

August 1, 2011

Justice, Health and Welfare Committee
St. Louis County Council
41 South Central Ave.
Clayton, Missouri 63105

Dear Councilmember,

I'm writing to **urge you to make a formal proposal** of a Moratorium on Health Department Permitting Fees for the remainder of 2011 for farmers and other food vendors who are vending at Farmers Markets in St. Louis County. My first letter to you was dated April 22 and the letter from the Missouri Department of Agriculture's General Council dated June 7, 2011.

The Committee first became aware of the problems and inconsistencies in the way the St. Louis County Health Department applies permitting fees to Farmers Market vendors over a year ago. The Farmers Market Season is now half over and in order to achieve any benefits for this year, I strongly suggest that it is time to make a decision. **Would you make a formal proposal at the St. Louis County Council's regular meeting on August 2, 2011?**

To dispel any lingering doubts the Justice, Health, and Welfare Committee Members may have, I would like to discuss one other area of concern that has not yet been addressed but was introduced in the June 13 St. Louis Post-Dispatch newspaper article by Paul Hampel. Here is a quote from the article.

"Two supermarket chains, Schnucks and Dierbergs, have registered complaints with the county Health Department about the vendors' efforts to minimize fees."

"Dispensing with fees for the farmers markets would create an unlevel playing field," said Schnucks spokesman Paul Simon. "We have to make sure that we are following all the codes and all laws in the jurisdictions we sell or prepare food in. And we don't think the farmers markets should be exempt from any of the fees we pay."

First of all, we are not asking that all permitting fees be eliminated. We are asking for permitting fees to be applied appropriately, fairly and consistently to fit the type of food service establishment that constitutes a Farmers Market. The Committee has already been given facts and figures in the form of statistics, documentation of Missouri State Law in the form of Statute 150.030, as well as first-hand accounts by market managers, farmers, and other food vendors as to why it is important to move forward on this issue, so I won't repeat them here.

Secondly, let's talk about a level playing field. Here are some statistics to show that Schnucks spokesman Paul Simon's statement is not only unfounded but it is also grossly inaccurate. Consider the following statistics about large grocery retailers like Schnucks:

- **Schnucks Markets Inc. operates 105 stores**, including five Logli stores, in Missouri, Illinois, Indiana, Wisconsin, Iowa, Tennessee and Mississippi. Is it one of the largest privately held companies in St. Louis with **\$2.5 billion in revenue in 2010?** (from Location, Location, Location Commercial Real Estate and Hoovers)
- **Schnucks 2009 Employees 15,600** (Hoovers)
- Large companies have economies of scale in **purchasing** and in access to **large groups** of customers. Small companies can compete effectively through convenient location or special merchandising. **The industry is capital-intensive: average annual revenue per employee (for a company like Schnucks) is \$300,000.** (Hoovers)

U.S. Food Industry Overview

	Quantity	Unit	Date	Source
Total Food Sales	1,638.2	Bil. US\$	2010	PRE
Supermarket & Traditional Food Store Sales ¹	497.2	Bil. US\$	2010	Census
Restaurant Food & Drink Sales	604.2	Bil. US\$	2010	NRA
Non-traditional Food Store Sales ²	371.7	Bil. US\$	2010	Census
Convenience Stores Sales (not including gas)	165.0	Bil. US\$	2010	PRE

- **2010 Sales for Supermarkets & Traditional Food Stores were over \$497,000,000,000.** (From Plunkett Research)
- Even in a Non-Traditional Food Store like **Whole Foods Market**, the food sales are very high. My son works in management at Whole Foods. Last year in their Brentwood store, one of the smallest in the country, **the store had \$270,000 in food sales in one week** in just their grocery department alone. This does not include produce, deli, bakery, fish, meat, wine, cheese, flowers, coffee, or body care. Imagine the weekly grocery sales in a large Schnucks store that is 2-4 times as big.

Now consider these statistics about organic food and farmers markets.

- In 2009, **54 percent of total organic food sales were handled through mainstream grocers, (LIKE SCHNUCKS) club stores and retailers.** Meanwhile, natural and specialty retailers were runners-up, with 40 percent of sales. **Direct sales through farmers' markets, co-ops, community-supported agriculture (CSAs), and the Internet, as well as exports, represented the remaining 6 percent.** (From Organic Trade Association)
- During that time (from 2000-2009), **organic food sales have grown from \$6.1 billion to \$24.8 billion in 2009, jumping from 1.2 percent of all U.S. food sales to 3.7 percent.**
- According to the last Survey (conducted in 2005) **sales at farmers markets were slightly over \$1 billion annually** and more than 25 percent of vendors at surveyed markets derived their sole source of farm income from farmers markets. (From USDA)
- Working with USDA statistics, projected 2010 sales at farmers markets would be around \$1.5 billion showing a 50% increase between 2005 and 2010.

Compare these apples and oranges:

Schnucks, as one privately owned St. Louis corporation, had sales revenue from their retail stores in 2010 of \$2,500,000,000 (\$2.5 billion). This does not include their real estate holdings or trucking division.

The total estimated 2010 revenue for all of the farmers markets in the United States put together was \$1,500,000,000 (\$1.5 billion).

1 company---Schnucks---2010 Revenue=\$2.5 billion

6,132 US Farmer's Markets---2010 Revenue=\$1.5 billion (est.)

The comment by Schnucks spokesman Paul Simon is clearly another example of a large corporation "crying wolf" without the facts and figures to back up his statement. His comment "Dispensing with fees for the farmers markets would create an unlevel playing field" is ludicrous. Why would a family owned, St. Louis company, who had its own humble beginnings, want to thwart the growth of our regions small businesses and dampen the spirit of St. Louis County Farmers Market's? And why would the St. Louis County Health Department imply concurrence without verifying the facts?

Another area that has previously been documented for the Committee is the fact that St. Louis County Farmers Markets and their vendors follow all codes and all laws in the jurisdictions in which they conduct business and all of our vendors have applicable business licenses, facility inspections, etc. The Schnucks spokesman said, "We have to make sure that we are following all the codes and all laws in the jurisdictions we sell or prepare food in. And we don't think the farmers markets should be exempt from any of the fees we pay."

Farmers Markets in St. Louis County are actually held to higher health standards than grocery stores doing business in the County. Have you ever gone into a Schnucks or Dierbergs grocery store and sampled food products from unattended containers set upon free-standing tables? Frankly, I don't touch these things unless I'm first in line. After a few hours of dozens of people sampling the food product through self-service, I imagine the amount of germs left on the utensils is very high.

Unattended food sampling is not allowed at a Farmers Market while unattended food sampling is allowed in grocery stores. Our vendors are required to wear gloves and use single use utensils to personally hand the food samples to the customers. This is the only way Farmers Market Vendors are allowed to give out samples.

Farmers Markets are disproportionately charged more fees for independent vendor sampling or ready-to-eat food preparation than are grocery stores and restaurants. Our independent vendors are required to obtain Temporary Food Establishment Permits (TFE) at a cost of \$35/14days to offer food samples (even if they already operate a food service facility inspected by the health department) or prepare food on-site. Independent vendors offering food product samples or preparing food on-site in grocery stores are not required to obtain TFE Permits.

A new restaurant, which is usually opened 6-7 days/week with more than one meal service per day, is required to get a yearly food permit at a cost of only \$130/year. Our food vendors who prepare food on-site and usually only prepare food 1 day a week for 4 hours for up to 27 weeks/year are require to get a TFE at a yearly cost of \$490/year.

Let's compare apples and oranges again and put them in the right baskets:

Grocery Stores (Schnucks & Dierbergs) Independent Vendor Food Sampling:
No Permit Required--Costing No Money @ 24 hours/day--7 days/week for 52 Weeks

Farmers Market Independent Vendor Food Sampling:
TFE Permit Required 1x every 14 days--Costing \$490 @ 4 Hours/week for 27 Weeks

New Restaurant Food Permit: \$130/year for unlimited hours of operation/year

New Vendor TFE Permit: \$490/27 weeks @ 4 hours/week

While I sympathize with municipal health departments' struggles to deal with the apparent coding and permitting conundrum that a modern day farmers market presents, I cannot sympathize with departments who either ignorantly or willfully repeatedly avoid the issue or cope with their own lack of understanding of the issue by cobbling together health guidelines and fee structures that appear to address the needs of Farmers Markets as Food Service Facilities, but in actuality stymie their growth and hamper their success.

As you can see, from the facts and figures presented here and in other documents, adequate research and studious analysis of the real functions of Farmers Markets, greatly simplify the details of the issue. We all know that an architect designs a better house if he visits the site and studies the living patterns of the prospective homeowners. It is no different in the designing of a Farmer's Market Food Establishment Bill. We also know that a better house is built on a firm foundation as well as on land that is first cleared of rubble and on a site that is leveled out.

If we are really concerned about "leveling the playing field", Members of the Justice, Health and Welfare Committee would formally propose a Moratorium on the Permitting Fees that are currently being charged by the St. Louis County Health Department to Farmers Market farmers and other food vendors. For the reasons discussed and outlined above and in previous letters, including the one sent by General Counsel, Michael Warrick, as well as the reasons that were clarified at both the Committee's Meeting on May 10 and the Hearing on June 28, enough evidence has been presented to justify moving forward with a Moratorium.

Sincerely,

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