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COUNCIL OF THE CITY OF PHILADELPHIA

3

COMMITTEE ON PUBLIC PROPERTY AND

4

PUBLIC WORKS

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Room 400, City Hall
Philadelphia, Pennsylvania
Wednesday, February 14, 2007
12:35 p.m.

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PRESENT:

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COUNCILMAN DARRELL L. CLARKE, CHAIR

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COUNCIL PRESIDENT ANNA C. VERNA

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COUNCILWOMAN DONNA REED MILLER

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COUNCILMAN JUAN RAMOS

15

COUNCILMAN FRANK RIZZO

16

COUNCILMAN WILLIAM GREENLEE

17

18

BILL 060894 - An ordinance authorizing the
Commissioner of Public Property, on behalf of
the City of Philadelphia, to acquire by
condemnation or by purchase in lieu of
condemnation certain easements for the purpose
of a public right-of-way for a new bridge
crossing the Schuylkill River through South
Street.

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V A R A L L O Incorporated

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Litigation Support Services

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Eleven Penn Center

1835 Market Street, Suite 600

Philadelphia, Pennsylvania 19103

215.561.2220 215.567.2670

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COUNCILMAN CLARKE: Good

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afternoon. This will be the Committee on

4

Public Property and Public Works.

5

Will the Clerk please read the

6

title of the first bill.

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THE CLERK: Bill No. 060894, an

8

ordinance authorizing the Commissioner of

9

Public Property, on behalf of the City of

10

Philadelphia, to acquire by condemnation

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or by purchase in lieu of condemnation

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certain easements for the purpose of a

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public right-of-way for a new bridge

14

crossing the Schuylkill River through

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South Street.

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COUNCILMAN CLARKE: Thank you.

17

We have a quorum present. To

18

my left we have Councilman Juan Ramos,

19

Councilman Fran Rizzo, Council President

20

Ann Verna, Councilwoman Donna Reed

21

Miller.

22

Thank you. Call the first

23

witness.

24

COMMISSIONER SCHLOTTERBECK:

25

Good morning, Chairman Clarke and members

1 2/14/07 - PUBLIC PROPERTY - BILL 060894
2 of the Committee on Public Property and
3 Public Works. My name is Joan
4 Schlotterbeck. I am the Commissioner of
5 the Department of Public Property. I'm
6 here today to testify in support of Bill
7 No. 060894, an ordinance authorizing me
8 as the Commissioner, on behalf of the
9 City, to acquire by condemnation or by
10 purchase in lieu of condemnation certain
11 easements for the purpose of a public
12 right-of-way for a new bridge crossing
13 the Schuylkill River through South
14 Street.

15 This bill will enable the City
16 to acquire the property to assist the
17 Streets Department with the expansion of
18 the South Street Bridge in accordance
19 with Bill No. 070046. These properties
20 are required for both temporary
21 construction and permanent placement of
22 the South Street Bridge structure.

23 I request that this bill be
24 amended as described in the documents
25 which I handed out today, which

1 2/14/07 - PUBLIC PROPERTY - BILL 060894
2 substitute a new exhibit to the bill. I
3 believe everyone has one of those in
4 their possession at this point.

5 COUNCILMAN CLARKE: Have the
6 amendments been circulated?

7 COMMISSIONER SCHLOTTERBECK:
8 It's the site plan.

9 COUNCILMAN CLARKE: Yes, they
10 have. Thank you.

11 COMMISSIONER SCHLOTTERBECK:
12 Which shows the easements as well as the
13 properties to be acquired.

14 Therefore, the Department of
15 Public Property supports this measure
16 and, accordingly, I respectfully ask that
17 City Council approve Bill No. 060894. I
18 also ask that the rules be suspended so
19 that the ordinance may be passed through
20 the second reading at Council.

21 Thank you. I'm here to answer
22 any questions you may have.

23 COUNCILMAN CLARKE: Thank you,
24 Commissioner.

25 Commissioner, the companion

1 2/14/07 - PUBLIC PROPERTY - BILL 060894
2 bills were asked to be held at the
3 request of the sponsor because of some
4 community-related issues and some other
5 technical issues. Is there a reason why
6 this particular bill must be moved at
7 this point in time? Is it time
8 sensitive?

9 COMMISSIONER SCHLOTTERBECK:
10 Yes. Basically, the entire effort would
11 come to a halt. I need to be out ahead
12 of the construction in my capacity as the
13 Public Property Commissioner. I have to
14 acquire these properties, otherwise they
15 can't even begin their project.

16 I have counsel here if you have
17 any specific questions, but there doesn't
18 appear to be any reason why we can't
19 act -- of course, if you all agree -- on
20 this particular bill, which will begin
21 the process of acquisition of properties.

22 COUNCILMAN CLARKE: Thank you.
23 Your word is good enough for me.

24 COMMISSIONER SCHLOTTERBECK:
25 Thank you.

1 2/14/07 - PUBLIC PROPERTY - BILL 060894

2 COUNCILMAN CLARKE: Any
3 questions of this witness by members of
4 the Committee?

5 Let the record reflect that
6 Councilman Bill Greenlee has also joined
7 us.

8 Councilman Rizzo.

9 COUNCILMAN RIZZO:
10 Commissioner, just quickly, in the notice
11 it says "acquire by condemnation or
12 purchase." Could you just in a nutshell
13 tell us what you're going after, what
14 type of properties and what you believe
15 will be your strategy? Are you going to
16 be able to work out a purchase or are you
17 going to have to use condemnation? What
18 exactly are you acquiring here, without
19 looking through all this document?

20 COMMISSIONER SCHLOTTERBECK:
21 Well, actually, if you take two minutes,
22 on your far left, top half of that site
23 plan, you'll see Property Owners, one
24 through nine in the circles.

25 COUNCILMAN RIZZO: One through

1 2/14/07 - PUBLIC PROPERTY - BILL 060894

2 nine?

3 COMMISSIONER SCHLOTTERBECK:

4 Top left-hand corner, Councilman,
5 Property Owners.

6 COUNCILMAN RIZZO: Okay.

7 COMMISSIONER SCHLOTTERBECK:

8 Those are specifically who we were going
9 to be acquiring from, inclusive of a
10 couple of my own properties.

11 We intend to purchase them. It
12 is not our intention to take by
13 condemnation. We have to wait -- we have
14 gotten appraisals. PennDOT has those
15 right now. As soon as they approve them,
16 they will give them back to us and then
17 we begin the process of acquisition.

18 COUNCILMAN RIZZO: Is any of
19 this residential? Are there residential
20 properties here?

21 COMMISSIONER SCHLOTTERBECK:

22 No.

23 COUNCILMAN RIZZO: Just open
24 space that's owned by these particular
25 people?

1 2/14/07 - PUBLIC PROPERTY - BILL 060894

2 COMMISSIONER SCHLOTTERBECK:

3 Well, I don't know that it's open space.

4 I think some of them are --

5 COUNCILMAN RIZZO: Well, what

6 is going to happen here --

7 COMMISSIONER SCHLOTTERBECK:

8 All of it is open space.

9 COUNCILMAN RIZZO: Is the

10 bridge that much bigger that this land is

11 going to be required to construct a new

12 bridge?

13 COMMISSIONER SCHLOTTERBECK:

14 Well, I'm going to let Jack Lutz answer

15 that, but I think the answer is, some of

16 it is temporary and some of it is

17 permanent.

18 But, Jack, can you take that?

19 MR. LUTZ: Thank you. John

20 Lutz, Chief Bridge Engineer.

21 We have color coded on your

22 plans different types of easements. The

23 yellow is a temporary construction

24 easement both for construction lay-down

25 and the ability for a contractor to build

1 2/14/07 - PUBLIC PROPERTY - BILL 060894
2 this bridge and demolish it. Also, it
3 has access points, three different access
4 roads that are temporary.

5 COUNCILMAN RIZZO: Well, if
6 they're temporary, couldn't we lease them
7 and return them to the owner?

8 MR. LUTZ: I don't believe so.
9 This is the federal and state process of
10 going through a right-of-way acquisition.
11 We have to have this done before we get
12 authorization to advertise.

13 COUNCILMAN RIZZO: But you used
14 the word "temporary." "Temporary" to me
15 means you need it and then you can give
16 it back.

17 COMMISSIONER SCHLOTTERBECK:
18 Actually, I used the word "temporary."

19 MR. REUTER: Thank you,
20 Committee members. Leonard F. Reuter,
21 that's R-E-U-T-E-R, from the Law
22 Department.

23 The way the acquisition --
24 because the project is federally funded
25 and the federal funding goes through

1 2/14/07 - PUBLIC PROPERTY - BILL 060894
2 PennDOT approvals at District 6, we're
3 required to follow all the federal and,
4 for that matter, PennDOT regulations with
5 respect to the acquisition of the
6 properties. We only get reimbursed -- we
7 discussed earlier the 80 percent, 15
8 percent and then five percent City
9 contribution. We only get reimbursed on
10 the acquisition of the properties for the
11 actual condemnation value of the
12 properties. They build in a sort of what
13 they call an administrative buffer where
14 we can go above the appraisal value.

15 The process itself requires, as
16 well as in fact the Charter and The
17 Philadelphia Code, requires that any
18 property interests that are acquired by
19 the City have to be approved by Council.
20 We would not -- my understanding is is
21 that the practice of Public Property in
22 acquiring something like a temporary
23 construction easement would be to
24 actually get -- just get an easement for
25 construction. It wouldn't be

1 2/14/07 - PUBLIC PROPERTY - BILL 060894
2 characterized as a lease per se. And I
3 suppose like to a layperson it doesn't
4 really seem like there's that much
5 difference, but for purposes of how the
6 acquisition works and how PennDOT
7 requires the temporary construction
8 easement to be acquired, they actually
9 have a specific part of their regulations
10 dealing with the acquisition of a
11 temporary construction easement.

12 COUNCILMAN RIZZO: I'm just
13 getting to look at these this morning at
14 this hearing, and we held the process so
15 we can talk to the community. I don't
16 want to be part of allowing condemnation
17 from people that I don't know that don't
18 even agree with you. In other words, if
19 you can work it out where they'll sell
20 you this at a fair price, I'm okay with
21 that. But I'll be honest, I'm not too
22 excited about receiving this stuff this
23 morning, don't even know all these
24 property owners, whether they agree or
25 disagree or they're going to resist. Or

1 2/14/07 - PUBLIC PROPERTY - BILL 060894

2 can you tell me? Are all of them in
3 agreement to sell the property?

4 MR. REUTER: Well, first of
5 all, we are not able; in fact, we are
6 actually forbidden, under federal and
7 state regulations from actually
8 discussing numbers. All of the property
9 owners until appraisals -- see,
10 appraisals have to be done. Those
11 appraisals must be approved by PennDOT
12 before we can start the negotiation
13 process, in addition to under the local
14 ordinance, you have to have --

15 COUNCILMAN RIZZO: I don't want
16 to know numbers. Are the people willing
17 to sell you the property or are you going
18 to have to move forward and condemn the
19 property?

20 MR. REUTER: All of the
21 property owners and all of the interested
22 parties are aware of the project. We
23 have been working in very close
24 conjunction with the major property
25 owners, which would be Penn, AT&T and the

1 2/14/07 - PUBLIC PROPERTY - BILL 060894
2 Railroad interests. We've also had
3 Rapinesi, who is the owner of the
4 property where the beer distributorship
5 is.

6 COUNCILMAN RIZZO: How about
7 Mary Latta?

8 MR. REUTER: No. That's --

9 COUNCILMAN RIZZO: Is one
10 through nine the ones we're looking at?

11 MR. REUTER: Those
12 properties -- and you will note, I mean,
13 that's one of the reasons why these were
14 color coded. We understand that these
15 plans can be maybe a little bit obtuse to
16 look at, but those property owners are
17 only listed by way of reference. Those
18 properties are not being affected. We
19 are not acquiring any property from any
20 of the -- we're not acquiring any
21 residential properties. The right-of-way
22 is not being widened at that point.
23 They're just put here by way of reference
24 really, because at the time the
25 right-of-way plans were done, it was just

1 2/14/07 - PUBLIC PROPERTY - BILL 060894
2 a full title search.

3 COUNCILMAN RIZZO: So we're
4 only talking one through nine, then?

5 MR. LUTZ: That is correct.
6 Just the ones with the circles.

7 COUNCILMAN RIZZO: But I
8 thought earlier I asked is there any
9 residential property and the answer by
10 someone was yes.

11 MR. LUTZ: No. It was no.

12 COMMISSIONER SCHLOTTERBECK:
13 No.

14 COUNCILMAN RIZZO: That's fine.
15 Thank you.

16 COUNCILMAN CLARKE: Thank you,
17 Councilman.

18 Any other questions of this
19 witness?

20 (No response.)

21 COUNCILMAN CLARKE: One brief
22 question just for purposes of me
23 understanding the process.

24 Traditionally the City of
25 Philadelphia uses the Redevelopment

1 2/14/07 - PUBLIC PROPERTY - BILL 060894
2 Authority when we condemn properties, and
3 I'm actually, frankly speaking, surprised
4 that the City of Philadelphia; i.e.,
5 Public Property, has the authorization to
6 condemn properties. Is that something
7 new or have we always been authorized to
8 condemn property?

9 MR. MONDLAK: Hi. My name is
10 John Mondlak with the City of
11 Philadelphia Law Department.

12 The City does have limited
13 powers of condemnation for specific
14 purposes, including to condemn property
15 easements land for bridges and bridge
16 approaches. The Redevelopment Authority
17 has much broader powers of condemnation,
18 which is why we would typically use them
19 for many of the projects that we
20 undertake in the City. But the City has
21 always had very specific limited uses of
22 condemnation for airports. There's a
23 number of them. There might be 20 or 30
24 different reasons, and this would fall
25 under one of them.

1 2/14/07 - PUBLIC PROPERTY - BILL 060894

2 COUNCILMAN CLARKE: Could you
3 just forward to the Committee members
4 what powers we have as it relates to
5 Public Property? Is it just Public
6 Property or is it any departments?

7 MR. MONDLAK: It's the City,
8 because the Public Property is the owner
9 of property. For real estate purposes,
10 they would actually do it. They could
11 not do it without your authorization.

12 COUNCILMAN CLARKE: All right.
13 It will be helpful if you could just
14 forward that information in terms of our
15 authorization and what we can and cannot
16 acquire through condemnation.

17 MR. MONDLAK: You would have to
18 authorize any condemnation for any of the
19 purposes.

20 COUNCILMAN CLARKE: But I'd
21 just like to know what those purposes
22 are.

23 MR. MONDLAK: Sure.

24 COUNCILMAN CLARKE: Thank you.

25 Any other testimony?

1 2/14/07 - PUBLIC PROPERTY - BILL 060894

2 (No response.)

3 COUNCILMAN CLARKE: Any other
4 questions of these witnesses by members
5 of the Committee?

6 (No response.)

7 COUNCILMAN CLARKE: There being
8 none, we will now go into the public
9 meeting.

10 Councilman Ramos, I'm going to
11 ask for you to make a motion on the
12 amendment that has been circulated.

13 COUNCILMAN RAMOS: I move that
14 the amendment as previously described
15 regarding Bill No. 060894 be adopted.

16 (Duly seconded.)

17 COUNCILMAN CLARKE: It being
18 moved and seconded, all in support of the
19 amendment to Bill 060894?

20 (Aye.)

21 COUNCILMAN CLARKE: Any no's?

22 (No response.)

23 COUNCILMAN CLARKE: The ayes
24 have it.

25 Councilman Ramos, I'll ask for

1 2/14/07 - PUBLIC PROPERTY - BILL 060894
2 you to make a motion on Bill 060894 as
3 amended.

4 COUNCILMAN RAMOS: With
5 suspension of rules?

6 COUNCILMAN CLARKE: Yes, with a
7 request for rules suspension.

8 COUNCILMAN RAMOS: I move that
9 Bill No. 060894, as amended, be reported
10 out of Committee with a favorable
11 recommendation and further move that the
12 rules of Council be suspended to permit
13 first reading of this bill at our next
14 Council meeting.

15 (Duly seconded.)

16 COUNCILMAN CLARKE: It has been
17 moved and seconded that Bill No. 060894
18 be reported out of Committee with a
19 favorable recommendation.

20 All in favor?

21 (Aye.)

22 COUNCILMAN CLARKE: Those
23 opposed?

24 (No response.)

25 COUNCILMAN CLARKE: The ayes

1 2/14/07 - PUBLIC PROPERTY - BILL 060894
2 have it. Bill 060894 will be reported
3 out of Committee with a favorable
4 recommendation with a rules suspension as
5 to allow reading at the next session of
6 Council.

7 Thank you very much. This
8 concludes the Committee on Public
9 Property and Public Works.

10 (Committee on Public Property
11 and Public Works adjourned at 12:50 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 February 14, 2007, and

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that this is a true and correct transcript of

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same.

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MICHELE L. MURPHY

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RPR-Notary Public

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