

CITY COUNCIL
CITY OF NEW YORK

-----X

TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON WATERFRONTS

-----X

February 22, 2010

Start: 1:00 pm

Recess: 2:06 pm

HELD AT: Council Chambers
City Hall

B E F O R E:
MICHAEL C. NELSON
Chairperson

COUNCIL MEMBERS:
Council Member Peter F. Vallone,
Jr.

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

Michael C. Nelson
Opening Statement
Chairperson
Committee on Waterfronts

Thomas Milora
Executive Assistant to the Commissioner
Department of Sanitation

Todd Kuznitz
Director of Enforcement
Department of Sanitation

Andrew Schwartz
First Deputy Commissioner
Department of Small Business Services

Richard Muller
Director of Legislative Affairs
Department of Environmental Protection

Jeffrey Baker
Counsel
Committee on Waterfronts

Colleen Pagter
Policy Analyst
Committee on Waterfronts

Joshua Verleun
Staff Attorney
Chief Investigator
Riverkeeper

Cortney Worrall
Director of Programs
Metropolitan Waterfront Alliance

Emily Egginton
Metropolitan Waterfront Alliance

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

Edward Kelly
Executive Director
Maritime Association of the Port of New York and New
Jersey

Debbie Mans
Baykeeper
Executive Director
New York New Jersey Baykeeper

1
2 MR. THOMAS MILORA: Good afternoon
3 Chairman Nelson and members of the Waterfront
4 Committee. I am--

5 CHAIRPERSON NELSON: [Interposing]
6 Oh I'm sorry Sir. I just read the opening
7 statement--

8 MR. MILORA: [Interposing] Okay.

9 CHAIRPERSON NELSON: --thank you.
10 I apologize. Good afternoon and welcome to
11 today's hearing of the Committee on Waterfronts.
12 My name is Mike Nelson. I have the honor to chair
13 this Committee. For much of its history, New York
14 City's waterfront has been an industrial hub and
15 has--hub that is, and has served as a home to
16 marine cargo facilities, cruise ships, factories,
17 waste transfer stations, electric generating
18 facilities and more. During much of this period
19 the waterways served as flowing garbage disposals
20 for the bone, boilers, high end workers, printers,
21 potters and other industrial users that lined the
22 banks of New York City's waterways.

23 While the quality of our water and
24 waterfronts has made dramatic improvements over
25 the last 30 years, illegal dumping still remains a

1
2 problem. Dumping is a broad violation that can
3 encompass a wide range of illegal activities from
4 abandoning vehicles into waterways to depositing
5 construction debris in waterways. While the
6 impact of a single instance of illegal dumping is
7 likely less detrimental to our water quality than
8 a catastrophic event like an oil spill or the
9 persistent discharges from combined sewer
10 outflows, the aggregate result of illegal dumping
11 activity can be quite severe.

12 The Committee on Waterfronts is
13 considering two bills today. The first is Intro
14 number 53 which adds a new section, 22-112-1 to
15 Chapter 1 of Title 22 of the Administrative Code
16 of the City of New York. This section would
17 require the Commissioner of Small Business
18 Services, the Commissioner of Environmental
19 Protection and the Commissioner of Sanitation to
20 prepare and plan to combat illegal dumping on the
21 waterfront.

22 Such plan shall include: one, rules
23 for the safe handling, loading and unloading of
24 materials; two, a waterfront task force to aid the
25 Commissioner of Small Business Services in

1
2 devising those rules; three, a centralized source
3 of contact for the reporting of illegal dumping;
4 four, a protocol for coordination with other
5 governmental entities that have jurisdiction over
6 illegal dumping, sort of like the CIA and the FBI
7 and the NYPD to work together in concert; a
8 coordinated enforcement plan including a
9 waterfront survey to identify dumping sites,
10 periodic inspections of waterway and waterfront
11 properties and the posting of signs to discourage
12 dumping and the abandoning of property; sixth, a
13 coordinated plan to identify and remove derelict
14 and abandoned vessels; and seven, a public
15 education and outreach program.

16 The second is Intro number 54 which
17 would amend Section 22-112 of Chapter 1 of Title
18 22 of the Administrative Code of the City of New
19 York by adding a subdivision C that would create a
20 civil penalty for the violation of this section
21 returnable to the Environmental Control Board of
22 not less than \$1,500 nor more than \$10,000 for the
23 first violation and not less than \$5,000 nor more
24 than \$25,000 for each subsequent violation. It
25 furthermore amends Section 16-119 of Chapter 1 of

1
2 Title 16 of the Administrative Code of the City of
3 New York to permit the Commissioner of Small
4 Business Services and the Commissioner of
5 Environmental Protection to enforce the provisions
6 of this section on the wharfs, piers, docks,
7 bulkheads and slips located on the waterfront
8 property.

9 We will now hear testimony from the
10 Administration and from members of the public on
11 these two bills. Thank you for your patience Sir.
12 I think the first three to testify of course would
13 be Andrew Schwartz of Department of Small Business
14 Services, Todd Kuznitz of Department of Sanitation
15 of New York, and Thomas Milora of the New York
16 City Department of Sanitation, thank you Sir.

17 MR. MILORA: Good afternoon
18 Chairman Nelson and members of the Waterfront
19 Committee. I am Thomas Milora, Executive
20 Assistant to the Commissioner for the New York
21 City Department of Sanitation. I am here today
22 with Chief Todd Kuznitz, Director of Enforcement.
23 Also with me are my colleagues Andrew Schwartz,
24 First Deputy Commissioner for the Department of
25 Small Business Services and Richard Muller,

1
2 Director of Legislative Affairs for the Department
3 of Environmental Protection.

4 Thank you for the opportunity to
5 testify today regarding Intro number 53 and Intro
6 number 54. As you know the Department of
7 Sanitation takes an active role with respect to
8 those who illegally dump throughout the City. In
9 order to be issued a violation under Section 16-
10 119 of the New York City Administrative Code the
11 illegal dumping must occur on a public place or
12 other area whether publicly or privately owned
13 which includes property located along the
14 waterfront and such dumping must occur from a dump
15 truck or other vehicle. DSNY also has the
16 authority to issue violations under Section 16-130
17 of the Administrative Code to those entities that
18 illegally fill lands under water to establish
19 grades without the proper permits.

20 DSNY continually monitors for the
21 illegal dumping of materials by conducting
22 surveillance of known dump locations including
23 along waterfront properties and by following
24 suspicious vehicles. DSNY also has both a tip
25 program and a citizen affidavit program. If DSNY

1
2 observes someone dumping into the waterway, DSNY
3 impounds the vehicle and notifies the New York
4 State Department of Environmental Conservation for
5 further enforcement action. Last year DSNY
6 notified the DEC after observing a business
7 pushing material into a waterway in Brooklyn.

8 Small Business Services also plays
9 an active role in respect to the waterfront. The
10 mission of SBS is to make it easier for companies
11 in New York City to form, do business and grow by
12 providing direct assistance to business owners
13 fostering neighborhood development in commercial
14 districts, promoting financial and economic
15 opportunity among minority and women owned
16 businesses, and preparing New Yorkers for jobs and
17 linking employers with a skilled and qualified
18 workforce.

19 In addition as a successor agency
20 to some of the functions of the former Department
21 of Ports and Trades, SBS has jurisdiction for
22 waterfront permitting and inspection of waterfront
23 property. In this context SBS inspects waterfront
24 properties for hazardous conditions, monitors
25 properties for compliance with construction

1
2 permits, issues notices of violation and criminal
3 court summonses for violations, assists in the
4 abetment of hazardous conditions through fencing
5 and interagency coordination and maintains
6 waterfront permits and property records.

7 Violations have been issued for
8 unpermitted work and hazardous conditions and the
9 agency has consolidated an organized several
10 decades of the City's waterfront permit records.

11 SBS works closely with other
12 property management agencies, notably the Economic
13 Development Corporation and the Department of
14 Citywide Administrative Services. SBS also works
15 with the Department of Buildings on permitting
16 issues and potential structural hazards. EDC's
17 property management arm manages and maintains
18 waterfront property under SBS's jurisdiction.

19 The other City agency with a
20 critical role in safeguarding the waterways is the
21 Department of Environmental Protection. Pursuant
22 to Section 24-523 of the New York City
23 Administrative Code DEP enforces against illegal
24 discharging of a toxic substance directly or
25 indirectly into the sewer system or into any

1
2 private sewer drain emptying into the sewer
3 system.

4 While DEP does not have specific
5 enforcement power to regulate against illegal
6 dumping into the harbor it does have enforcement
7 power against illegal discharging into our sewer
8 system.

9 DEP conducts programs focused on
10 preventing and reducing the entry of pollutants
11 and litter into the harbor via the sewer system;
12 The Industrial Pretreatment Program, the Shoreline
13 Survey, the Grease Prevention Program and the
14 Emergency Response Unit. With regard to the last
15 of these, DEP inspectors in the Emergency Response
16 Unit respond to reports and complaints of spills
17 and illegal discharges of toxic substances,
18 obstructive substances and any other substances
19 other than storm water runoff that have the
20 potential to enter the sewer system. The
21 inspectors take enforcement action when necessary
22 which may include ordering cleanups, issuing
23 summonses and submission of reports.

24 Poor housekeeping practices at
25 industrial sites can result in floatables escaping

1
2 into the sewer system. The Industrial
3 Pretreatment Program is a federally required and
4 authorized program charged with controlling
5 industrial discharges by requiring industries
6 governed by federal and local pretreatment
7 regulations to remove specific pollutants from
8 their waste water before they are released into
9 the City's sewer system.

10 The IPP helps to protect the
11 sewers, the water treatment plants, and the cities
12 receiving the waters. The Environmental
13 Protection Agency requires approximately 1,500
14 municipalities around the country to implement
15 industrial pretreatment programs.

16 Regarding the current bills, Intro
17 number 54 adds a civil penalty section to Title 22
18 of the New York City Administrative Code which
19 substantial civil penalties to be recovered in
20 proceedings before the Environmental Control
21 Board. Historically SBS's violations have been
22 pursued in criminal court proceedings.
23 Jurisdiction to seek penalties through the ECB
24 could provide for a more expedited process in the
25 notice and enforcement of violations.

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

Additionally Intro number 54 expands the scope of public places that illegal dumping may occur to include wharf, pier, dock, bulkhead, slip and navigable waterway and would give SBS and DEP in addition to DSNY the authority to enforce with respect to at least some of these areas under Section 16-119 of the Administrative Code. Subject to any legal concerns we support the bill in principle and would like to work with the Council on finalizing the bill.

Intro number 53 would create a task force that would create a plan to combat illegal dumping into the waterways of New York City. We think that this bill on a whole is unnecessary since DSNY, SBS and DEP already work closely with other city and state agencies to ensure that the areas along the waterfront and the waterways are closely monitored. Sanitation has authority to issue violations where trucks or other vehicles dump debris in the water. DEP monitors for improper outflows into the City's waterways and SBS has the authority to inspect properties and issue violations for hazardous conditions at work sites along the waterfront.

1
2 The New York State Department of
3 Environmental Conservation and the Army Corps of
4 Engineers have authority to issue violations for
5 polluting navigable waterways. All three City
6 agencies can respond to specific complaints of
7 dumping at specific locations. We can work to
8 tailor 311 calls to address specifics of illegal
9 dumping. DSNY has an illegal dumping bounty
10 program. DEP has a floatables reduction program.
11 And the State DEC has a hotline for reporting
12 incidents of pollution.

13 However the City agencies do not
14 have the resources to monitor property either from
15 the water side or extensively from the land side
16 for this type of dumping. It should also be noted
17 that a substantial portion of the City's
18 waterfront is publicly owned by the City, State
19 and Federal government. And each has property
20 management programs to monitor and secure their
21 properties and facilities.

22 At this time we would be happy to
23 answer any questions.

24 CHAIRPERSON NELSON: Thank you Sir.
25 Anybody else going to speak to this on the panel?

1

2 All right.

3 [Off mic]

4 CHAIRPERSON NELSON: Oh. I want to
5 welcome Councilman Peter Vallone, Chair of our
6 Public Safety Committee. And I also want to thank
7 Jeffrey Baker, Counsel to the Committee, sitting
8 to my right and Colleen Pagter, our Policy Analyst
9 for being here.

10 You know, we go easy as far as it
11 goes on the Commissioner. We only--it requires
12 the Commissioner's best efforts so that's like not
13 being held responsible so to speak, just to
14 coordinate this. Of course referring to Intro 53
15 with that, I'm glad the Administration basically
16 supports 54. I'm sure we'll be working on it.
17 Somewhat, molding it a little bit.

18 But it would be unfair to impose an
19 absolute obligation upon the Commissioner to
20 obtain the information. But we want to just, as
21 the coordination process, to go on. So hopefully
22 we will come to an agreement on that as well.
23 Councilman Vallone, do you have a statement?

24 [Off mic] [Laughing] Oh, I didn't
25 catch you having breakfast, I'm sorry.

1
2 [Chuckling] I just threw down some cashews in the
3 car on the way here. [Off mic] [Chuckling].

4 There were a few questions I had.
5 As far as how many calls does the City receive as
6 far as regarding materials dumped into the water
7 or on the waterfront, including abandoned
8 vehicles?

9 MR. MILORA: I believe since the
10 last time I testified which is roughly maybe a
11 little over a year ago I haven't seen one that
12 specifically related to dumping directly into a
13 waterway.

14 CHAIRPERSON NELSON: None has been
15 called in? Despite--that's part of the education
16 process we're hoping to get out to the public
17 more. I guess most people--well... I hope that's
18 become a Kenny Genovese situation.

19 MR. MILORA: Excuse me Council
20 Member--

21 CHAIRPERSON NELSON: [Interposing]
22 Sure go ahead Commissioner.

23 MR. MILORA: --we had one, one
24 actual site that was referred to us. It was up
25 on... [Off mic] It was a site on the Bronx River

1
2 where there was a large amount, a large volume of
3 tires observed on the shorefront. We contacted
4 DEC and I believe DEC took enforcement action. It
5 wasn't actual dumping it was tires that were close
6 to the shore.

7 CHAIRPERSON NELSON: With the
8 abandoned boats issue as well, what's being done
9 by the agency with that and does anybody call in
10 and complain about that? I would think, I know if
11 Garrison Beach and other areas.

12 MR. TODD KUZNITZ: We haven't
13 gotten any complaints or any requests for help but
14 if a boat is taken out of the water and left on
15 the street, we'll take it as an abandoned--the
16 same way we would in our DVO program as an
17 abandoned vehicle. But we don't have the
18 resources to go into the water and pull boats out.
19 But if a boat is taken out we'll remove it.

20 CHAIRPERSON NELSON: Okay. Do Feds
21 get involved with that all if it's like in the
22 national waterways, wetlands area?

23 MR. KUZNITZ: We haven't been
24 called on any. The ones we've been finding are
25 already on the street.

1

2

CHAIRPERSON NELSON: Okay. Andy?

3

MR. ANDREW SCHWARTZ: Yeah. Mr.

4

Chairman, yes, usually if the boat is abandoned in

5

the navigable waters, you're going to have the

6

Army Corps involved, you're going to have the

7

Coast Guard involved. They are concerned whether

8

there's any oil remaining in the boat so they're

9

not going to want it disturbed by the City before

10

that's thoroughly checked out. And we have

11

worked, there was a National Parks Service Task

12

Force that was working on this in Jamaica Bay and

13

some other areas and I think successfully did have

14

some vessels removed from different areas.

15

We've been involved with some

16

illegal berthing, barges that were tied up. I

17

think one of them was affecting DEP's access to

18

their property and we worked to get those taken

19

away by the owners.

20

CHAIRPERSON NELSON: The owners

21

themselves are responsible but I wouldn't imagine

22

they're readily available, who would do the

23

investigative work to find--trace it?

24

MR. SCHWARTZ: Well I'm telling--

25

yeah, illegal berthing that usually you can track

1

2 the property owner--

3 CHAIRPERSON NELSON: [Interposing]

4 Oh the berthing, yeah.

5 MR. SCHWARTZ: --to get these off
6 of their property. A barge tied up; there were a
7 number of instances of that in the last year. No
8 calls on strictly illegal dumping into the water.
9 There was--we have worked as you know from the
10 past with River Keepers, Bay Keepers, gone out to
11 look at specific sites. One was with the River
12 Keepers in the King's County District Attorney's
13 Office that led to an indictment of a concrete
14 company in Brooklyn that was discharging into the
15 water illegally.

16 CHAIRPERSON NELSON: Okay. And
17 somebody could use 311 for this process and if so
18 what agency generally is notified of a complaint.

19 MR. SCHWARTZ: Yeah, I think that
20 was mentioned in the testimony that maybe we can
21 talk about better tailoring of that depending on
22 what the complaint is. They do reach us in terms
23 of waterfront permitting issues although again
24 there you have sometimes confusion because you
25 have the Department of Buildings that permits some

1
2 of the construction on the waterfront. SBS does
3 not do all of it. If it's residential, if it's
4 non-maritime, that goes to Buildings. So perhaps
5 working with 311 we could better tailor how
6 they're directing some of these calls.

7 CHAIRPERSON NELSON: Could you
8 describe the Department of Sanitation's illegal
9 dumping tip program?

10 MR. KUZNITZ: The way the program
11 works is there's a form that you can fill out.
12 Any citizen could fill it out which details the
13 time and place of occurrence. It would detail
14 what the vehicle looked like and the type of
15 material that was actually dumped. And based on
16 that information we'll send out officers to
17 surveil the locations and hopefully catch that
18 same person dumping again. If we catch that
19 person dumping again that was described on the tip
20 form then the person that reported it can get a
21 reward up to 50% of the fine collected.

22 We also have an affidavit program.
23 On the affidavit program the citizen fills out the
24 same information, time and place of occurrence and
25 all information so that we can identify the

1
2 vehicle that was used and based on the affidavit,
3 it's notarized, we could write a summons just on
4 the affidavit alone. So the difference between
5 the tow programs is with the affidavit we could
6 just go out and write a summons and serve it to
7 the owner of the vehicle, with the tip program we
8 actually have to catch the person. And either way
9 they'll get a reward of up to 50% of the fine
10 collected.

11 CHAIRPERSON NELSON: Do you have an
12 idea of approximately how many times that somebody
13 has been apprehended from the tip program?

14 MR. KUZNITZ: I would say roughly--
15 well with the affidavits, when an affidavit is
16 filled out and we issue the summons right then and
17 there.

18 CHAIRPERSON NELSON: Um-hum.

19 MR. KUZNITZ: So we probably get
20 roughly 50 affidavits a year. With the tip
21 program, we don't usually catch the people too
22 often.

23 CHAIRPERSON NELSON: Um-hum.

24 MR. KUZNITZ: You know, we'll go;
25 we'll surveil the location we'll try and find if

1
2 somebody dumps again. We'll continue to monitor
3 the area but I can't really recall any time when
4 we've actually caught that same vehicle dumping
5 again.

6 CHAIRPERSON NELSON: Any reward
7 involved, potentially involved?

8 MR. KUZNITZ: Yeah up to 50% of the
9 fine collected--

10 CHAIRPERSON NELSON: [Interposing]
11 It would be that much. Okay.

12 MR. KUZNITZ: Yes.

13 CHAIRPERSON NELSON: I thought I
14 saw that. Okay. And even that's not getting too
15 many correct tips coming in.

16 MR. KUZNITZ: Well the tip program
17 is a little difficult because again we have to
18 actually--

19 CHAIRPERSON NELSON: [Interposing]
20 Sure.

21 MR. KUZNITZ: --see the people do
22 it.

23 CHAIRPERSON NELSON: Um-hum.

24 MR. KUZNITZ: So somebody has to
25 return to the same place or the same vehicle would

1
2 have to dump again. The affidavit program, once
3 is enough.

4 CHAIRPERSON NELSON: Right. And it
5 would be like telling an officer that somebody
6 just passed the stop sign.

7 MR. KUZNITZ: That's correct.

8 CHAIRPERSON NELSON: He's got to be
9 observed.

10 MR. KUZNITZ: Exactly.

11 CHAIRPERSON NELSON: Was any City
12 agency involved--oh.

13 COUNCIL MEMBER VALLONE: It's only
14 got to be observed if it's a violation. So you're
15 saying it's this tip program because you don't
16 have a witness not because it's a violation.

17 MR. KUZNITZ: That's correct.

18 COUNCIL MEMBER VALLONE: All right.
19 So--

20 MR. KUZNITZ: [Interposing] That's
21 correct.

22 COUNCIL MEMBER VALLONE: --if you
23 had the witness you could prosecute based on what
24 that witness saw if he would come back and
25 testify.

1
2 MR. KUZNITZ: Only if they would
3 fill out an affidavit.

4 COUNCIL MEMBER VALLONE: Right.
5 Okay. So that's--you have to observe it. That's--
6 -otherwise we'd make it a misdemeanor but it is a
7 misdemeanor, right--

8 MR. KUZNITZ: [Interposing] Well
9 it's two separate programs. On the tip program we
10 have to observe it. You don't have to fill out an
11 affidavit--

12 COUNCIL MEMBER VALLONE:
13 [Interposing] Right.

14 MR. KUZNITZ: --just give us the
15 information. On the affidavit program you're
16 swearing to the information and we can write a
17 summons based on your testimony--

18 COUNCIL MEMBER VALLONE:
19 [Interposing] Right.

20 MR. KUZNITZ: --or based on your
21 statement, then you would still go to court.

22 COUNCIL MEMBER VALLONE: I
23 understand that but the reason you have to observe
24 it with the tip is because you don't have the
25 person there to testify or to give you an

1

2 affidavit.

3

MR. KUZNITZ: That's correct.

4

COUNCIL MEMBER VALLONE: Not

5

because it's not a misdemeanor which we could

6

prosecute based on a victim's testimony or a

7

witnesses' testimony as opposed to a police

8

officer or enforcement agency actually observing

9

it. Okay. Otherwise we'd make it a misdemeanor

10

like this. [Chuckling]

11

Mr. KUZNITZ: That's correct.

12

COUNCIL MEMBER VALLONE: We do

13

that. We make more misdemeanors. We need them.

14

CHAIRPERSON NELSON: Thank you

15

Peter. Councilman Vallone. Was any City agency

16

involved in Operation Clean Bay? That's the task

17

force headed by the National Park Service. Did

18

they involve any of us in the City? As far as

19

removing abandoned boats, ships, vehicles or

20

anything like that.

21

MR. SCHWARTZ: I think the

22

Dockmaster's Unit went and attended some of the

23

meetings and helped coordinate access to some of

24

the locations at various times. I'm not sure how

25

active they've been of late.

1
2 CHAIRPERSON NELSON: Um-hum. And
3 there are three dockmasters in the City--

4 MR. SCHWARTZ: [Interposing] That's
5 right. And I want to say a lot of the work is
6 really attended to the permitting function rather
7 than the inspection function that we're talking
8 about because SBS has to permit construction,
9 bulks, dock heads, and they will do inspections
10 related to the permitting or the unpermitted work.
11 And, you know, one of the issues last year was a
12 fence illegally constructed at Red Hook Park.
13 This--you may have seen in the papers and we
14 worked cooperatively with Parks Department and
15 Corporation Counsel to get an order to take that
16 fence down. So there is a lot of interagency
17 cooperation and coordination on these types of
18 issues.

19 CHAIRPERSON NELSON: And you have
20 an idea approximately how effective that project
21 was?

22 MR. SCHWARTZ: The Park Service
23 project, I don't have access to it here now. And
24 I think we should reach out to the Park Service to
25 find that out.

1
2 CHAIRPERSON NELSON: Okay. Because
3 it was my understanding that it was about 150
4 abandoned vessels and 100 collapsed finger docks
5 in 2-year period. So apparently it has been
6 successful except if it was not done near where
7 you live, but it seemed to be pretty effective.
8 And the City is willing to join with other
9 cooperative cleanup task forces?

10 MR. SCHWARTZ: I would say so. I
11 think, again, the agencies here, we tend to work
12 cooperatively. We would be--I think what we lack
13 sometimes is specific acts of this dumping into
14 the waterways that we would all be willing to hear
15 more about, specific circumstances that we could
16 go out, either depending on the nature of the
17 violation whether it seems to be a Sanitation type
18 thing or more of a liquid discharge into a
19 waterway where DEP's analysis or checking whether
20 it is an unpermitted outfall is going to depend on
21 which agency is most responsive to something of
22 that nature.

23 CHAIRPERSON NELSON: Okay. I think
24 it would be good to have a multi-task force with a
25 mission that includes also enforcement and not

1
2 just cleanup. I hope the City would be willing to
3 create that. I mean I'm fairly agnostic about
4 global warming seeing all the snow coming down but
5 I'm a firm believer in that we can do something to
6 clean--to keep the waterways cleaner. And I
7 appreciate you gentlemen being here today.

8 Is Operation Clean Bay currently
9 active?

10 MR. KUNITZ: I couldn't tell you
11 today with certainty on that.

12 CHAIRPERSON NELSON: Maybe one of
13 the people testifying could illuminate us about
14 that. What--I'm sorry? {off mic} Okay. Here's
15 another good one.

16 Does the City make periodic
17 inspections of the waterway to identify attractive
18 illegal dumping hotspots?

19 MR. KUZNITZ: Well we certainly, a
20 lot of our police officer staff are geared to go
21 to manufacturing properties along the waterfront.
22 We know where the dump outs usually are. And we
23 spend a lot of time surveilling them. The amount
24 of illegal dumping has gone down. But yeah, we
25 know what the hot spots are. We're out the--

1

CHAIRPERSON NELSON: [Interposing]

2

3

MR. KUZNITZ: --you know, 24 hours

4

a day.

5

CHAIRPERSON NELSON: Do you have

6

any stats to show what they were let's say from

7

2000 up to present? How it's gone down?

8

MR. KUZNITZ: We have stats on

9

illegal dumping which we could provide, yes.

10

CHAIRPERSON NELSON: Okay. Council

11

Member Vallone?

12

COUNCIL MEMBER VALLONE: That was

13

actually my question. I wanted to know whether

14

the problem of illegal dumping was something that

15

was getting worse or getting better. So over the

16

last eight years or so how would you describe the

17

problem?

18

MR. KUZNITZ: We believe it's

19

gotten better. I mean it's indicative with the

20

clean streets, you know, the sidewalk and street

21

cleanliness areas are looked at. Whether there's

22

economic reasons to it, potentially, but there's

23

certainly less dump locations that we observe. So

24

it's gotten better.

25

COUNCIL MEMBER VALLONE: Well if

1

2 there's economic reasons it would probably get
3 worse. So what--maybe I'm missing something but
4 why would the economy getting worse make less
5 illegal dumping?

6

MR. KUZNITZ: Well there's less
7 construction going on. You know, people are
8 putting off what they normally would do in terms
9 of, you know, renovating or remodeling a home.

10

COUNCIL MEMBER VALLONE: Okay. I
11 would assume maybe sometimes they would not pay
12 the price to have it dumped legally in a bad
13 economy also.

14

MR. KUZNITZ: Well we've also seen
15 just in the reports that we get about commercial
16 waste that's generated and residential waste, the
17 numbers have gone down. There's just less waste
18 being generated throughout New York City.

19

COUNCIL MEMBER VALLONE: That's
20 good. How would you describe--how much has it
21 gone down? Has it gone down 1%, 2% or have you
22 seen a substantial drop in illegal dumping over
23 the last few years?

24

MR. KUZNITZ: I'd have to--it's
25 gone down, I believe, significantly from looking

1
2 at it. I'd have to check the numbers. I don't
3 know how many vehicles we've impounded going back
4 the last five years but I believe it has steadily
5 gone down.

6 COUNCIL MEMBER VALLONE: And how
7 about the number of your people enforcing the laws
8 against illegal dumping, have they gone down also
9 or have they gone up, have they stayed steady?

10 MR. KUZNITZ: The numbers have been
11 steady.

12 COUNCIL MEMBER VALLONE: That's
13 good to know. The last question would be is there
14 anything that we can do as a law making body to
15 assist you. Is there any law, are there any laws
16 out there that you need toughened, that don't
17 exist, that might help you? Fines that need
18 increasing, anything that you would recommend
19 while you're here?

20 MR. MILORA: Actually, you know,
21 illegal dumping has steadily gone down over the
22 last number of years and I think part of that is
23 due to the strengthening of the law as it is. I
24 mean right now the first offense is a \$1,500 fine
25 plus we impound the vehicle. Second offense is

1
2 \$5,000. I don't think we could get any stronger
3 than that.

4 A lot of the old dump locations
5 over the last couple of years have been built on.
6 you know, where we might have found abandoned
7 vacant lots, you know, big projects are being
8 built over the years even with the bad economy
9 over the last couple of years there's been a lot
10 of projects like out in Rockaway. You know, big
11 dump location is now all these one, two, three
12 family houses stretching for blocks. And that's
13 happening throughout the City.

14 And that's mainly fueling the
15 decrease in illegal dumping. We don't see it the
16 way we used to see it. So I'd have to say right
17 now I don't see how we can strengthen the law.
18 But I am interested in this illegal dumping into
19 the waterways, finding out more about it. Since
20 we're not aware of it I'd like to offer all of us
21 to maybe be shown where the problems are so maybe
22 we could address it a little better.

23 COUNCIL MEMBER VALLONE: Well that
24 was actually where I was going when you were
25 saying that. If most of the areas where they used

1
2 to dump this stuff had become, you know, so
3 financially viable that they don't exist any more,
4 one would assume that they're finding new areas
5 like waterways. So I'm glad, Mike, that you're
6 having this hearing, then, and look forward to
7 doing what we can to stop that potential
8 situation.

9 CHAIRPERSON NELSON: Thank you
10 Council Member Vallone.

11 COUNCIL MEMBER VALLONE: And I'm
12 glad, this is my first hearing actually as a
13 Waterfronts Committee member so, excited to be
14 with you.

15 CHAIRPERSON NELSON:
16 Congratulations on that. That's right. I'm glad
17 to have you on. you're a tremendous asset. You
18 know, we have a civilian floating flotilla; I like
19 to refer to it as. I'd like to see coordination
20 really between the City agencies and these men and
21 women. And a specific number that they can call
22 in, it'll go to the right agency at the time and
23 if a helicopter could come by to observe it would
24 be great working with the NYPD. But in lieu of
25 the fact that that may not be feasible at all

1

2 times, at least one of the agencies can, you know,
3 zero in there as soon as possible with lights and
4 whistles flashing. Or lights flashing.

5

6 MR. KUZNITZ: Well as it relates to
7 illegal dumping we'll be out there expeditiously.

8

9 CHAIRPERSON NELSON: I appreciate
10 that. And again with these people around the
11 waterways who many of them are volunteered to
12 become part of this.

13

14 Now just I think my last question
15 might be there's a lot of waterfront areas that
16 are obscured, of course, from the land-based side.
17 And we have the dockmasters three and it's like
18 578 miles of waterway. And they don't even--did
19 they get a boat finally? As far as I know they
20 still don't have one.

21

22 MR. SCHWARTZ: That's correct. We
23 don't have a boat. And I don't think it's a plan
24 of our agency to have one. As I said most of the
25 work is going to be on permitting properties,
getting access to property and, you know,
observing from the land side. Although as we've
indicated, occasionally we've been out on the
water with Riverkeepers. We've been out with EDC

1

2 that has access to boats when we need it but not
3 on a--not where we're going to own a boat, have to
4 marine it, have people who can operate it. We're
5 not going to be involved in that.

6

CHAIRPERSON NELSON: Yeah. I'm
7 sure--we didn't do it when we were flush with
8 money. I don't see that happening in the
9 foreseeable future as well unfortunately. 'Cause
10 I think that would be, you know, Sheriff on the
11 water wouldn't be a bad idea for this.

12

Oh yeah, what materials have been
13 dumped into the water or on the waterfront? You
14 know, who's responsible for its mitigation or
15 removal? Where materials have been found rather.

16

MR. MILORA: Well I think as I
17 mentioned in my testimony--

18

CHAIRPERSON NELSON: [Interposing]
19 Um-hum.

20

MR. MILORA: --we had within the
21 last year referred something to DEC in Brooklyn.
22 And what that involved was it was a construction
23 company who was pushing dirt and aggregate into
24 the water. They were hit with severe penalties.
25 We referred it to the DEC. I believe they

1

2 followed up with it.

3

4

5

CHAIRPERSON NELSON: The property owners or the business owners? Did they receive fines for this?

6

MR. MILORA: Absolutely.

7

CHAIRPERSON NELSON: All right.

8

Yeah, sometimes it might be unfair actually but if they weren't around when the stuff was dumped--

9

10 MR. MILORA: [Interposing] They
11 were actually doing it.

12

CHAIRPERSON NELSON: [Laughing]

13

Well that makes life easier for all of us. Except

14

for the perpetrators. I think--any other

15

questions before? Well I thank you--well on 54,

16

I'm glad we're closer to an agreement between us

17

and the Administration. And hopefully with 53

18

we'll work on it and hopefully we can come to some

19

sort of meeting of the minds on this. Because I

20

think it would be advantageous to the City,

21

certainly for the environmental aspect and the

22

cleanliness of the City as well. Thank you so

23

much. I appreciate it so much. Any last words?

24

MR. RICHARD MULLER: Rick Muller,

25

DEP. Mr. Chairman just a point of clarification.

1
2 When you asked about the harbor water quality and
3 the monitoring, though it doesn't relate directly
4 to dumping and as you know we're worried more
5 about the discharges from the sewer pipes, that we
6 do monitor for floatables and as you know after a
7 severe storm we have hot spots we visit with our
8 skimmer boats to pick up the litter. So we are
9 looking at the harbor in that sense. And of
10 course we do our harbor water quality testing and
11 publish an annual report so.

12 CHAIRPERSON NELSON: Fine. Any
13 other questions Council Member? Vallone? Where
14 is my--I had one more thing here. Just before
15 [off mic] I thought I had one more question. You
16 know, I did but, okay. somewhere. But we'll get
17 around to it. Mr. Muller I appreciate those last
18 words. And we thank you so much for appearing.
19 Oh did you have a last word Commissioner?

20 MR. MILORA: No, just thank you.

21 CHAIRPERSON NELSON: My pleasure.
22 Thank you so much.

23 MR. MULLER: Thank you Chairman.

24 CHAIRPERSON NELSON: See you
25 gentlemen again soon I'm sure. Thank you.

1

[Pause]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CHAIRPERSON NELSON: The next panel please. Mr. Joshua Verleun of Riverkeeper and Ms. Cortney Worrall, Metropolitan Waterfront Alliance and Ms. Emily Egginton of the Metropolitan Water Alliance.

[Pause]

CHAIRPERSON NELSON: Whoever, you ready; anybody on the panel wants to go first?

[Pause]

MR. JOSHUA VERLEUN: Hi. My name is Josh Verleun. I'm a Staff Attorney and the Chief Investigator for Riverkeeper. And first off I just wanted to thank the Committee for this opportunity to appear before you. This is a subject that is near and dear to Riverkeeper's heart and we actually work quite closely with the Dockmaster Unit of Small Business Services as well as the Department of Environmental Conservation, some of their environmental conservation police officers who patrol the waterfront and as well as the King's County District Attorney's Office.

We absolutely support both Intro 53 and 54 and believe that in terms of functioning as

1

2 a deterrent the current penalties have not been
3 adequate to combat illegal dumping. And I think
4 in terms of how much illegal dumping Riverkeeper
5 observes a lot of it has to do with how you define
6 illegal dumping. And if we're talking about
7 everything from liquid runoff from a factory to
8 somebody pushing garbage or debris of the bank
9 then we do still see quite a bit of illegal
10 dumping in New York City's waterways.

11 Most of it are in tributaries that
12 are sort of out of sight, out of mind. New Town
13 Creek, Kiwanis Canal, parts of Jamaica Bay,
14 Flushing River. And areas that even with agencies
15 from the City tasked with enforcement are not
16 always on peoples' radar 24 hours a day.

17 [Off mic]

18 MR. VERLEUN: [Chuckling] Exactly.
19 Exactly. So as a general proposition Riverkeeper
20 absolutely supports the bills. In terms of
21 coordination we do feel that it is important for
22 there to be a kind of a formal structure in place
23 for the Dockmasters and DEP and Department of
24 Sanitation to coordinate with groups such as
25 Riverkeeper, with members of the public as well as

1
2 other agencies. We work closely with the King's
3 County District Attorney's Office. They do have a
4 very active environmental unit. I have heard that
5 other DA's Offices, I've heard Queens has an
6 active environmental unit as well but we haven't
7 had the pleasure of working with them recently.

8 [Off mic]

9 MR. VERLEUN: Yeah, I've heard
10 great things.

11 [Off mic]

12 MR. VERLEUN: Absolutely. So one
13 area of concern to Riverkeeper in terms of these
14 bills is the sort of the current status of the
15 Dockmaster Unit which is a very integral part to
16 sort of coordination. And you know we work with
17 Frank Carneese [phonetic] who's the director of
18 the unit fairly frequently and, you know, I wasn't
19 around in the days when the unit had a Dockmaster
20 in every single Borough but Basil Sagos [phonetic]
21 who was my predecessor has worked with the
22 Dockmasters for I think close to ten years now.

23 And, you know, as it is now my
24 understanding is that there are really only two
25 full-time staff members, a director of the unit

1
2 and then also a Chief Dockmaster. And, you know,
3 if the dockmasters are to be sort of leading up
4 this effort to sort of revitalize enforcement from
5 a City agency's perspective, I think it's vitally
6 important that the unit has, you know, enough
7 funding and staffing to actually sort of bring
8 that mission to bear.

9 And, you know, just from working
10 directly with the dockmasters, you know, they
11 absolutely are dedicated to their job. You know,
12 we've brought quite a number of cases to them, you
13 know, more recently we've been working with them
14 on the Goanis Canal and filed a couple of
15 enforcement actions as citizens that they were
16 involved in sort of the initial investigation of
17 those properties. And so they really are a very
18 essential asset to the City and have sort of a
19 different focus than either the DEP or the
20 Department of Sanitation might have.

21 [Pause]

22 MR. VERLEUN: I guess one other
23 thing I would like to mention is that we were also
24 a part of the operation, I believe, Operation
25 Clean Harbor effort with the Park Service. And

1
2 that particular sort of task force was working
3 very well. Unfortunately it has been sort of put
4 on hiatus at the moment but I believe there are
5 plans to get it restarted again and, you know,
6 that task force also encompassed the Coast Guard,
7 Department of Sanitation, NYPD and a number of
8 other agencies.

9 And so I think that there really is
10 a real possibility for these agencies that share
11 jurisdiction over various parts of the New York
12 City waterfront to work collaboratively and having
13 this sort of structure in place from Intro 53 I
14 think is a very important thing to have going
15 forward. Thank you.

16 CHAIRPERSON NELSON: Well we
17 appreciate your support and my regards to Mr. K.
18 thank you so much. I think Council Member Vallone
19 has a question?

20 [Off mic]

21 CHAIRPERSON NELSON: I prefer,
22 yeah, okay. With deference I would have asked you
23 to ask--[mic turned off]

24 MS. CORTNEY WORRALL: Okay. I'm
25 Cortney Worrall from Metropolitan Waterfront

1

2

Alliance. I'm the Director of Programs. And we support both of these bills. And we have a few things we want to say about what should be included or changed.

6

7

8

9

10

11

12

13

14

15

16

Specifically we'd like to see abandoned boats be addressed in the list of things that could be potentially dumped. And we also wanted to mention that abandoned boats or boat dumping is actually something that increases when the economy gets worse because people don't have the money to afford for the proper disposal of the boats. And many of the boats are--many boats are being left in Jamaica Bay and when they sink to the bottom they are releasing fuel and it's a huge hazard.

17

18

19

20

21

22

So we'd like these two bills to address abandoned boats and also to find a way for all those departments to increase their capacity to deal with boats. And I know there was some testimony previously about abandoned boats so hopefully that can be integrated with this.

23

24

25

We agree with, we agree completely about understaffing and lack of ability to respond and inadequate response rates due to lack of staff

1
2 for following up on tips. And we believe that any
3 penalties that are administered should go back
4 into the programs, the fees from the penalties
5 should go back into the programs to increase
6 agency capacity and their ability to respond.

7 The task force that's mention in
8 the bills, we think should be replaced by the
9 Waterfront Advisory Board which is going to be
10 newly formed, maybe a subcommittee of the
11 Waterfront Advisory Board. And the Commissioner
12 should be reporting back every year as opposed to
13 every two calendar years.

14 We believe that there should be
15 much more public awareness about the tips hotline
16 and that could be easily accomplished through
17 adding signage to the existing signage that's
18 already on the waterfront, especially DEP signs
19 notifying that show people where outfalls are
20 located, there'd be a way to attach with one or
21 two small screws something that says something
22 about the telephone number for the tips line. So
23 we're looking to maybe task these agencies with
24 finding really low cost ways of getting the word
25 out about these, the tips hotline.

1
2 And let's see. And I think that's
3 about it. But we do want to say though that we're
4 very much in support of these, both of these
5 bills. And we think that--we also think that--I
6 guess the last point is that it would be a mistake
7 to not increase--we want people, more people to
8 know about the availability of the tips line. And
9 if that increases the amount of time that the
10 agencies have to go out to potentially enforce--

11 CHAIRPERSON NELSON: [Interposing]
12 That's good.

13 MS. WORRALL: --that's a good
14 thing. Even if they don't have the capacity, we
15 need to raise awareness of the need for greater
16 capacity and the tips line could play a role in
17 that.

18 CHAIRPERSON NELSON: Well thank you
19 Cortney, appreciate it. Thanks for your support
20 too.

21 MS. WORRALL: Thank you.

22 CHAIRPERSON NELSON: You're
23 welcome. Oh you're together. That's right. Same
24 alliance. Just before I give the mic to Council
25 Member Vallone, I just had a quick question.

1

2

Could Riverkeeper provide the Council with like a list or a map of known dumping areas that we can work with with the City agencies?

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

MR. VERLEUN: Yeah absolutely. I would say that some of these spots really come down to traditional dumping. There's a site on the Harlem River where we see tires dumped all the time and we get people calling who are at Spite'n'dive [phonetic] who see tires floating by. And we know pretty much exactly where they're coming from, we just haven't actually--no one's actually caught them dumping.

There are ones that are a little less traditional like, you know, a cement plant that has, you know, runoff. And with those, you know, we've been working pretty closely with the Dec, with the DA's Office, and so, you know, any that are not sort of subject of a current law enforcement investigation I think we could easily provide on a map. And the other ones, you know, we could put together more of a kind of confidential memorandum or something, something like that.

CHAIRPERSON NELSON: Together.

1
2 Appreciate that. Working together between you,
3 all of you, and the people--civilians actually,
4 the civilian flotilla and the Council and the City
5 agencies. Maybe we actually can do a lot of
6 positive damage so to speak against the bad guys
7 and gals. Well we thank you very much. And
8 Council Member Vallone?

9 COUNCIL MEMBER VALLONE: Thanks
10 Mike. That's a great idea actually because I went
11 to a presentation just two days ago on these new
12 solar powered cameras that you can move from
13 location to location. And if we have a list of
14 those locations we can work with you and the
15 police and get some of these cameras--I know the
16 City has a few, I'm trying to get--I was thinking
17 of them for graffiti purposes but obviously this
18 is another great purpose. If we have some sites
19 where you say it's happening often that we can
20 catch some people.

21 So my first question, first of all,
22 thank you all for your help. I mean I asked
23 specifically to be on this Committee. I'm already
24 on the Environmental Committee because these are
25 topics that are so important to me and I look

1

2 forward to working with all of you.

3

4

5

6

7

So when you say you see dumping,
what do you mean? You see the results of dumping.
You actually catch people dumping or you just see--
-what does that actually mean when you say you see
dumping?

8

9

10

11

12

13

MR. VERLEUN: I would say that
mostly we see the results of dumping. We have a
patrol boat that we are in New York Harbor, in the
tributaries, I'd probably say five or six days out
of the month. The rest of the time we're upstate
since we cover the whole Hudson River as well.

14

15

16

17

18

19

20

21

But, you know, on occasion we have
actually caught violations in progress. And
generally with something like that we call it in
to law enforcement right away. I mean as citizens
we don't pretend to be the police. And so we've
got a, you know, a direct dial right to the DEC
police force that we call if we see something
active going on.

22

23

24

25

Quite frequently though we see sort
of ongoing sites where we know that dumping's
happening. We're seeing that things are changing
as we come by, you know, once every two weeks,

1
2 once every week, but we're not actually seeing the
3 folks who are doing the dumping.

4 COUNCIL MEMBER VALLONE: And what
5 kind of dumping are you noticing other than tires?

6 MR. VERLEUN: We frequently see
7 runoff from industrial facilities. We see scrap
8 metal recyclers that lose chunks of scrap metal
9 into the waterways. We see construction debris,
10 concrete ties, garbage bags, that sort of stuff
11 dumped. And there are a few sort of target
12 locations that we've been looking at for a number
13 of years.

14 And some of them we have already
15 sort of approached agencies and for various
16 reasons, either it's not just very high priority
17 'cause maybe going after other types of pollution
18 might be a higher priority than cleaning up a
19 stretch of shoreline that has a bunch of garbage
20 bags and that sort of thing.

21 COUNCIL MEMBER VALLONE: And have
22 you notice, do you agree with the analysis that
23 was given earlier that illegal dumping is not as
24 bad as it used to be? Any of you can answer any
25 of these questions.

1
2 MR. VERLEUN: From what I've seen
3 it has gotten better in a lot of areas. Many of
4 the areas that we started patrolling back in 2003,
5 2004 were pretty bad back then and have gotten a
6 lot better. And I can't say whether they've
7 gotten better because of increased attention and
8 visibility or whether they've gotten better
9 because of the economy going in one way or
10 another.

11 I do have to echo the sentiments
12 about boats. I mean since the economy has gotten
13 worse we've seen far more abandoned boats. And
14 when we were working with the Park Service and
15 Dockmasters on the Operation Clean Bay, you know,
16 I know that they pulled, I think, close to 200
17 boats out of Jamaica Bay in the areas around that
18 part of the harbor. And so I know that was a very
19 serious concern that they were having, people just
20 not able to afford the marina fees and that sort
21 of thing.

22 COUNCIL MEMBER VALLONE: But a boat
23 is so easily traceable. What is--what normally
24 happens when somebody abandons their boat and you
25 find them?

1
2 MR. VERLEUN: Yeah. A lot of them
3 had the identifications filed off. They seem to
4 be pretty good. But I know that all of the
5 officers who work on that sort of thing know that
6 there are specific locations that things are
7 stamped kind of in hidden areas. And so I think
8 they are able to track some of them down. But it
9 can be difficult to sometimes trace the ownership
10 back. Sometimes there was a handshake deal or,
11 you know, a sale for \$1.00 or \$.50 going back.
12 And, you know, I think it takes a lot of leg work
13 for the officers to actually sort of trace back
14 ownership and go back after people. And they, you
15 know, they have pretty limited resources.

16 COUNCIL MEMBER VALLONE: I think we
17 need nautical forensics. NSI.

18 MR. VERLEUN: They could probably
19 file it down and--

20 COUNCIL MEMBER VALLONE:
21 Interesting. I would--yeah my family owned a boat
22 a long time ago and it's such a tight-knit
23 community, you assume you put a picture up at a
24 marina and say who owns this boat and you get a
25 tip at least. But I understand so many of them, I

1

2

guess, I guess it's difficult that you do need the resources.

3

4

5

The last question then, what can we do that isn't being done? Any other suggestions? Either as a legislative body or just as to oversight or anything like that.

6

7

8

9

10

11

12

13

14

15

MS. WORRALL: Well I'll just say on e thing that I actually--we didn't put in our testimony but especially in Jamaica Bay, we need to be looking at ways to fund beach cleanups and just generally the amount of trash that's in the low lying areas of the harbor is incredible. There are some beaches, small sections of Jamaica Bay where it truly looks like a landfill.

16

17

18

19

20

21

22

23

24

25

There's so much plastic debris that's come onto the shore, either from CSO discharges or from just people recreating and that type of thing. There's a name for that which is it's called habitat suppressing debris. So much debris that the salt marshes can't actually function correctly. And I think this is one of the issues that we should be looking at long-term to clean up in the City. And there's a lot of good will for it. I don't know if it can be

1
2 addressed through these two bills but it's
3 something that definitely could go a long way in
4 terms of also building public awareness generally.

5 MR. VERLEUN: I was aware of a bill
6 that was in draft form and I'm not sure if it had
7 actually how far it had gotten. But there was a
8 bill dealing with derelict vessels that I believe
9 Frank Carnesi from the Dockmasters had been
10 working on with some folks at the Brooklyn DA's
11 Office and had been sort of shopping around for
12 some interest. And, you know, New York City does
13 not have comprehensive legislation to deal with
14 the sort of abandoned boat problem.

15 I think there are issues in terms
16 of jurisdiction of who actually is equipped to
17 deal with it, legally, you know, if you see
18 somebody's property and, you know, at what point
19 is it considered abandoned. So there are a whole
20 host of legal issues that I think could be
21 addressed through a comprehensive bill that even
22 the folks working on the Clean Harbor Task Force
23 had a lot of questions about sort of the nuts and
24 bolts of how sort of dealing with the abandoned
25 boat problem would actually work. So that would

1

2 be a huge help.

2

3

COUNCIL MEMBER VALLONE: That is
4 something--are you aware of this bill that exists?

4

5

[Off mic]

6

COUNCIL MEMBER VALLONE: Sorry.
7 Okay. Are you aware of this bill that they're
8 speaking about. 'Cause--

7

8

9

CHAIRPERSON NELSON: [Interposing]

10

No.

11

COUNCIL MEMBER VALLONE: --let's go
12 do some research and--

12

13

CHAIRPERSON NELSON: [Interposing]

14

Exactly.

15

COUNCIL MEMBER VALLONE: --okay.

16

CHAIRPERSON NELSON: We do a little
17 Nelson-Vallone deal here.

17

18

COUNCIL MEMBER VALLONE: Okay.
19 There was one other thing I wanted to say. Oh.
20 Well with that beach garbage, I wrote the plastic
21 bag recycling law. I'm looking at laws right now
22 maybe to ban Styrofoam, you name it. But if
23 there's something specific that you think we can
24 do, you know, let me know. I'm more than happy to
25 look into it. And thank you all.

19

20

21

22

23

24

25

1

MR. VERLEUN: Thank you.

2

CHAIRPERSON NELSON: We thank you.

3

[Pause]

4

CHAIRPERSON NELSON: We thank you

5

very much. And if Mr. Ed Kelly, please testify

6

and Ms. Devora [phonetic] Mans.

7

[Pause]

8

CHAIRPERSON NELSON: Go ahead

9

Devora. Good to see you again.

10

[Pause]

11

CHAIRPERSON NELSON: The green at

12

the bottom--

13

MR. EDWARD KELLY: There it is,

14

okay. It just came on, thank you. Good afternoon

15

Chairman, Council Member Vallone, staff, ladies

16

and gentlemen. My name is Edward Kelly, I'm the

17

Executive Director of the Maritime Association of

18

the Port of New York and New Jersey.

19

We're a due paying organization

20

with over 500 corporate and individual members

21

representing various factions of the commercial

22

maritime industry here in the Port of New York and

23

New Jersey. Our membership includes such entities

24

as international steamship lines, port and

25

1
2 terminal operators, tug and barge operators, ferry
3 operators, ship repair facilities, chandlers who
4 are people that sell supplies to vessels, fuel
5 organizations, underwriters, admiralty attorneys,
6 etcetera, anybody that is commercially involved in
7 waterfront activity here in our great port.

8 We've been in business since 1873
9 and our primary mission is to promote navigational
10 safety, ecological sustainability, asset security
11 and cost competitiveness here in our port. We're
12 appearing here today in support of both Intro 53
13 and 54. We would like to make several comments
14 regarding both of those however.

15 As you may be aware obviously a
16 maritime industry primarily depends on the
17 interface between land and water and floating
18 assets to make our livelihoods. Flotsam, jetsam
19 and other floatables in the waterways are harmful
20 to both our floating assets and our waterfront
21 facilities. We would like to have every effort
22 made to clean those things up.

23 You can imagine as these vessels
24 are moving through the waterways what happens is
25 when it runs into discharged two by fours and

1
2 things like that that are floating in the water,
3 tires tend to bounce off but they tend to foul
4 propellers and they cause serious damage.

5 We would like to have the waterways
6 clean. We believe in the cleanliness of the
7 water. We are very strongly regulated on a
8 federal basis as to how we can operate our vessels
9 including discharge and runoffs. We've had
10 hearings here in City Council before pertaining to
11 VGP, the Vessel General Permits, that are very
12 strenuous regarding what can be discharged from a
13 vessel, even to the extent of rainwater runoff
14 from barges.

15 What we would like to do is say
16 that we have noted in this entire operation that
17 there is a lack of visual capability from the
18 water to the land side and that that is the
19 primary purpose, obviously, if there are people
20 doing illegal dumping operations, the smarter ones
21 are the ones who are operating in secluded areas
22 where they cannot be easily seen from the roadway
23 by most of the enforcement operations which are
24 land bound.

25 We would like to offer the eyes and

1
2 ears of our membership, the tug and barge
3 committees, the passenger vessel associations,
4 covering all of the tugs, the barge, the fuel
5 tenders, including all of the passenger ferries
6 that operate in this great port. What we would
7 ask as perhaps a precondition to our involvement
8 is that there be put and stipulated and made
9 available some type of signage that could be
10 posted inside these vessels giving one targeted
11 phone number that would actually produce results.

12 For anyone who has ever tried to
13 call 311 and report that there is an illegal
14 dumping operation, I'm sure you've celebrated
15 several birthdays awaiting a response that usually
16 never comes. So it's nice to know there is
17 capability. Actually triggering that capability
18 is something that's absolutely necessary to
19 catching these people and to remediating the
20 damage that they do.

21 We would like to offer our
22 membership to work with that, again, under a
23 targeted situation where we would have some hope
24 that there would actually be a response. And, you
25 know, it's very frustrating to make phone calls

1
2 and have a runaround. So we would like to offer
3 the eyes and ears of our hundreds of boats that
4 are on the water on a daily basis, 24/7/365. We
5 do not take a break when it's time for lunch. We
6 do not go home at night. And we work on Christmas
7 and New Year's, etcetera. So there's very few
8 places to hide from our eyes.

9 One other thing I'd like to say
10 particularly regarding 54 is we would like to echo
11 the comment made before by the people at the
12 Metropolitan Waterfront Association, particularly
13 with the increased potential recommendation for
14 the substantial increase in the amount of the
15 fines to be assessed. We would request that any
16 such fines collected be returned back into the
17 program to try to create a better response
18 capability.

19 Our concern is that we, our
20 membership, are legitimate, responsible businesses
21 than do operate along the waterfronts. We are
22 engaged in loading and unloading operations. It
23 is not to be said that there are people who would
24 misuse that capability but our membership does not
25 and the vast predominance of the waterfront

1
2 employers in the working waterfront are
3 responsible, honest citizens who hold a high value
4 as far as clean water where they make their
5 livelihood.

6 We would not like this to become,
7 particularly with the higher level of fines,
8 encouraging a potential for harassment since most
9 of our operations are known, fixed operations,
10 where if someone thinks that they can start to
11 collect 50% of the fines being issued, it's very
12 easy to set up a lawn chair, a picnic lunch and a
13 camera and harass legitimate businesses.

14 So we are entirely in support of
15 the proper, accurate, prompt prosecution of
16 illegal dumpers and bad characters. But we do not
17 want to create an inducement for a vigilante
18 operation that will harass our members. It is
19 difficult enough to do business in the City of New
20 York. It is even more difficult to run a
21 successful waterfront business in the City of New
22 York.

23 One of the things about a
24 waterborne business is it's easily transportable.
25 If there is continued harassment, these businesses

1
2 will find other places to locate, i.e. on the
3 other side of a river, thereby taking well paying
4 blue collar jobs and tax revenues with them.
5 We're not threatening, we're just saying please
6 let us help, please do not target us or harass us.
7 Thank you.

8 CHAIRPERSON NELSON: Well said.
9 It's always fascinating to listen to you. I'll
10 tell you, [chuckling] it's a whole dimension and
11 there you are. You're offering services the City
12 would actually work. And I hope in a coordinated
13 effort, hopefully, in the Intro hopefully this
14 will be part of it. And I mean this is with
15 interagency. But there should be outsiders as
16 well requested to be part of this.

17 MR. KELLY: Oh Mr. Chairman--

18 CHAIRPERSON NELSON: [Interposing]
19 Sure.

20 MR. KELLY: --I'm sorry. Can I add
21 just one more thing I had on my notes--

22 CHAIRPERSON NELSON: [Interposing]
23 Absolutely.

24 MR. KELLY: --I forgot to mention.
25 We do have a regularly scheduled--one of the

1
2 things that we do is we run a Harbor Operation
3 Safety Navigation Committee. At that meeting is
4 the Captain of the Port of the US Coast Guard, the
5 Army Corps of Engineer, first responder
6 organizations, basically everybody that has
7 something to do with actually waterborne
8 operations. We would be glad to offer that as a
9 forum once any program is put together to come and
10 to debut that and to solicit the support of our
11 membership.

12 CHAIRPERSON NELSON: Thank you.
13 You're talking about the Coast Guard that
14 potentially may be pulled out of New York Harbor,
15 the same one?

16 MR. KELLY: I don't believe you'll
17 see the Coast Guard being pulled out of New York
18 Harbor, Sir. There's a reduction of 773 Coast
19 Guard billets. New York is a hot spot. The new
20 Captain of the Port has been announced and is
21 going to be coming here, Captain Linda Fagan--

22 CHAIRPERSON NELSON: [Interposing]
23 Um-hum.

24 MR. KELLY: --replacing Captain Bob
25 O'Brien and I believe the Coast Guard has got a

1
2 model VTS program here. I doubt that they'll be
3 pulling out at any time--any time soon. They may
4 have a very minor billet reduction however.

5 CHAIRPERSON NELSON: Yeah, I would
6 doubt it also but the fact that it's even, pardon
7 the expression, floated by the idea to get rid of
8 the Coast Guard it was just [chuckling] just
9 totally shocking. Let's see, we have New York
10 City was hit already. It's a prime target. All
11 kinds of cargo comes in. Let's pull the Coast
12 Guard out. Great idea. All right. I hope you're
13 right. I think, well thank you. I think Ms.
14 Mans? Would you like to testify?

15 MS. DEBBIE MANS: Thanks. My name
16 is Debbie Mans. I'm the Baykeeper and Executive
17 Director of New York New Jersey Baykeeper. Since
18 1989 we have served as a citizen advocate for the
19 Hudson River's estuaries, bays, streams and shores
20 including the New York New Jersey Harbor. And I'm
21 here to testify in support of both proposed local
22 laws. And I support the comments of our
23 colleagues Riverkeeper and MWA.

24 For the past several years we have
25 worked directly with the Dockmaster Unit to patrol

1
2 New York City's waterfront, specifically we
3 partnered with the Dockmaster to provide boat
4 support to investigate the Don John Marine Salvage
5 Yard on the west side of Staten Island. This
6 company had long been abandoning vessels including
7 Staten Island ferries along the shoreline of the
8 Arthur Kill, creating potential navigation
9 hazards.

10 We actually had a wreck in our
11 Baykeeper boat in Arthur Kill. We had a--we took
12 on water and had to abandon the boat on the
13 shoreline. So we're quite aware of the
14 navigational hazards and the release of hazardous
15 materials from the ships themselves.

16 Work has begun on cleaning up this
17 site and what's critical, the Dockmaster Unit has
18 known about this site, but when they saw it from
19 the water they really understood the extent of the
20 abandoned vessels that were at the site. So the
21 capability to have water access is critical for
22 this.

23 We also work with the Dockmasters
24 to stop potential illegal dumping by identifying a
25 site under the Outer Bridge Crossing on Staten

1
2 Island side that was accumulating numerous
3 vehicles and boats along the waterfront. What
4 happens a lot of times is vessels are placed in
5 the tide line and then as a new tide comes in,
6 especially on a new moon or a high tide it just
7 carries the vessels right out. And I brought a
8 photo of that site in case you wanted to see. Can
9 I approach--

10 CHAIRPERSON NELSON: [Interposing]
11 Oh sure. And I just want to ask you if you could,
12 of course, bring a map or a list much like I asked
13 Riverkeeper. Thank you.

14 MS. MANS: Right so on our boat
15 patrols we regularly go past and this is, like I
16 said, right under the Outer Bridge Crossing. It's
17 a private home, land owner, and the Dockmaster
18 Unit did visit the site and talked to the owner to
19 get the vessels removed. But it's something we
20 always have to look for.

21 We have found the Dockmaster Unit
22 to be responsive, effective and nimble but in
23 order to implement the bills they do need
24 increased funding and resources provided to them.
25 And I just want to thank you and your leadership

1
2 for proposing the amendments. Right, as it turned
3 out the septic tank was not being discharged but
4 it always makes you nervous when you see a tank
5 backed right up against the waterline like that.

6 [Off mic]

7 MS. MANS: Right. And you can't--
8 and you wouldn't notice that unless you were on
9 the water. Obviously it's in a very security
10 heavy zone right under the bridge there so yeah.

11 CHAIRPERSON NELSON: It's totally
12 obscured.

13 MS. MANS: Right. On the Arthur
14 Kill so.

15 CHAIRPERSON NELSON: Yeah totally
16 obscured from the land side, how ironic this is.
17 Well thank you for doing what you're doing. And
18 here's a perfect example of how important what you
19 do is. How you do what you do. Council Member
20 Vallone? You have a--okay. Well we thank you so
21 much for your testimony. And with no further
22 questions, I believe that the Committee on
23 Waterfronts is adjourned. Thank you so much.

24 [Gavel banging]

25 [END 1002.MP3]

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 _____March 2, 2010_____