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COUNCIL OF THE CITY OF PHILADELPHIA

3

PUBLIC HEARING

4

COMMITTEE ON RULES

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Room 696, City Hall
Philadelphia, Pennsylvania
Thursday, March 25, 2004
1:00 p.m.

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9 BILL 040183 - An Ordinance to amend the
Philadelphia Zoning Maps by changing the
10 zoning designations of certain areas of land
located with an area bounded by the Delaware
11 River, Cottman Avenue, I-95 Expressway and
Rhawn Street.

12 BILL 040024 - An Ordinance amending Section
14-1200 of the Philadelphia Code entitled
13 "Pending Public Acquisition District"...

14

PRESENT:

15

COUNCIL PRESIDENT VERNA, Chair
16 COUNCILMAN DARRELL CLARKE
COUNCILMAN DAVID COHEN
17 COUNCILMAN FRANK DICICCO
COUNCILMAN JACK KELLY
18 COUNCILMAN JAMES KENNEY
COUNCILMAN RICHARD MARIANO
19 COUNCILWOMAN DONNA REED MILLER
COUNCILWOMAN BLONDELL REYNOLDS BROWN

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I N D E X

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1 03/25/04 - RULES - BILL 040183

2 COUNCIL PRESIDENT Verna: Good
3 afternoon, everyone. This is the public
4 hearing on the Committee on Rules. I would
5 ask Mr. McPherson to read the title of Bill
6 No. 040183.

7 MR. MCPHERSON: Bill No. 040183, an
8 ordinance to amend the Philadelphia Zoning
9 Maps by changing the zoning designations of
10 certain areas of land located with an area
11 bounded by the Delaware River, Cottman Avenue,
12 I-95 Expressway and Rhawn Street.

13 MR. CHAPMAN: Madam Chairman and
14 Members of the Rules Committee, for the City
15 Planning Commission, my name is Thomas
16 Chapman. I am the Director of the Development
17 Planning Division at the City Planning
18 Commission, and I'm here today to testify on
19 Bill No. 040183. Councilwoman Krajewski
20 introduced this bill on March 4th of this
21 year.

22 This bill rezones the area bounded
23 by Rhawn Street, I-95, Cottman Avenue, and the
24 Delaware River in Northeast Philadelphia.
25 This area is just a small part of the area

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2 that was the subject of the North Delaware
3 plan. This rezoning is consistent with the
4 recommendations of that plan and, as you will
5 see, has considerable support.

6 This rezoning serves a number of
7 purposes. Currently, a significant portion of
8 this area is zoned LR Lease Restricted and G-2
9 General Industrial. The existing zoning
10 designations in this area allow for heavy
11 industrial use, including the outdoor storage
12 of material as well as the outdoor processing
13 of material. This change in designation would
14 require that all work and the storage of
15 material be done in an enclosed structure.
16 This outdoor work is not permitted in other
17 industrial classifications.

18 A number of current uses in this
19 area are already non-conforming uses. While
20 there are some existing businesses in this
21 area, a significant part of this area consists
22 of land and buildings that are either vacant
23 or underutilized.

24 It is hoped that this rezoning will
25 send a message that both the District Council

1 03/25/04 - RULES - BILL 040183

2 Representative Councilwoman Krajewski and the
3 surrounding community are receptive to new
4 development. Notwithstanding these changes in
5 zoning, it is likely that further action of
6 City Council would be necessary should a
7 residential, commercial or mixed-used
8 development be proposed for any of the sites
9 that are being changed. Ordinances may be
10 necessary to place streets on the City Plan
11 and additional rezonings may be necessary to
12 accommodate proposed development.

13 This rezoning is consistent with
14 previous actions of the Planning Commission
15 taken in connection with Bill No. 020278 and
16 Bill No. 040007. And accordingly, we
17 recommend that Bill No. 040183 be approved.

18 That concludes my testimony. I
19 would like to add, however, that you should
20 have in your possession letters from House of
21 Representatives Michael McGeehan, also from
22 Senator Mike Stack, and also in the room today
23 we have former Congressman Robert Borski who's
24 been very instrumental in the development of
25 North Delaware.

1 03/25/04 - RULES - BILL 040183

2 COUNCIL PRESIDENT Verna: We
3 certainly welcome the Congressman. I don't
4 know that it's necessary for him to testify
5 unless he wishes to.

6 I understand he doesn't want to.

7 I believe we also have a letter of
8 support from Congressman Hoeffel. I would
9 like to make certain that the stenographer
10 does have copies of each of the letters so
11 that they will be made part of the testimony.

12 Are there any questions from Members
13 of the Committee on this bill?

14 The Chair recognizes Councilman
15 Clarke.

16 COUNCILMAN CLARKE: Thank you, Madam
17 Chair.

18 Good afternoon. Just one quick
19 question. Is this proposed zoning in any way,
20 shape or form or part of the proposed upper
21 Delaware River development that has been
22 discussed in prior meetings and is part of the
23 Mayor's economic stimulus plan?

24 MR. CHAPMAN: Yes, Councilman. It's
25 definitely in support of that plan.

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2 COUNCILMAN CLARKE: Is it a major
3 portion of that proposed site? Just how much
4 of it?

5 MR. CHAPMAN: This is the northern
6 edge of the -- part of the northern edge of
7 the study area. It's not a significant amount
8 of land as far as how much of the North
9 Delaware that study covered.

10 COUNCILMAN CLARKE: Will there been
11 additional zoning requirements to support the
12 proposed development?

13 MR. CHAPMAN: Yes, definitely.
14 Areas to the south of the Frankford Arsenal.
15 Areas close to the Betsy Ross Bridge, I would
16 suspect, would be the subject of rezoning
17 bills in the future, as well as areas that
18 have already been considered by Council. They
19 might have to come back and change the zoning
20 again, depending on what's being proposed
21 there. And there also may be some requests
22 to, I guess, institutionalize the existing
23 industrial users that we expect to be there
24 for quite some time.

25 COUNCILMAN CLARKE: Okay. Thank

1 03/25/04 - RULES - BILL 040024

2 you.

3 Thank you, Madam President.

4 COUNCIL PRESIDENT Verna: Thank you.

5 Are there any other questions from
6 Members of the Committee on this bill?

7 (No response.)

8 COUNCIL PRESIDENT Verna: Do we have
9 anyone else to testify on Bill No. 040183?

10 (No response.)

11 COUNCIL PRESIDENT Verna: Seeing no
12 one, we will now consider the continued public
13 hearing of Bill No. 040024.

14 And I would ask Mr. McPherson to
15 please read the title of that bill.

16 MR. MCPHERSON: An ordinance
17 amending Section 14-1200 of the Philadelphia
18 Code entitled "Pending Public Acquisition
19 District," by designating a Pending Public
20 Acquisition District in the area bounded on
21 the east by North 13th Street, on the north by
22 Race Street, on the west by North Broad Street
23 and on the south by Arch Street.

24 COUNCIL PRESIDENT Verna: Thank you.

25 I believe everyone received a copy

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2 of the letter of intent that was submitted to
3 the Chief Clerk's office. We all have a copy
4 of that. And also the attorney that appeared
5 here at our previous hearing and he was asked
6 a number of questions, he has submitted his
7 responses in writing, and each Councilmember
8 has a copy of his responses.

9 Do we have anyone to testify on this
10 bill?

11 Please approach the witness table.
12 Please identify yourself for the record
13 proceed with your testimony.

14 MR. PERKS: My name is Harry Perks.
15 I'm pleased to be here and have this
16 opportunity to testify on behalf of the
17 Pennsylvania Convention Center in favor of
18 establishing a Public Acquisition District
19 covering the area of our expansion.

20 The Pennsylvania Convention Center
21 Authority has been planning an expansion since
22 1997. That was when the Pennsylvania Economy
23 League reported that the Convention Center's
24 financial benefits to the hospitality industry
25 and tax revenues to the City far exceeded

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2 expectations; also, we weren't able to
3 accommodate the larger conventions that were
4 requesting to come to our City.

5 The expansion is planned to go west
6 to Broad Street between Arch and Race Streets,
7 the area covered by this proposed expansion.

8 Announcement by a public agency can
9 set off a speculative binge that drives the
10 uses that are not in accordance with any
11 long-range planning are not in the best
12 long-term interest of the City. This
13 speculative binge can be indicated by undue
14 inflation and property values within the given
15 area. There has already been substantial
16 inflation in property value since PCCA
17 announced its intention to consider an
18 expansion in 1997. And changes in use or
19 density not otherwise permitted by the City
20 Zoning Code or its planning documents should
21 not be permitted during this two-year period.
22 Their only effect in addition to violating
23 long-established planning and zoning
24 objectives will be to further artificially
25 increase the value of the property needed for

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2 this public use. This type of rush for a
3 zoning change has already happened this year
4 when a property owner was granted a change in
5 zoning from commercial to residential and
6 started renovations to accommodate
7 approximately 60 condominiums.

8 During the planning process for the
9 Convention Center, PCCA commissioned the
10 Redevelopment Authority to make preliminary
11 appraisals for the value of the property
12 needed for the expansion on three different
13 occasions, 1997, 2000, and 2002. Those
14 property appraisal were for 40, 80 and
15 \$120 million respectively during those five
16 years. The inflation was over 20 percent.

17 The property affected by this bill
18 has long been identified and zoned by the City
19 as primarily commercial. The current zoning
20 for the property as a result of appropriate
21 planning and deliberation and describes the
22 City's desired use for this property relative
23 to both those properties surrounding it and
24 other areas of the City. Property owners in
25 affected area have long had an opportunity to

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2 use their property in ways conforming with the
3 City's planning goals. This bill will affect
4 the property only for a limited time, two
5 years, during which PCCA will pursue the
6 potential acquisition or condemnation of the
7 properties needed for this expansion, subject
8 to the availability of funds and feasibility
9 and viability of the project. In the
10 meantime, properties in this area should not
11 be subject to drastic changes in use which are
12 not in keeping with the long-established
13 zoning and community planning for this area.

14 For these reasons, the Pennsylvania
15 Convention Center Authority strongly endorses
16 the passage of Bill No. 040024. Thank you for
17 this opportunity to testify.

18 COUNCIL PRESIDENT VERNA: You're
19 welcome, sir.

20 Any questions of the witness from
21 Members of the Committee?

22 COUNCILMAN COHEN: Madam Chair.

23 COUNCIL PRESIDENT VERNA: Yes, sir.

24 The Chair recognizes Councilman Cohen.

25 COUNCILMAN COHEN: Did you see the

1 03/25/04 - RULES - BILL 040024

2 request made by someone who was in the
3 neighborhood of reconverting his building to
4 have a few more tenants? The letter we have
5 from Klehr Harrison, the law firm speaking in
6 opposition to the bill, I wonder if you could
7 read that and state what your position on that
8 would be.

9 MR. PERKS: No, sir, I've not seen
10 it.

11 COUNCILMAN COHEN: Thanks,
12 Councilman, for showing the witness the
13 letter.

14 MR. PERKS: The question, sir?

15 COUNCILMAN COHEN: The question is
16 are you in support, meaning by you, I'm
17 referring to the same group that you are
18 representing today, and I understand that's
19 Convention Center Authority? Do you approve
20 of the position taken in that letter or do you
21 have differences? And if so --

22 MR. PERKS: I have no quarrel with
23 the position that's taken in this letter.
24 Everything, as far as I know, they did
25 legally and in accordance with the City's

1 03/25/04 - RULES - BILL 040024

2 requirements.

3 COUNCILMAN COHEN: Therefore, you
4 say that the new law would not affect them?

5 MR. PERKS: The new law, I don't
6 think it's retroactive in any way. I think
7 this is only for properties going forward.

8 COUNCILMAN COHEN: How do you
9 justify the difference? Why should that be
10 legal for them to do it, but if an owner
11 begins to think about that now and says, "I
12 would like to in the normal course of events I
13 would have done the same thing last year. I
14 wasn't in a position to. I am this year," he
15 cannot go ahead if this becomes law without
16 forfeiting certain rights he has.

17 MR. PERKS: I'm not sure I
18 understand the question.

19 COUNCILMAN COHEN: The question is,
20 why doesn't the person who has not yet reached
21 that decision but who can show that he would
22 have done it in normal circumstances but he
23 would have done it a year after the bill
24 became law rather than before the bill becomes
25 law, why should that person be penalized?

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2 MR. PERKS: I'm not sure I can
3 answer that question.

4 COUNCILMAN COHEN: I can't answer
5 it. And I asked you, I was hoping perhaps you
6 might answer. I have great difficulty
7 understanding the difference.

8 MR. PERKS: I'm not sure that I can
9 answer that question, sir.

10 COUNCILMAN COHEN: All right. Thank
11 you.

12 COUNCIL PRESIDENT VERNA: Do we have
13 any other questions of this witness?

14 (No response.)

15 COUNCIL PRESIDENT VERNA: Thank you
16 very much.

17 MR. PERKS: My pleasure.

18 COUNCIL PRESIDENT VERNA: Do we have
19 anyone else to testify on this bill?

20 COUNCILMAN DICICCO: The CEO and
21 President of the Convention Center Authority
22 are here, Mr. Mezzaroba is here if anyone has
23 any questions. He wasn't prepared to testify,
24 but I'm sure he would be more than willing to
25 answer any questions that the Committee may

1 03/25/04 - RULES - BILL 040024

2 have?

3 COUNCIL PRESIDENT VERNA: Any

4 questions?

5 COUNCILMAN O'NEILL: Let me just

6 state for the record that I know there was

7 controversy when Mr. Mezzaroba was appointed.

8 I think he has proven himself time and time

9 again to be an excellent executive director,

10 and I think everybody will agree to that

11 regardless of what their positions were at the

12 beginning. I supported you, but I know it was

13 not an easy time there. But I hear nothing

14 but good things.

15 MR. MEZZAROBA: I appreciate it.

16 Thank you, Councilman

17 COUNCIL PRESIDENT VERNA: Do we have

18 anyone else to testify on this bill?

19 The Chair recognizes Councilwoman

20 Miller.

21 COUNCILWOMAN MILLER: Thank you,

22 Madam Chair.

23 This proposed amendment -- I guess

24 I'll address this to Councilman DiCicco. This

25 proposed amendment, does it basically say that

1 03/25/04 - RULES - BILL 040024

2 the letter of intent is forthcoming or it's
3 been filed?

4 COUNCIL PRESIDENT VERNA: I'm sorry.
5 I think I mentioned earlier that it has been
6 filed with the Chief Clerk and each
7 Councilperson has a copy of it before them.

8 Any other questions?

9 COUNCILMAN CLARKE: I just have one.

10 COUNCIL PRESIDENT VERNA: Councilman
11 Clarke.

12 COUNCILMAN CLARKE: The question on
13 the statement of intent, essentially the
14 Pennsylvania Convention Center Authority files
15 a statement of intent, to acquire by
16 condemnation or otherwise, I'm assuming the
17 otherwise would be direct purchase from a
18 property owner as opposed to condemnation?

19 In the statement, "The Pennsylvania
20 Convention Center files a statement of intent
21 to acquire by condemnation or otherwise the
22 property identified as A." I'm assuming the
23 otherwise is a direct negotiation/purchase
24 with any property owner.

25 MR. MEZZAROBBA: That would be

1 03/25/04 - RULES - BILL 040024

2 correct. That would be the first form,
3 Councilman. Secondly, if we cannot take it
4 through negotiations, you would then file a
5 statement of condemnation and take it through
6 the courts.

7 COUNCILMAN CLARKE: And that the
8 Convention Center would be the entity that
9 would negotiate the purchase or would it be
10 another entity?

11 MR. MEZZAROBBA: That hasn't been
12 completely decided. When the current center
13 was built and the land acquisition took place,
14 the authority hadn't been formed yet, so we
15 went through the RDA. So the Convention
16 Center and the City went through the RDA.
17 It's been contemplated to do it either way.
18 We have condemnation power. The RDA has
19 condemnation power. So we can do it either
20 away.

21 Right now, I think the sentiment is
22 to basically do it through our condemnation
23 power, potentially hiring the RDA as our agent
24 since they have the ability to figure out the
25 legal and the appraisals and things of that

1 03/25/04 - RULES - BILL 040024

2 nature.

3 COUNCILMAN CLARKE: Okay. I was
4 centering in more on the "otherwise" aspect of
5 acquisition. I was just trying to get a sense
6 of what mechanism, what entity. Would you
7 hire a straw party to purchase --

8 MR. MEZZAROBBA: No, no, no. We
9 would do it --

10 The only question would be -- the
11 "otherwise" is we would buy it upright. So
12 the Authority would make an offer to a
13 property owner. And if the property would
14 accept, we could do a regular agreement of
15 sale and by it in the conventional manner. If
16 any or all property owners decide that they do
17 not want to sell, we would go then go through
18 eminent domain or we could do a negotiated
19 eminent domain, which is normally what's done
20 in these processes.

21 COUNCILMAN CLARKE: A negotiated
22 eminent domain?

23 MR. MEZZAROBBA: Well, what happens
24 is, as far as for tax purposes, the property
25 is taken via eminent domain but no one fights

1 03/25/04 - RULES - BILL 040024

2 it. The only question is what the number is.
3 So the property owner says, "We agree that you
4 can have it, take it," and the courts will
5 decide -- or the Board of View, and if you
6 don't like that, the court will decide what
7 the number is.

8 COUNCILMAN CLARKE: After the
9 appraisal?

10 MR. MEZZAROBBA: Correct.

11 COUNCILMAN CLARKE: Because
12 traditionally you get -- I knew with the
13 Redevelopment Authority there's an appraisal,
14 there's a number associated with that
15 condemnation; and then if the property owner
16 does not agree with that number, they then go
17 to court.

18 MR. MEZZAROBBA: They can go to the
19 Board of View. If they don't agree with the
20 Board of View, they can appeal to the Common
21 Pleas Court.

22 COUNCILMAN CLARKE: You're saying
23 that the Redevelopment Authority may or may
24 not be hired as an agent for the condemnation
25 or any of the negotiations.

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2 MR. MEZZAROBBA: That's correct. The
3 preliminary numbers we have right now -- and
4 Harry would be able to answer this a little
5 better. But since the year '98 or '99, we've
6 hired the RDA to do three sets of appraisals
7 for us. The first set, then doing a second
8 set, the most recent being done in the year
9 2001, I believe. And they act as our agent.
10 We pay them a fee; they give us the
11 appraisals.

12 COUNCILMAN CLARKE: My recollection
13 in the testimony last week was that the RDA
14 could not do an appraisal until there was an
15 authorization for condemnation.

16 MR. MEZZAROBBA: The RDA cannot file
17 an intent of taking until we do something.
18 But we hire them the way that we would hire
19 PIDC or any private agency. As a government
20 agency, we have access to them, we pay them
21 for their time that they put in, and they give
22 us a figure as to what the condemnation would
23 be worth. So when we go to Harrisburg and we
24 come eventually to City Council and ask for
25 money, we need to know what it's going to

1 03/25/04 - RULES - BILL 040024

2 cost. And we've previously gotten those
3 numbers through the RDA since they have the
4 ability to put them together.

5 COUNCILMAN CLARKE: Okay.

6 Thank you, Madam Chair.

7 COUNCIL PRESIDENT VERNA: You're
8 welcome.

9 Are there any other questions from
10 Members of the Committee?

11 (No response.)

12 COUNCIL PRESIDENT VERNA: Thank you
13 very much, Mr. Mezzaroba.

14 MR. MEZZAROBA: Thank you.

15 COUNCIL PRESIDENT VERNA: Anyone
16 else to testify on this bill?

17 (No response.)

18 COUNCIL PRESIDENT VERNA: Seeing
19 none, that concludes our public hearing.

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COUNCIL OF THE CITY OF PHILADELPHIA

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PUBLIC MEETING

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COMMITTEE ON RULES

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Thursday, March 25, 2004

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Public meeting conducted by the
Committee on Rules, held in Room 400, City
Hall, Philadelphia, Pennsylvania, on the above
date, to consider action on the following:

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BILLS 040183, 040024.

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PRESENT:

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COUNCIL PRESIDENT VERNA, Chair

15 COUNCILMAN DARRELL CLARKE

COUNCILMAN DAVID COHEN

16 COUNCILMAN FRANK DICICCO

COUNCILMAN JACK KELLY

17 COUNCILMAN JAMES KENNEY

COUNCILMAN RICHARD MARIANO

18 COUNCILWOMAN DONNA REED MILLER

COUNCILWOMAN BLONDELL REYNOLDS BROWN

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1 03/25/04 - RULES - PUBLIC MEETING

2 COUNCIL PRESIDENT Verna: We will
3 now go into our public meeting.

4 And the Chair recognizes Councilman
5 Clarke regarding Bill No. 040183.

6 COUNCILMAN CLARKE: Thank you, Madam
7 President. Madam President, I make a motion
8 that Bill --

9 COUNCIL PRESIDENT Verna: Mr.
10 Chapman.

11 MR. CHAPMAN: Thank you, Madam
12 President. If I may, as part of my testimony
13 I neglected to mention that Councilwoman
14 Krajewski had asked if I would ask the
15 Committee on her behalf to suspend the Rules
16 for this bill.

17 COUNCIL PRESIDENT Verna: Thank you.
18 Councilman Clarke.

19 COUNCILMAN CLARKE: Thank you, Madam
20 Chair. Madam Chair, I move that Bill No.
21 040183 be reported out of Committee with
22 favorable recommendation and a request for
23 suspension of the Rules as to allow reading at
24 the next Session of Council.

25 (Duly seconded.)

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2 COUNCIL PRESIDENT VERNA: It has
3 been moved and seconded that Bill No. 040183
4 be reported out of Committee with a
5 recommendation, also a recommendation that the
6 Rules of Council be suspended so as to permit
7 first reading at our next Council Session.

8 All in favor will say aye.

9 (Aye.)

10 COUNCIL PRESIDENT VERNA: Those
11 opposed?

12 (No response.)

13 COUNCIL PRESIDENT VERNA: Ayes have
14 it, and the motion carries.

15 The next bill to be considered is
16 Bill No. 040024.

17 The Chair recognizes Councilman
18 DiCicco.

19 COUNCILMAN DICICCO: Thank you,
20 Madam Chair. I offer a proposed amendment to
21 Bill No. 040024. I believe all members of
22 your Committee have a copy. I would ask for
23 that to be accepted, and I would further ask
24 when you take action on this bill that the
25 Rules of Council be suspended.

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2 COUNCIL PRESIDENT Verna: The Chair
3 recognizes Councilman Clarke.

4 COUNCILMAN CLARKE: Thank you, Madam
5 President. I make a motion that the amendment
6 to Bill 040024 be approved.

7 (Duly seconded.)

8 COUNCIL PRESIDENT Verna: It has
9 been moved and seconded that the amendment be
10 approved.

11 All in favor will indicate by saying
12 aye.

13 (Aye.)

14 COUNCIL PRESIDENT Verna: Those
15 opposed?

16 (No response.)

17 COUNCIL PRESIDENT Verna: The motion
18 carries.

19 The Chair recognizes Councilman
20 Clarke.

21 COUNCILMAN CLARKE: Thank you, Madam
22 Chair. I move that Bill No. 040024, as
23 amended, be reported out of Committee with
24 favorable recommendation and request for a
25 suspension of the Rules as to allow reading at

1 03/25/04 - RULES - PUBLIC MEETING

2 the next Session of Council.

3 (Duly seconded.)

4 COUNCIL PRESIDENT Verna: It has
5 been moved and seconded that Bill No. 040024
6 be reported out of Committee with a favorable
7 recommendation, as amended, also a
8 recommendation that the Rules of Council be
9 suspended so as to permit first reading at our
10 next Council session.

11 All in favor will say aye.

12 (Aye.)

13 COUNCIL PRESIDENT Verna: Those
14 opposed?

15 COUNCILMAN COHEN: Madam President,
16 I would note my abstention. The City Charter
17 permits abstentions at committee sessions, not
18 at a final vote.

19 COUNCIL PRESIDENT Verna: Your
20 abstention will be so noted for the record
21 Councilman. Thank you very much.

22 The ayes have it, the motion
23 carries.

24 This concludes our public meeting.

25 Thank you all very much.

1 03/25/04 - RULES - PUBLIC MEETING
2 (Council adjourned at 1:50 p.m.)
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RE: COMMITTEE ON RULES

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Lisa C. Bradley, RPR

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