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COMMUNITY BOARD NO. 2, MANHATTAN

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January 24, 2020

Corey Johnson
Council Speaker
224 West 30th Street, Suite 1206
New York, NY 10001

Dear Council Speaker Johnson, :

At its Full Board meeting on January 23, 2020 Community Board #2, Manhattan (CB#2, Man.) adopted the following resolution:

Discussion and consideration of the City Council Intro 1116 concerning street vending.

Intro 1116: Creating an office of street vendor enforcement, establishing a street vendor advisory board, and expanding the availability of food vendor permits:

Whereas, Community Board 2 (CB2) recognizes that street vendors of fresh and prepared foods are fixtures of New York's historical and present-day character, including in CB2; and that food vending is an entrepreneurial undertaking providing livelihoods for New Yorkers of all kinds, but especially for women and immigrant populations; and

Whereas, CB2 recognizes that local residents and businesses have concerns about street food vendors regarding (a) crowding of sidewalk space in violation of existing siting rules, (b) competition with brick-and-mortar restaurants and food sellers, and (c) the adverse environmental impact of vending vehicles and carts; and

Whereas, representatives from the Meatpacking BID and the SoHo Broadway Initiative appeared to express reservations about legislation that would increase the number of available permits; and

Whereas, legally operating a street vending vehicle or cart for food requires holding a vendor permit in addition to separate requirements to hold a "food vendor license" and be subject to health-code compliance; and

Whereas, the number of permits available for legal operation of street food vendors was capped at 3,000 in 1983, with those licenses renewable in perpetuity every two years for \$200, whether permit-holders were themselves operating permitted vehicles and carts or not; and

Whereas, this cap has led to a regime in which permits are often rented by current holders to operating vendors for exorbitant amounts—up to \$25,000 per year—leading otherwise compliant vendors to choose between falling victim to economic coercion by subleasing permits at hyper-inflated rates or operating illegally without a permit in order to maintain their livelihood; and

Whereas, there is currently a waiting list of roughly 2,500 individuals seeking to secure their own permits and this waiting list has been closed for many years; and

Whereas, this current regime touches many otherwise compliant street vendors in Community District 2, whose inability to obtain their own vending permits impedes their ability to build and sustain their livelihoods; and

Whereas, New York City Council Intro 1116, co-sponsored by Councilmembers Carlina Rivera and Margaret Chin and supported by Manhattan Borough President Gale Brewer and Public Advocate Jumaane Williams, contemplates raising the cap by up to 445 additional permits per year for ten years, requiring these new “supervisory licenses” to be held by individuals who are operating as vendors themselves, rather than to be rented out to non-license-holders; and

Whereas, there is an urgent need to bring licensed but unpermitted food vendors into the regulatory system and allow these vendors to self-enroll on the waiting list for new permits in order to free them of the exploitation that flourishes under the current vendor permit system; and

Whereas, the City should strive to eliminate the renewal of the existing permits that are being sub-leased to other vendors at hyper-inflated rates; and

Whereas, Intro 1116 articulates an allocation system for supervisory licenses that privileges vendors currently on the permit waiting list and vendors who have been operating with a food vendor license for at least five years; and

Whereas, this allocation system is thus designed to ensure that new permits will go to already operating vendors who are subject to the flaws of the current regime, and not to new vendors who will crowd the streets with newly permitted vehicles and carts; and

Whereas, under the current enforcement regime, there are only five NYC Department Of Health inspectors who focus on food-cart license compliance; and

Whereas, Intro 1116 stipulates the creation of an Office of Street Vendor Enforcement (OSVE) charged with ensuring compliance with all vending regulations, e.g. those regarding siting of vendors, which is designed to be operational for nine months before any new permits are granted, and the OSVE will be required to “inspect or examine the vending activities of at least 75 percent” of permit-holders on an annual basis; and

Whereas, the OSVE will “consist of enforcement agents who are specially trained in local laws and rules related to vending on the streets and sidewalks of New York;” and

Whereas, the OSVE will be charged to focus its enforcement efforts on areas that are identified by the DOT as excessively congested and those that have a high level of complaints about vendor activity; and

Whereas, the OSVE will collaborate with the Department of Small Business Services to provide training and education to all street vendors regarding the rules and regulations of the legislation; and

Whereas, the legislation requires the creation of a website and mobile application that will allow users to view a map of any block in NYC which will indicate where food vending is not permissible based on the day and hour and location entered and this system should integrate clear siting maps of heavily vended areas; and

Whereas, the OSVE should focus enforcement on vendors that violate requirements that food vendors and foodtrucks return to a commissary daily for cleaning; and

Whereas, Intro 1116 also stipulates the establishment of a Street Vending Advisory Board to study and address the broader regulatory regime covering street vending, acknowledging that the 36-year-old cap on permits is not the sole challenge facing New York City vis-a-vis street vending; and

Whereas, this advisory board will consist of the Commissioner of Consumer Affairs, the Commissioner of Health and Mental Hygiene, the Commissioner of Small Business Services, the Commissioner of Transportation, the Police Commissioner, five members appointed by the Speaker of the City Council (one of whom represents street vendors, one of whom represents the small business community, one of whom represents organizations representing workers at retail food stores, one of whom represents property owners and one of whom who represents a community organization), and two members appointed by the mayor, (one of whom represents street vendors and one of whom represents the small business community); and

Whereas, the advisory board should study the implementation of electrically powered food vending carts to replace the use of petroleum powered generators, which create noise pollution and negatively impact health and quality of life; and

Whereas, Intro 1116 has been championed by the Street Vendor Project, a coalition of over 1,800 currently operating vendors—many of whom work subject to the extortionate rental fees for capped permits or choose to operate without a permit—endorse this legislation as a crucial step towards dismantling the capped-permit system that now harms vulnerable New Yorkers; and

Whereas, Community Board 2 believes that legitimate broader concerns about enforcement of existing regulations on street vendors should not forestall action on the issue of capped permits, especially as Intro 1116 is designed to both (a) improve enforcement and (b) specifically aid already operating good-actor vendors; now

Therefore Be It Resolved that CB2 Manhattan supports passage of Intro 1116, recognizing that the regime arising from the 1983 cap on permits for street food vendors is untenable and unjust; and

Be It Further Resolved that CB2 Manhattan recommends that the City Council takes further action to phase out indefinitely renewable, rentable permits and to replace them supervisory licenses that require operation of vending carts and vehicles by permit-holders; and

Be It Further Resolved that CB2 Manhattan urges robust enforcement of broader laws and rules related to vending on the streets and sidewalks of the city, recognizing the legitimate concerns of residents and business-owners who are adversely impacted by non-compliant behaviors; and

Be It Further Resolved that CB2 Manhattan recommends creation of additional guidelines regulating the adverse environmental impact of vending vehicles and carts to ensure a sustainable future for all food-preparation businesses in New York City.

Vote: Passed, with 37 Board Members in favor and 4 Board members opposed (C. Flynn, K. Bordonaro, S. Wittenberg, D. Gruber)

Please advise us of any decision or action taken in response to these resolutions.

Sincerely,



Carter Booth, Chair
Community Board #2, Manhattan

Joseph Gallagher, Chair
Quality of Life Committee
Community Board 2, Manhattan

CB/JT

c: Hon. Jerrold L. Nadler, Congressman
Hon. Carolyn Maloney, Congresswoman
Hon. Nydia Velázquez, Congresswoman
Hon. Brad Hoylman, NY State Senator
Hon. Brian Kavanagh, NY State Senator
Hon. Yuh-line Niou, Assembly Member
Hon. Deborah J. Glick, Assembly Member
Hon. Gale Brewer, Manhattan Borough President
Hon. Margaret Chin, Council Member
Hon. Carlina Rivera, Council Member