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COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON PUBLIC HEALTH AND
HUMAN SERVICES

- - -

Room 400, City Hall
Philadelphia, Pennsylvania
Tuesday, March 9, 2010
1:30 p.m.

- - -

PRESENT:

COUNCILWOMAN MARIAN B. TASCO, CHAIR
COUNCILMAN W. WILSON GOODE, JR.
COUNCILWOMAN DONNA REED MILLER
COUNCILWOMAN BLONDELL REYNOLDS BROWN

BILL 100012 - An ordinance amending Title 6 of
The Philadelphia Code, entitled "Health Code,"
by defining "Supermarkets," and excluding
Supermarkets from the definition of Chain
Restaurants, thereby exempting Supermarkets
from menu labeling requirements applicable to
Chain Restaurants, under certain terms and
conditions.

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COUNCILWOMAN TASC0: Good

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afternoon. The Committee on Public

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Health and Human Services will come to

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order.

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We are waiting for one other

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Councilperson, who is on her way. We

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will just begin the testimony, and we'll

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have a quorum before we exercise a vote.

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We don't want to keep you here. Thank

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you for waiting and want to begin the

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public testimony on this bill. So I now

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call on the Clerk to read the bill.

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THE CLERK: Bill No. 100012, an

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ordinance amending Title 6 of The

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Philadelphia Code, entitled "Health

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Code," by defining "Supermarkets," and

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excluding Supermarkets from the

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definition of Chain Restaurants, thereby

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exempting Supermarkets from menu labeling

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requirements applicable to Chain

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Restaurants, under certain terms and

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conditions.

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COUNCILWOMAN TASC0: Thank you

25

very much.

1 3/9/10 - PUBLIC HEALTH - BILL 100012

2 The Chair now recognizes Randy
3 St. John, Senior Vice-President of the
4 Pennsylvania Food Merchants Association.

5 (Witness approached witness
6 table.)

7 COUNCILWOMAN TASCO: Good
8 afternoon.

9 MR. ST. JOHN: Good afternoon
10 and thank you for giving us a chance to
11 speak to you today. I'm Randy St. John,
12 Senior Vice-President with the
13 Pennsylvania Food Merchants Association.
14 We represent the supermarket operators in
15 the State of Pennsylvania.

16 We've come before you today to
17 correct an omission made in the drafting
18 of the menu labeling ordinance. Let me
19 give you a brief history.

20 In a letter written to all City
21 Council members on October 9th, 2008, I
22 said in reference to the proposed
23 ordinance that a restaurant or retail
24 food establishment is not defined in the
25 ordinance and is, therefore, unclear

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2 which businesses would be required to
3 comply.

4 In conversations and e-mails
5 with representatives of Councilwoman
6 Reynolds Brown's office at the time, I
7 was assured that supermarkets were not
8 included in the bill. I was also assured
9 in an e-mail that the Law Office had
10 reviewed the bill and that supermarkets
11 were not included. Based on those
12 assurances, the Pennsylvania Food
13 Merchants Association did not weigh in on
14 the bill further, since we weren't
15 intended to be included. When the bill
16 was passed and sent to the Department of
17 Health, their attorneys felt that
18 supermarkets were included in the
19 language as written in the bill, and the
20 Office of Councilwoman Reynolds Brown,
21 upon closer examination, agreed. The
22 supermarkets were not intended to be in
23 the bill, but were in the bill.

24 So that brings us to today.
25 This proposed bill would specifically

1 3/9/10 - PUBLIC HEALTH - BILL 100012
2 address the intention of whether or not
3 supermarkets should be included in this
4 ordinance. We see this current bill as a
5 technical correction which makes the
6 actual language of the bill reflect the
7 actual intent of the Councilwoman who
8 initiated the bill. We respectfully ask
9 for your support of this bill, which will
10 true up the language with the actual
11 intention of the bill.

12 I'd be happy to answer
13 questions if you have any.

14 COUNCILWOMAN TASC0: Any
15 questions?

16 (No response.)

17 COUNCILWOMAN TASC0: Thank you
18 very much for your testimony.

19 MR. ST. JOHN: Thank you.

20 COUNCILWOMAN TASC0: Next we
21 have John Weidman, Deputy Executive
22 Director of The Food Trust.

23 (Witness approached witness
24 table.)

25 MR. WEIDMAN: Good morning,

1 3/9/10 - PUBLIC HEALTH - BILL 100012
2 Councilmembers and guests. My name is
3 John Weidman, Deputy Executive Director
4 with The Food Trust.

5 COUNCILWOMAN TASC0: Good
6 afternoon.

7 MR. WEIDMAN: Good afternoon.
8 Thank you for the correction.

9 The Food Trust is a
10 Philadelphia-based non-profit working to
11 improve access to affordable, nutritious
12 food. I am here today in support of
13 Councilwoman Blondell Reynolds Brown's
14 menu labeling amendment to exempt
15 supermarkets and grocers from
16 Philadelphia's excellent new menu
17 labeling law.

18 I first want to thank
19 Councilmembers for passing menu labeling
20 and for the Health Department for
21 implementing it. Philadelphians truly
22 love this new tool to help them live
23 healthier lives. Just last week, my wife
24 went to the Corner Bakery, not an actual
25 corner bakery, but the restaurant called

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2 Corner Bakery, and she was there with a
3 friend of hers, and they were going to
4 have a light lunch and they were going to
5 have salads. They looked up and saw
6 salads were 700 calories and they
7 switched to soups for 400 calories.
8 That's a true story that just happened
9 last week. So this is really working and
10 it's exciting.

11 The Food Trust supports
12 exempting supermarkets from the menu
13 labeling law because we feel that
14 supermarkets are a major part of the
15 solution to the obesity epidemic. That's
16 why for the last ten years we have been
17 working with State and City government
18 officials to bring more supermarkets to
19 underserved areas in Philadelphia. Just
20 last month, First Lady Michelle Obama
21 visited the Fresh Grocer in North
22 Philadelphia to praise the store and the
23 Pennsylvania Fresh Food Financing
24 Initiative as national models that should
25 be replicated throughout the country.

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2 In almost every other state and
3 city law that calls for menu labeling,
4 supermarkets have been exempt. The main
5 targets of menu labeling laws are chain
6 restaurants that sell cheap, high-fat,
7 high-sodium, high-sugar fast food. One
8 simple reason for the focus on fast food
9 chains is that they are a big part of the
10 obesity problem. The other reason is
11 that they're the best equipped to comply
12 with the policy without any significant
13 burden. Other businesses like non-chain
14 restaurants, which are also exempt, and
15 supermarkets face different challenges,
16 higher costs in complying, and the intent
17 of the law is not to hurt business in
18 Philadelphia, but to empower our
19 residents with good information to help
20 them lead healthier lives.

21 There is strong research that
22 shows that supermarkets have a positive
23 impact on public health. Studies have
24 shown that not only does having a
25 supermarket nearby increase fruit and

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2 vegetable consumption, but they've also
3 shown that it's associated with a lower
4 body mass index among adolescents. That
5 is why all major public health
6 organizations now, including the Centers
7 for Disease Control, the Institute of
8 Medicine, the American Heart Association,
9 they're all endorsing the efforts now to
10 bring more supermarkets to these
11 underserved areas.

12 Philadelphia is a national
13 leader in the fight against childhood
14 obesity. Passing this amendment will
15 ensure that we continue to focus on
16 bringing more supermarkets into
17 neighborhoods that need them while also
18 providing our citizens with important
19 nutrition information when they choose to
20 shop at chain restaurants.

21 Thank you very much.

22 COUNCILWOMAN TASC0: Thank you
23 very much for your testimony.

24 Any questions or comments from
25 members of the Committee?

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2 (No response.)

3 COUNCILWOMAN TASC0: Thank you
4 very much.

5 Next, Tom Miller,
6 Vice-President of Acme. As my aunt calls
7 it, Acme.

8 (Witness approached witness
9 table.)

10 MR. MILLER: Only a local
11 Philadelphian would really know the
12 correct pronunciation of that. Very
13 good.

14 Good afternoon. I am Tom
15 Miller and I am Senior Vice-President of
16 Operations for Acme Markets. We operate
17 ten stores in the City of Philadelphia
18 and have approximately 1,200 employees in
19 the City. Thank you for the opportunity
20 to offer testimony on this important
21 amendment today.

22 First, I want to assure the
23 Committee that Acme is committed to the
24 health and wellness of our customers and
25 we offer healthier choices, through

1 3/9/10 - PUBLIC HEALTH - BILL 100012
2 programs such as Nutrition IQ and store
3 dietitians who offer healthy food
4 recommendations. However, the logistics
5 of a menu labeling requirement is a
6 challenge.

7 To further illustrate the point
8 that you're going to hear from our
9 friends at ShopRite here in just a
10 moment, I would like to give you a quick
11 sense of how an Acme Market would differ
12 from chain restaurants. Chain
13 restaurants are what City Council aimed
14 at regulating. After reviewing your
15 ordinance, Acme Markets would have a
16 number of items that would be subject to
17 menu labeling. The number likely far
18 exceeds the number of items that are
19 subject to the ordinance for chain
20 restaurants like a McDonald's or Wendy's,
21 and as has been said earlier, chain
22 restaurants have a corporation to whom
23 they could go and collect nutritional
24 information for the limited number of
25 items that they sell. We do not.

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2 In fact, not only do our
3 ready-made food counters have menus that
4 may change on a daily or even an hourly
5 basis, the recipes or offerings may be
6 different from store to store. The
7 ready-made food that we serve on site is
8 prepared family-style. Trying to find
9 out what is served on a whole chicken pot
10 pie or ready-made cake is extremely
11 difficult. Having a standard reference
12 of nutritional labels would be
13 challenging to achieve, and our
14 associates would be responsible for the
15 signage requirements that would be
16 confusing and time-consuming to remain in
17 compliance.

18 To comply, we would also have
19 to do an analysis for each ready-made
20 item, with a variance in each item,
21 placing a disproportionate burden on the
22 supermarkets. In this time of severe
23 economic depression, this would be a very
24 difficult expense to bear. We would also
25 have to modify our scales and printers to

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2 create appropriate labels.

3 Additionally, federal law
4 already requires pre-packaged food to be
5 nutritionally labeled, and these foods
6 are the majority of the items that are
7 currently in our stores.

8 We hope that you will vote yes
9 on this bill and restore the language of
10 the bill to its original intention.

11 COUNCILWOMAN TASC0: Thank you.

12 Any questions?

13 (No response.)

14 COUNCILWOMAN TASC0: Thank you
15 very much for your testimony.

16 MR. MILLER: Thank you.

17 COUNCILWOMAN TASC0: The Chair
18 recognizes Ms. Bria McMenamin.

19 MS. McMENAMIN: Good afternoon,
20 Chairperson Marian and distinguished
21 members of the Committee. My name is
22 Bria McMenamin and my family owns and
23 operates the ShopRite of Roosevelt
24 Boulevard and the ShopRite at Morrell
25 Plaza right here in Philadelphia, and I

1 3/9/10 - PUBLIC HEALTH - BILL 100012
2 am here to comment on the menu labeling
3 amendment.

4 Our stores are a part of the
5 Wakefern Food Corporation, which is a
6 retailer-owned supermarket cooperative.
7 Wakefern provides marketing,
8 distribution, procurement and warehousing
9 services to its member companies. The
10 cooperative's members are independent
11 owners who operate supermarkets under the
12 ShopRite banner.

13 As independent store owners, we
14 are similar to independently owned
15 restaurants that have been exempted by
16 the law. ShopRite store owners
17 individualize, to an extent, items made
18 in the deli, bakeries and prepared food
19 areas based upon the consumer preferences
20 and demand. The ordinance recognizes
21 that an individual restaurant would have
22 difficulty complying with the menu
23 labeling ordinance, and we believe that
24 since we are similar to these
25 restaurants, we too should be exempt.

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2 We would appreciate a yes vote
3 on this bill. Thank you.

4 COUNCILWOMAN TASC0: Any
5 questions?

6 (No response.)

7 COUNCILWOMAN TASC0: There
8 being none, thank you very much.

9 Councilwoman Brown.

10 COUNCILWOMAN BROWN: Thank you,
11 Madam Chair Lady. I just would like to
12 put on the record that we have received
13 testimony from the Department of Public
14 Health and Dr. Don Schwarz wherein, and I
15 quote, The Department of Public Health
16 understands both of these issues and
17 based on these issues, there is no
18 objection to this amendment by the
19 Philadelphia Health Department.

20 And I must acknowledge that we
21 also received testimony from Mr. Patrick
22 Conway, who is President and CEO of the
23 Pennsylvania Restaurant Association, and
24 the record should reflect that they were
25 not in support of this amendment.

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2 Thank you, Madam Chair.

3 COUNCILWOMAN TASC0: Thank you
4 very much.

5 Let me recognize Councilwoman
6 Donna Reed Miller, which establishes our
7 quorum in the presence of Councilwoman
8 Blondell Reynolds Brown, Councilman
9 Goode, myself, and so now we will move
10 out of the public hearing and go into the
11 public meeting.

12 The Chair recognizes
13 Councilwoman Blondell Reynolds Brown for
14 a motion to move Bill 100012.

15 COUNCILWOMAN BROWN: Thank you,
16 Madam Chair. I do move that Bill No.
17 100012 be moved out of Committee with a
18 favorable recommendation and further move
19 that the rules of Council be suspended so
20 as to permit first reading at our next
21 scheduled session of City Council.

22 (Duly seconded.)

23 COUNCILWOMAN TASC0: Excuse me
24 a minute. I'm sorry.

25 Is there anyone else here to

1 3/9/10 - PUBLIC HEALTH - BILL 100012

2 testify on this bill?

3 (No response.)

4 COUNCILWOMAN TASC0: Okay.

5 Thank you. I didn't have anybody else on
6 the list.

7 UNIDENTIFIED SPEAKER: We're
8 here just to answer any questions if
9 there were questions for the Health
10 Department.

11 COUNCILWOMAN TASC0: Okay.

12 Thank you very much.

13 COUNCILWOMAN BROWN: Thank you.

14 COUNCILWOMAN TASC0: Thank you.

15 All in favor of the motion?

16 (Aye.)

17 COUNCILWOMAN TASC0: Let me
18 back up.

19 It has been moved and seconded
20 that Bill 100012 be reported out of
21 Committee with a favorable recommendation
22 and that the rules of Council be
23 suspended so this bill can be heard at
24 Council's next session.

25 All in favor will say aye.

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2 (Aye.)

3 COUNCILWOMAN TASC0: Any

4 opposition?

5 (No response.)

6 COUNCILWOMAN TASC0: There

7 being none, this motion is carried.

8 Thank you very much.

9 COUNCILWOMAN BROWN: Thank you,

10 Madam Chair.

11 (Committee on Public Health and

12 Human Services concluded at 1:40 p.m.)

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CERTIFICATE

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I HEREBY CERTIFY that the

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proceedings, evidence and objections are

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contained fully and accurately in the

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stenographic notes taken by me upon the

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foregoing matter on March 9, 2010, and that

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this is a true and correct transcript of same.

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MICHELE L. MURPHY

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RPR-Notary Public

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