYO: Aye on both.

CLERK MARTIN: Vallone?

COUNCIL MEMBER VALLONE: Briefly excused to explain my e-cigarette vote? You know, I did my best to listen to all sides when it comes to e-cigarettes, and however, at the end of the day, and literally, at the end of a long hearing day, every study that one side had was countered by a study from the other side, and I just don't think we know enough right now about the effects of what are in these pipes and the fact anyone could put whatever they want inside these pipes to allow them to be vaped in restaurants, on subways, in classrooms next to

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people and next to kids. So I don't think we know enough, and while I do think this legislation may go too far, it is the only piece before me. So I am going to vote aye, and I do want to congratulate Council Member Gennaro for his work. Aye on both, obviously.

CLERK MARTIN: Vann?

COUNCIL MEMBER VANN: Aye on both.

CLERK MARTIN: Dickens?

COUNCIL MEMBER DICKENS: Thank you.

Madam Chair, may I please explain my vote? I want to congratulate first Council Member Vallone on the passage of his legislation which is long over due. Abuse has been allowed of animals, and so I strongly support that. I also want to thank Council Member Gennaro on his bill. I'm concerned, but there--I too, like my colleagues, have listened to both sides. I have some serious issues in light of the fact that there is no federal regulations governing this. The fact that there's been no discussion about the closed devices versus the open devices. The open devices does allow for changes to be made. You can virtually go into a e-cigarette store and make up

1
2 your--manufacture, if you will, your own whatever
3 you want to put in it. The closed device does not
4 allow for that. I have tried to weigh both sides
5 because of my concern on health. My husband died
6 from lung cancer just about six months ago, and
7 it was from years of smoking cigarettes and
8 unable--the patch did not help him to stop
9 smoking and he was unable to do it on his own. I
10 was a long time smoker and I managed to cease
11 smoking not because of the patch but because I
12 just finally was able to do it on my own, because
13 I've developed a cough and I was fearful. But
14 having said that and my concern about the
15 legislation, the fairness of it, the fact that we
16 are unable to legislate the closed versus the
17 open e-cigarettes. There's been--I have not
18 heard any real discussion from either side as to
19 the difference and what the closed cigarette does
20 versus the open. I know I was at the hearing
21 when it was being utilized and abused in fact in
22 the council chambers by so many of the advocates
23 and supporters in their zeal to get us not to
24 pass this legislation. So, Madam Chair, I raised
25 these issues knowing that I have lost a husband

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to cancer, I'm going to vote for this, but I'm very concerned about voting for this in the way it is and without a consideration to the various different e-cigarettes that are available out today and without federal regulations about it. Aye on all.

CLERK MARTIN: Mendez?

COUNCIL MEMBER MENDEZ: Permission to explain my vote? Madam Chair, I was here for the hearing last week briefly because I had some other matters to attend to, but I did go back and read a lot of the testimony. I read the briefing paper. I've spent the last few days speaking to both sides, and after a lot of deliberation and being concerned about vaping going on in places like libraries and other areas where children will be, I vote aye on all.

CLERK MARTIN: Rose?

COUNCIL MEMBER ROSE: Madam Chair, permission to explain my vote? I probably have been the last person to sort of arrive at some sort of decision in terms of how I want to vote on this issue today. First, I want to say I vote aye on Council Member Vallone's bill. I'm sorry

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it took so long for this bill to be passed. I love dogs. And with that said, on Intro 1210A, I have literally agonized over this vote and I've reviewed a lot of the information, and so I arrive at my vote today still not having been dissuaded that e-cigarettes have no cessation-- have no value as a cessation device. I've talked to a number of people who have used this successfully and feel that it is. And I feel that the research is lacking and I want to encourage more research, that more research be done, not only in terms of its value as a cessation device, but also what exactly is being exuded in the vapors. But with that said, since this is just a parody issue and it only regulates these devices in already regulated spaces for regular cigarettes, I'm not sure. I reluctantly vote yes for this legislation.

CLERK MARTIN: Van Bramer?

COUNCIL MEMBER VAN BRAMER: Permission to explain my vote? First of all, I just want to congratulate Council Member Vallone on his bill and thank him for all of his great work on behalf of pets and animals, and I also want to thank and

1 congratulate Councilman Gennaro for caring about
2 the issues that he so passionately cares about.
3 I have supported every piece of health
4 legislation as it relates to smoking because like
5 so many people and like Council Member Dickens,
6 my stepfather passed away four years ago from
7 lung cancer and I watched a very, very painful
8 and difficult process and death and I don't want
9 anyone to have to experience that. And I thought
10 a lot about this bill, but I too was at that
11 hearing where some folks smoked their e-
12 cigarettes and lit their e-cigarettes, and I
13 haven't said this to them yet, but actually
14 Council Member Vallone had some quotes in the
15 paper the next day which actually had a lot of
16 effect on how I feel about this issue, because he
17 said, you know, "I could smell something. I could
18 sort of see something. We just don't know what
19 that is yet. And so you can't say nothing is
20 happening. We just don't know what it is." And I
21 thought about that, and we don't know yet if
22 that's not something that's terribly unhealthy.
23 We just don't know that yet, and in the absence
24 of knowing, it seems prudent to take these steps
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which are not banning the use of e-cigarettes, but simply bringing them into complying with the act we already have established and I think that makes sense, and if we as a council and as we as people can prevent one person from taking up smoking and dying a painful death that my stepfather did, I'm committed to doing that every single time, and so that's why I will probably vote yes on both these items.

CLERK MARTIN: By a vote of seven in the affirmative, zero in the negative, and no abstention, both items have been adopted.

CHAIRPERSON ARROYO: We're going to leave the vote open for a few minutes. Council Member Eugene and Rivera are in the building. We're going to give them an opportunity to step in and vote. Thank you my colleagues. Have a good afternoon. [off mic] They're in the building. Have we heard from Eugene? Okay. So then he can close it out? Okay.

CLERK MARTIN: Council Member Rivera?
Council Member Rivera?

COUNCIL MEMBER RIVERA: Aye vote on all.

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CLERK MARTIN: Vote stands at eight in the affirmative. Council Member Eugene?

COUNCIL MEMBER EUGENE: I vote aye.

CLERK MARTIN: Final vote in the Committee on Health nine in the affirmative, zero in the negative, no abstentions.

COUNCIL MEMBER EUGENE: Thank you. And now the meeting's adjourned.

[gavel]

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify there is no relation to any of the parties to this action by blood or marriage, and that there is no interest in the outcome of this matter.



Date 01/06/2014