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COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON RULES

Room 400, City Hall
Philadelphia, Pennsylvania
Wednesday, November 30, 2011
10:20 a.m.

PRESENT:

- COUNCILMAN JAMES KENNEY, CHAIR
- COUNCILMAN DARRELL CLARKE
- COUNCILMAN FRANK DiCICCO
- COUNCILMAN W. WILSON GOODE, JR.
- COUNCILMAN WILLIAM K. GREENLEE
- COUNCILWOMAN DONNA REED MILLER
- COUNCILWOMAN BLONDELL REYNOLDS BROWN

BILLS 110275, 110681, 110762, 110763, 110768,
110781, 110826 and 110761

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COUNCILMAN KENNEY: Ladies and gentlemen, can we please have your attention. The Committee on Rules would like to get started.

Good morning. The Committee on Rules now has a quorum with the members Clarke, DiCicco, Greenlee, Councilman Goode and myself, Councilman Kenney, chairing the hearing.

The first bill for consideration today is Bill No. 110781, which is an ordinance amending Chapter 14-600 of The Philadelphia Code, entitled "Food Distribution Center District," by revising the height restrictions, all under certain terms and conditions.

Mr. Kramer, please identify yourself.

MR. KRAMER: Good morning, Councilmember Kenney and members of the Rules Committee. I'm William Kramer, Division Director of the Development Planning Division of the Philadelphia City Planning Commission. I'm here to

1 11/30/11 - RULES - BILL 110275, ETC.
2 testify on Bill No. 110781, which was
3 introduced into Council November 3rd,
4 2011.

5 Bill No. 110781 amends Section
6 14-600 of The Philadelphia Zoning Code,
7 entitled "Food Distribution Center
8 District," by increasing the permitted
9 height in the Food Distribution Center
10 from its current limit of 60 feet to 140
11 feet.

12 The height increase will allow
13 for the development of a new automated
14 warehouse for the Pennsylvania Liquor
15 Control Board as the sole distributor for
16 alcohol in the State of Pennsylvania.
17 The proposal is to be developed by XTL,
18 Incorporated, on a property located
19 within the block bounded by Pattison
20 Avenue, Packer Avenue, South 3rd Street
21 and South Lawrence Street, with a 300,000
22 square foot footprint and a height of up
23 to 135 feet. The height is required in
24 order to accommodate the robotic storage
25 and retrieval system contemplated for

1 11/30/11 - RULES - BILL 110275, ETC.

2 this operation.

3 The Philadelphia City Planning
4 Commission will review Bill No. 110781 at
5 their next regularly scheduled meeting on
6 December 13th, 2011. It will be
7 presented with a staff recommendation of
8 approval.

9 This concludes my testimony. I
10 appreciate the opportunity to appear and
11 will answer any questions you may have.

12 COUNCILMAN KENNEY: Thank you,
13 Mr. Kramer.

14 Any questions for Mr. Kramer?

15 (No response.)

16 COUNCILMAN KENNEY: Seeing
17 none, is there anyone else to testify?

18 PIDC.

19 (Witness approached witness
20 table.)

21 COUNCILMAN KENNEY: You are not
22 Mr. Grady.

23 MR. DALFO: I am not Mr. Grady.

24 COUNCILMAN KENNEY: Please
25 identify yourself for the record.

1 11/30/11 - RULES - BILL 110275, ETC.

2 MR. DALFO: I'm a little bit
3 shorter.

4 Good morning, Chairman and
5 members of the Committee. My name is Tom
6 Dalfo. I'm here to represent PIDC. I'm
7 here to testify in support of Bill No.
8 110781.

9 PIDC's affiliate, the Food
10 Distribution Center, owns the property in
11 question that Mr. Kramer had referenced
12 for the project. This bill would change
13 the height limit for projects developed
14 in the Food Distribution Center zoning
15 from 60 feet to 140 feet.

16 Over the past few years, the
17 heights of single-story warehouses in the
18 U.S. has increased dramatically.
19 Virtually unheard of in the U.S. a decade
20 ago, warehouses with heights of 80, 90 or
21 more than 100 feet are increasingly
22 common. This is due to advances in
23 technology that provide for automation of
24 the retrieval of products stored in these
25 warehouses. This trend is a benefit to

1 11/30/11 - RULES - BILL 110275, ETC.

2 the City of Philadelphia and may help in
3 part make the City even more competitive
4 compared to surrounding communities when
5 companies are looking to site warehouses.

6 Due to our historic development
7 patterns, Philadelphia has a critical
8 shortage of large-scale sites, which we
9 would define as 25 acres and larger, to
10 support large-scale distribution
11 facilities. The emergence of taller
12 warehouses allows the City to compete
13 more effectively in this market, since
14 these structures have the storage volume
15 of traditional height warehouses, but
16 with a much smaller footprint. An 80 to
17 100 foot warehouse with a 100,000 square
18 foot footprint could fit on an 8- to
19 15-acre site, depending upon the amount
20 of truck storage that's required. If the
21 same facility had a more traditional
22 warehouse height in the 32- to 36-foot
23 range, it would require a site two to
24 three times as large to accommodate.
25 These taller warehouses represent an

1 11/30/11 - RULES - BILL 110275, ETC.

2 opportunity to attract private industrial
3 investment into the City, thereby
4 creating new job opportunities for
5 Philadelphians that would otherwise end
6 up on larger sites in surrounding
7 communities.

8 However, unlike surrounding
9 communities, Philadelphia has a history
10 of tall industrial facilities. Prior to
11 the post war era of suburban sprawl,
12 industrial facilities in the City were
13 multi-story and sited so as to be
14 convenient to the people who worked in
15 them. Our neighborhoods are full of
16 examples of multi-story industrial
17 buildings that are six or eight or even
18 ten stories high. While the activity is
19 different today -- talking about
20 warehousing versus manufacturing -- the
21 building form is very similar to
22 Philadelphia's prominent industrial
23 heritage. So this proposed change is
24 really more of a return to Philadelphia's
25 industrial history than it is something

1 11/30/11 - RULES - BILL 110275, ETC.

2 new.

3 Changing the FDC zoning to
4 allow tall buildings will help to support
5 the strong competitive advantage the City
6 already has in the distribution of food
7 goods. This will occur with no impact on
8 residents, as the closest residentially
9 zoned sites are more than a quarter mile
10 away from this FDC-zoned site.

11 Finally, this more intensive
12 development of sites will also have a
13 positive impact on stormwater runoff by
14 reducing the amount of pervious area that
15 needs to be developed.

16 I would ask that the Committee
17 consider this bill favorably. Thank you
18 for the opportunity to testify. I'm more
19 than happy to answer any questions.

20 COUNCILMAN KENNEY: Thank you
21 very much for your testimony.

22 Please let the record indicate
23 that Councilwoman Blondell Reynolds Brown
24 is also in attendance.

25 Are there any questions for

1 11/30/11 - RULES - BILL 110275, ETC.

2 these witnesses?

3 (No response.)

4 COUNCILMAN KENNEY: Seeing

5 none, thank you very much for your

6 testimony.

7 Anyone else to testify on this

8 bill?

9 (No response.)

10 COUNCILMAN KENNEY: Seeing

11 none, we will now move to Bill No.

12 110826. Bill 110826, an ordinance

13 amending Title 9 of The Philadelphia

14 Code, entitled "Regulation of Businesses,

15 Trades and Professions," by amending

16 Section 9-1004, entitled "Contractors,"

17 by requiring that certain information be

18 reported to the Department of Licenses

19 and Inspections for certain construction

20 projects and providing for the posting of

21 certain information at the construction

22 site, providing for penalties for

23 violations, and making certain technical

24 changes, all under certain terms and

25 conditions.

1 11/30/11 - RULES - BILL 110275, ETC.

2 Is there anyone here from the
3 Administration?

4 (No response.)

5 COUNCILMAN KENNEY: Why don't
6 we then move to -- we'll do one of the
7 quicker ones. While we're waiting for a
8 witness, we will move to Bill No. 110768,
9 which is an ordinance to amend the
10 Institutional Development District Master
11 Plan of Temple University, located on the
12 block bounded by 11th Street, Berks
13 Street, 12th Street, and Norris Street,
14 by allowing for the construction of a new
15 building addition for use as the Science
16 Education and Research Building, and
17 amending the Institutional Development
18 District Master Plan for the block
19 bounded by Montgomery Avenue, 11th
20 Street, Berks Street, Warnock Street, by
21 allowing for the construction of a new
22 building for use as a mixed-use parking
23 garage.

24 Mr. Kramer, please identify
25 yourself.

1 11/30/11 - RULES - BILL 110275, ETC.

2 MR. KRAMER: Good morning,
3 Councilmember Kenney and members of the
4 Rules Committee. I am William Kramer,
5 Division Director of the Development
6 Division of the Philadelphia City
7 Planning Commission. I am here to
8 testify on Bill No. 110768, which was
9 introduced into Council on October 27th,
10 2011.

11 Bill No. 110768 amends the
12 Master Plan for the Temple University
13 Institutional Development District in two
14 significant ways. First, Bill 110768
15 would permit the construction of a new
16 Science Education Research Building,
17 SERB, that will be located on the block
18 bounded by Berks Street, 12th Street,
19 Norris Street and 11th Street. The
20 building will include high-tech classroom
21 spaces, lecture halls and collaboration
22 spaces. The upper lab floors will be
23 developed as a combination of wet and
24 high-tech dry labs, which will permit
25 flexibility for emerging research over

1 11/30/11 - RULES - BILL 110275, ETC.

2 the next 50 years.

3 Secondly, Bill No. 110768 would

4 permit the construction of a mixed-use

5 parking garage located on the block

6 bounded by Montgomery Avenue, 11th

7 Street, Berks Street and Warnock Street.

8 This mixed-use garage will contain

9 approximately 1,100 spaces on four

10 levels, approximately 150 feet high,

11 including mechanicals, with 13,500 square

12 feet of University flex space on the

13 first floor and approximately 4,000

14 square feet of retail space along Berks

15 Street. There will also be landscaped

16 plazas along Berks Street and Montgomery

17 Avenue.

18 The Philadelphia City Planning

19 Commission at its meetings of May 17th

20 and June 14th, 2011, respectively,

21 recommended approval for these amendments

22 to the Temple University Institutional

23 Development District Master Plan, and

24 Bill No. 110768 is considered an item in

25 accord with previous policy based on

1 11/30/11 - RULES - BILL 110275, ETC.

2 those approvals.

3 If there's any questions, I'd
4 be happy to answer for you.

5 COUNCILMAN KENNEY: Thank you
6 very much.

7 Councilman Clarke.

8 COUNCILMAN CLARKE: Thank you,
9 Mr. Chairman.

10 Mr. Chairman, can I have
11 Mr. Ken Lawrence from Temple University
12 come up? I want to ask him a couple
13 specific questions about the project.

14 (Witness approached witness
15 table.)

16 COUNCILMAN KENNEY:
17 Mr. Lawrence, please identify yourself
18 for the record.

19 MR. LAWRENCE: Ken Lawrence,
20 Senior Vice-President for Government,
21 Community and Public Affairs at Temple
22 University.

23 COUNCILMAN CLARKE: Good
24 morning.

25 MR. LAWRENCE: Good morning.

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2 COUNCILMAN CLARKE: I'm going

3 to go through the drill. Do you have

4 community support --

5 MR. LAWRENCE: Yes.

6 COUNCILMAN CLARKE: -- for this

7 project?

8 MR. LAWRENCE: Yes, I do.

9 COUNCILMAN CLARKE: I

10 understand you have a number of letters?

11 MR. LAWRENCE: We have letters

12 from Jefferson Manor Homeowners

13 Association and also Norris Homes, which

14 is directly contingent to the property.

15 COUNCILMAN CLARKE: And Senator

16 Kitchen, who is not only the Senator but

17 also the Ward Leader, who pays close

18 attention to that --

19 MR. LAWRENCE: Absolutely.

20 COUNCILMAN CLARKE: -- is

21 Senator Kitchen supportive of this?

22 MR. LAWRENCE: We presented the

23 project to Senator Kitchen and actually

24 made some revisions based on some of her

25 feedback from that, to add some retail on

1 11/30/11 - RULES - BILL 110275, ETC.

2 the other side.

3 COUNCILMAN CLARKE: Now, the
4 retail, I understand, is going to be on
5 two sides of the development?

6 MR. LAWRENCE: Two sides.

7 COUNCILMAN CLARKE: One side
8 facing the community, I guess?

9 MR. LAWRENCE: Right.

10 COUNCILMAN CLARKE: And the
11 other side facing the 9th Street?

12 MR. LAWRENCE: That's correct.

13 COUNCILMAN CLARKE: The 9th
14 Street, Berks Street rail.

15 My understanding throughout
16 some of those conversations, there were
17 some concerns that the retail --
18 significant portion of the retail be
19 targeted towards community use and not
20 simply student use, because that was some
21 of the issues that came up in the
22 conversations, that you were simply
23 targeting the student residential
24 properties on 10th Street and not being
25 in a position to --

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2 MR. LAWRENCE: Right. And on
3 the one side targeting the commuters
4 coming up from the train station. But,
5 yeah, based on the feedback, we've added
6 some on the other side, which will be
7 more community focused.

8 COUNCILMAN CLARKE: Okay. And
9 the issues as it relates to the
10 construction -- I'm asking you the
11 question because I want it on the record.
12 As it relates to participation goals, it
13 will be comparable to, if not exceed,
14 what we're doing currently on the
15 residential hall at Broad and Cecil B.
16 Moore?

17 MR. LAWRENCE: Absolutely. And
18 GPUAC will be the monitor for that to
19 monitor our minority participation.

20 COUNCILMAN CLARKE: All right.
21 Normally we request that an EOP plan be
22 attached. Do we have that?

23 MR. LAWRENCE: I'm not --

24 COUNCILMAN CLARKE: I thought
25 I'd ask that question before Councilman

1 11/30/11 - RULES - BILL 110275, ETC.

2 Goode asked it.

3 MR. LAWRENCE: If we do not
4 have it attached, we will certainly
5 develop it and get it.

6 COUNCILMAN CLARKE: All right.
7 How do you anticipate we resolve that
8 issue? Because we do not pass
9 ordinances, particularly over a certain
10 threshold as it relates to the costs
11 associated with that.

12 MR. LAWRENCE: We will get the
13 EOP developed as soon as possible and get
14 it in. If we have to hold because of
15 that, that's fine. I'm just not aware.
16 I have not seen the complete package if
17 it was attached or not, but I know we
18 have done that for previous projects and
19 we would have no problem with doing that
20 at all for this one.

21 COUNCILMAN CLARKE: That's why
22 I'm a little surprised that you don't
23 have it, because, as I said, you know the
24 drill.

25 MR. LAWRENCE: Right.

1 11/30/11 - RULES - BILL 110275, ETC.

2 COUNCILMAN CLARKE: Okay. I'll
3 stop asking these questions at the
4 moment, but I cannot guarantee that
5 nobody else will ask for that EOP --

6 MR. LAWRENCE: Okay.

7 COUNCILMAN CLARKE: -- at this
8 particular hearing.

9 MR. LAWRENCE: I see him
10 watching me. So that's fine.

11 COUNCILMAN KENNEY: I'm going
12 to hit his button right now.

13 COUNCILMAN GOODE: Good
14 morning, Mr. Lawrence.

15 MR. LAWRENCE: Good morning,
16 Councilman.

17 COUNCILMAN GOODE: We have a
18 Rules Committee hearing scheduled for
19 December 6th, so there should be no
20 problem having a plan developed by then.
21 Is that true?

22 MR. LAWRENCE: Absolutely not.
23 Yeah.

24 COUNCILMAN GOODE: Thank you.

25 Thank you, Mr. Chair.

1 11/30/11 - RULES - BILL 110275, ETC.

2 COUNCILMAN KENNEY: Councilman
3 Clarke.

4 COUNCILMAN CLARKE: No.

5 COUNCILMAN KENNEY: So my
6 assumption is we're going to be waiting
7 for the 6th?

8 MR. LAWRENCE: We will get the
9 EOP plan developed and we'll get it in
10 for the hearing on the 6th.

11 COUNCILMAN KENNEY: Okay.

12 Anyone else?

13 (No response.)

14 COUNCILMAN KENNEY: Anyone else
15 to testify on the bill?

16 (No response.)

17 COUNCILMAN KENNEY: Seeing
18 none, we will now move to Bill No.
19 110681, which is an ordinance amending
20 Section 14-1629 of The Philadelphia Code,
21 entitled "Yorktown Special District
22 Controls," by specifically amending
23 Section 14-1629(3), entitled "District
24 Boundaries"; all under certain terms and
25 conditions.

1 11/30/11 - RULES - BILL 110275, ETC.

2 Mr. Kramer, please identify
3 yourself.

4 MR. KRAMER: Good morning,
5 Councilman Kenney and members of the
6 Rules Committee. I am William Kramer,
7 Division Director of the Development
8 Division of the Philadelphia City
9 Planning Commission. I am here to
10 testify on Bill No. 110681, which was
11 introduced into City Council October 6th,
12 2011.

13 Bill No. 110681 amends Section
14 14-1629 of the Zoning Code, entitled
15 "North Central Philadelphia Community
16 Special District Controls," by adding a
17 new area covered under the provisions of
18 the Section. The area bounded by Girard
19 Avenue, Watts Street, Parish Street, Park
20 Avenue, Brown Street, and 12th Street,
21 will now be covered under the Yorktown
22 Controls.

23 Within the area described,
24 residentially zoned properties (R-9A,
25 R-10, R-13 and R-20) are prohibited from

1 11/30/11 - RULES - BILL 110275, ETC.

2 the following uses: Multiple-family
3 dwellings, apartment houses, tenement
4 houses, student housing not
5 owner-occupied, and fraternity/sorority
6 houses. Bill No. 110681 attempts to curb
7 student nuisance behavior by limiting
8 housing opportunities for the students
9 within the area prescribed.

10 While the Philadelphia City
11 Planning Commission understands the
12 frustration of the community in dealing
13 with unruly students, Bill No. 110681
14 prohibits any apartment uses or
15 multiple-family opportunities for any
16 persons in the area. Additionally, the
17 Commission believes that many of the
18 student problems that the residents face
19 are enforcement related (noise, trash,
20 property maintenance), thus will not be
21 solved by this Zoning Code amendment.

22 For these reasons, the
23 Philadelphia City Planning Commission at
24 its meeting of October 18th, 2011
25 recommended disapproval for Bill No.

1 11/30/11 - RULES - BILL 110275, ETC.
2 110681.

3 I'll be happy to answer any
4 questions you may have.

5 COUNCILMAN KENNEY: Thank you
6 very much.

7 Any questions for Mr. Kramer?

8 (No response.)

9 COUNCILMAN KENNEY: Seeing
10 none, I would ask Muriel Reviere and
11 Nehemiah Homes come forward.

12 (Witness approached witness
13 table.)

14 COUNCILMAN KENNEY: Good
15 morning. Please identify yourself for
16 the record, and if you could, pull that
17 microphone close to you. Thank you.

18 MS. REVIERE: Good morning.
19 Thank you, Mr. Chairman and distinguished
20 members of the Committee, for allowing me
21 to testify today. My name is Muriel
22 Reviere Taylor. I am the Chairwoman of
23 the Carrie Turner Nehemiah Homeowners
24 Association Board of Directors. Carrie
25 Turner was a visionary who saw the

1 11/30/11 - RULES - BILL 110275, ETC.

2 community that she loved so much become
3 one of the most blighted, crime-ridden,
4 property-stricken communities in the City
5 of Philadelphia. She knew with that
6 vision, determination and a lot of hard
7 work, sweat and tears, she could change
8 this community into one of the most
9 desirable communities in Philadelphia.
10 Unfortunately, Ms. Turner didn't live to
11 see her vision come to fruition. She
12 passed away before the development was
13 completed.

14 The Nehemiah Homes are located
15 south of Girard Avenue, north of Brown
16 Street, west of 12th and east of Broad
17 Street. The 160 twin homes were built in
18 1996 and marketed to low- to
19 moderate-income families. The homeowners
20 are responsible for paying assessments to
21 maintain the common areas located within
22 the development. We have tried over the
23 last 14 years, with a lot of hard work,
24 to preserve this family-oriented
25 community. We have block association,

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2 block parties. Several of the blocks
3 have been judged in the Philadelphia More
4 Beautiful contest. Several of our young
5 people have grown up and gone on to
6 college. Many of them served as junior
7 block captains. We also have an annual
8 summer cookout that's well-attended by
9 the community. We have a very diverse
10 community here and we get along quite
11 well. There are several seniors who live
12 here and who feel safe and
13 well-respected. We look after them all
14 the time.

15 Several years ago, we started
16 to notice a few properties within our
17 community go up for sale and then
18 purchased right away by investors, who
19 then started to rent rooms to Temple
20 students. We also noticed that this
21 practice began to happen right around the
22 time when Yorktown started to fight the
23 illegal renting of property to Temple
24 students. These properties are sometimes
25 being rented to up to four to five

1 11/30/11 - RULES - BILL 110275, ETC.

2 unrelated students.

3 Also we noticed that the rental
4 or leasing of properties is a violation
5 of our deed restrictions. With the
6 owners of these properties being off site
7 and out of sight, we are constantly faced
8 with maintaining unkept lawns, picking up
9 trash, communicating with students about
10 the upkeep of the properties, asking
11 students to put up window treatments and
12 informing them of the importance of not
13 leaving valuables outside on the porches
14 because it attracts crime. We have been
15 subjected to late-night parties, underage
16 drinking, et cetera, that has mostly gone
17 unaddressed by Temple.

18 There is one investor who owns
19 two properties in Nehemiah and she
20 doesn't even live in the State of
21 Pennsylvania.

22 Parking is at a premium, even
23 though all the properties in the
24 development have space for two-car
25 parking. With more than four students

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2 and vehicles per resident, it overburdens
3 the local blocks with excess vehicles and
4 limited parking spaces.

5 We are extremely concerned with
6 this community becoming used primarily by
7 these investors, who have no connection
8 whatsoever in the community, becoming
9 money-making ventures and that's all.

10 We've heard that investors are renting
11 single rooms for \$600 a month or more.

12 The constant conversion of
13 single-family houses into rooming houses
14 rented to several unrelated persons
15 certainly works against the
16 family-oriented character of the Nehemiah
17 Homes. We believe that this works to
18 destabilize the community by taking on
19 the transient character from which the
20 residents of the rooming houses have no
21 concern in the overall quality of life
22 here in Nehemiah. We are very worried
23 that in the years to come, that this
24 community could easily become what it
25 once was.

1 11/30/11 - RULES - BILL 110275, ETC.

2 I would like to take this time
3 to thank Council, thank this Committee
4 for the opportunity to testify on the
5 behalf of the Nehemiah community.

6 Thank you.

7 COUNCILMAN KENNEY: Thank you
8 for your testimony.

9 Councilman Greenlee.

10 COUNCILMAN GREENLEE: Thank
11 you, Mr. Chairman.

12 Good morning, Ms. Reviere. Am
13 I right to assume since a lot of these --
14 since these owners are, as you say, off
15 site and might be out of state, that
16 you've had little or no availability to
17 talk to them and communicate your
18 problems to them?

19 MS. REVIERE: You're right. In
20 fact, on the block that I live on, the
21 house across the street is occupied by
22 Temple students, and I've never seen the
23 owners, the actual owners of the
24 property. And most times they leave.
25 I'm not sure in their rental and leasing

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2 to the students if they even mention that
3 they'll come back and maintain the
4 property.

5 We've approached several
6 students and just asked them to cut the
7 grass. Now, you have students living in
8 a property for one or two semesters.
9 When they come, they don't bring
10 lawnmowers or anything to maintain the
11 property. So if we don't do it, most
12 times then it goes undone.

13 COUNCILMAN GREENLEE: Sure.
14 And I assume there's no property manager,
15 local property manager for this?

16 MS. REVIERE: No.

17 COUNCILMAN GREENLEE: On the
18 other issue that you raised about the
19 sort of overuse, you said sometimes four,
20 five, obviously that's a zoning
21 violation. Has there been contact with
22 L&I and has there been any resolution?

23 MS. REVIERE: No.

24 COUNCILMAN GREENLEE: Have you
25 complained to L&I? Have you put in

1 11/30/11 - RULES - BILL 110275, ETC.

2 complaints that you know of?

3 MS. REVIERE: As far as I know,
4 the neighbor who lives -- we live -- the
5 properties there are twins, so the
6 adjacent neighbor -- and he's not here
7 today -- said he has complained to L&I.
8 I can't verify this, because he just said
9 he did.

10 COUNCILMAN GREENLEE: Okay.
11 And I know in fairness to L&I, sometimes
12 that's a tough one, because when they go
13 to inspect, it's sometimes tough to see
14 how many people actually live there at
15 one given time, but I know that is a
16 constant problem with students. Even in
17 my area in Fairmount, we have that
18 problem and also have the problem of the
19 owners being, you know, anywhere,
20 Massachusetts or something. So I
21 certainly relate to what you're saying.

22 Thank you. Thank you.

23 MS. REVIERE: You're welcome.

24 COUNCILMAN KENNEY: Thank you
25 very much.

1 11/30/11 - RULES - BILL 110275, ETC.

2 I just want to say as a former
3 college student who lived with four
4 unrelated other college students, I
5 didn't know then but I know now what
6 you're going through. So I hear you.

7 Councilman Clarke.

8 COUNCILMAN CLARKE: Thank you,
9 Mr. Chair.

10 Good morning.

11 MS. REVIERE: Good morning.

12 COUNCILMAN CLARKE: Councilman
13 Greenlee, I actually just want to respond
14 to one of the questions. This particular
15 bill is a bill that's actually an
16 extension of an already existing overlay.
17 A couple of years ago we had extensive
18 conversations with residents of the
19 Yorktown community, because it was also
20 one of the first single-family new
21 construction in the North Philadelphia
22 community. The characteristics of it
23 were targeted solely for single-family
24 units, and as people moved on, people
25 unfortunately passed on and the children

1 11/30/11 - RULES - BILL 110275, ETC.

2 of those individuals didn't want to move
3 in and they basically started renting
4 those properties out to students, again,
5 unsupervised. And 20-year-old kids do
6 what 20-year-old kids do. They realize
7 they don't have to go to bed at night, so
8 they stay up all night, and they realize
9 they can actually drink despite the fact
10 that they're not 21, and they drink.
11 They do what they do.

12 So the ordinance was created
13 for the Yorktown community and
14 subsequently amended to include People's
15 Village, which is north of that.

16 Similarly, in the community at
17 Nehemiah Carrie Turner Homes, this was a
18 development that was funded in part by
19 the City of Philadelphia and there was a
20 restriction as it relates to the funding
21 that you must stay in the property for 15
22 years before you can sell it. That
23 15-year period is expiring on the first
24 phase of those houses. So what's
25 happening, a lot of people are cashing

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2 out. And this is America. This is a
3 wonderful thing that people can do, but
4 the problem is, they sell them to these
5 people.

6 So that's a long response to a
7 short question. I just wanted to give
8 you the background.

9 So once we instituted the
10 Yorktown Special Controls District, it
11 ignited License and Inspection to
12 aggressively enforce the unrelated
13 portion of the Code, and it actually
14 started enforcing the no student housing
15 unless it was owner-occupied. So we
16 anticipate with the inclusion of the
17 Carrie Turner Homes in this particular
18 overlay, L&I enforcement will be enhanced
19 significantly, because they've already
20 started that process.

21 COUNCILMAN GREENLEE: Thank
22 you.

23 COUNCILMAN KENNEY: Thank you
24 very much.

25 Anyone else to testify on this

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2 bill?

3 (No response.)

4 COUNCILMAN KENNEY: Seeing
5 none, we're going to go a little bit out
6 of turn here. Ms. Priscilla Woods got
7 here a little late on Bill No. 110768 and
8 we'd ask her to come forward and give her
9 testimony even though it's out of
10 sequence.

11 (Witness approached witness
12 table.)

13 COUNCILMAN KENNEY: Good
14 morning. Please identify yourself for
15 the record and proceed.

16 MS. WOODS: Good morning, and I
17 thank you, Councilman Kenney, for
18 allowing me this opportunity. I
19 apologize for thinking that I would kind
20 of be at the end of this hearing.

21 I'm Priscilla Woods from the
22 Yorktown Community Development
23 Corporation. Good morning, Mr. Vice
24 Chairman and members of the Council on
25 Rules. I am here today to request that

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2 you defer consideration of Bill 110768 to
3 amend the Institutional Development
4 District Master Plan of Temple
5 University, located on the block bounded
6 by Montgomery Avenue, 11th Street, Berks
7 Street and Warnock Street, by allowing
8 the construction of a new building for
9 use as a mixed parking garage --
10 mixed-use parking garage.

11 Our concern is that this
12 building will be yet another Temple
13 University parking facility functioning
14 at less than 60 percent capacity on a
15 consistent basis -- these are our
16 estimates; we have no data that has been
17 provided to us -- while the Yorktown
18 community continues to be inundated with
19 University-related vehicles.

20 We are requesting this
21 postponement for a minimum of 60 days to
22 allow time for Yorktown and the
23 University to complete our dialogue
24 towards a collaborative benefits
25 agreement. A copy of the draft document

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2 is attached for your review.

3 We have had several meetings
4 where we agreed on a number of items on
5 our original list of Yorktown resident
6 concerns. However, there are items
7 pending, which include the development of
8 a student parking plan to persuade
9 University drivers to utilize University
10 surface lots and parking garages.

11 We want to be clear, we are not
12 here in opposition to this development.
13 If that were the case, we would have made
14 a presentation to you on the traffic and
15 parking nightmare in Yorktown and asked
16 residents to testify. We are only
17 requesting that you postpone this matter
18 to allow us the time to work in
19 partnership with the University to get
20 this longstanding matter right,
21 particularly in view of the impact the
22 new Science and Research Building at 12th
23 and Norris Streets and the new 1,750-bed
24 residence tower at Broad and Cecil B.
25 Moore will have on traffic and parking in

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2 the Yorktown community.

3 With the University's current
4 parking facilities grossly underutilized,
5 the sometimes volatile confrontations
6 between students and property owners
7 around parking spaces, and the public
8 safety issues produced by tactless
9 parking in cul-de-sacs, it is imperative
10 that you give the University and Yorktown
11 the opportunity to move towards a
12 mutually beneficial agreement, which we
13 expect will be memorialized in the City
14 of Philadelphia's redevelopment agreement
15 for this project.

16 Thank you.

17 COUNCILMAN KENNEY: Thank you
18 very much for your testimony. Thank you.

19 MS. WOODS: Thank you, sir.

20 COUNCILMAN KENNEY:
21 Councilwoman Brown.

22 COUNCILWOMAN BROWN: Thank you
23 for your testimony. I'm struck by the
24 provisions of the agreement. In your
25 testimony, you say that the collaborative

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2 benefits agreement, an opportunity to
3 complete it.

4 MS. WOODS: That's a draft.

5 That is a draft of what we're going
6 through. It's a process that we've been
7 going through over the course of the last
8 couple of months, and we've made some
9 great strides there, but we haven't
10 completed to the point that we have an
11 agreement, and, most particularly, we
12 don't have a defined parking plan and
13 traffic pattern, traffic flow plan. We
14 have the same streets, the same traffic
15 flow that we've had for the past 50
16 years, but the expansion of the
17 University with the Tyler Arts and the
18 Fox Business School online, it's brought
19 a tremendous addition in traffic to the
20 area.

21 COUNCILWOMAN BROWN: Now,
22 unless I'm missing it, I don't see
23 anything in here that speaks to parking
24 in this draft. Am I missing it?

25 MS. WOODS: I don't think you

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2 are. Planning.

3 COUNCILWOMAN BROWN: That

4 speaks to parking.

5 MS. WOODS: Yes.

6 COUNCILWOMAN BROWN: Are there
7 any provisions here that they have agreed
8 to? I'm specifically interested in the
9 one around educational opportunities for
10 students.

11 MS. WOODS: Yes. Yes. The
12 University has agreed to scholarships for
13 freshmen students in the community
14 at-large. They've also agreed to
15 access -- one of the resident concerns
16 was that they have access to the
17 libraries. The elders also would like to
18 have the opportunity to audit some
19 classes. So that's a point that we
20 haven't clarified as far as the education
21 piece is concerned at this point.

22 COUNCILWOMAN BROWN: And when
23 do you anticipate sealing this agreement?

24 MS. WOODS: We really hope to
25 have it done by the end of December.

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2 COUNCILWOMAN BROWN: Okay. So

3 the end of December would be -- as it

4 relates to when the sponsor of this

5 measure wants to see it pass out of

6 Council, it sounds like to me your date

7 would not be aligned with the end of

8 Council session, which would be the 16th.

9 Would you agree?

10 MS. WOODS: I agree.

11 COUNCILWOMAN BROWN: And so do

12 you see a way by which you can finalize

13 this document before we move this out of

14 Council?

15 MS. WOODS: Mr. Lawrence is

16 here. We will go back to the University

17 and ask if we can meet and kind of

18 fast-forward it. I'm sure that they

19 would be willing to, as they have been

20 very cooperative in meeting and going

21 through. We just had a whole list of

22 items and concerns from the community.

23 COUNCILWOMAN BROWN: So are you

24 optimistic? Where are you in your

25 thinking?

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2 MS. WOODS: I am definitely
3 optimistic. It's -- you know, there's
4 some major issues here that we -- and the
5 University really doesn't have a clue at
6 the moment on what this parking plan
7 should be. As of our last meeting, I
8 should say. They didn't have a plan that
9 they could -- we could say that it made
10 sense and it was a process that could
11 definitely work and be of benefit to the
12 community.

13 COUNCILWOMAN BROWN: Okay,
14 then. Thank you for your testimony.

15 COUNCILMAN KENNEY: Thank you
16 very much. Thanks for coming in.

17 MS. WOODS: Thank you, sir.

18 Thank you, Councilman Clarke.

19 COUNCILMAN CLARKE: You're
20 welcome.

21 COUNCILMAN KENNEY: We will now
22 move to Bill No. 110826, an ordinance
23 amending Title 9 of The Philadelphia
24 Code, entitled "Regulation of Businesses,
25 Trades and Professions," by amending

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2 Section 9-1004, entitled "Contractors,"
3 by requiring that certain information be
4 reported to the Department of Licenses
5 and Inspections for certain construction
6 projects and providing for the posting of
7 certain information at the construction
8 site, providing for penalties for
9 violations, and making certain technical
10 changes, all under certain terms and
11 conditions.

12 I would like to ask the City
13 Controller, Alan Butkovitz, to please
14 come forward.

15 Is there anyone here from
16 License and Inspections to testify?

17 (No response.)

18 COUNCILMAN KENNEY: Please
19 identify yourself for the record.

20 MR. BUTKOVITZ: Good morning.
21 I'm City Controller Alan Butkovitz.

22 COUNCILMAN KENNEY: Please
23 proceed.

24 MR. BUTKOVITZ: I would like to
25 express our support of the proposed

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2 ordinance that will require both
3 contractors and subcontractors to provide
4 certification to the City that all of
5 their people on site, all contractors and
6 subcontractors, have the appropriate
7 licenses, including business privilege
8 licenses.

9 The problem with the
10 underground economy has been a major
11 issue that we have been devoting
12 resources in our office to for several
13 years now. We issued a report back in
14 2009 that included a study of the
15 underground economy as it relates to the
16 construction industry in Philadelphia,
17 which was based in part on original
18 research and in part on extrapolations of
19 studies done in other jurisdictions,
20 principally New York City, and on the
21 basis of that, determined that there was
22 between \$2 and \$7 million a year in lost
23 wage tax revenues because of construction
24 companies incorrectly classifying people
25 who should be employees as independent

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2 contractors and because of people evading
3 filing requirements.

4 So this is -- as you know, the
5 half billion dollar unpaid tax problem in
6 Philadelphia is a major problem in terms
7 of the City getting its financial house
8 right. We applaud all of these efforts
9 to close these loopholes and gaps and --

10 COUNCILMAN KENNEY: I know
11 you've been out in the field with some of
12 your folks going to work sites and
13 looking at what's going on and how the
14 work site is being operated. Could you
15 give me some -- give the record some
16 indication of what you found and what
17 some of the practices are and these folks
18 trying to get around.

19 MR. BUTKOVITZ: I called Mike
20 McKee, who is our Anti-Fraud Director,
21 and asked, because he's been the hands-on
22 person on that.

23 COUNCILMAN KENNEY: I mean,
24 this bill came about as a result of the
25 fact that we had realized and been

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2 anecdotally told that people were pulling
3 permits at L&I as a general contractor
4 and then hiring subcontractors, who would
5 come on the work site, basically hire
6 people, paying them with a 1099 as an
7 independent contractor or cash in an
8 envelope, and not only beating the City
9 out of its wage taxes but not workmen's
10 compensation benefits, not paying
11 unemployment compensation benefits and
12 all the other things that our legitimate
13 contracting community needs to do and
14 does readily. And, again, this
15 underground economy is not only
16 undercutting our legitimate longstanding
17 contractors, but robbing our employees of
18 the City and the region of opportunities
19 for work and basically just not playing
20 by any rules. And this is an effort to
21 simply create a method for disclosure as
22 to who was on a particular work site, and
23 that's that.

24 MR. BUTKOVITZ: Right.

25 COUNCILMAN KENNEY: As a

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2 complaint-driven enforcement, I don't
3 think it puts any burden at all on
4 License and Inspections or on Revenue.
5 As a matter of fact, if anything, Revenue
6 should be happy that we are making them
7 self-disclose their business privilege
8 license number and the permit number and
9 the site that they're working on as
10 opposed to having to send people out and
11 catch them in the act.

12 MR. BUTKOVITZ: Not only
13 doesn't it put a burden on them, but it's
14 much easier. As I say, we invest
15 substantial resources every year on
16 undercover investigations of these
17 activities. If the burden is on the
18 employer to file paperwork --

19 COUNCILMAN KENNEY: It's not
20 even paperwork. In this bill it will be
21 done electronically from their desktop --

22 MR. BUTKOVITZ: Correct.

23 COUNCILMAN KENNEY: -- to a
24 City website that would simply list the
25 contractor, the business privilege

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2 number, the permit number and where
3 they're working.

4 MR. BUTKOVITZ: And the
5 enforcement is easier, because all you
6 have to do is prove that there is a
7 failure to file information on people on
8 site rather than the heavier burden of
9 proving whether or not they in fact
10 should be employees or subcontractors.

11 Mike McKee is here from our
12 office. He could provide further detail.

13 COUNCILMAN KENNEY: Mike, could
14 you please identify yourself for the
15 record and proceed.

16 MR. McKEE: My name is Michael
17 McKee. I'm the Director of Fraud and
18 Special Investigations for the Office of
19 City Controller in Philadelphia.

20 COUNCILMAN KENNEY: Please
21 proceed. Would you put the microphone
22 close to you.

23 MR. McKEE: Yes, sir. Thank
24 you.

25 I believe you captured the

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2 situation as I've seen it out in the
3 field. What I've noticed is, I've gone
4 to locations where prime contractors have
5 subs and in cases subs of subcontractors,
6 and we have evidence that they will pay
7 them 1099's, and then when we go back to
8 the prime contractor and ask them to
9 identify everybody on the job, they
10 either stall or do not give us the
11 information. And we would need some
12 teeth to essentially make them register
13 these folks, so we can see if they're
14 actually paying their taxes. And on the
15 job sites, that's what we're running
16 into. We've pulled the permits. We look
17 at the contractor that's purportedly on
18 the job and then we go out and we
19 identify in some occasions three or four
20 subcontractors that do not have a
21 business privilege license with the City.

22 COUNCILMAN KENNEY: I assume
23 there also are safety issues relative to
24 OSHA and to other agencies that monitor
25 this type of work, that if folks are on

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2 site that we don't know what their
3 qualifications are to be on site, what
4 their training and skills are, that it
5 creates a public safety issue too in
6 addition to --

7 MR. McKEE: That is correct,
8 sir. Primarily they're not paying the
9 taxes, so we can -- we know that in that,
10 there's no workers' compensation benefits
11 if these folks get hurt on the job, and
12 the skill level itself, we wouldn't -- my
13 own concern just on an observation is
14 that I'm worried that these structures
15 may collapse, and then who will be liable
16 at that point, and the City would be
17 burdened with trying to exhaust our legal
18 resources to determine who was actually
19 responsible.

20 COUNCILMAN KENNEY: Okay. I
21 assume, Mr. Controller, you would agree
22 that the more transparency and openness,
23 the better; that no one is ever really
24 harmed by having more information as
25 opposed to less?

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2 MR. BUTKOVITZ: Yes.

3 COUNCILMAN KENNEY: And it
4 makes it easier for everyone to enforce
5 and to make sure that people are
6 following the rules?

7 MR. BUTKOVITZ: Absolutely.

8 COUNCILMAN KENNEY: All right.

9 Any questions for these
10 witnesses?

11 (No response.)

12 COUNCILMAN KENNEY: Thank you
13 very much for coming in on short notice.
14 I appreciate it.

15 MR. McKEE: Thank you.

16 COUNCILMAN KENNEY: Dave
17 Perlman and Walter Palmer, please.

18 (Witnesses approached witness
19 table.)

20 COUNCILMAN KENNEY: Please
21 identify yourself for the record.

22 MR. SHERMAN: David Perlman
23 couldn't be here. My name is Jim
24 Sherman. I'm the Vice-President of the
25 Building Industry Association.

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2 We understand the reasoning
3 behind this legislation, and we want to
4 support Council and the City in enforcing
5 licensing and taxing laws, but candidly,
6 we can't support this bill for two
7 reasons. One is because it allows a
8 public disclosure, which we don't think
9 is warranted, and another is because it
10 allows for work stoppages, which we don't
11 think is warranted either. So we can't
12 recommend this bill.

13 COUNCILMAN KENNEY: But we have
14 had discussions on potential changes
15 relative to posting and fines versus work
16 stoppages. So there's ongoing
17 discussion.

18 MR. SHERMAN: Yes.

19 COUNCILMAN KENNEY: But can you
20 elaborate a little more on why the
21 disclosure of a subcontractor at a job
22 site is onerous.

23 MR. SHERMAN: Well, as far as
24 that goes, we don't support it. One is
25 it just creates an unnecessary

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2 bureaucracy. Again, we also think
3 because it's kind of a rough-neck
4 industry, it might create harassment of
5 the subcontractors that are listed on --
6 the contractors that are listed.

7 Also, we don't know of any
8 other business that's restricted like
9 this. That is to say, the construction
10 industry is being pinpointed as one which
11 has to disclose its subcontractors and
12 suppliers, whereas we don't know of any
13 other industry that does.

14 It also sort of -- it betrays
15 the confidentiality with which we do
16 business as an industry. Our subs are
17 somebody who is almost part of our
18 family. And, again, we are very much for
19 seeing the subs and the GCs paying the
20 licensing fees and the taxes. That's
21 very warranted. But otherwise, we can't
22 support it because of the disclosure.

23 COUNCILMAN KENNEY: Well, one
24 of the initial approaches to this was to
25 require the GC to be responsible for any

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2 nefarious activities that the subs were
3 conducting and have them be responsible
4 for paying the taxes that they were
5 beating us out of, and we changed that at
6 the request of the industry so that the
7 subs themselves are responsible and not
8 the general contractor.

9 So, I mean, if these folks are
10 members of your family, aren't you
11 concerned that they're violating the law
12 by not paying taxes and by paying people
13 cash in envelopes and those kind of
14 things?

15 MR. SHERMAN: Yes, and we
16 appreciate the fact that that was taken
17 off the table, but we still -- the public
18 disclosure is still a deal-breaker.

19 COUNCILMAN KENNEY: Well, we're
20 still going to be working on this over
21 the next week for preparation for the
22 December 6th hearing, so --

23 MR. SHERMAN: We look forward
24 to that, Councilman.

25 COUNCILMAN KENNEY: Thank you.

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2 Mr. Palmer, please identify
3 yourself.

4 MR. PALMER: Good morning,
5 Councilman Kenney and members of the
6 Committee on Rules. I am Walter Palmer,
7 President of the General Building
8 Contractors Association. I'm here to
9 testify on Bill 110826, which would
10 require that certain contractor
11 information be reported to the Department
12 of Licenses and Inspections and be posted
13 on construction sites throughout the
14 City.

15 By their nature, construction
16 projects are extremely complex and
17 involve multiple layers of contractors,
18 subcontractors, suppliers and
19 tradespeople. We understand that the
20 goal of this legislation is to ensure
21 that all parties meet their tax
22 responsibilities. However, we remain
23 concerned regarding the logistics of how
24 the collection and dissemination of the
25 information requested will be carried

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2 out.

3 As a construction trade
4 association speaking for over 600 firms
5 throughout the Philadelphia region, we
6 seek to find solutions that make
7 construction better. We have long
8 considered Councilman Kenney a partner in
9 our effort to allow good contractors to
10 build while trying to weed out
11 unscrupulous contractors who skirt the
12 rules and regulations to be the cheapest
13 and fastest. We expect that Bill No.
14 110826, once it is finished, will be a
15 large step in that direction.

16 As the bill stands now, the
17 GBCA has two areas that would request --
18 we would request the Committee to
19 consider before moving the legislation.
20 The first is that we believe the listing
21 of contractor information via the L&I
22 website is sufficient notice. The
23 maintenance of a physical posting of the
24 hundreds of firms involved in
25 construction projects in three places is

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2 redundant and unnecessary and an
3 administrative burden.

4 Second, the GBCA does not
5 support the shut down of any job site,
6 especially if it may result in a possible
7 clerical oversight. While we recognize
8 the idea that a stiff penalty encourages
9 compliance, every hour not spent building
10 results in major rescheduling, escalating
11 costs and missed deadlines. The possible
12 punitive damages incurred by the general
13 contractor and other subcontractors who
14 were not directly involved with another
15 contractor's misdeeds is not fair to the
16 good guys who have done what has been
17 asked of them.

18 We applaud Councilman Kenney
19 for his efforts to share with the GBCA
20 the intent and the details of this
21 legislation. We are encouraged by the
22 conversations that we have had with the
23 Councilman and look forward to continue
24 to work together to put in place
25 legislation that is fair and equitable

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2 and rewards the honest contractors trying
3 to do a good job for the City of
4 Philadelphia and that appropriately
5 punishes those who are not.

6 That concludes my testimony,
7 and I'll be more than happy to take
8 questions.

9 COUNCILMAN KENNEY: Thank you
10 very much for your testimony.

11 Any questions for this witness?

12 (No response.)

13 COUNCILMAN KENNEY: Thank you
14 very much for coming in.

15 MR. PALMER: Thank you.

16 MR. SHERMAN: Thank you.

17 COUNCILMAN KENNEY: Are there
18 representatives from the Carpenters
19 District Council?

20 You're going to testify? Are
21 you testifying?

22 MR. PIACELLI: Yes, sir.

23 COUNCILMAN KENNEY: Thanks.

24 (Witness approached witness
25 table.)

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2 COUNCILMAN KENNEY: Please
3 identify yourself for the record, and
4 pull the mike close to you, please.

5 MR. PIACELLI: Guy Piacelli.

6 Good morning, Chairman Kenney,
7 fellow Committee members. I thank you
8 for the opportunity to voice my support
9 to the amendment of Section 9-1004 of The
10 Philadelphia Code. My name is Guy
11 Piacelli. I'm a lifelong Philadelphia
12 resident and have been a working
13 carpenter for over 45 years. For the
14 past 26 years, I have served as the
15 Business Representative with the
16 Metropolitan Regional Council of
17 Carpenters. This experience has provided
18 me a unique perspective through which to
19 view the building permit application
20 process and the lack of accountability of
21 many who obtain such a permit.

22 I deliberately use the word
23 "accountability" because that is
24 precisely what this bill is about. My
25 decades of real-life experience out at the

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2 street on construction sites have shown
3 me that unfortunately accountability is
4 severely lacking in the process as it
5 currently exists. Change is needed.

6 Throughout the years, I have
7 personally encountered countless
8 situations, in the hundreds, where the
9 information on the building permit bore
10 absolutely no relation to the ultimate
11 work being performed. The information
12 provided to L&I at the time the permit is
13 obtained often bears no relation to the
14 ultimate work being performed, and thus
15 no accountability for the owner of the
16 property or those performing the work.

17 The contractors or
18 subcontractors who may ultimately perform
19 the work are entirely invisible, unknown
20 to L&I or any other City agency. They
21 are essentially ghosts who leave no trace
22 of having ever worked on the construction
23 site.

24 The result is obvious, as it is
25 inevitable. First, those performing the

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2 work do not obtain the required City
3 license. This is problematic on two
4 fronts. Not only does the City lose the
5 potential revenue, but more worrisome,
6 from my point of view as properly trained
7 tradesmen, is the fact that any
8 fly-by-night operation using unskilled
9 labor can perform shoddy work, with no
10 accountability, creating hazardous
11 conditions not only on the work site
12 itself but creating dangerous and
13 unsettled structures throughout the City.
14 Allowing such work to be performed
15 defeats one primary purpose behind the
16 requirement, the contractors be licensed
17 in the first place.

18 Putting safety aside for a
19 moment, the second inevitable consequence
20 of failing to require that every
21 contractor or subcontractor be officially
22 recognized as working on the site is the
23 one that has brought about the most
24 discussion here this morning, the City's
25 loss of valuable revenue. It simply

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2 cannot be disputed that the City is
3 losing significant amount of revenue,
4 both by way of licensure fees and, more
5 substantially, in tax proceeds through
6 the current unregulated system.

7 Cheaters -- and I use that word in its
8 most literal sense -- are costing the
9 City potentially hundreds, thousands of
10 dollars in revenue lost, and will
11 continue to do so unless or until a
12 deterrent is in place.

13 The licensing system as it
14 currently exists and, more specifically,
15 the reporting requirement for building
16 permits practically invites cheaters to
17 continue their dishonest ways with
18 basically no repercussions. The \$50 or
19 \$75 penalties in place for various
20 violations of the Code are laughably
21 antiquated. This legislation currently
22 before the Council would serve to close
23 the enormous loophole that currently
24 exists with the current system that
25 allows virtually any Joe off the street

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2 to pay a fee, obtain a permit, while
3 providing incorrect, incomplete or
4 outdated information regarding the
5 contractor or subcontractor who will be
6 working and with absolutely no obligation
7 to either update the information or
8 guarantee its accuracy in the first
9 place.

10 Instant accountability would
11 result the day this legislation was
12 enacted. Enforcement would be easy,
13 cheap and effective, and the results
14 would literally be a windfall for the
15 City.

16 I had to scratch my head when I
17 was told that there were parties who
18 oppose the passage of this bill. The
19 only question that comes to my mind is
20 why. I literally cannot think one reason
21 why any person or entity who has good
22 intentions, that has no desire to cheat
23 the citizens of Philadelphia out of what
24 they are rightfully owed would voice any
25 opposition. The legislation does not ask

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2 anything or anyone to do that which they
3 are already required to do, hire licensed
4 contractors, perform safe work, pay the
5 required licensing fees and pay taxes.
6 Nobody should fear accountability when
7 they are doing the right thing.

8 I offer this testimony not as a
9 theoretical exercise, but as somebody who
10 has worked on construction sites in the
11 City for over half my life. I have seen
12 firsthand the corners that are cut when
13 property owners, contractors and
14 subcontractors are left unchecked. By
15 ensuring accountability, the proposed
16 legislation will make Philadelphia a
17 safer, more prosperous place to live and
18 work.

19 I thank you for your time.

20 COUNCILMAN KENNEY: Thank you
21 very much for your testimony.

22 Any questions for this witness?

23 (No response.)

24 COUNCILMAN KENNEY: Seeing
25 none, I would like to call now

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2 representatives of the Department of
3 License and Inspections.

4 (Witnesses approached witness
5 table.)

6 COUNCILMAN KENNEY: Please
7 identify yourself for the record and
8 proceed.

9 COMMISSIONER BURNS: Fran
10 Burns, Commissioner of the Department of
11 Licenses and Inspections. And I have
12 formal testimony prepared, which I'll
13 just go forward with reading.

14 Good morning, Councilman Kenney
15 and members of the Committee on Rules.
16 My name is Fran Burns, Commissioner of
17 the Department of Licenses and
18 Inspections. I am here to present
19 testimony on Bill No. 110826, which
20 places reporting requirements on certain
21 contractors and subcontractors performing
22 work in the City.

23 The bill, as introduced,
24 provides stronger enforcement measures
25 for the Department of Licenses and

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2 Inspections against contractors that are
3 working without proper licenses. The
4 Department supports the provisions of the
5 bill that increase the penalty for Code
6 violations for unlicensed contractors,
7 the provision to issue stop work orders
8 when unlicensed contractors are
9 identified, and the ability to order the
10 contractor to provide the Department with
11 a list of subcontractors. We support
12 these measures.

13 We agree that contractors
14 should be licensed and believe this
15 ordinance can supplement and support
16 current departmental operations. Today,
17 the Department requires that licensed
18 contractors be named before we issue
19 permits. We do not issue permits to
20 unlicensed contractors. Permits are only
21 issued to licensed contractors. There is
22 a posting requirement for permits at the
23 construction site. The Department also
24 requests lists of subcontractors from the
25 general contractor on larger projects and

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2 upon complaint to verify all companies
3 are properly licensed. The Department
4 ensures contractors are licensed through
5 the issuance of building, fire
6 suppression, mechanical, plumbing and
7 electrical permits. We perform 35,000
8 license checks each year. We also post a
9 list of all licensed contractors on our
10 website. Last year, we took further
11 measures to deter work without a permit
12 by instituting a Saturday construction
13 inspection shift.

14 We take enforcement efforts
15 seriously. The Department also received
16 80 complaints during calendar year 2010
17 for unlicensed construction activity. We
18 inspected all of the complaints and
19 issued 16 violations. The Department
20 also conducted 73 administrative
21 disciplinary hearings for licensed
22 contractors in calendar year 2010.

23 While the Department supports
24 the enhanced enforcement tools that this
25 bill provides, we diverge on a few issues

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2 that we hope you will consider as
3 possible amendments. First, we believe
4 there is a possible large loophole in the
5 legislation that is procedural in nature.
6 We suggest implementing changes proposed
7 in this legislation in the Administrative
8 Code rather than Section 9-1004 of The
9 Philadelphia Code. By placing under
10 Section 9-1004 of The Philadelphia Code,
11 the measures you are suggesting will only
12 apply to general contractors. They will
13 not apply to fire suppression, plumbers
14 and electricians. We think this
15 requirement should apply to all types of
16 licensed contractors, not just the
17 general contractor, and recommend that
18 the bill be amended to broaden its scope
19 in this regard.

20 We ask that you remove the
21 requirement that the Department provide a
22 written certification by striking Section
23 7b. The purposes of creating
24 transparency that the bill proposes can
25 be accomplished by requiring posting on

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2 the site. The administrative burden for
3 the Department to provide certifications
4 back to contractors and subcontractors
5 who comply with the reporting
6 requirements would be substantial.
7 Moreover, this requirement would not lead
8 to substantial enforcement gains.
9 Rather, this requirement will burden
10 departmental resources that should
11 otherwise be spent on things like
12 determining appropriate licensing,
13 inspecting construction for safety and
14 adherence to approved building plans.

15 To elaborate on this point, the
16 Department issues an estimated 12,000
17 non-residential building permits
18 annually. Each permit can then have
19 several subcontractors involved. Having
20 to create tens of thousands of
21 certification sheets for these
22 contractors and subs puts a tremendous
23 administrative burden on the Department.
24 We believe that requiring the contractor
25 and any subcontractors to post all

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2 corresponding licenses without the step
3 of providing an additional piece of paper
4 by the Department is a good first step in
5 public notification and transparency.

6 We share the goal to have all
7 L&I information available for the public
8 through technology enhancements and the
9 L&I website. We want to provide our data
10 in ways that the public, community and
11 stakeholders can utilize. While we work
12 to this end, we ask that you remove the
13 requirements of 7c to post information
14 received from contractors on the L&I
15 website, or at least to make the
16 applicability of such a requirement
17 contingent on a certification from L&I
18 that we have the technological capability
19 to carry out the requirement. Our goal
20 is to provide a solution that will allow
21 contractors to self-certify their
22 subcontractors and ultimately get that
23 information posted on the website. But
24 due to technological constraints, we are
25 not quite there yet.

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2 Lastly, we ask that the penalty
3 of a prohibition on obtaining building
4 permits if there has been more than one
5 violation of the provisions of this law
6 in a one-year period be a matter of
7 enforcement discretion and not mandatory.
8 Therefore, we suggest that the second
9 time the word -- we suggest in Section
10 8.9 that the word "shall" be changed to
11 "may."

12 I want to reiterate that we are
13 in agreement that contractors should be
14 licensed. We support the major
15 provisions of this ordinance and we feel
16 the spirit of the measures in this
17 ordinance. We ask your consideration on
18 the few points where we diverge. We
19 understand that the sponsor is
20 considering holding the bill until next
21 week, and we would appreciate the
22 opportunity to work with the sponsor on
23 compromise language prior to that time.

24 Thank you for the opportunity
25 to testify, and I'm available to answer

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2 any questions.

3 COUNCILMAN KENNEY: Thank you
4 for your testimony. We will take the
5 issues raised in your testimony into
6 consideration over the next week. The
7 question I have, however, is -- and I
8 know that the Department does not issue
9 permits, building permits, to mechanical
10 contractors unless they are licensed by
11 the City, but that includes, I think,
12 plumbing, electrical and fire
13 suppression. But in the areas of
14 carpentry, cement masons and general
15 laborers, there is no permit requirement;
16 is that correct?

17 If I have a carpentry
18 subcontractor or a cement
19 foundation-laying subcontractor, do they
20 need a building permit to do the work?

21 DEPUTY COMMISSIONER FINK: Good
22 morning, Councilman Kenney, members of
23 the Committee. My name is Michael Fink.
24 I'm Deputy Commissioner of License and
25 Inspections.

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2 The work that you're describing
3 typically falls under the building
4 permit, and on that permit we have
5 recently instituted a requirement for all
6 commercial building permits that the
7 general contractor, the person -- the
8 entity doing the majority of the work, is
9 named on that permit as the one that's
10 responsible to make sure that any
11 subcontractors, if employed, are
12 licensed.

13 COUNCILMAN KENNEY: What
14 happens if a general contractor employs a
15 subcontractor in those areas of
16 construction that are not licensed? What
17 is the penalty?

18 DEPUTY COMMISSIONER FINK:
19 Those areas that you describe would
20 require a general contractor license
21 under 9-1004.

22 COUNCILMAN KENNEY: But, for
23 example, from a practical standpoint, if
24 I am a general contractor on the permit
25 and I am licensed and I'm up to date with

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2 my taxes and I'm playing by the rules and
3 I hire a cement contractor, who is
4 unlicensed and is paying their folks
5 1099's, how does he or she maintain that
6 responsibility? How do we even know
7 they're there?

8 DEPUTY COMMISSIONER FINK: The
9 general contractor has the responsibility
10 to check all of the entities to make sure
11 that they are properly licensed in the
12 area that they're required to. That's
13 already in 9-1004. And they run the risk
14 of penalties, including license
15 suspension, if they hire unlicensed
16 entities.

17 COUNCILMAN KENNEY: Considering
18 the technological concerns, let's wipe
19 that aside for a moment and say we could
20 get there, doesn't that broaden your
21 enforcement opportunities tremendously as
22 a result of the public knowing who is on
23 these job sites within three days of the
24 commencement of work?

25 COMMISSIONER BURNS: Yeah. I

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2 think -- again, just to reiterate our
3 testimony, technology, where we are and
4 where we could be, aside, it's public
5 information. I believe that what the
6 permits that L&I issues, the licenses
7 that we issue, the violations that we
8 issue are all public information and
9 should be shared with the public, and
10 this is one instance of that.

11 COUNCILMAN KENNEY: But what I
12 envision in the end result of this is
13 that a subcontractor would self-report
14 through a website application that would
15 allow them to access the site, put in
16 their license number, put in their permit
17 number and then be in the public domain,
18 as opposed to the Department reissuing
19 paper -- I hate to use Councilman Green's
20 issue of paperless government, but in
21 this particular case, it would seem to me
22 to be that's less of a burden on the
23 paperwork in that office and more of an
24 opportunity to enforce what's going on
25 out there in this underground economy.

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2 COMMISSIONER BURNS: We agree
3 with that suggestion.

4 COUNCILMAN KENNEY: And it
5 would seem to me also that -- and you
6 can't make this decision -- but an
7 investment, a modest investment, to get
8 you there technologically could reap a
9 windfall of revenue for the City going
10 forward.

11 COMMISSIONER BURNS: We agree
12 that technology, particularly in this
13 instance, and agree that it could be
14 extremely helpful in gaining actually a
15 lot for the Department, and this is one
16 instance that I think in terms of your
17 issues that you rightly bring up about
18 transparency, it absolutely could and it
19 would. We want to be able to use
20 technology not only to publish these sort
21 of things, but if the contractor changes
22 their address or their location, they can
23 go online and change that automatically
24 online.

25 So we see technology as a tool

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2 that really can broaden the Department's
3 service to the public, and I think this
4 is one of those ways.

5 COUNCILMAN KENNEY: What is the
6 burden or the obstacle to the
7 technological improvement?

8 COMMISSIONER BURNS: Well, I
9 think we have -- right now we're working
10 on an upgrade to our software as a
11 project that would be approved and
12 funded, and we think that if we do get
13 that, that this would be one of the areas
14 where we could improve our web-enabled
15 services, and this would be one of them.

16 COUNCILMAN KENNEY: When would
17 you know the results of that proposal to
18 upgrade that software?

19 COMMISSIONER BURNS: Probably
20 end of January, February.

21 COUNCILMAN KENNEY: So you
22 anticipate --

23 COMMISSIONER BURNS: Knowing a
24 decision.

25 COUNCILMAN KENNEY: Without

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2 guaranteeing it, sometime in calendar
3 year 2012 you will reach that goal?

4 COMMISSIONER BURNS: We'd like
5 to start beginning to undertake the
6 project.

7 COUNCILMAN KENNEY: So from a
8 practical technological standpoint,
9 self-reporting of a subcontractor to an
10 L&I website is not that much of a reach
11 at some point?

12 DEPUTY COMMISSIONER FINK:
13 Councilman, we actually believe that that
14 provides a service to the contractors
15 that we want to assist, those that look
16 to comply with the Code. We like to make
17 changes that don't place burdens on
18 contractors who do comply on a regular
19 basis. So providing an online service
20 where they can automatically check the
21 license of any subcontractor without
22 individually, as they currently have to
23 do now, search by name and the status of
24 each one of the licenses, to be able to
25 just put that information into their

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2 permit and check the current license
3 status I think is a benefit to
4 contractors. I have not reached out to
5 them, but I would assume that they would
6 like that.

7 COUNCILMAN KENNEY: And the
8 converse would be that if I get hired as
9 a subcontractor on a commercial property
10 and I'm within three days in the job,
11 there should be on my desktop the ability
12 for me to access the site we're talking
13 about and inform the Department that ABC
14 Electric or ABC Construction is now a
15 subcontractor on this job, and I'm
16 following the proposed rules here by
17 reporting that electronically. Is that a
18 fair --

19 DEPUTY COMMISSIONER FINK: We
20 would like that service. We are looking
21 for software that provides that service.

22 COUNCILMAN KENNEY: Okay. So
23 we're not that far apart.

24 COMMISSIONER BURNS: No.

25 COUNCILMAN KENNEY: Okay.

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2 Any questions? Councilwoman
3 Brown.

4 COUNCILWOMAN BROWN: Good
5 morning. Thank you.

6 I want to seize the moment
7 since I have you here this morning on an
8 unrelated but related question around
9 certified lead abatement contractors.
10 You state in your testimony that you
11 perform 35 license checks each year,
12 correct?

13 COMMISSIONER BURNS:
14 Thirty-five thousand license checks.

15 COUNCILWOMAN BROWN:
16 Thirty-five thousand. What's the
17 universe of contractors that you have on
18 your system? What's that number?

19 DEPUTY COMMISSIONER FINK: The
20 number of contractors? I believe we have
21 approximately 3,000 general contractors
22 under 9-1004. I think we have -- and I'm
23 estimating here.

24 COUNCILWOMAN BROWN: Sure.

25 DEPUTY COMMISSIONER FINK: --

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2 (continued) approximately 800 fire
3 suppression companies that are licensed
4 under what we hope to move to 9-1006. We
5 have about 800 electrical contractors and
6 maybe 900 plumbing contractors. Those
7 are the contractors that typically pull
8 construction permits from our department.

9 COUNCILWOMAN BROWN: I see.

10 And might you be able to go into your
11 system and ID the number of certified
12 lead abatement contractors, those who
13 actually conduct lead abatement
14 procedures?

15 DEPUTY COMMISSIONER FINK: I'm

16 not familiar with the requirements of a
17 license for lead abatement. I believe if
18 there is one, that's probably
19 administered through the Health
20 Department.

21 COUNCILWOMAN BROWN: Do you
22 believe that to be so, Commissioner?

23 COMMISSIONER BURNS: Yes. In
24 fact, we actually just met with the Chief
25 of Staff of the Health Department on

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2 Monday to talk about lead and licensing.
3 I wasn't part of that meeting myself, but
4 I know our two staffs are working
5 together. But --

6 COUNCILWOMAN BROWN: When you
7 say "staffs" --

8 COMMISSIONER BURNS: The staff
9 of the Health Department and L&I, who
10 recently met on Monday specifically to
11 talk about lead abatement and licensing
12 requirements, and it's my understanding
13 that it's currently enforced through the
14 Health Department, but at the same time,
15 I know the Health Department has some
16 suggestions that bleed over into the
17 different licensing suggestions that
18 we're discussing.

19 COUNCILWOMAN BROWN: And so
20 when do you anticipate yielding some
21 level of understanding about who is going
22 to do what around lead?

23 COMMISSIONER BURNS: Well, I
24 think we have an understanding. I
25 just -- the Health Department right now

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2 is taking the lead on it and we're just
3 talking about what the different roles
4 are. So I don't have specifics. I do
5 know that we're working together and that
6 it was at the request and proactive
7 initiative of the Health Department to
8 reach out to us.

9 COUNCILWOMAN BROWN: Okay,
10 then. Thank you very much.

11 COUNCILMAN KENNEY: Thank you
12 very much for your testimony. We'll be
13 looking forward to working through the
14 next week to tighten this up a little
15 bit.

16 COMMISSIONER BURNS: Thank you.

17 DEPUTY COMMISSIONER FINK:
18 Thank you.

19 COUNCILMAN KENNEY: There is no
20 one else to testify on this bill. We
21 will now move to Bill No. 110275, which
22 is an ordinance amending Section 14-1402
23 of The Philadelphia Code, entitled
24 "Parking in Residential Districts," and
25 Section 14-1607 of The Philadelphia Code,

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2 entitled "Special Controls for the Center
3 City Commercial Area," by adding to both
4 Sections special provisions relating to
5 the area bounded by Walnut Street, 12th
6 Street, 13th Street, Sansom Street, all
7 under certain terms and conditions.

8 Mr. Kramer, please identify
9 yourself.

10 MR. KRAMER: Good morning,
11 Councilman Kenney and members of the
12 Rules Committee. I am William Kramer,
13 Division Director of the Development
14 Planning Division of the Philadelphia
15 City Planning Commission. I am here to
16 testify on Bill No. 110275, which was
17 introduced into Council April 14th, 2011.

18 Bill No. 110275 amends two
19 sections of The Philadelphia Code in
20 order to allow for the development of a
21 30-story structure containing 152 hotel
22 rooms and 299 dwelling units that will
23 include 11,000 square feet of ground
24 floor retail space. The proposal is
25 located in the block bounded by Walnut

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2 Street, 12th Street, 13th Street and
3 Sansom Street. This proposal is
4 considered a creative solution for
5 mixed-use development in a relatively
6 small Center City site.

7 Bill No. 110275 will allow this
8 development to proceed by providing
9 zoning relief from Sections 14-1402 of
10 the Code, entitled "Parking in
11 Residential Districts," and Section
12 14-1607, entitled "Special Controls for
13 the Center City Commercial Area."
14 Section 14-1402 will be amended so that
15 in the area of this proposal, no on-site
16 parking will be required on lots with
17 multiple dwellings or hotels provided
18 that the owner maintains an agreement
19 with one or more parking lots or garages
20 confirming the availability of parking at
21 a ratio of a minimum of three spaces per
22 ten units. Section 14-1607 will be
23 amended to allow for frontage of 110 feet
24 for buildings, which provide a through
25 block passageway with pedestrian access.

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2 It further reduces the size of a second
3 loading space to be 10 by 14 feet and
4 provides for bonus floor area for green
5 buildings and for providing public art.
6 The bonus amounts will be limited to a
7 total of 400 percent of the area of the
8 lot above the base allowable floor area
9 ratio.

10 The Philadelphia City Planning
11 Commission at their meeting of June 9th,
12 2009 considered this proposal as an
13 application to the Zoning Board of
14 Adjustment and recommended approval. The
15 zoning relief provided in Bill No. 110275
16 is consistent with the zoning relief
17 requested of the Zoning Board in 2009
18 and, therefore, this is considered an
19 item in accord with previous policy.
20 This matter had been heard by the Zoning
21 Board of Adjustment in July and then in
22 September of 2009, at which time the
23 Board granted a variance in this matter.
24 The matter was then appealed to the
25 courts. Bill No. 110275 has been

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2 reviewed by the City's Law Department and
3 they have recommended an amendment to the
4 bill for clarity and technical
5 considerations. I respectfully submit
6 the amendment for your consideration.

7 This concludes my testimony. I
8 appreciate the opportunity to appear and
9 will answer whatever questions you may
10 have.

11 COUNCILMAN GOODE: Thank you.

12 COUNCILMAN KENNEY: Mr. Kramer,
13 who did you give the amendment to?

14 MR. KRAMER: It was submitted
15 through Stephanie Marsh of the Mayor's
16 Office.

17 COUNCILMAN KENNEY: We can
18 offer it in the -- we'll approve it in
19 the meeting, and we'll try to find it in
20 the meantime.

21 Mr. Gundlach and Carrie Nase.

22 (Witness approached witness
23 table.)

24 MR. GUNDLACH: Mr. Chairman,
25 members of the Committee, thank you for

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2 some time. Rob Gundlach, attorney at Fox
3 Rothschild for Michael Singer.

4 Mr. Singer is an owner of an
5 adjacent property located at 1214 Sansom
6 Street referred to as Fergie's Pub. It's
7 a long-time pub. It's been at that
8 location since the 1920's or '30s, and
9 Mr. Singer has owned that property for
10 over 40 years. That property will be
11 adversely impacted by this proposed
12 ordinance, and that's why I'm here today
13 on behalf of Mr. Singer to speak briefly
14 in opposition to this proposed ordinance.

15 We have submitted to the
16 Committee a report from Ken Amey.
17 Mr. Amey is a recognized land planner.
18 Hopefully you've received copies of that
19 report. If not, I have additional copies
20 I can give to you. I want to briefly
21 summarize a few elements contained in
22 that report for your consideration.

23 First, Mr. Kramer did
24 acknowledge that this bill is only
25 applicable to one City block. That's the

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2 block between Walnut, 12th, Sansom and
3 13th. It's zoned C-5. It's not
4 applicable to all the other properties in
5 Center City that are zoned C-5 or C-4,
6 just this one block. And I'd submit to
7 you that there's nothing special about
8 this block, other than one landowner
9 wants to propose a project, a 30-story
10 high-rise project, that is larger than is
11 what otherwise is allowed in the C-5
12 zoning district. It exceeds the FAR
13 requirements by some 400 percent. It
14 provides for no parking, zero parking,
15 for 152 rooms and 293 apartments. It
16 does not comply with the loading
17 requirements, it does not comply with the
18 lot width requirements, and it does not
19 comply with the use requirements for a
20 restaurant.

21 That applicant went to the
22 Zoning Board of Adjustment. Mr. Kramer
23 touched on it, but he didn't tell you the
24 whole story. That was a street fight.
25 It was a street fight in front of the

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2 Zoning Board of Adjustment. It went to
3 the Court of Common Pleas. It went all
4 the way up to the Pennsylvania
5 Commonwealth Court. In a very short,
6 non-published opinion, they reversed --
7 they acknowledged it was no hardship
8 whatsoever to substantiate the relief
9 that was granted and they reversed.

10 The applicant could have filed
11 a petition with the Pennsylvania Supreme
12 Court, elected not to do so, but rather
13 came here in Council and asked for a
14 bill, a bill that could fix each and
15 every one of those zoning problems that
16 they had with their project.

17 They didn't go back and adjust
18 their project, which they could. They
19 could have reduced the scope and size of
20 that project to comply with the current
21 regulations and we wouldn't be here
22 today. They didn't do that. They came
23 forward with this ordinance.

24 I would submit to you that this
25 ordinance is bad land planning. Mr. Amey

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2 set forth the reasons in his report why
3 he felt it was bad land planning. To
4 carve out this one parcel in Center City
5 and give it a pass, not make it subject
6 to very material and important zoning
7 regulations, zoning regulations that were
8 well thought out by this City Council in
9 adopting those that have stood for many
10 years the test of time, but now for this
11 one project, who wants more square
12 footage than is otherwise allowed,
13 they're going to give him a pass on many
14 of those important regulations.

15 I'd also submit to you, as
16 Mr. Amey points out, that it's
17 inconsistent with many provisions of the
18 new Zoning Code. A lot of people in this
19 City have spent a lot of time formulating
20 this new Zoning Code. A few of the
21 provisions could be accommodated with the
22 project, but most of them would not.
23 That is, the Zoning Code in its proposed
24 form does not grant the relief that this
25 applicant is looking for here today. I'd

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2 submit to you it could create some
3 confusion and problems, because they're
4 trying to sneak in now under the old Code
5 before the new Code is adopted, and it
6 will result in conflicts with the new
7 Code.

8 I would suggest to you to
9 postpone, postpone a decision on this.
10 Let's see what happens with the new Code.
11 Let's see if the new Code is adopted
12 later this month. Let the applicant
13 revise the project to comply with the new
14 Code and proceed in that manner rather
15 than try to race through with this
16 amendment before the new Code is adopted.

17 I'd submit to you, as set forth
18 in Mr. Amey's report, that this is a
19 classic spot zoning case. It's special
20 legislation for one particular property
21 and one particular landowner to develop a
22 project that is greater in size and scope
23 and mass than is otherwise allowed.

24 I'd submit to you that many of
25 these regs that you're going to pass is

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2 going to cause problems in the
3 neighborhood. It's going to cause
4 problems to Mr. Singer. It's going to
5 cause parking and traffic gridlock. The
6 parking provision, for instance, it's not
7 well thought out. It simply says if you
8 don't have any parking, go get an
9 agreement for monthly parking in another
10 lot. Get an agreement for how long? One
11 month? You sign an agreement for one
12 month, you build your project, that
13 parking lot gets torn down. You're not
14 tearing down this 400-unit project. It's
15 going to sit there without parking until
16 a landowner tries to get replacement
17 parking. What if there's no parking that
18 they can get within a thousand feet?
19 Then what happens? It doesn't talk to
20 that. It doesn't talk about a permanent
21 easement being in place to satisfy the
22 off-site parking requirement. That is a
23 minimum that should be in there.

24 My client, Michael Singer, is
25 not opposed to good smart development,

1 11/30/11 - RULES - BILL 110275, ETC.

2 development in accordance with the Zoning
3 Code. Build this building. You can
4 build a large building, a good project on
5 this piece of ground. This applicant
6 wants more. Mr. Singer will support if
7 he stays within the current zoning or,
8 better yet, let's wait for the new Zoning
9 Code. That Code has been scrutinized.
10 It's been recommended. It's before
11 Council. If it gets passed this month as
12 it's proposed to do, let's see -- let's
13 give this applicant an opportunity to
14 come back and design a project in
15 accordance with the new Code. If he can
16 do that, Mr. Singer is not going to
17 oppose him.

18 I'd ask you in light of that,
19 in light of the testimony, in light of
20 Mr. Amey's report, in light of the
21 problems with this ordinance, don't rush
22 it through. Let's postpone it. Let's
23 look at it. Let's talk about it some
24 more. Let's see how it impacts with the
25 new Code. Let the new Code play out, and

1 11/30/11 - RULES - BILL 110275, ETC.

2 then let's work with the applicant to
3 come up with a project that does comply
4 with the current regulations of the
5 Zoning Code and not adopt special
6 legislation to force through one
7 particular project. Let's not put and
8 try to put a square peg in a round hole
9 and cause all kind of problems in a very
10 important location in Center City and
11 adversely impact adjacent property
12 owners.

13 COUNCILMAN KENNEY: Thank you
14 for your testimony. For the record, are
15 you aware that what you term "spot
16 zoning" is permitted by the Charter as it
17 relates to individual Councilmembers and
18 their districts? Do you deny that the
19 power exists by virtue of the Charter?

20 MR. GUNDLACH: I would submit
21 to you that it does run contrary to
22 caselaw that we have cited in the Amey
23 report.

24 COUNCILMAN KENNEY: But it's
25 Charter permitted.

1 11/30/11 - RULES - BILL 110275, ETC.

2 MR. GUNDLACH: There is a
3 provision that's set in your Charter as
4 you're referencing. Whether or not that
5 would withstand and whether this
6 legislation specifically would withstand
7 a challenge would be the subject of
8 litigation. And if it did go forward, I
9 suspect that there will be more
10 litigation and more costs, and we're
11 suggesting don't rush this one through.
12 Let's look under the new Code and all
13 work together to come up with something.

14 COUNCILMAN KENNEY: Litigation
15 and cost is not my question. My question
16 is, does the Charter permit this action
17 by this Council?

18 MR. GUNDLACH: I would say to
19 you no.

20 COUNCILMAN KENNEY: Despite
21 what the Charter says?

22 MR. GUNDLACH: Despite what the
23 Charter says, in light of the current
24 appellate caselaw.

25 COUNCILMAN KENNEY: Are you

1 11/30/11 - RULES - BILL 110275, ETC.
2 aware of any civic association or
3 business group that's opposed to this
4 project, either the Center City District
5 or the Washington Square West Neighbors
6 Association?

7 MR. GUNDLACH: Washington West
8 did participate early on in the Zoning
9 Hearing Board proceedings. I'm not aware
10 of their position. I'm not here on
11 behalf of any community association.

12 COUNCILMAN KENNEY: I was
13 asking you if you're aware of their
14 opposition.

15 MR. GUNDLACH: I'm not aware of
16 their opposition. I'm here on behalf of
17 my client.

18 COUNCILMAN KENNEY: Or the
19 Center City District?

20 MR. GUNDLACH: I'm not aware of
21 their position.

22 COUNCILMAN KENNEY: So the only
23 one that seems to be opposed to this is
24 Mr. Singer.

25 MR. GUNDLACH: I can't speak if

1 11/30/11 - RULES - BILL 110275, ETC.

2 he's the only one. He's the client I'm
3 representing here today opposing this
4 proposed ordinance.

5 COUNCILMAN KENNEY: All right.
6 Thank you very much.

7 MR. GUNDLACH: Thank you.

8 COUNCILMAN KENNEY: Anyone else
9 to testify on -- Ms. Nase? Is there a
10 Carrie Nase?

11 MR. GUNDLACH: No,
12 Mr. Chairman. She's with my office as
13 well.

14 COUNCILMAN KENNEY: Oh, thank
15 you.

16 Please, if you're on this bill,
17 please come forward.

18 (Witnesses approached witness
19 table.)

20 COUNCILMAN KENNEY: Please
21 identify yourself for the record.

22 MR. BLAKE: Good morning. My
23 name is Omar Blake and my counsel here is
24 Tony Forte. I'm the General Partner of
25 the ownership group that controls 1213

1 11/30/11 - RULES - BILL 110275, ETC.

2 Walnut Street, a mid block, undeveloped
3 property, currently used for surface
4 parking. Formerly I was a Senior
5 Vice-President at the University of
6 Pennsylvania responsible for the planning
7 and redevelopment of West Philadelphia
8 from 1997 to 2006. During this time, we
9 have strengthened the University
10 relationship with the community, created
11 jobs in West Philadelphia through an
12 innovative apprenticeship program with
13 Councilwoman Blackwell and helped make
14 West Philadelphia one of the most
15 desirable neighborhoods in the City.

16 After I left Penn back in 2006,
17 I have invested in the district that we
18 are talking about in which the ordinance
19 is being considered, because I saw
20 similar potential to revitalize key
21 blocks of East of Broad Street and around
22 the University -- Thomas Jefferson
23 University.

24 From experience, we know that
25 this type of revitalization can be

1 11/30/11 - RULES - BILL 110275, ETC.

2 implemented and sustained by following
3 sound planning principles involving the
4 community, creating a dynamic pedestrian
5 experience and introducing mixes of uses
6 that attract residents and visitors 24/7.
7 For three years, we have worked with the
8 Wash West Civic Association, Midtown
9 Village Business Association, the Center
10 Business District, City Planning
11 Commission and staff, Councilman
12 DiCicco's office and ultimately the
13 Zoning Board of Adjustment to develop a
14 plan for the type of dense, vibrant,
15 mixed-use project that would contribute
16 to East Broad revitalization and the
17 City's economic development goals for
18 this area. Unfortunately our antiquated
19 Zoning Code doesn't permit "as of right"
20 the type of pragmatic, progressive plan
21 that we have developed with key
22 stakeholders for the site, and as a
23 result, our side and much of the rest of
24 the block has been underdeveloped for
25 decades.

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2 After receiving unanimous
3 approval from the ZBA and the Planning
4 Commission, our variances were appealed
5 by an adjacent property owner. Only
6 after having the appeal upheld by the
7 Court of Common Pleas and overturned by a
8 Court of Appeals have we reached a
9 conclusion that a zoning ordinance is
10 necessary to provide greater zoning
11 flexibility in the district.

12 We fully support the Zoning
13 Code reform under consideration now and
14 believe that the ordinance meets the
15 spirit of that new Code, but, more
16 importantly, it will unlock the full
17 development potential of this block
18 immediately and allow property owners in
19 the district to move forward quickly with
20 development plans that will create jobs
21 in Philadelphia and revitalize this part
22 of the City.

23 Thank you.

24 COUNCILMAN KENNEY: Thank you.

25 Please identify yourself for

1 11/30/11 - RULES - BILL 110275, ETC.

2 the record.

3 MR. FORTE: I'm Tony Forte with
4 the law firm of Saul Ewing here today as
5 counsel to the owner of 1213 Walnut.

6 I would just like to address
7 this issue of spot zoning that was
8 raised. Because this ordinance does
9 not -- it's not a project-specific
10 ordinance. It doesn't affect just one
11 parcel. It affects an entire City block,
12 which is many properties and many
13 property owners. It's true that my
14 client, which owns 1213 Walnut, did
15 propose a mixed-use development, and that
16 proposal came about after literally two
17 years of extensive consultation with all
18 of the responsible key stakeholders in
19 the area, not only the Councilperson for
20 the district, but the Center City
21 District, the Wash West Civic
22 Association, the Planning Commission,
23 Thomas Jefferson University. All of
24 these folks participated in coming up
25 with a plan for what this area needed.

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2 It's a block that has been underdeveloped
3 for decades, and came up with a project,
4 but it was a project which our outdated
5 Zoning Code doesn't allow "as of right."
6 Right now we're hopefully updating the
7 Zoning Code, and I believe the new Zoning
8 Code would permit something very similar
9 to this type of a project. But that's
10 not going to take effect, even if it
11 passes, for another year or so. And so
12 the purpose of this ordinance was looking
13 at that project. And the fact that our
14 Code doesn't allow a wonderful project
15 like that, which all of the responsible
16 key stakeholders feel should happen in
17 this area, if the Code doesn't allow
18 that, then let's try to relieve the
19 zoning restrictions, make things a little
20 bit more flexible between now and when we
21 get a new Zoning Code to allow for this
22 type of development, and my client would
23 like to be one of the first to take
24 advantage of it, but really it applies to
25 the entire City block.

1 11/30/11 - RULES - BILL 110275, ETC.

2 COUNCILMAN KENNEY: Thank you
3 very much. I doubt that this Committee
4 is interested in delaying a project that
5 everyone agrees, with the exception of
6 one property adjacent, to potentially let
7 the financing walk away and not have it
8 happen. So we understand that there's
9 this transition period between the
10 adoption of the new Zoning Code, if it
11 happens -- and we hope it does -- and its
12 implementation. So we understand your
13 point of view.

14 Councilman, do you have
15 anything?

16 COUNCILMAN DiCICCO: No.

17 COUNCILMAN KENNEY: Thank you
18 very much for your testimony.

19 MR. BLAKE: Thank you.

20 COUNCILMAN KENNEY: Anyone else
21 to testify on this bill?

22 (No response.)

23 COUNCILMAN KENNEY: Seeing
24 none, we will now move to Bill No.
25 110761. Bill No. 110761, an ordinance to

1 11/30/11 - RULES - BILL 110275, ETC.
2 amend the Philadelphia Zoning Maps by
3 changing the zoning designations of
4 certain areas of land known and numbered
5 as 1925-33 West Venango Street thru to
6 Pacific Street located within an area
7 bounded by Broad Street, Lehigh Avenue,
8 24th Street, Fox Street, Hunting Park
9 Avenue and Erie Avenue.

10 Mr. Kramer.

11 MR. KRAMER: Good morning,
12 Councilman Kenney and members of the
13 Rules Committee. I am William Kramer,
14 Division Director of the Development
15 Planning Division of the Philadelphia
16 City Planning Commission. I am here to
17 testify on Bill No. 110761, which was
18 introduced by Councilmember Miller
19 October 27th, 2011.

20 Bill No. 110761 amends the
21 Philadelphia Zoning Maps by changing the
22 zoning designations for certain areas of
23 land known and numbered as 1925 to 33
24 West Venango Street thru to Pacific
25 Street located within an area bounded by

1 11/30/11 - RULES - BILL 110275, ETC.

2 Broad Street, Lehigh Avenue, 24th Street,
3 Fox Street, Hunting Park Avenue and Erie
4 Avenue.

5 The purpose of this bill is to
6 rezone the properties at 1925 to 33 West
7 Venango Street thru to Pacific Street
8 from the existing zoning designation of
9 "C-2" Commercial to a designation of
10 "R-9A" Residential in order to match the
11 seven single-family row houses that
12 currently exist on the properties. These
13 homes were constructed after the Zoning
14 Board of Adjustment approved an
15 application in 2008. This approval was
16 appealed in the courts, where the
17 approval was overturned.

18 As originally introduced, this
19 bill introduced maps with a significantly
20 larger scope than necessary, which would,
21 in effect, negate a large portion of a
22 rezoning effort in the Tioga
23 neighborhood, the subject of Bill No.
24 060088 signed into law May 18th, 2006.
25 After discussion with the District

1 11/30/11 - RULES - BILL 110275, ETC.

2 Councilperson, the staff of the Planning
3 Commission has drafted maps which would
4 be consistent with the objectives of the
5 legislation and respectfully submit them
6 for your consideration, along with a text
7 change for clarity's purposes as
8 suggested by the Philadelphia Law
9 Department.

10 The Philadelphia City Planning
11 Commission considered Bill No. 110761 at
12 their meeting of November 15th, 2011.
13 After consideration, the Commission
14 recommended that Bill No. 110761 be
15 tabled.

16 This concludes my testimony. I
17 appreciate the opportunity to appear
18 before you and would be happy to answer
19 any questions you may have.

20 COUNCILMAN KENNEY: Thank you
21 very much for your testimony.

22 Mr. Archie, please.

23 MR. ARCHIE: There's no
24 testimony.

25 COUNCILMAN KENNEY: Fine.

1 11/30/11 - RULES - BILL 110275, ETC.

2 Thank you.

3 Anyone else to testify on this
4 bill?

5 (No response.)

6 COUNCILMAN KENNEY: Seeing
7 none, we will now move to Bills -- we're
8 going to take them together -- Bill Nos.
9 110762 and 110763. 110762 is an
10 ordinance to amend the Philadelphia
11 Zoning Maps by changing the zoning
12 designations of certain areas of land
13 located within an area bounded by
14 Germantown Avenue, Hartwell Lane, Shawnee
15 Street, and Southampton Avenue; and

16 Bill No. 110763, which is an
17 ordinance amending Title 14 of The
18 Philadelphia Code, entitled "Zoning and
19 Planning," by amending Chapter 14-1600,
20 entitled "Miscellaneous," by amending
21 Section 14-1613, entitled the "Germantown
22 Avenue Special District Controls," by
23 providing certain exceptions and controls
24 for eligible mixed-use projects, all
25 under certain terms and conditions.

1 11/30/11 - RULES - BILL 110275, ETC.

2 Mr. Kramer, please.

3 MR. KRAMER: Good morning,
4 Councilman Kenney and members of the
5 Rules Committee. I am William Kramer,
6 Division Director of the Development
7 Planning Division of the Philadelphia
8 City Planning Commission. I am here
9 today to testify on Bill Nos. 110762 and
10 110763, which were introduced by
11 Councilmember Miller October 27th, 2011.

12 Bill No. 110762 amends the
13 Philadelphia Zoning Maps within an area
14 bounded by Germantown Avenue, Hartwell
15 Lane, Shawnee Street and Southampton
16 Avenue by changing the zoning
17 designations of a two-acre property from
18 "C-7" Commercial and "R-5" Residential to
19 "C-2" Commercial and "R-10B" Residential.
20 Bowman Properties plans to use the former
21 Magarity Ford site to construct a
22 mixed-use development containing 26,000
23 square feet of commercial space, 17
24 condominium units, eight single-family
25 homes and 135 parking spaces.

1 11/30/11 - RULES - BILL 110275, ETC.

2 Bill No. 110763 amends Section
3 14-1613 of the Philadelphia Zoning Code,
4 entitled "Germantown Avenue Special
5 District Controls," by adding new
6 controls and exceptions to this section
7 for eligible mixed-use projects. To be
8 eligible for the Code exceptions, the lot
9 requirements for a mixed-use development
10 would need to be over 1.5 acres in area,
11 have 200 feet of frontage on Germantown
12 Avenue between Evergreen and Willow Grove
13 Avenues, and not be listed on any
14 historic places or historic registers.
15 Further, the project would need to be a
16 mixed-use building, have a minimum of 10
17 dwelling units and 4,000 square feet of
18 gross floor area.

19 For projects meeting these
20 requirements, there would be no required
21 rear yard. A gross floor area of 150
22 percent of the lot would be permitted.
23 Building height regulations would allow
24 for a height of 45 feet that can increase
25 to a max of 70 feet by setting the

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2 building back, but must occur within the
3 first 100 feet of the building from
4 Germantown Avenue. In such qualified
5 areas, private accessory parking lots are
6 allowed to deviate from required
7 screening if approved by the Philadelphia
8 City Planning Commission staff in
9 writing. Additionally, the sale of food
10 and beverages that are prepared on
11 premises and an eat-in area that are
12 otherwise available for purchase for
13 consumption off premises shall not be
14 considered to be a delicatessen or a
15 restaurant, provided that the food and
16 beverage shall be for sale only during
17 the hours that the main use is open for
18 business.

19 Bowman Properties plans to use
20 the Magarity Ford site to construct a
21 mixed-use development. It will have
22 26,000 square feet of commercial, 17
23 condominium units, eight single-family
24 homes and 135 parking spaces.

25 Upon review by the City's Law

1 11/30/11 - RULES - BILL 110275, ETC.

2 Department, they have requested some
3 technical amendments to this bill in
4 order to clarify language. It is my
5 understanding that they have been working
6 with the attorney representing this
7 application and that these amendments
8 will be submitted to the District
9 Councilman for introduction at her
10 leisure.

11 At its meeting of November
12 15th, 2011, the Philadelphia City
13 Planning Commission considered Bill Nos.
14 110762 and 110763 and tabled them until
15 their December 13th, 2011 meeting, and
16 also requested that City Council hold
17 their vote until their December 15th,
18 2011 meeting in order to allow for the
19 developer and community to attempt to
20 come to an agreement on the project.

21 This concludes my testimony.
22 I'd be happy to answer any questions you
23 may have.

24 COUNCILMAN KENNEY: Councilman
25 Goode.

1 11/30/11 - RULES - BILL 110275, ETC.

2 COUNCILMAN GOODE: Thank you,
3 Mr. Chairman.

4 Mr. Kramer, why is the
5 Commission recommending that we vote on
6 December 15th rather than December 8th?

7 MR. KRAMER: They wanted to
8 allow as much opportunity as possible for
9 the community and the developer to come
10 to an agreement. I think the date was
11 specifically listed because it is the
12 last day of Council and the Commission
13 meets on the 13th of December.

14 COUNCILMAN GOODE: It is my
15 understanding that either way, whether we
16 vote on the 8th or the 15th, that it's
17 available to the Mayor for a pocket veto,
18 which means if he does not sign the bill,
19 it does not become law.

20 MR. KRAMER: That would be
21 correct. Yes, sir.

22 COUNCILMAN GOODE: So it
23 doesn't make a difference whether we --

24 MR. KRAMER: If the Council
25 wishes to take it on the 8th, that is

1 11/30/11 - RULES - BILL 110275, ETC.

2 their prerogative. Absolutely.

3 COUNCILMAN GOODE: Thank you.

4 COUNCILMAN KENNEY: Thank you
5 very much.

6 Please offer your testimony for
7 763. Did you do that already?

8 MR. KRAMER: It was all in the
9 one. Thank you.

10 COUNCILMAN KENNEY: Thank you
11 very much.

12 Mr. McClure, Seth Shapiro,
13 Richard Gelber.

14 (Witnesses approached witness
15 table.)

16 COUNCILMAN KENNEY: Please
17 identify yourself for the record, whoever
18 would like to start, and begin.

19 MR. McCLURE: Good morning,
20 Chairman Kenney, members of the Rules
21 Committee. My name is Matt McClure. I'm
22 with the law firm of Ballard Spahr. I'm
23 here on behalf of Bowman Properties here
24 to offer testimony in support of Bill
25 Nos. 110762 and 110763. With me today

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2 are Richard Gelber of SBG3, who is the
3 project architect; Seth Shapiro, who is
4 the Project Manager for Bowman
5 Properties; and Richard Snowden of Bowman
6 Properties.

7 I handed out some packets just
8 momentarily that have exhibits. Bill No.
9 110762, found at Tab 1 of your packet,
10 concerns 8200 Germantown Avenue, the
11 former Magarity Ford Auto Dealership and
12 Service Center at the northwest corner of
13 Germantown Avenue and Hartwell Lane.
14 Bowman Properties is the owner of the
15 site.

16 An aerial photograph of the
17 site is found at Tab 3 of your packet.

18 At a little over two acres, the
19 site is by far the largest development
20 parcel along the Chestnut Hill Business
21 District. As you can see from the aerial
22 photograph, the site is currently
23 improved with a 20,000 square foot car
24 dealership with multiple garage entrances
25 and service areas along multiple facades.

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2 The remainder of the site is either
3 blacktop or hard-crushed stone and has
4 been used for a dense surface parking lot
5 for decades.

6 Notwithstanding the fact that
7 the site has been used as a single parcel
8 for decades, it has two very distinct
9 zoning designations today. As you can
10 see on Tab 4 of your packet, the site is
11 split between two zoning districts, C-7
12 Commercial, which is about 59,000 square
13 feet, and R-5 Residential, which is about
14 32,000, 33,000 square feet.

15 Found in Tab 5 of your packet
16 is a letter from L&I Deputy Commissioner
17 Michael Fink. Michael Fink's letter
18 explains in detail the unique effect of
19 the split zoning when it comes to the
20 redevelopment of the site. Because more
21 than 20 percent of the site is zoned R-5
22 Residential, therefore pursuant to the
23 Zoning Code, the most restrictive
24 requirements apply. But what are the
25 most restrictive requirements? R-5 does

1 11/30/11 - RULES - BILL 110275, ETC.

2 not permit C-7 commercial uses.

3 Conversely, C-7 does not permit R-5

4 residential uses. The end result of this

5 mixed zoning classification is a site

6 that must be built in accordance with the

7 stricter R-5 dimension restrictions, but

8 which can't be used for either C-7

9 residential uses or -- I mean C-7

10 commercial uses or R-5 residential uses.

11 In fact, as evidenced by Deputy

12 Commissioner Fink's letter, L&I believes

13 that it cannot issue a use permit for the

14 site even for the existing building other

15 than for a car dealership, which is

16 grandfathered.

17 A little bit about the overlay.

18 The site is also subject to the

19 Germantown Avenue Special Controls, the

20 overlay. The overlay was required for --

21 was created for small properties. This

22 is a much different property. It's a

23 two-acre site. The overlay requires,

24 among other things, that buildings be

25 only 30 feet wide. Well, the existing

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2 building is three times as wide as that.

3 Also, no building can be more than 4,000

4 square feet in area when it comes to

5 commercial rental space. Again, the

6 existing building is four or five times

7 the size of that requirement.

8 The end result of all of this

9 is that under the existing zoning, the

10 site cannot be redeveloped for either

11 commercial use permitted in C-7,

12 residential use permitted in R-5, and any

13 new building constructed on the site as

14 currently zoned must be dramatically

15 smaller than what exists there today.

16 Faced with what Bowman believes

17 is an unreasonable application of the

18 zoning laws to this property, Bowman has

19 two possible avenues of redress. One,

20 you can seek judicial remedy or you can

21 come to Council and seek a legislative

22 remedy. After consulting with the

23 Planning Commission staff, Deputy Mayor

24 Alan Greenberger and Councilwoman Miller,

25 Bowman elected to seek this legislative

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2 remedy.

3 Bill No. 110762 rezones the
4 majority of the parcel to C-2 Commercial,
5 which Bowman intends to subdivide off to
6 build what it hopes will be a
7 transformational project, mixed-use
8 project for Germantown Avenue, involving
9 a 20,000 square foot grocery, 6,000
10 square feet of additional retail and 17
11 residential condominiums.

12 Bill No. 110762 also rezones a
13 portion of the site to R-10B Residential,
14 which Bowman intends to develop with
15 eight residential town homes.

16 Found at Tab 2 of your packet
17 is Bill No. 110763, which modifies the
18 overlay to permit a mixed-use project of
19 a certain size of a large development
20 site like the Magarity site. Unlike most
21 sites in Chestnut Hill, this is a
22 two-acre almost industrial-like site.
23 There's nothing like it on Germantown
24 Avenue.

25 There is a real need to modify

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2 the overlay in this fashion. To our
3 knowledge, since 1995 there has not been
4 a single project constructed in
5 conformity with the 4,000 square foot
6 requirement and the 30 foot wide
7 requirement. Additionally, the proposed
8 legislation puts in place very reasonable
9 safeguards to protect against
10 over-development.

11 A little bit about the project.

12 The recent exodus of national and
13 regional credit tenants and the absence
14 of shoppers along the lower and mid-mid
15 Hill have really demonstrated a need for
16 a significant mixed-use project with a
17 serious credit tenant. Bowman has signed
18 a lease with the Fresh Market, one of the
19 hottest groceries in the country. This
20 will be the Fresh Market's first store in
21 a northeast city. This is a real coo for
22 the City of Philadelphia. It's a real
23 coo for Chestnut Hill. The Fresh Market
24 looked at sites within the Main Line, and
25 this site beat those out.

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2 The Fresh Market is also the
3 type of high-quality tenant that will
4 attract other strong regional and
5 independent tenants to Germantown Avenue.
6 The total project cost of \$30 million,
7 with no public subsidy whatsoever.
8 Bowman estimates that the project will
9 create 90 permanent jobs.

10 With that, I'd like to hand
11 over this to Richard Gelber, who can go
12 through the project.

13 COUNCILMAN KENNEY: Please
14 identify yourself for the record and
15 bring the microphone closer to you.
16 Thank you.

17 MR. GELBER: Good morning. My
18 name is --

19 COUNCILMAN KENNEY: Good
20 afternoon.

21 MR. GELBER: Afternoon already?
22 My name is Richard K. Gelber. I'm an
23 architect in the City of Philadelphia,
24 and I represent my firm and Runyan &
25 Associates, who are the combined project

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2 architects.

3 I hope the Committee will bear
4 with me. I will keep my remarks very
5 brief. I have become froggy gremlin, I
6 guess, for this part of the testimony.

7 There are a series of very
8 important mixed-use planning principles
9 and design principles which are brought
10 to bear in the project for 8200
11 Germantown Avenue. The first clearly is
12 a combination of mixed-use activities,
13 retail at both the small shop and the
14 larger retail scale, residential uses,
15 which hopefully will bring -- will
16 encourage people to walk along Germantown
17 Avenue and energize the lower part of
18 Germantown Avenue as people come down to
19 this new market anchor and other shops
20 from the top of the Hill.

21 This project brings a very
22 significant number of residential units,
23 17 on the upper stories above the small
24 shops at the Avenue, with the entry from
25 Hartwell Lane to Germantown Avenue. And

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2 as we all know in mixed-use planning,
3 it's extraordinarily important to find
4 residents living amongst our streets.
5 Certainly true in Center City. Certainly
6 true in all of our neighborhoods.

7 Finally, we've worked very hard
8 in the design of this mixed-use project
9 to create a uniform identity for the
10 whole building, as well as identifying
11 each of the individual uses from an
12 Entrian scale point of view in a
13 harmonious project.

14 The condominiums along the
15 Avenue have their entry at the corner of
16 Germantown Avenue and Hartwell Lane. The
17 small shops along the Avenue have front
18 doors entering directly from Germantown
19 Avenue. A very unique characteristic is
20 the fact that the larger retail shop, the
21 supermarket, is entered from Market Lane.
22 It is almost a new lane that we have
23 created coming into a parking area from
24 Germantown Avenue itself, so that its
25 bulk and scale are concealed by the other

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2 parts of the building from Germantown
3 Avenue.

4 Urban design principles are
5 certainly brought to bear. Germantown
6 Avenue really, it's an interesting
7 tapestry and a variety of buildings, and
8 we've tried to set a range of different
9 scales to this project to recognize each
10 of the parts of the Avenue or other
11 locations on the site.

12 The six-story building itself,
13 as you can see from the renderings in
14 your packet and are posted on the easels,
15 include buildings at Germantown Avenue
16 and at Hartwell Lane, which are at the
17 property line, as most other buildings on
18 the Avenue are.

19 As you look up from the lower
20 story to the upper stories, there are a
21 set of step-backs with decks and terraces
22 for each of the 17 residential units.
23 There are changes of material as well to
24 mitigate the visual height of the
25 building seen from up and down Germantown

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2 Avenue itself.

3 Along Hartwell Lane, the
4 project steps down, and you'll see in
5 looking at those drawings the scale of
6 what would normally be the rear side of
7 the supermarket is designed to recognize
8 the scale of the smaller houses on the
9 other side of Hartwell Lane.

10 There are a series of bays and
11 projections which are created in the
12 architecture. There are real windows at
13 the second level for office space and for
14 lounge areas for employees which look on
15 Hartwell Lane.

16 Finally, there are the two
17 groups of four houses each along Shawnee,
18 which front Pastorius Park and which
19 visually separate the park from the
20 project itself.

21 Is there density in this
22 project? Yes, of course there is. It is
23 a dense project. However, we believe
24 that given the public transportation
25 along the Avenue, given the size of this

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2 site, this is a very appropriate density
3 and certainly in concert with new green
4 planning principles.

5 One of the other key
6 characteristics of this project which you
7 can see again from the site plan overlay
8 and from the colored site plan, which
9 will be put up momentarily and which is
10 included in your packet, is that most, if
11 not all, of the parking is shielded from
12 direct view from Germantown Avenue from
13 Hartwell Lane. The parking for the Fresh
14 Grocer Market, for the retail shops,
15 which includes 85 parking spaces, is a
16 setback of approximately 35 feet from
17 Germantown Avenue. Part of that setback
18 is planted. Part of it is a small plaza,
19 which in the nice weather will welcome
20 tables and chairs so that market patrons
21 can bring their coffee and sweet rolls
22 out and sit in that plaza in the sun.

23 Along Hartwell Lane, the
24 parking for the retail and market is
25 likewise set back at least 35 feet, with

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2 two large green areas. Parking for the
3 condominium building is located in the
4 basement of the condominium building.
5 Its access is from Hartwell Lane, and it
6 is completely separated from any of the
7 retail parking. And those parking spaces
8 counted at two spaces for each
9 condominium unit are therefore dedicated
10 to that residential use.

11 In a similar way, the eight
12 houses along Shawnee each have two
13 parking spaces located in a basement
14 garage behind the townhouse and accessed
15 from a common driveway entered from
16 Hartwell Lane.

17 Finally, there are a series of
18 additional design elements which support
19 this project which try in their
20 conception and design to mitigate the
21 impact of the project in the surrounding
22 area. First, there is very dense
23 landscaping proposed in the entire
24 project. Rows of new street trees are
25 proposed along Germantown Avenue,

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2 Hartwell Lane and Shawnee Street. The
3 interior parking lot, in addition to the
4 large setbacks from the two public
5 streets and sidewalks, has a number of
6 trees and planting buffers located on it.

7 Second, the larger roof areas
8 of this project have green stormwater
9 retention facilities which are planned to
10 be built into them. This is partially
11 necessary to have this project meet the
12 new stormwater requirements of the City
13 of Philadelphia Water Department, and
14 it's certainly a creative way of
15 retaining stormwater in planted areas on
16 the roofs of the buildings and then have
17 it drain to other areas on the site and
18 to underground detention basins, meeting
19 all of the Water Department requirements.

20 Third, because of the nature of
21 a market use, there are, of course, some
22 rooftop pieces of mechanical equipment,
23 rooftop exhaust fans above food
24 preparation and sales areas of the market
25 itself. Each of those pieces of rooftop

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2 equipment is either recessed into an area
3 below the level of the roof and screened
4 by the wall, proposed walls of the
5 building, or surrounded by individual
6 screened walls on the planted roof area.

7 Third and -- sorry; fourth and
8 last, the loading and trash facility for
9 the market is totally found within the
10 center of the property and completely
11 screened from the surrounding area by
12 building walls and overhead doors, which
13 will be open to welcome the arrival of
14 the truck and then closed again once that
15 truck is at the loading dock, only to be
16 opened again once the truck is ready to
17 leave the site.

18 Thank you for permitting to
19 testify. I'm ready to answer any
20 questions that you may have.

21 COUNCILMAN KENNEY: Thank you
22 for your testimony.

23 Councilman Greenlee.

24 COUNCILMAN GREENLEE: Thank
25 you, Mr. Chairman.

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2 Good afternoon, everybody.

3 First of all, I just want to note for the
4 record -- Mr. McClure, you may have said
5 this. I was distracted. There certainly
6 have been a lot of meetings with the
7 community and parts of communities and
8 all that.

9 MR. McCLURE: There's been a
10 tremendous amount of meetings with the
11 community. As you know, Chestnut Hill
12 and the Chestnut Hill Community
13 Association has a very robust schedule
14 when it comes to development review. We
15 approached them first almost a year ago
16 and started meetings in earnest with
17 their Development Review Committee and a
18 specially formed subcommittee, which
19 involves many near neighbors, starting in
20 April, then really beginning really heavy
21 in the summertime. There's going to be a
22 final meeting on the 12th of December
23 where the CHCA Board of Directors is
24 going to vote. A list of the existing
25 meetings and the future community

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2 meetings are on Tab 7.

3 Additionally, we have ten days
4 ago handed the CHCA subcommittee a
5 memorandum of understanding or a
6 community development agreement, which we
7 are now negotiating with them, which will
8 govern the redevelopment of this property
9 under this legislation, to the extent
10 that Council does pass the requested
11 legislation.

12 So there has been a tremendous
13 amount of outreach. There's going to
14 continue to be outreach. Bowman has a
15 lot at stake here and not working with
16 CHCA is not part of the equation.

17 COUNCILMAN GREENLEE: I think
18 you'd have problems up there if you
19 didn't.

20 Just one thing specifically. I
21 know we've all heard -- some concerns
22 have been raised about this before the
23 hearing. The height issue I know we hear
24 from some people. Can you address that?
25 I mean, I'm assuming -- like I know

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2 you've heard from people that they think
3 at least part of this is too high, is
4 intimidating, that kind of thing. Can
5 you address that a little bit about why
6 you felt that that was the concern?
7 Because I have to tell you, the design
8 generally, it looks good to me, but I'm
9 just trying to address that particular
10 concern that I heard from people.

11 MR. McCLURE: Well, as
12 currently shown on the plans, we show a
13 six-story scheme, which is 67 feet. I
14 will tell you that we've had a lot of
15 progress with the negotiating group in
16 the last couple of weeks, and we're very
17 close to going forward with a five-story
18 scheme, and a five-story scheme would be
19 55 feet, which is very much -- would be
20 in scale with the Chestnut Hill Hotel
21 across the street. Again, this is the
22 biggest site anywhere on Germantown
23 Avenue. It can take it. It's treated
24 differently. This is not a 40 foot wide
25 side.

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2 COUNCILMAN GREENLEE: No. I
3 understand, but I just wanted to address
4 that. So there's still a possibility it
5 could even come down some a little bit?

6 MR. McCLURE: Well, the
7 discussion right now, it's coming down
8 from six stories to five stories, which
9 would be a dramatic reduction.

10 COUNCILMAN GREENLEE: Okay.
11 Thank you.

12 Thank you, Mr. Chairman.

13 COUNCILMAN KENNEY: Thank you.
14 Any other questions for these
15 witnesses?

16 (No response.)

17 COUNCILMAN KENNEY: Seeing
18 none, thank you very much.

19 MR. McCLURE: Thank you.

20 COUNCILMAN KENNEY: Jane Poldr,
21 John Gibbons, Jennifer Zoga.

22 (Witnesses approached witness
23 table.)

24 COUNCILMAN KENNEY: Thank you.

25 MS. PIOTROWSKI: Good

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2 afternoon.

3 COUNCILMAN KENNEY: Good

4 afternoon. Please identify yourself.

5 MS. PIOTROWSKI: Mr. Chairman,

6 honorable members of the Council, thank

7 you for giving me this opportunity to

8 speak. My name is Jane Piotrowski and I

9 am in addition to being a near neighbor

10 that our property --

11 COUNCILMAN KENNEY: I'm sorry.

12 Hold on. Is the name misspelled here?

13 It's P-O-L-D-R?

14 UNIDENTIFIED SPEAKER: It's

15 misspelled.

16 COUNCILMAN KENNEY: Oh, okay.

17 Fine. I'm sorry. Please proceed.

18 MS. PIOTROWSKI: No problem.

19 It's a tough one.

20 COUNCILMAN KENNEY: It's just

21 five letters. They left off the rest.

22 I'm sorry.

23 MS. PIOTROWSKI: I'd like to

24 just leave off the rest.

25 Anyway, our property actually

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2 does abut up to the proposed development.

3 I am also the President of the Chestnut
4 Hill Community Association. I'm here
5 today to address the involvement of the
6 Chestnut Hill community in the approval
7 process for this proposed development.

8 I have read and heard and will
9 probably hear again today that Bowman
10 Properties has somehow subverted,
11 avoided, ignored or otherwise
12 circumvented the neighborhood and our
13 development review process by coming to
14 you with this legislation. I'm here to
15 tell you that the allegation could not be
16 further from the truth. The CHCA first
17 saw this project roughly eight months
18 ago. Since that time, the developer has
19 presented at no less than seven public
20 meetings and our various committees, as
21 well as over a dozen meetings of the
22 special convened negotiating committee.
23 This subcommittee consists of three near
24 neighbors and members of the Land Use,
25 Planning and Zoning; the Design Review

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2 Committee; the Traffic, Transportation
3 and Parking Committee; and the Historic
4 Advisory Committee. They are working
5 countless hours negotiating and working
6 with Bowman Properties to be assured of a
7 project that will benefit our entire
8 community.

9 We have four more public
10 meetings scheduled between now and your
11 Council session scheduled for December
12 15th. Neither the CHCA nor Bowman
13 Properties is ignoring the concerns of
14 this community on the required processes,
15 and anyone who claims otherwise is
16 clearly uninformed or likely has a
17 different agenda.

18 While our process has not yet
19 been concluded, we are confident that we
20 will be able to reach a mutual beneficial
21 understanding with the developer.

22 I thank you very much for
23 letting me --

24 COUNCILMAN KENNEY: Thank you
25 for your testimony.

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2 Please identify yourself for
3 the record.

4 MS. ZOGA: My name is Jennifer
5 Zoga. I am a resident of Chestnut Hill.
6 I'm here today because I received an
7 e-mail on Monday from Glenn Bergman, the
8 General Manager of Weavers Way, and it
9 told me as a member of Weavers Way, I
10 should be alarmed by the building
11 proposal of Bowman to create a new
12 grocery store in my neighborhood. It
13 said as a member of Weavers Way, I should
14 join the near neighbors in their fight
15 against the proposed market.

16 Well, I am not a member of
17 Weavers Way, but I am alarmed that Glenn
18 Bergman, who does not live in Chestnut
19 Hill, is using his authority over
20 hundreds of members that are owners of
21 Weavers Way to block a business on the
22 basis of its threat to his business.

23 I am a near neighbor in the
24 fact that I live a half a mile away. I
25 will walk to this new store and welcome

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2 it, and I often use the streets that will
3 be affected by this zoning to drive to
4 and from my home.

5 I am in favor of this market
6 and the proposed development. It will be
7 good for our community of neighbors, our
8 employment, our tax revenue and our other
9 businesses in Chestnut Hill.

10 In closing, I would like to
11 request, even though it's not my
12 authority to do so, that perhaps every
13 time that someone comes to testify, you
14 may ask them if they live in Chestnut
15 Hill, which is zip code 19118, and also
16 ask if they are a member, and thus an
17 owner, of the competitor, Weavers Way. I
18 think then you will find a true audience
19 of near neighbors and their true wishes.

20 Thank you.

21 COUNCILMAN KENNEY: Thank you.

22 Have you ever testified before
23 Council before?

24 MS. ZOGA: No.

25 COUNCILMAN KENNEY: You should

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2 market that model and send it out to
3 future witnesses, because it's short,
4 concise and you're on your way. Thanks.

5 MR. ZOGA: Shaking
6 uncontrollably.

7 COUNCILMAN KENNEY: You knocked
8 it out of the park on the first time. So
9 thank you.

10 MS. ZOGA: Thank you.

11 COUNCILMAN KENNEY: Thank you.

12 Any questions for these
13 witnesses?

14 (No response.)

15 COUNCILMAN KENNEY: No. Thank
16 you very much.

17 MS. PIOTROWSKI: Thank you very
18 much.

19 COUNCILMAN KENNEY: Greg
20 Walsh -- I'm sorry. Mr. Gibbons and then
21 Mr. Walsh.

22 (Witnesses approached witness
23 table.)

24 COUNCILMAN KENNEY: Please
25 identify yourself for the record.

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2 MR. GIBBONS: Good morning. My
3 name is John Gibbons. I'm a near
4 resident and an urban planner.

5 I submitted written testimony
6 and some recommendations, some minor
7 changes to the bill. So I'm not going to
8 elaborate in a great amount of detail.

9 Our premise is that ordinances
10 and zoning changes that support a
11 specific development are fine, as long as
12 they're consistent with overall
13 neighborhood planning goals, and this is
14 in many ways a very positive development,
15 but there also is some problems that need
16 to be addressed.

17 On 110762, the proposed change
18 from C-7 to C-2 is excellent. It's
19 what's needed to encourage mixed-use
20 developments. On the other hand, the
21 proposed change on the residential site
22 on Shawnee Street from R-5 to R-10B is
23 not appropriate. R-5 is a consistent
24 zoning catch grade along that section of
25 Shawnee Street. R-10B was a catch grade

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2 specifically developed for stacked
3 townhouses in Center City, and the only
4 reason it's being proposed is because it
5 allows a 45 height limit as of right,
6 which is really something that should go
7 through a variance.

8 On 110763, I think the key
9 concern there is a 70 foot height limit
10 that originally the project was proposed
11 as a five-story building. I think a
12 five-story building with appropriate
13 setback should be fine. And I proposed
14 in the recommended changes that that
15 height limit gets reduced from 70 feet to
16 55 feet, which would permit that
17 five-story building.

18 I think we recommend a couple
19 of other changes that would require a
20 zoning variance on some of the
21 landscaping adjacent to residential
22 properties.

23 Thank you.

24 COUNCILMAN KENNEY: Thank you
25 very much.

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2 Please identify yourself for
3 the record.

4 MR. WELSH: My name is Gregory
5 Welsh, W-E-L-S-H, although many like to
6 adopt me as Irish and call me Walsh.

7 COUNCILMAN KENNEY: We're all
8 Irish in some ways.

9 MR. WELSH: Especially when the
10 sun goes down. Thank you.

11 I am the past President and
12 current Co-President of the Chestnut Hill
13 Business Association, and I'm here to
14 report that the Chestnut Hill Business
15 Association, which was started in the
16 1950's, currently has about 130 merchant
17 members, another 100 associate members,
18 and they would be professionals working
19 out of offices, and about 200 supportive
20 members, and this organization has voted
21 twice in the past year and a half to
22 support the Bowman project on the
23 Magarity site.

24 I'd like to say with due
25 respect to my friend, State Rep Dwight

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2 Evans, and the Ogontz Avenue
3 Revitalization Corporation, Chestnut Hill
4 is the gateway to the northwest. And we
5 really look forward to this quality
6 project and feel it will be an absolute
7 positive to our commercial corridor. And
8 I'm here available to answer any
9 questions you may have.

10 COUNCILMAN KENNEY: Thank you
11 very much for your testimony.

12 Any questions?

13 (No response.)

14 COUNCILMAN KENNEY: Seeing
15 none, thank you.

16 Terry Halbert, John Beckman.

17 (Witnesses approached witness
18 table.)

19 COUNCILMAN KENNEY: Please
20 identify yourself for the record.

21 MS. HALBERT: Good afternoon,
22 Councilman Kenney and the Committee on
23 Rules. My name is Terry Halbert and I'd
24 like to speak to you on behalf of myself,
25 a near neighbor of the project. Our

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2 house abuts this project. It's right
3 behind the site and right next to Jane
4 you just heard from and the more than
5 1,700 people who have signed a petition
6 in the last few weeks opposed to these
7 ordinances.

8 We are not opposed to mixed-use
9 development of 8200 Germantown Avenue.
10 We oppose the ordinances because we see
11 Bowman Properties' plan as
12 over-development. And with your
13 permission, I just wonder if I could show
14 you on this --

15 COUNCILMAN KENNEY: The only
16 thing you're going to have to do is
17 figure out a way to get the microphone
18 with you. Why don't you get it, bring it
19 back to your spot so you can -- I don't
20 know how far that reaches.

21 MS. HALBERT: Are we good here?

22 COUNCILMAN KENNEY: You're
23 fine.

24 MS. HALBERT: I just want to
25 contextualize this a little bit for now.

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2 This drawing shows the Germantown Avenue,
3 which is of course the main commercial
4 strip of Chestnut Hill, and that street
5 is actually quite a bit busier and wider
6 and commercial.

7 This is Hartwell Lane. This is
8 literally a lane. It's a really narrow
9 street. Houses along Hartwell Lane are
10 row houses and very small twins, I
11 believe. Then on our street, which is
12 over here, it's Southampton Avenue. It's
13 also a small one-way street. Both of
14 these are one-way. The houses on our
15 street are small, too. They're small
16 singles, very modest singles or twins.
17 And then this is the back of this
18 stretch, this acreage, Shawnee, which is
19 I think officially called a country lane
20 in the deeds. And as was explained,
21 there's a bird sanctuary on the other
22 side of it.

23 So what my point here is that
24 this is not a sort of affluent space in
25 Chestnut Hill. It was described as

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2 semi-industrial here, but actually it's
3 largely residential and small in scale
4 all around this site.

5 So we're very, very concerned
6 with the design we see, six stories on
7 the Avenue. Even five, which as we've
8 understood it brings it down just four
9 feet, is still going to tower over the
10 structures on the commercial strip of the
11 Avenue. They are two or three stories
12 high typically.

13 It's calling for a 20,000
14 square foot supermarket in the middle,
15 and then the back of that is going to
16 present a 25 foot wall. Although it is
17 articulated, it's still a wall right
18 across the street from these tiny houses
19 on Hartwell Lane. And then in the back,
20 there's going to be, again, effectively a
21 line of townhouses 50 feet high directly
22 abutting this park right across and
23 facing this beautiful park.

24 So we're concerned about also
25 the traffic study that Bowman has done,

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2 which in part explains that we'll have
3 4,000 more trips on a typical Saturday to
4 this site. So we feel that this design
5 is too high, too dense and really
6 completely out of scale with Chestnut
7 Hill. We really want to see vitality and
8 development, but we just think this is a
9 mistaken way to go for it.

10 Now, I want to talk about
11 community concerns, how they've been
12 expressed and whether or not they've been
13 addressed. We feel that they really have
14 not been. We feel that the community is
15 bigger than its representation on the
16 Community Association, much bigger, and
17 that the concerns of the community have
18 really not been allowed to be heard,
19 because Bowman has said from the very
20 beginning what they were going to do, and
21 they're doing it now. They said we're
22 going to go to City Council and we're
23 going to get these ordinances and we're
24 going to rezone this plot. So that
25 really to me didn't feel like a

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2 negotiating position. We had no choice,
3 but we were sort of looking at this as a
4 fait accompli.

5 We understand how councilmanic
6 privilege works, and it was just a sense
7 of there being no chance for us to really
8 get our needs met, our concerns heard.

9 This process through City
10 Council has been described to us by
11 Bowman as a slam dunk. Now, to the more
12 than 1,700 people who have signed our
13 petition, this is really pretty
14 outrageous. And if it's okay, I'd just
15 like to ask those of us that are here in
16 the room today that are here to oppose
17 this ordinance, if you would stand,
18 people who took time out to come.

19 (Audience members standing.)

20 MS. HALBERT: So we're
21 concerned and upset -- you may be seated.

22 We're upset because we feel
23 like this process, you, is being used to
24 do the bidding of the developer without
25 real community input. And I say without

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2 real community input because just -- and
3 I think my colleague, John, who has been
4 on the subcommittee can explain to you
5 more what it's like, but I heard one
6 example after no progress all summer,
7 which felt like a lot of stalling, we
8 finally get a suggestion that will bring
9 down the height from six to five stories,
10 but then we're going to have more condos,
11 and it's just -- you just have a feeling
12 that there's really -- we're moving the
13 chairs around on the Titanic. We're not
14 actually making progress.

15 At this point, as I understand
16 it, there are no setbacks. There are no
17 really meaningful height reductions on
18 this thing, and also there's no CDA, no
19 community development agreement, that's
20 been hammered out as yet. It doesn't
21 feel good to know that this is sort of
22 out of our hands now, it's going to
23 happen, without these assurances.

24 A couple more things to say.

25 The developer has made a lot of

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2 grand assertions, and we have learned
3 that we can't trust them. He told us he
4 wouldn't go to City Council until the
5 community process had run its course.
6 Now, as I understand it, it has not.
7 We're still waiting. We haven't got the
8 agreements or the major issues heard, and
9 we are worried about what will happen if
10 these ordinances are approved.

11 About the petition, I want to
12 tell you that we started the petition
13 because we thought we would have time,
14 and then we heard that, Councilwoman
15 Miller, you had gone ahead to introduce
16 this bill. So it was just about a month
17 ago when that happened, and we put the
18 petition online. We also went around on
19 foot, even though most of us work, we
20 didn't have much time, working on
21 Saturdays when we could, Sundays. But
22 even with that sort of limited ability to
23 garner whatever reaction there might be
24 in our community, by Monday night when I
25 was writing this statement, I saw that we

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2 had more than a thousand who had signed.
3 Now, of that thousand on Monday night,
4 405 were from Chestnut Hill zip code
5 19118. That was 38 percent. And another
6 416 were from the 19119 zip code, which
7 is of course Mount Airy. Eighty-eight
8 percent of all those that had come in by
9 Monday night were from the 8th District.
10 So it was a pretty strong outpouring.
11 And I'd like to enter into the record
12 sometime -- I'll show you this. This is
13 just Chestnut Hill. It's a Google map,
14 and it shows the 400 or so no's to the
15 project. You can see they're sort of
16 clustered around the actual site, but
17 they're all over the Chestnut Hill zip
18 code.

19 COUNCILMAN KENNEY: Can I ask
20 you a question just in general about
21 that, because as an at-large member --
22 and Councilmen Greenlee and Goode are
23 also at-large members and Reynolds Brown.
24 I'm sorry. I didn't see you come back.

25 When we're faced with these

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2 things relative to petitions, what is
3 your view as to how far away or how close
4 you should be to have a say in a
5 particular project? Because, again, of
6 the 1,700 signatures, you admit that 400
7 or so are from the immediate area, but
8 others are from Mount Airy. I'm
9 wondering at what geographic location
10 where you live does it kind of disqualify
11 you from an opinion?

12 MS. HALBERT: That's a really
13 great question, and we were asking
14 ourselves when we drew this up who should
15 we let sign, should it just be
16 Philadelphia, should it be Wyndmoor.
17 First of all, I have to say, as I was
18 collecting signatures, I noticed people
19 from places outside of Philadelphia who
20 wanted to sign we couldn't let, because
21 people come to Chestnut Hill to shop, to
22 enjoy the real beautiful walkability of
23 the Avenue, from everywhere. We were
24 talking to people from Trevoise, from the
25 Northeast, from Center City, from out of

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2 state.

3 But if you're talking about who
4 should have an actual say here, I really
5 think it's not a bad idea to think of the
6 8th District as one animal. I think that
7 strip is more and more needing to
8 understand itself as interactive and
9 interdependent.

10 COUNCILMAN KENNEY: And I do
11 understand your position and I do take
12 your concerns relative to being such a
13 near neighbor relative to height and
14 light and things of that nature, but when
15 I get further away, I start wondering at
16 what point should I stop listening to
17 that voice relative to a project that
18 doesn't necessarily impact them at all.
19 I mean, it's a hard -- we deal with it
20 all the time.

21 And the other question I guess
22 is, do you reject the fact that the civic
23 association is a legitimate entity that
24 was either elected, I guess, and serves
25 the community? I mean, if there's a

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2 representative body, how do we discount
3 their position?

4 MS. HALBERT: Well, maybe I'll
5 address that first, because there's a lot
6 in my head right now.

7 First of all, I do think that
8 the Chestnut Hill Community Association
9 is full of a lot of wonderful people.
10 Jane is my next-door neighbor, and we're
11 friends. I think we're still friends.

12 But I just feel like what's
13 going on here, from my perspective, is,
14 I'm eight years in Chestnut Hill. What I
15 observe is that Chestnut Hill, in a sense
16 it's undergoing some of the changes that
17 every community in an urban area is
18 undergoing. There's a different kind of
19 diversity coming to Chestnut Hill, and I
20 think it's possible to say without
21 injuring too many feelings that in this
22 instance, we have a developer who owns a
23 lot of property, who has a lot of
24 influence in the Historical Association,
25 in the Business Association and also I

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2 would say in the Community Association.
3 And so while we saw that, we wanted to
4 work with the community association, and
5 we are, but we also feel that we need to
6 reach out to a bigger context of
7 individuals. And there are so many, I
8 can tell you, who really care about the
9 beauty, the aesthetics and the scale of
10 that Avenue in that place of the City.
11 It's unique.

12 COUNCILMAN KENNEY: And I
13 appreciate your point of view and I just
14 wanted to have that colloquy with you
15 relative to just the whole concept of
16 what neighborhood planning, civic
17 association representation, a district, I
18 mean, all these things we grapple with
19 all the time. So I do appreciate your
20 response. Thank you.

21 MS. HALBERT: Okay. Well, just
22 to continue on -- I'm almost done -- the
23 petition signatures really beefed up this
24 week. We have now almost 1,800, and we
25 do -- I wanted to enter into the record

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2 this other -- we have 44 pages of
3 comments that people wrote. So people
4 didn't just sign up, but they troubled
5 themselves to say something in
6 opposition, and these comments are really
7 interesting to read. So I'd like to hand
8 them over at some point.

9 COUNCILMAN KENNEY: Okay.

10 MS. HALBERT: And, last, I just
11 want to say the Inquirer published
12 something on Monday about this project,
13 and there was a statement that went
14 unchallenged that I think we would like
15 to correct as best we can. The statement
16 was that 95 percent of the properties on
17 Germantown Avenue owned by Bowman are
18 either occupied or under lease to be
19 occupied. Now, the developer is well
20 known to us, and we've watched what we
21 perceive as a buy-and-hold strategy that
22 he has made use of for many years. There
23 are so many properties in Chestnut Hill
24 on the Avenue which he owns which he is,
25 for whatever reason, letting be vacant.

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2 So on Monday afternoon, another neighbor
3 and I went out and just did a count.

4 Now, we were working with publicly
5 available data that we've collected about
6 what he owns and we were trying to make
7 sure we only looked at commercial spots
8 on the Avenue in Chestnut Hill. We
9 counted 24. We counted 12 vacancies. So
10 that's not a 95.4 occupancy rate.

11 There's something wrong there. And we
12 are concerned about what that might mean
13 for the future of this really very major
14 project in the middle of our community.

15 So in closing, I want to say we
16 really don't know if this project is
17 going to be a success. We do know,
18 though, if it fails, the zoning changes
19 that are proposed here today will make
20 the property a lot more valuable, and we
21 know that the surrounding community will
22 bear the brunt of any negative impacts.
23 We feel this is a one-sided process and
24 it is unfair. We're simply asking for
25 more time and a fair process so that we

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2 can reach an agreement that we can all
3 support.

4 Thank you.

5 COUNCILMAN KENNEY: Thank you
6 for your testimony.

7 Sir, please identify yourself
8 for the record.

9 MR. BECKMAN: My name is John
10 Beckman. Councilman Kenney and Committee
11 members, thank you for letting me
12 testify. I represent the Land Use
13 Planning and Zoning Committee, known as
14 LUPZ, of the Chestnut Hill Community
15 Association. The LUPZ created a
16 subcommittee this summer to negotiate
17 with Bowman Properties regarding the
18 development proposed at 8200 Germantown
19 Avenue. This subcommittee contains
20 representatives of all the committees of
21 the Community Association as well as
22 three elected near neighbor
23 representatives, of which I am one. I
24 also live on Southampton Street in the
25 unit block and I'm a certified

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2 professional planner.

3 It's the committee's
4 responsibility to make recommendations to
5 the Community Association regarding this
6 proposal, and it's the Board that will
7 make the final statement of the
8 Association's position. However, we are
9 still in the negotiation process. The
10 owner has agreed to complete the
11 community process prior to seeking final
12 approval of the proposed zoning changes
13 embodied in Bills 110762 and 763.

14 The owner started work on his
15 plan about two and a half years ago. On
16 July 25th of this year, a little over two
17 years later, the subcommittee first met
18 with the developer and his team. We've
19 met eight times since.

20 From the beginning, the
21 subcommittee has supported a mixture of
22 residential and commercial uses on the
23 property. However, our primary concern
24 is that the proposed development is out
25 of scale and out of character with the

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2 community. The requested rezoning would
3 significantly increase the land value for
4 the owner. At the same time, it would
5 deliver significant negative impacts to
6 the surrounding community.

7 At our very first meeting in
8 July, the subcommittee presented a list
9 of major concerns regarding the plan and
10 particularly the proposed zoning changes,
11 because that's really what we're
12 addressing here. After four months of
13 discussion, these concerns remain. There
14 are six, and I'll list them for you.

15 The first is conversion of
16 residentially zoned land to commercial.
17 The rezoning proposal reduces the
18 residentially zoned block frontage from
19 35 percent of that part of the unit block
20 to less than 20 percent and replaces it
21 with commercial zoning next to houses.
22 Not only is this percent inconsistent
23 with the rest of the community where the
24 average unit block face is 64 percent
25 residential, it's a disturbing land use

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2 change for homeowners adjacent and across
3 the narrow street from the site. These
4 are voting taxpayers who purchased their
5 houses thinking that they could count on
6 residential zoning to remain in place.
7 Furthermore, the proposed residential
8 zoning change also eliminates the
9 building setback requirements currently
10 enforced along Hartwell Lane. This is a
11 narrow one-lane street, mostly two-story
12 row houses and some singles across from
13 the proposed building, which will be 225
14 feet long with a minimum height of 28
15 feet. These are big changes.

16 Number two, out of scale mass,
17 bulk and height on Shawnee Street due to
18 changing R-5 to R10B. The substitution
19 of R-10B for R-5 has no planning
20 justification, as the proposed district
21 is used nowhere in 19118 and it's
22 designed in fact for intense in-fill
23 development, primarily in Center City.
24 One of the characteristics of R-10B is it
25 permits essentially a parking deck

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2 underneath the houses.

3 A couple key differences
4 between the current R-5 zone, which is in
5 force in much of that area in the
6 proposal. Current zoning minimum lot
7 area, 2,250 feet; proposed R-10B, 1,440
8 feet. R-5 current minimum open area of
9 50 percent; 20 percent in R-10B. Maximum
10 building height R-5, 35 feet; 50 feet in
11 R-10B. Maximum stories R-5, three; five
12 stories in R-10B. There's simply no
13 precedent for five-story houses in
14 Chestnut Hill. This is also quite
15 dramatic.

16 Number three, out of scale
17 mass, bulk and height on Germantown
18 Avenue. When the owner presented the
19 project in July to the subcommittee at
20 our first meeting, the building was five
21 stories. Now you heard Richard Gelber
22 testify today that it's six. It may or
23 may not come down. The important thing
24 is what is permitted by the proposed
25 zoning.

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2 The subcommittee suggested four
3 stories as a height that is consistent
4 with the surrounding residential and
5 commercial area, which consists primarily
6 of two- and three-story buildings. This
7 would also be consistent with the
8 anticipated new zoning of CMX 2.5. This
9 district with the Germantown Avenue
10 Special District Controls would permit a
11 maximum height of 45 feet. So the
12 proposed zoning which the developer is
13 asking for has to be modified even more
14 from C-2 to allow the 70 feet. This gets
15 awfully complicated. Nevertheless,
16 there's a very dramatic difference
17 between 45 feet and 70 feet.

18 Number four, minimal or no
19 setbacks or buffers. The setbacks in
20 existing zoning would disappear under
21 this proposal with the change in
22 residential zoning, which you've heard
23 from the developer's team as well. The
24 existing low-density houses surrounding
25 the site would not be buffered as they

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2 are under the current zoning I had
3 expected to be.

4 Number five, minimal landscape.
5 The proposed plan shows and the proposed
6 zoning supports minimal landscaping on
7 the project. This is very different from
8 street trees. We're talking about
9 project landscaping.

10 This site is surrounded on
11 three sides by two- and three-story
12 single-family houses, and one wonders
13 what that would do to a neighborhood
14 that's often called the Garden District
15 of Philadelphia.

16 Number six, the community
17 development agreement is incomplete.
18 We've requested and the owners agreed to
19 address the physical and environmental
20 impacts to the development in a community
21 development agreement. However, we have
22 not reached an agreement on its
23 substance. So it's an issue of the cart
24 and the horse here, zoning changes
25 without the controls to deal with these

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2 other issues.

3 Ultimately, all of us, many
4 residents, all of the members of the
5 subcommittee share the goal of having
6 8200 Germantown be in productive use with
7 a mixture of commercial and residential
8 uses. This is a complex changing
9 proposal. The committee heard on Monday
10 new ideas that are not reflected in the
11 zoning. And so the zoning is unfinished.
12 The legislation does not reflect what's
13 going on.

14 We suggest that even without
15 passage, we might learn something from
16 the best land use and planning attorneys
17 in the country who have developed your
18 new ordinance.

19 One quick point.

20 In summary, there's been modest
21 progress on some issues. The major
22 issues that I outlined remain. We
23 respectfully request that the Committee
24 not vote on this bill today and permit
25 the Community Association to finalize its

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2 recommendations and bring them before
3 City Council on December 15th.

4 COUNCILMAN KENNEY: Thank you.
5 One question. Did you say initially in
6 your testimony that you were a member of
7 the committee that was --

8 MR. BECKMAN: The subcommittee,
9 yes.

10 COUNCILMAN KENNEY: Did the
11 subcommittee vote?

12 MR. BECKMAN: The
13 subcommittee -- the procedure is, the
14 Land Use Planning and Zoning Committee
15 established a subcommittee for
16 negotiation, which is the typical way of
17 operating. That subcommittee is charged
18 to make a recommendation, which then goes
19 up to the Land Use Planning and Zoning
20 development review, and the
21 recommendation is made to the Board.
22 It's the Board that makes the final
23 official position of the Community
24 Association.

25 COUNCILMAN KENNEY: But the

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2 President of the -- it's the same civic
3 association, correct?

4 MR. BECKMAN: Correct.

5 COUNCILMAN KENNEY: So the
6 President of the civic association
7 portrayed to us that the civic
8 association is in favor of it. Are you
9 saying that there wasn't a vote of the
10 subcommittee and Land Use Committee?

11 MR. BECKMAN: That's correct,
12 there's not been a vote.

13 COUNCILMAN KENNEY: Look, I
14 like to take civic associations seriously
15 and wanted to hear what they have to say
16 in their positions, but do you believe
17 that that's the position of the President
18 herself or was there a process?

19 MR. BECKMAN: I can't answer
20 for that.

21 COUNCILMAN KENNEY: I really
22 would like to know.

23 MS. PIOTROWSKI: Can I come
24 back?

25 COUNCILMAN KENNEY: Yes,

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2 please.

3 If there's a process that you
4 were going through --

5 MS. PIOTROWSKI: We still are.

6 MR. BECKMAN: It's not
7 complete.

8 COUNCILMAN KENNEY: Re-identify
9 yourself.

10 MS. PIOTROWSKI: We still are.
11 I'm Jane Piotrowski, the President of the
12 Chestnut Hill Community Association. Who
13 you just heard from was Greg Welsh from
14 the Business Association. We have not
15 voted yet. We are still working in
16 committee. It has not gotten -- we have
17 a special meeting on December 12th.

18 COUNCILMAN KENNEY: I
19 misunderstood your testimony. I thought
20 you were --

21 MS. PIOTROWSKI: No, no, no.

22 COUNCILMAN KENNEY: So you were
23 not testifying in favor of it?

24 MS. PIOTROWSKI: I'm just
25 letting you know that we are still in the

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2 process, the Community Association, when
3 others were saying that we weren't.

4 COUNCILMAN KENNEY: All right.
5 Okay.

6 Any questions for these
7 witnesses?

8 (No response.)

9 COUNCILMAN KENNEY: Seeing
10 none, thank you very much.

11 Councilman DiCicco.

12 COUNCILMAN DiCICCO: Excuse me.
13 I'm sorry.

14 COUNCILMAN KENNEY: Just before
15 we get started, I want to make sure --
16 we're backing up into another hearing and
17 we have about five or six witnesses left
18 in this hearing, and we have, as you can
19 see, a room starting to fill up for the
20 next hearing. So if you're coming up to
21 testify, you're certainly welcome.

22 Please try to plow new ground, if
23 possible, or condense what you have to
24 say in your opposition or support.

25 Councilman DiCicco.

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2 COUNCILMAN DiCICCO: Thank you,
3 Mr. Chairman.

4 My question is for Ms. Halbert.
5 In your oral testimony, I don't see it in
6 your written testimony, you did mention
7 something about, and I'm paraphrasing, to
8 the effect that there has not yet been a
9 finalization of a community benefits
10 agreement.

11 MS. HALBERT: Community
12 development agreement I think is what
13 it's called, CDA, which has to do with
14 hours of operation and how the --

15 COUNCILMAN DiCICCO: I'm sorry.
16 I misunderstood. I thought you said
17 community benefits agreement. I'm sorry.
18 That's it. Thank you.

19 COUNCILMAN KENNEY: Thank you.
20 Thank you for your testimony.

21 Glenn Bergman, Michael Gonzalez
22 and Pamela Rogow, please.

23 (Witnesses approached witness
24 table.)

25 COUNCILMAN KENNEY: Please

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2 identify yourself for the record.

3 MR. BERGMAN: Thank you. Glenn
4 Bergman from Weavers Way Co-Op. I live
5 in Mount Airy.

6 My name is Glenn Bergman. I am
7 the General Manager of Weavers Way Co-Op,
8 a not-for-profit, community-owned
9 cooperative market with two stores in
10 Philadelphia, both in Mount Airy and
11 Philadelphia, with over 130 employees,
12 five acres of urban farms at Saul School
13 and Awbury Arboretum, producing over
14 \$140,000 a year of locally grown produce
15 and a non-profit arm that conducts
16 education nutrition programs both in
17 schools and on our farms. We follow a
18 "triple bottom line" business philosophy,
19 meaning we are concerned about our
20 community, our people and also running a
21 sustainable business.

22 We have a mission to carry
23 local product. We also use local
24 products for services like banking,
25 insurance, architects, legal support in

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2 our store.

3 Since Weavers Way owners are
4 our 5,000-member households representing
5 over 10,000 community members, we are
6 owned and operated by and invested in
7 this community 100 percent, so that with
8 the multiplier effect of every dollar
9 spent in our store is worth many more
10 dollars in our local community.

11 Our full-time employees earn a
12 livable wage starting at \$10 an hour.
13 They are offered health and dental
14 insurance and employer-matched 401(k)
15 program, sick pay and other benefits.

16 I would like -- I ask that you
17 reject this bill now pending before you
18 for several reasons. The request by
19 Bowman Properties to have a zoning change
20 is not needed because a redesign project
21 could be built without such a change.
22 The proposed change will create bad
23 precedent, and the proposed project
24 beyond the zoning changes will damage the
25 local economy and neighborhood of

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2 Chestnut Hill based on both the fact that
3 the 90 or 100 jobs that they have
4 proposed be closer scrutinized by City
5 Council.

6 If the proposed market achieves
7 the level of sales necessary to be
8 profitable, it would divert substantial
9 revenue from other employers in the area
10 and, therefore, also cut jobs.

11 I provided full testimony. Let
12 me just also just say that one point
13 about this is that there are already, as
14 mentioned prior to my testimony -- that I
15 asked City Council to look at the number
16 of vacancies that are on the Avenue
17 presently owned by the same property
18 owner and ask the question, why build
19 another 30,000 square feet of retail
20 stores when already the stores that are
21 there are vacant?

22 I thank you for your time and
23 I'm happy to answer any questions.

24 COUNCILMAN KENNEY: Thank you
25 for your testimony.

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2 Please identify yourself for
3 the record, whoever is next. Please pull
4 that microphone close to you.

5 MS. ROGOW: My name is Pamela
6 Rogow. I live in Chestnut Hill. I own
7 property in Chestnut Hill that is part of
8 the cultural mix of the area, the entire
9 area. People come to us, Moving Arts
10 Studio and the Green on Green Building,
11 from Chestnut Hill and vice versa. I
12 also lived on Springfield Avenue for
13 several years in Chestnut Hill, walking
14 distance to Germantown Avenue. My bank
15 is in Chestnut Hill. Every time I go to
16 Chestnut Hill, I see my neighbors. I
17 feel that we're a very integrated
18 community, in response to what came up
19 earlier.

20 Historically, I am essentially
21 a producer of cultural projects around
22 the country and occasionally overseas,
23 and I've also been a travel editor. I
24 recall that the New York Times gave a
25 whole page to Chestnut Hill as a

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2 destination. I cannot imagine that
3 having a very large grocery store in the
4 middle of Chestnut Hill will add to its
5 appeal for people to come and shop and
6 visit and make it a destination for the
7 City. Quite the contrary. The intimacy
8 and the scale of the intimacy is very,
9 very important to its success.

10 Sitting at the top of the Hill
11 right now is Borders Bookstore store
12 empty for years now. It is the largest
13 emptiest testament to the fact that this
14 community cannot absorb this kind of
15 multi-use facility.

16 There's a book called The
17 Poetics of Space, which is one of my most
18 favorite books of all time, and it talks
19 about how important it is that the
20 space -- what the space conveys in making
21 meaning in people's experience. This
22 space here says majesty. It says
23 authority. It says scale. It says
24 decisions are going to happen.

25 This scale here says something

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2 very, very different, and it's going to
3 say to the people who go by, this doesn't
4 belong to you anymore.

5 That's my comment. Thank you.

6 COUNCILMAN KENNEY: Thank you
7 for your testimony.

8 Please identify yourself for
9 the record.

10 MR. GONZALEZ: Good afternoon,
11 Councilman Kenney and Committee members.
12 It is a privilege and honor to give you
13 30 seconds. My name is Michael Gonzalez
14 and I live on Southampton Avenue, which
15 is right next to the proposed
16 development, and I can just say this,
17 that by and large, most, if not everyone
18 in Chestnut Hill, particularly those that
19 are on the unit blocks and closest to
20 Germantown Avenue, look forward to this
21 property being developed and developed as
22 a mixed-use property. The issue, as I
23 see it and as many of us see it, is the
24 process by which the zoning gets done.
25 Right now the local community association

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2 and their subcommittees are negotiating
3 with Bowman Properties, and we have this
4 bill which gives Bowman Properties
5 everything they want and basically
6 eviscerates the negotiation process.

7 This is a negotiation process
8 in good faith, where near neighbors have
9 elected their own members to sit on the
10 Community Association committee with
11 professionals and people that are not
12 arguing with the owner on what kind of
13 business he can put there. This is not
14 about whether you should have a grocery
15 store there or not. This is about the
16 actual issues that concern us as the
17 nearest neighbors of the property. And
18 they're working to make a zoning formula
19 that will work for the mixed use, for the
20 grocery store and for the developer and
21 for the nearest neighbors who are the
22 closest stakeholders.

23 I want to ask that the Council
24 consider putting off the voting of these
25 bills so that it is not hanging over the

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2 heads of the negotiations, so that the
3 dedicated near neighbors and the robust
4 and well-established Community
5 Association can sit at the table and work
6 in good faith with the developer to work
7 it out. I think it would get worked out,
8 and I think that what City Council would
9 have is a zoning bill before it that came
10 cleanly and with community support, and I
11 think that that makes sense. It makes
12 sense to not have to push negotiations
13 with this hanging over their heads over
14 the next couple weeks, and I ask that you
15 consider tabling it or rescheduling it
16 sometime into the next year.

17 COUNCILMAN KENNEY: Councilman
18 Greenlee.

19 COUNCILMAN GREENLEE: Thank you
20 very much. My question is really for
21 Mr. Bergman. And let me preface it by
22 saying my wife shops at the Weavers Way
23 of Mount Airy. She's there every
24 weekend. But I have to say -- and I
25 understand near neighbors certainly have

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2 their opinion on what's good there and
3 what should be there. I guess I have a
4 little trouble with opposition based on
5 competition, you know. I mean, with all
6 due respect -- and I think Weavers Way
7 does a good job, but, I mean, isn't that
8 sort of the American way?

9 MR. BERGMAN: Well, I should
10 have finished by saying and my testimony
11 is that we would prefer that this would
12 go through the City -- through the
13 Chestnut Hill Community Association
14 review and let the community work it out
15 with the developer. I would hold that --
16 and if they can work that out, then we
17 are fine with it. But the reason we got
18 involved -- in the last two paragraphs of
19 my testimony, the reason we got involved
20 was when it was submitted here to City
21 Council.

22 COUNCILMAN GREENLEE: Okay.
23 But it sounded like your statement was
24 against it because you're saying it would
25 hurt your business, which --

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2 MR. BERGMAN: Well, I was just
3 letting the Council know how we operate
4 and that the businesses coming here or
5 the business that they picked to rent to
6 we know does not follow a living wage
7 philosophy, doesn't have a mission to buy
8 local, and I wanted the City
9 Councilmembers to know that the
10 multiplier effect of buying local, we all
11 know what that does for our local
12 economy, and just that you should be
13 aware of that.

14 COUNCILMAN GREENLEE: I
15 understand. That's obviously up to the
16 customer to decide.

17 MR. BERGMAN: I have no problem
18 with them coming. I have a problem with
19 the process that's underway correctly.

20 COUNCILMAN GREENLEE: That's a
21 little different than what you said, but
22 okay. Thank you.

23 COUNCILMAN KENNEY: Councilman
24 Goode.

25 COUNCILMAN GOODE: Thank you,

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2 Mr. Chairman. I'll be brief.

3 I just wanted to clarify
4 something for the record about the
5 legislative process. It is very
6 different at the end of a term than it is
7 normally. City Council, in and of
8 itself, cannot enact legislation. We can
9 approve it in committee. We can then
10 approve it on final passage. After that,
11 there are few ways that it can become law
12 under normal circumstances. The Mayor
13 can sign it. The Mayor can send it back
14 without his signature and it becomes law
15 within ten days or two weeks, and the
16 Mayor can veto and that veto can be
17 overridden.

18 At the end of the term, that is
19 not the process. The point we're in the
20 process right now, there's only one way
21 that this bill becomes law. That's if
22 the Mayor signs it, because it's the end
23 of a term. If the Mayor does not sign
24 the bill or if the Mayor takes as long as
25 he wants to sign the bill, that controls

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2 what happens in terms of community
3 process.

4 We need to move through our
5 legislative process one way or the other.
6 But this bill does not become law without
7 the Mayor signing it, and the timing
8 factor is related to when the Mayor signs
9 it, if he signs it.

10 Thank you, Mr. Chair.

11 COUNCILMAN KENNEY: Thank you
12 very much.

13 Thank you for your testimony.

14 Elizabeth Bales, Melanie
15 Brundle and Dan McElhatton, please.

16 That is the end of our list.
17 Is there anyone else here to testify on
18 this bill?

19 (No response.)

20 COUNCILMAN KENNEY: Thank you.

21 (Witnesses approached witness
22 table.)

23 COUNCILMAN KENNEY: Please
24 identify yourself for the record.

25 MS. BRUNDLE: Hello. I'm

1 11/30/11 - RULES - BILL 110275, ETC.

2 Melanie Brundle and I have lived in
3 Chestnut Hill for three years. I live
4 one mile from the development.

5 Please excuse my nerves.

6 I'm here today to say that I
7 want to be sure that the voice of the
8 Chestnut Hill community doesn't get lost
9 in all of the noise that is being
10 generated by the Weavers Way Co-Op. I
11 shop at Weavers Way regularly, and most
12 of the communications that I have seen
13 from them have been against this project
14 and encouraging me to take action against
15 it. And, in fact, on their Facebook
16 site, I was encouraged today to come
17 along and stand up and make my voice
18 heard. I did come along and stand up,
19 but maybe not in the way that they had
20 hoped.

21 I am very excited by this
22 project. I love my neighborhood. I
23 chose my neighborhood specifically for
24 what it offers. I believe that this will
25 bring vitality to an area that is frankly

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2 quite ugly and neglected at the moment.

3 And the site looks stunning.

4 I also believe that competition
5 in this high street will be great for me,
6 the shopper, and other shoppers, because
7 it will increase the quality and the
8 reduce the price of the groceries that
9 are offered to us.

10 The last thing I want to say is
11 I'm a little concerned about people who
12 offer up the opinion of the majority. I
13 haven't been canvassed for my opinion.
14 Most of my neighbors haven't been
15 canvassed for their opinions, and we all
16 believe that this is a good thing for
17 Chestnut Hill.

18 Thank you very much.

19 COUNCILMAN KENNEY: Thank you
20 for your testimony.

21 Mr. McElhatton, please.

22 MR. McELHATTON: Good
23 afternoon, Mr. Chair, members of the
24 Rules Committee. My name is Daniel
25 McElhatton from the law firm of

1 11/30/11 - RULES - BILL 110275, ETC.

2 McElhatton Lynch and I appear today here
3 as counsel for a number of the near
4 neighbors.

5 Most of those neighbors who
6 have testified have articulated much
7 better than I could their concerns about
8 the density and bulk. What I would like
9 to do is add something new, and, that is,
10 some context.

11 Mr. McClure in his exhibit book
12 referred you to Tab 5, and I would submit
13 that you should look at Tab 5, and it has
14 the letter from Mr. Fink, the Deputy
15 Commissioner, in which the Deputy
16 Commissioner lays out what is, in effect,
17 a hardship for this property. No dispute
18 as to that. But what Mr. McClure did not
19 mention is the final admonition by
20 Michael Fink, and, that is, that if you
21 wish to obtain a formal permit refusal
22 for appeal to the Zoning Board of
23 Adjustment, please let me know. And that
24 is dated November 16th, 2011.

25 The essence of the complaints

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2 for the process by the community folks
3 have been as exactly as Mr. McClure said,
4 they made a choice, "they" being the
5 development team. The choice was to not
6 seek a variance and not seek review by
7 the Zoning Board of Adjustment with all
8 of the restrictions that the Zoning Board
9 could put in and the requirement that the
10 Zoning Board look at the minimum
11 variance. If this property cannot be
12 used for anything else, then it can be
13 used for some mixed use, the Zoning Board
14 would permit that.

15 This developer purchased this
16 site with full knowledge of these
17 restrictions, and by making the choice to
18 go legislatively and not through the
19 Zoning Board, they have disregarded the
20 ability of the community to give
21 significant input on those things that
22 the Zoning Board would take into
23 consideration and the considerations that
24 the courts would look at on an appeal as
25 to whether or not it is too dense, it is

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2 too high, whether it should be 50 feet or
3 35 feet. Those are the things that I
4 think most affect the community and their
5 concerns about the process.

6 I also happen to believe,
7 Mr. Chair, that this is spot zoning.
8 This is picking out one particular parcel
9 for the benefit of one party, Bowman
10 Properties, to the exclusion of the
11 community. And it targets this property
12 in both pieces of legislation, changing
13 the two pieces of the Zoning Code to what
14 fits this developer's proposal and also
15 changing the overlay to match exactly
16 what is needed on that parcel for this
17 developer. If that isn't spot zoning,
18 nothing is.

19 I heard the earlier
20 conversation between you and other
21 Council. There is permissible spot
22 zoning and there is impermissible. This
23 is impermissible.

24 Thank you, Mr. Chair.

25 (Applause.)

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2 COUNCILMAN KENNEY: Thank you
3 very much.

4 Are there any questions for
5 these witnesses?

6 (No response.)

7 COUNCILMAN KENNEY: Seeing
8 none, thank you very much for your
9 testimony.

10 MR. McELHATTON: Thank you.

11 COUNCILMAN KENNEY: That will
12 conclude our witness list for this bill
13 and it will also conclude the public
14 hearing of the Committee on Rules. We
15 now will convene a public meeting to vote
16 on various pieces of legislation.

17 The Chair recognizes
18 Councilmember DiCicco for a motion to
19 approve the amendment to Bill No. 110275.

20 Excuse me. I know there's
21 going to be a lot of physical movement in
22 here and I know that comes with noise.
23 So if you could just try to keep it as
24 slow as possible.

25 Councilman DiCicco.

1 11/30/11 - RULES - BILL 110275, ETC.

2 COUNCILMAN DiCICCO: Thank you,
3 Mr. Chairman. I move for the adoption of
4 the amendment to Bill No. 110275.

5 (Duly seconded.)

6 COUNCILMAN KENNEY: It's been
7 moved and seconded.

8 All in favor?

9 (Aye.)

10 COUNCILMAN KENNEY: There are
11 none opposed. The amendment is adopted.

12 The Chair recognizes
13 Councilmember DiCicco on the amended
14 bill.

15 COUNCILMAN DiCICCO: Thank you,
16 Mr. Chairman. I move that Bill No.
17 110275, as amended, be reported out of
18 this Committee with a favorable
19 recommendation and that the rules of
20 Council be suspended so as to permit
21 first reading at our next session of City
22 Council.

23 (Duly seconded.)

24 COUNCILMAN KENNEY: Moved and
25 seconded.

1 11/30/11 - RULES - BILL 110275, ETC.

2 All in favor?

3 (Aye.)

4 COUNCILMAN KENNEY: There are
5 none opposed. Bill No. 110275 reported
6 out of this Committee, as amended, with a
7 favorable recommendation and a request
8 made for rules suspension to allow for
9 first reading at our next Council
10 session.

11 The Chair recognizes
12 Councilmember Greenlee for a motion on
13 Bill No. 110681.

14 COUNCILMAN GREENLEE: Thank
15 you, Mr. Chairman. I move that Bill No.
16 110681 be reported out of this Committee
17 with a favorable recommendation, that the
18 rules of Council be suspended to allow
19 for first reading at our next session of
20 Council.

21 COUNCILMAN KENNEY: Right now
22 there's a motion on the floor to approve
23 Bill No. 110681 with a suspension.

24 (Duly seconded.)

25 COUNCILMAN KENNEY: Moved and

1 11/30/11 - RULES - BILL 110275, ETC.

2 seconded.

3 All in favor?

4 (Aye.)

5 COUNCILMAN KENNEY: There are
6 none opposed. Bill No. 110681 reported
7 out of this Committee favorably and a
8 request made for rules suspension to
9 allow first reading at our next Council
10 session.

11 The Chair recognizes
12 Councilmember Miller on a motion for Bill
13 No. 110762.

14 COUNCILWOMAN MILLER: Thank
15 you, Mr. Chair. I move that Bill No.
16 110762 be reported out of this Committee
17 with a favorable recommendation.

18 (Duly seconded.)

19 COUNCILMAN KENNEY: Moved and
20 seconded.

21 All in favor?

22 (Aye.)

23 COUNCILMAN KENNEY: There's
24 none opposed. Bill No. 110762 reported
25 out of this Committee favorably, without

1 11/30/11 - RULES - BILL 110275, ETC.

2 a rules suspension.

3 The Chair recognizes
4 Councilmember Miller on Bill No. 110763.

5 COUNCILWOMAN MILLER: Thank
6 you, Mr. Chair. I move that Bill No.
7 110763 be reported out of this Committee
8 with a favorable recommendation.

9 (Duly seconded.)

10 COUNCILMAN KENNEY: Moved and
11 seconded.

12 All in favor?

13 (Aye.)

14 COUNCILMAN KENNEY: There are
15 none opposed. Bill No. 110763 reported
16 out of this Committee favorably. There
17 will be no request for rules suspension.

18 The Chair recognizes
19 Councilmember Goode on a motion to amend
20 Bill No. 110768.

21 COUNCILMAN GOODE: Thank you,
22 Mr. Chairman. The economic opportunity
23 plan has been submitted for the Temple
24 project. I move that it be adopted as an
25 amendment to Bill No. 110768.

1 11/30/11 - RULES - BILL 110275, ETC.

2 (Duly seconded.)

3 COUNCILMAN KENNEY: Moved and
4 seconded.

5 All in favor?

6 (Aye.)

7 COUNCILMAN KENNEY: The bill
8 will be amended accordingly with the EOP
9 plan.

10 The Chair recognizes
11 Councilmember Clarke for a motion on the
12 amended bill. Councilman Clarke, would
13 you rather defer to Councilman Goode?

14 COUNCILMAN CLARKE: Thank you,
15 Mr. Chair. I move for a motion on Bill
16 No. 110768, as amended, be reported out
17 of Committee with a favorable
18 recommendation, with rules suspension as
19 to allow reading at the next session of
20 Council.

21 (Duly seconded.)

22 COUNCILMAN KENNEY: Moved and
23 seconded.

24 All in favor?

25 (Aye.)

1 11/30/11 - RULES - BILL 110275, ETC.

2 COUNCILMAN KENNEY: There are
3 none opposed. Bill No. 110768, as
4 amended, reported out of this Committee
5 favorably and a request made for rules
6 suspension to allow first reading at our
7 next Council session.

8 The Chair recognizes
9 Councilmember Greenlee for a motion on
10 Bill No. 110781.

11 COUNCILMAN GREENLEE: Thank
12 you, Mr. Chairman. I move that Bill No.
13 110781 be reported out of this Committee
14 with a favorable recommendation and that
15 the rules of Council be suspended to
16 allow for first reading at our next
17 session of Council.

18 (Duly seconded.)

19 COUNCILMAN KENNEY: Moved and
20 seconded.

21 All in favor?

22 (Aye.)

23 COUNCILMAN KENNEY: There are
24 none opposed. Bill No. 110781 will
25 report out of this Committee favorably

1 11/30/11 - RULES - BILL 110275, ETC.
2 and a request made for rules suspension
3 to allow first reading at our next
4 Council session.

5 The Chair recognizes
6 Councilmember Clarke on a motion for Bill
7 No. 110 -- the Chair recognizes
8 Councilmember Miller for a motion to
9 amend Bill No. 110761.

10 COUNCILWOMAN MILLER: Thank
11 you, Mr. Chair. I move that the
12 amendment for Bill No. 110761 be
13 approved.

14 (Duly seconded.)

15 COUNCILMAN KENNEY: Moved and
16 seconded.

17 All in favor?

18 (Aye.)

19 COUNCILMAN KENNEY: There are
20 none opposed. Bill No. 110761 will be
21 amended accordingly.

22 The Chair recognizes
23 Councilmember Miller on the amended bill.

24 COUNCILWOMAN MILLER: Thank
25 you, Mr. Chair. I move that Bill No.

1 11/30/11 - RULES - BILL 110275, ETC.
2 110761 be approved, as amended. No rules
3 suspension.

4 (Duly seconded.)

5 COUNCILMAN KENNEY: Moved and
6 seconded.

7 All in favor?

8 (Aye.)

9 COUNCILMAN KENNEY: There are
10 none opposed. Bill No. 110761, as
11 amended, will report out of this
12 Committee favorably, without a rules
13 suspension.

14 Bill No. 110826 will be held
15 until 10 o'clock December 6th at a
16 currently scheduled Rules Committee
17 hearing.

18 Thank you for your attendance.

19 (Committee on Rules concluded
20 at 1:10 p.m.)

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CERTIFICATE

I HEREBY CERTIFY that the proceedings, evidence and objections are contained fully and accurately in the stenographic notes taken by me upon the foregoing matter on November 30, 2011, and that this is a true and correct transcript of same.

MICHELE L. MURPHY
RPR-Notary Public

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means, unless under the direct control and/or supervision of the certifying reporter.)