

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON STREETS AND SERVICES

Room 400, City Hall
Philadelphia, Pennsylvania
Wednesday, October 20, 2010
2:50 p.m.

PRESENT:

COUNCILMAN FRANK DiCICCO, CHAIR
COUNCILMAN BILL GREEN
COUNCILMAN WILLIAM K. GREENLEE
COUNCILMAN CURTIS JONES, JR.
COUNCILWOMAN DONNA REED MILLER
COUNCILWOMAN MARIA D. QUINONES-SANCHEZ

BILLS 100545, 100546, 100551, 100636, 100652
and 100653

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1
2 COUNCILMAN DiCICCO: Good
3 afternoon, everyone. The Committee on
4 Streets and Services is now in session.
5 The Committee of Streets and Services
6 public hearing is now in session. We do
7 have a quorum. Walking across the room
8 in front of me is Councilman Green.
9 Walking across the room coming towards me
10 is Councilwoman Miller, and to my
11 immediate left is Councilman Greenlee.

12 We have six bills to be heard
13 today. We're going to take them in a
14 different order than is on the Calendar,
15 because we understand actually the first
16 bill listed on the Calendar, Bill No.
17 100546, will have some testimony, and
18 we'll save that to the end. We'll get
19 the other five out of the way as quickly
20 as we can. They're non-controversial
21 bills.

22 So with that, I would ask
23 Mr. McMonagle to read the title of the
24 first bill to be heard.

25 THE CLERK: Bill No. 100545, an

1 10/20/10 - STREETS - BILL 100545, ETC.
2 ordinance authorizing Francisco Hernandez
3 to construct, own and maintain an
4 enclosed set of stairs attached to 657
5 East Allegheny Avenue, Philadelphia,
6 Pennsylvania, that will encroach upon the
7 sidewalk of "F" Street, under certain
8 terms and conditions.

9 (Witness approached witness
10 table.)

11 COUNCILMAN DiCICCO: Good
12 afternoon. Please identify yourself for
13 the record and proceed with your
14 testimony.

15 MS. BRISBON: Good afternoon,
16 Chairman DiCicco and members of the
17 Streets and Services Committee. My name
18 is Michelle Brisbon and I'm a staff
19 engineer with the Department of Streets.
20 I'm here to offer testimony on Bill No.
21 100545.

22 This bill authorizes Francisco
23 Hernandez to construct, own and maintain
24 an encroachment in the form of an
25 enclosed set of stairs attached to 657

1 10/20/10 - STREETS - BILL 100545, ETC.
2 East Allegheny Avenue. The enclosed
3 staircase encroaches approximately four
4 feet, two inches onto the west sidewalk
5 of "F" Street, leaving approximately
6 eight feet, ten inches of clear,
7 unobstructed footway.

8 The Streets Department has
9 reviewed the plans for this project and
10 supports the passage of the bill.

11 COUNCILMAN DiCICCO: Thank you.
12 I just have one question, and this is
13 because I've been working on another
14 encroachment issue for several months,
15 not in my district but for a friend of
16 mine in Darrell Clarke's district.

17 Is there any compensation being
18 required or requested of the owner?

19 MS. BRISBON: No, there isn't.

20 COUNCILMAN DiCICCO: That's all
21 I need to know. Thank you.

22 Any questions for this witness?

23 (No response.)

24 COUNCILMAN DiCICCO: Anyone
25 here to testify for or against this bill?

1 10/20/10 - STREETS - BILL 100545, ETC.

2 (No response.)

3 COUNCILMAN DiCICCO: Seeing
4 none, Mr. McMonagle, please read the
5 title of the next bill.

6 THE CLERK: Bill No. 100551, an
7 ordinance authorizing the Veteran Boxers
8 Association to construct, own and
9 maintain a pedestal with a sculpture of
10 Joey Giardello on the traffic median
11 created by the intersection of Passyunk
12 Avenue, Mifflin Street and Thirteenth
13 Street, under certain terms and
14 conditions.

15 COUNCILMAN DiCICCO: Please
16 proceed.

17 MS. BRISBON: This bill
18 authorizes the Veteran Boxers Association
19 to construct, own and maintain an
20 encroachment in the form of a pedestal
21 with the sculpture of Joey Giardello in
22 the public right-of-way on the traffic
23 median created by the intersection of
24 Passyunk Avenue, Mifflin Street and
25 Thirteenth Street.

1 10/20/10 - STREETS - BILL 100545, ETC.

2 The Streets Department has
3 reviewed the plans for this project and
4 supports the passage of this bill.

5 COUNCILMAN DiCICCO: Thank you.

6 Let the record also reflect
7 that Councilwoman Maria Quinones-Sanchez,
8 who is a member of this Committee, is now
9 in attendance.

10 Any questions?

11 (No response.)

12 COUNCILMAN DiCICCO:

13 Mr. Druding, any testimony?

14 MR. DRUDING: No.

15 COUNCILMAN DiCICCO:

16 Councilwoman Miller.

17 And I think we're going to need
18 you to answer. I have a lot of answers
19 to this question, but I think you're more
20 of the historian to this question.

21 Councilwoman Miller.

22 COUNCILWOMAN MILLER: Thank
23 you.

24 My question is, who is Joey
25 Giardello?

1 10/20/10 - STREETS - BILL 100545, ETC.

2 COUNCILMAN DiCICCO: Who was
3 Joey Giardello.

4 COUNCILWOMAN MILLER: Okay, who
5 was.

6 (Witness approached witness
7 table.)

8 MR. DRUDING: Joey Giardello
9 was --

10 COUNCILMAN DiCICCO: Just
11 identify yourself for the record, please.

12 MR. DRUDING: Fred Druding,
13 Jr., and I'm a member of the Joey
14 Giardello Statue Committee.

15 Joey Giardello was a
16 middleweight world champion from the
17 1960s who resided in Philadelphia. We
18 started this project about two years ago.
19 It's a joint effort with the Veteran
20 Boxers Association, Harrowgate Boxing
21 Club and the website
22 Phillyboxinghistory.com. And as boxers,
23 we love the Rocky statue, but we decided
24 it was time to honor a real-life boxer in
25 Philadelphia because of the history that

1 10/20/10 - STREETS - BILL 100545, ETC.
2 boxers have brought to Philadelphia. So
3 we started with Joey Giardello. We hope
4 it's the first of many.

5 The reason why we're doing it
6 on Passyunk and Mifflin in Councilman
7 DiCicco's district, Joey was from the
8 area, and besides being a boxer, he was
9 just a tremendous not only a neighborhood
10 legend because of his boxing career, just
11 a neighborhood person who was always
12 there to help people. There's an amount
13 of history there. Right down the street
14 from where the statue is going to be, the
15 gym is no longer there, but it's actually
16 the gym that he actually trained out of,
17 helped youth. And we're just very
18 excited to move forward with this
19 project, and Councilman DiCicco has been
20 a tremendous help with that.

21 COUNCILWOMAN MILLER: Okay.
22 Thank you.

23 COUNCILMAN DiCICCO: Just
24 quickly, his record, do you remember? It
25 was 30-some -- all professional fights,

1 10/20/10 - STREETS - BILL 100545, ETC.

2 never had an amateur fight.

3 MR. DRUDING: All professional
4 fights, and it goes to show you in his
5 era how different it was. He had over
6 100 wins. Most professional fighters
7 today, they don't even have 25 fights.
8 He had over 100 wins. And, like I said,
9 he was a champion in and out of the ring,
10 not just what he did in the boxing ring
11 but what he did in the neighborhood as
12 well.

13 So we just think it's a great
14 thing for the City of Philadelphia to
15 honor him. Every local community group
16 is behind this project, in addition to
17 Councilman DiCicco, Councilman Kenney,
18 who is also from South Philadelphia and
19 lives a few blocks away from the statue,
20 is supportive. Senator Larry Farnese,
21 whose district it is as well, has a
22 sponsor for a state grant to help
23 maintain the statue. So we're just very
24 excited and looking forward to moving
25 forward with this project, and it starts

1 10/20/10 - STREETS - BILL 100545, ETC.
2 today.

3 COUNCILWOMAN MILLER: Okay.
4 Great. Thank you. Congratulations.

5 COUNCILMAN DiCICCO: Thank you,
6 Mr. Druding.

7 Any other person who wishes to
8 testify on this bill?

9 (No response.)

10 COUNCILMAN DiCICCO: Any other
11 questions from the Committee?

12 (No response.)

13 COUNCILMAN DiCICCO: Thank you
14 both.

15 Please read the title of the
16 next bill.

17 THE CLERK: Bill No. 100636, an
18 ordinance authorizing Thomas and Arlene
19 Leschak, owners of Epicure Cafe, to
20 construct, own and maintain an open-air
21 sidewalk cafe at 3479 Bowman Street, aka
22 3401 Conrad Street, under certain terms
23 and conditions.

24 MS. BRISBON: Good afternoon,
25 Chairman DiCicco and members of the

1 10/20/10 - STREETS - BILL 100545, ETC.
2 Streets and Services Committee. My name
3 is Michelle Brisbon and I'm a staff
4 engineer with the Department of Streets
5 and I'm here to offer testimony to Bill
6 No. 100636.

7 This bill authorizes Thomas and
8 Arlene Leschak, owners of Epicure Cafe,
9 to construct, own and maintain an
10 encroachment in the form of an open-air
11 cafe on the sidewalk located at 3479
12 Bowman Street.

13 The sidewalk cafe consists of
14 seven tables and 14 chairs encroaching
15 approximately four feet onto the east
16 sidewalk of Conrad Street. This
17 encroachment leaves approximately five
18 feet of clear, unobstructed footway for
19 pedestrian traffic.

20 The Streets Department has
21 reviewed the plans and has no objection
22 to the passage of this bill.

23 COUNCILMAN DiCICCO: Thank you.

24 Let the record also reflect
25 that Councilman Jones, who is a member of

1 10/20/10 - STREETS - BILL 100545, ETC.

2 this Committee, is also present.

3 Are there any questions for
4 this witness from the Committee?

5 (No response.)

6 COUNCILMAN DiCICCO: Anyone
7 else here who wishes to testify for or
8 against this bill?

9 (No response.)

10 COUNCILMAN DiCICCO: Seeing
11 none, please read the title of the next
12 bill.

13 THE CLERK: Bill No. 100652, an
14 ordinance authorizing the Federal Reserve
15 Bank of Philadelphia, located at Ten
16 Independence Mall West, to construct, own
17 and maintain various encroachments in the
18 right-of-way adjacent to the Federal
19 Reserve Bank building on the 6th Street
20 Entry, under certain terms and
21 conditions.

22 MS. BRISBON: This bill
23 authorizes the Federal Reserve Bank of
24 Philadelphia to construct, own and
25 maintain various encroachments in the

1 10/20/10 - STREETS - BILL 100545, ETC.
2 form of bollards in the public
3 right-of-way adjacent to the Federal
4 Research Bank building on the 6th Street
5 Entry.

6 The Streets Department has
7 reviewed the plans for this project and
8 supports the passage of this bill.

9 COUNCILMAN DiCICCO: Thank you.

10 Any questions for this witness
11 from the Committee?

12 (No response.)

13 COUNCILMAN DiCICCO: Anyone
14 else who wishes to testify for or against
15 this bill?

16 (No response.)

17 COUNCILMAN DiCICCO: Seeing
18 none, please read the title of the next
19 bill.

20 THE CLERK: Bill No. 100653, an
21 ordinance authorizing Ashwin Patel, owner
22 and operator of the newsstand located on
23 the southwest corner of Chestnut Street
24 and Tenth Street, to construct, use and
25 maintain conduits in, under and across

1 10/20/10 - STREETS - BILL 100545, ETC.
2 the southwest corner of Chestnut Street
3 and Tenth Street for the purpose of
4 supplying electrical service and
5 telephone service to the newsstand, under
6 certain terms and conditions.

7 MS. BRISBON: This bill
8 authorizes Ashwin Patel, owner and
9 operator of the newsstand located on the
10 southwest corner of Chestnut Street and
11 Tenth Street, to construct, use and
12 maintain conduits in, under and across
13 the southwest corner of Chestnut Street
14 and Tenth Street for the purpose of
15 supplying electrical service and
16 telephone service to the newsstand.

17 The Streets Department has
18 reviewed the plans for this project and
19 supports the passage of this bill.

20 COUNCILMAN DiCICCO: Thank you.

21 Any questions for this witness
22 from the Committee?

23 (No response.)

24 COUNCILMAN DiCICCO: Anyone
25 else here who wishes to testify for or

1 10/20/10 - STREETS - BILL 100545, ETC.
2 against this bill?

3 (No response.)

4 COUNCILMAN DiCICCO: Seeing
5 none, Mr. McMonagle, please read the
6 title of the next bill.

7 THE CLERK: Bill No. 100546, an
8 ordinance repealing Bill No. 090741,
9 entitled "An ordinance authorizing the
10 revision of lines and grades on a portion
11 of City Plan No. 296, in the area laying
12 northwest of Shawmont Avenue and
13 southwest of Eva Street, by striking from
14 the City Plan and abandoning a portion of
15 a right-of-way for sewers and placing on
16 the City Plan, in an alternate location
17 within the same area, a right-of-way for
18 drainage purposes and for water main
19 purposes and authorizing acceptance of
20 the grant to the City of the said
21 right-of-way being placed, under certain
22 terms and conditions."

23 (Witnesses approached witness
24 table.)

25 COUNCILMAN DiCICCO: Good

1 10/20/10 - STREETS - BILL 100545, ETC.
2 afternoon.

3 MR. MORELLI: Good afternoon,
4 Mr. Chairman and members of the
5 Committee. My name is Frank Morelli,
6 Survey Bureau Manager for the Department
7 of Streets, and the Department of Streets
8 would like to offer the following
9 testimony on Bill No. 100546.

10 This is a councilmanic
11 ordinance introduced by Councilman Curtis
12 Jones, Jr. The purpose of this ordinance
13 is to repeal an ordinance, Bill No.
14 090741, approved January 13, 2010. Bill
15 No. 090741 authorized the striking from
16 the City Plan and abandoning of a portion
17 of a right-of-way for sewers and placing
18 on the City Plan a right-of-way for
19 drainage purposes and water main purposes
20 in an alternate location within the same
21 area. The purpose of this proposed
22 action is to clear land area and allow
23 extension of a public sewer and water
24 services, thereby facilitating the
25 construction of a proposed development

1 10/20/10 - STREETS - BILL 100545, ETC.
2 consisting of eight market-rate
3 townhomes. If approved, Bill No. 100546
4 will repeal the authorization contained
5 in Bill No. 090741. Bill No. 090741 was
6 forwarded for introduction by the Streets
7 Department at the request of a private
8 party. The proposed repeal of Bill No.
9 090741 would have no harm to the Streets
10 Department with respect to the City Plan.
11 Therefore, the Streets Department has no
12 opinion regarding Bill No. 100546 and
13 takes no position regarding its passage.

14 MR. ERICKSON: Good afternoon,
15 Chairman DiCicco and members of the
16 Streets and Service Committee. I am
17 William Erickson, a City Planner with the
18 Development Planning Division of the
19 Philadelphia City Planning Commission. I
20 am here to testify on Bill No. 100546,
21 which was introduced by Councilman Jones
22 on September 16th, 2010.

23 This bill repeals Bill No.
24 090741, which was passed by City Council
25 on December 17th, 2009. That bill

1 10/20/10 - STREETS - BILL 100545, ETC.
2 authorized the revisions, moving, of an
3 existing right-of-way for drainage and
4 water main purposes in the Blair Meadows
5 development located at 186 Shawmont
6 Avenue. The purpose of Bill No. 100546
7 is to stop the relocation of the drainage
8 right-of-way.

9 Bill No. 090741 allowed for the
10 completion of the Blair Meadows Phase II,
11 which contains eight single-family
12 dwelling units. The development was
13 originally approved in 1987 and later
14 amended in 1990.

15 The Planning Commission
16 reviewed this action at its meeting on
17 October 19th, 2010 and recommends
18 disapproval of this bill because this
19 action is not consistent with the
20 approved RC-6 Master Plan for Blair
21 Meadows, thus we do not support this
22 bill.

23 This concludes my testimony. I
24 appreciate the opportunity to appear
25 before you.

1 10/20/10 - STREETS - BILL 100545, ETC.

2 COUNCILMAN DiCICCO: Thank you,
3 gentlemen.

4 Any questions for these two
5 witnesses from the Committee?

6 Councilman Jones.

7 COUNCILMAN JONES: Thank you,
8 Streets Department, for not having an
9 opinion about a district that I care
10 deeply about.

11 Planning Commission, thank you
12 for doing your due diligence, as you see
13 it. But let me clearly say that I had an
14 opportunity to go into that area. I had
15 an opportunity to visit with the
16 residents. I had the misfortune over the
17 last couple of weeks of seeing 12 feet of
18 water, 12 feet of water come down a
19 pathway into people's homes in that area,
20 to have to be evacuated from that area to
21 live for a time in Roxborough High
22 School.

23 So I understand clearly what
24 the implications of this decision is on
25 my district. So, respectfully, we

1 10/20/10 - STREETS - BILL 100545, ETC.

2 disagree.

3 MR. ERICKSON: Thank you,

4 Councilman.

5 COUNCILMAN DiCICCO: Any other

6 questions?

7 Councilman Green.

8 (Applause.)

9 COUNCILMAN GREEN: For the

10 Streets Department, did you do an

11 analysis of whether or not the runoff

12 will be different under either scenario,

13 and is there any plan to do any actual

14 streets work with respect to the

15 right-of-way in its current location or,

16 if the bill is repealed, its old

17 location?

18 MR. MORELLI: Councilman, the

19 role of the Streets Department in placing

20 rights-of-way on the City Plan is -- it's

21 the Water Department right-of-way, and

22 they do the analysis. If they're in

23 favor of it, it's supported by the

24 Department of Streets to place those

25 lines on the City Plan. The role of the

1 10/20/10 - STREETS - BILL 100545, ETC.
2 City Plan process is to show where the
3 location of rights-of-way are and put
4 people on public notice as to its
5 location. We don't do any analysis of
6 that. It's up to the department that's
7 requesting it. In this case, it would be
8 the Water Department.

9 COUNCILMAN GREEN: And so what
10 is the Water Department's position?
11 Obviously they approve the move. Have
12 they taken a position on moving it back?

13 MR. MORELLI: I spoke with the
14 Water Department this week, and they said
15 they require a 50-foot right-of-way.
16 They had no opinion to the location, if
17 it was moved in either direction. All
18 they wanted is to retain the 50-foot-wide
19 right-of-way through that area.

20 COUNCILMAN GREEN: And with
21 respect to avoiding runoff, is 50 feet
22 sufficient no matter where it is?

23 MR. MORELLI: The Water
24 Department feels it is.

25 COUNCILMAN GREEN: The Water

1 10/20/10 - STREETS - BILL 100545, ETC.

2 Department feels that no matter where
3 this right-of-way is, it's sufficient,
4 but so I also understand, permits have
5 been issued for a retainage pond on the
6 property through the Streets Department?

7 MR. MORELLI: Not through the
8 Streets Department. That would be
9 through the Water Department.

10 COUNCILMAN GREEN: Okay. So if
11 the Water Department can avoid runoff
12 either way and we are moving the
13 property -- moving the right-of-way from
14 one side to the other, aren't we really
15 just taking private property and
16 preventing a useful development of the
17 land? And has the Law Department or the
18 City formed an opinion about whether or
19 not this would be a taking that would
20 cost the City hundreds of thousands of
21 dollars as a result of this change?

22 MR. MORELLI: It wouldn't be a
23 taking. The owner of the property would
24 have to give a grant to the City granting
25 the rights for an easement for those

1 10/20/10 - STREETS - BILL 100545, ETC.
2 purposes.

3 COUNCILMAN GREEN: But there's
4 regulatory takings, which basically means
5 that if we pass a regulation that
6 prevents an economic use of the property,
7 that we then have to pay the property
8 owner.

9 MR. MORELLI: I think the Law
10 Department would have to answer that
11 question.

12 COUNCILMAN GREEN: So we
13 haven't looked into that?

14 MR. MORELLI: Not at the
15 Streets Department, no.

16 COUNCILMAN GREEN: With respect
17 to the Planning Commission, can you
18 explain a little more of the rationale of
19 your disapproval?

20 MR. ERICKSON: Well, the
21 rationale for our disapproval is that
22 originally this was -- in 1987 there was
23 a rezoning to RC-6, which is a master
24 plan development, and that was approved
25 at our Commission. And at the time, it

1 10/20/10 - STREETS - BILL 100545, ETC.
2 was controversial, a 4-3 decision, to
3 approve this master plan. And as part of
4 that development proposal, this drainage
5 right-of-way was to be relocated as part
6 of this master plan. So it was clearly
7 identified as to be relocated.

8 Later on, in 1990, it came back
9 for revision. This revised the driveway,
10 but the master plan shows the eight
11 units, shows four of the units in the
12 right-of-way, and for then to build it,
13 they had to relocate it.

14 The Planning Commission's
15 position was is that the developer
16 originally had approval in '87 showing
17 all the -- all 14 units. This was always
18 part of the plan, and that we just
19 couldn't see enough to sit there and say,
20 No, we'll go with the repeal and you
21 cannot if we -- if the repeal goes
22 through, he wouldn't be able to build
23 four of the units because they're located
24 within the right-of-way.

25 COUNCILMAN GREEN: So it's a

1 10/20/10 - STREETS - BILL 100545, ETC.
2 regulatory taking, essentially.

3 MR. ERICKSON: Well, that would
4 be the Law Department would have to
5 answer that question, but the Planning
6 Commission felt that because of the
7 previous approvals, that's the reason why
8 we went with the --

9 COUNCILMAN GREEN: So is this
10 about preventing -- I mean, is there a
11 plan for the Streets Department to work
12 on runoff no matter where the
13 right-of-way is? Is this about
14 preventing runoff or about preventing
15 development? That's what I'm trying to
16 understand.

17 MR. ERICKSON: The issue of
18 runoff is an issue that was clearly
19 presented by the neighbors that came to
20 the meeting. They have some serious
21 issues there. They've indicated to us
22 that they have serious issues there. But
23 the issue there is, is that they're
24 worried that this new development will
25 exacerbate the problem, create a bigger

1 10/20/10 - STREETS - BILL 100545, ETC.
2 problem by putting additional impervious
3 coverage there. However, since the 1987
4 plan was approved, the Water Department
5 has a lot more stringent regulations in
6 effect and that this relocation would
7 have to go through the Water Department's
8 review for all the new standards that are
9 out there. There's a lot stricter
10 standards now for storm water runoff
11 because of problems like storm water
12 runoff in uncontrolled development.

13 COUNCILMAN GREEN: Okay. I
14 understand better. Thank you.

15 COUNCILMAN DiCICCO: Councilman
16 Jones.

17 COUNCILMAN JONES: To your
18 knowledge, since '87 how many change of
19 ownerships have there been?

20 MR. ERICKSON: I have no idea.

21 COUNCILMAN JONES: You wouldn't
22 know that?

23 MR. ERICKSON: No, I don't.

24 COUNCILMAN JONES: All right.
25 I'll save that further question if

1 10/20/10 - STREETS - BILL 100545, ETC.
2 there's further testimony. But to my
3 understanding, there's been several
4 changes of ownership, and as a result of
5 that, we also know now, which we did not
6 know in '87, about the wildlife
7 considerations and the fact that that is
8 a pathway for migration of birds and that
9 this development changes that in a way.
10 And then also we did not know then some
11 of the problems that these kinds of
12 developments do cause by way of extreme
13 rainwater runoff. Of course, you've
14 adjusted to deal with that, but the
15 original decision did not have those
16 kinds of considerations in mind. And
17 I've walked down there, and I've seen
18 what people have to go through. I've
19 seen what that rising water does to
20 foundations of homes, and we're very
21 concerned about it.

22 This body today took an
23 unprecedented step right adjacent to that
24 area, which is Manatawna Farms, to
25 preserve that area in its natural habitat

1 10/20/10 - STREETS - BILL 100545, ETC.
2 and its existing condition. This is
3 consistent with that, in my opinion. If
4 we're going to take care of an area, we
5 need to take care of it, and we've
6 determined and the residents determined
7 and even individuals who live in that
8 development have determined that this is
9 a bad thing.

10 Thank you.

11 COUNCILMAN DiCICCO: I think I
12 have some questions, but I'll wait for
13 the attorneys representing the developer.

14 Any other questions for these
15 witnesses?

16 (No response.)

17 COUNCILMAN DiCICCO: Gentlemen,
18 would you mind staying around. Thank
19 you.

20 Is the next panel Carl and the
21 developer, I believe.

22 (Witnesses approached witness
23 table.)

24 MR. PRIMAVERA: Good afternoon,
25 Mr. Chairman, members of the board. Carl

1 10/20/10 - STREETS - BILL 100545, ETC.
2 Primavera. With me immediately to my
3 right is Paul Cantinella, who, along with
4 Michael Karp, is the owner of the
5 property. Darwin Beauvais from my office
6 is making sure everybody has our exhibit
7 packages. We have extras for those who
8 don't have them. To my left is Jack
9 Leapson, who is the project engineer.

10 If I may, this is a long and
11 interesting story, and you'll see in the
12 exhibits which Darwin prepared -- I think
13 it's Exhibit-1 -- it goes back to 1987.
14 And just so you know, this is private
15 property. I think Manatawna Farms is
16 owned by the City, but this is and always
17 has been private property.

18 It was approved for development
19 for 14 townhouses in an RC-6 development.
20 Just so you know, and you probably do
21 know, RC-6 under the Planning Commission
22 and the Zoning Code is for
23 environmentally constrained properties.
24 So if you have a steep slope or a
25 flooding area, they make it RC-6, and

1 10/20/10 - STREETS - BILL 100545, ETC.
2 that's the most stringent that you can
3 be. So everyone's recognized that as far
4 as '87.

5 What happened was, the first
6 six homes were built back then and sold,
7 and over the years, as the Councilman
8 suggested, there have been a series of
9 developers who have not completed Phase
10 II. Well, we all know what happens.
11 Memories fade and people think that the
12 open area is going to be open forever.
13 So the passage of time allowed the people
14 who are in this development, the six
15 homes, to basically treat the entire
16 property like their own.

17 My client, Mr. Cantinella and
18 Mr. Karp, foreclosed on a defaulted
19 developer, brought in Mr. Williams to
20 develop the property, and we went through
21 the process and we said what do we need
22 to do here. Well, they said even though
23 you have zoning permits that go back to
24 1987, we're going to make you meet the
25 standards of 2010. And we all know the

1 10/20/10 - STREETS - BILL 100545, ETC.

2 new Water Department standards, which
3 were imposed by DEP.

4 So with Jack Leapson, with the
5 engineers, the architects, we went
6 through a laborious process and expensive
7 to meet with DEP, the Army Corps of
8 Engineer and Brian Mohl of the Water
9 Department, and they made us jump through
10 hoops that I can't begin to tell you.

11 But what they said was this: The current
12 right-of-way, just so you know, is not
13 infrastructure. It's lines on a piece of
14 paper. It was reserved by the Water
15 Department in the event they were ever
16 going to put it in, but there's nothing
17 there. So that's why the relocation of
18 it next door doesn't mean anything, other
19 than it allows us to build these
20 properties.

21 Now, what we are going to do
22 for the first time, we are going to do
23 the infrastructure that is so woefully
24 lacking on this property. Right now, as
25 you'll see in the photographs and the

1 10/20/10 - STREETS - BILL 100545, ETC.
2 site plan that we've presented, the water
3 comes down and apparently comes down in
4 sheets and it goes downstream. There's
5 no City infrastructure there. There's no
6 water, there's nothing, nothing to detain
7 it, because back when these were
8 developed, these infrastructure
9 requirements were non-existent. So the
10 Water Department said, You have to, in
11 effect, not only take care of your own
12 situation, but you have to improve the
13 situation that exists now.

14 Brian Mohl, at the Councilman's
15 suggestion, and Al Spivey, went to a
16 meeting with the community. Brian Mohl,
17 who is the Deputy Commissioner of Water,
18 said that this will help you, neighbors,
19 because when you hear from Jack, the
20 engineer, there's going to be filtration
21 beds, there's going to be piping.
22 They're going to meet the two-year storm,
23 the ten-year storm, the hundred-year
24 storms.

25 We have letters in our package

1 10/20/10 - STREETS - BILL 100545, ETC.
2 from the DEP, from the Water Department.
3 We even have a notation called a Pindi
4 statement that said there's no risk to
5 any flora, fauna or anything.

6 This has been environmentally
7 scrutinized, and unfortunately -- I would
8 have been the type of person that would
9 have agreed when they said the world is
10 flat, because when I look out, I just see
11 it flat. Science tells us differently.
12 So when people see that they have a water
13 problem, they think that development can
14 only make it worse, but what the Water
15 Department and the Planning Commission
16 and the engineers have been begging
17 people to realize, we're going to make it
18 better, because we're going to spend a
19 fortune for eight homes. Nobody has put
20 the infrastructure in. The City doesn't
21 have the budget to do it. Not only that,
22 it's private property. And we do have a
23 regulatory taking, but why do I want to
24 spend time suing the City?

25 I think that when the Council

1 10/20/10 - STREETS - BILL 100545, ETC.
2 approved the first ordinance and it was
3 signed by the Mayor just a year ago and
4 we relied upon it and spent hundreds of
5 thousands of dollars to do this
6 engineering -- this reminds me of Ron
7 Donatucci when he says, I'll give you a
8 marriage license in invisible ink. You
9 come back from the honeymoon and it's
10 gone.

11 Here we've relied, we've spent
12 hundreds of thousands of dollars, we've
13 worked with every City agency, and now I
14 didn't get notice from the Councilman's
15 office. I found out about it just
16 through looking in the Legal
17 Intelligencer that it's like, oops.

18 I think you did the right thing
19 when you approved the first ordinance. I
20 think that your City agencies did the
21 right thing when they approved it. I
22 think the Mayor did the right thing when
23 he said we need a predictable,
24 transparent, reliable development
25 pattern.

1 10/20/10 - STREETS - BILL 100545, ETC.

2 The Building Industry
3 Association, of which I am a member of
4 the board, has worked tirelessly with
5 this Administration to prevent the
6 gotchas, the surprises.

7 Mr. Cantinella and Mr. Karp are
8 very humble men, but they are the type of
9 people that if they tell the story how
10 they invested all this time and money in
11 reliance of an ordinance and the
12 approvals of all the City agencies and
13 then all the sudden woke up to find that
14 it's been changed so that their property
15 has been de-valued, who would want to
16 develop in the City of Philadelphia?
17 What other things are up the sleeve? Are
18 you going to buy a property for \$10
19 million and they're going to rezone it
20 the next day? Are they going to put a
21 street on, take a street off? I don't
22 think the impact of this to the
23 development community has been factored
24 in.

25 What we would ask,

1 10/20/10 - STREETS - BILL 100545, ETC.

2 respectfully, is to continue to meet with
3 the neighbors. We understand they don't
4 want new homes. They've been living
5 there for 30 years without them, but we
6 believe that having these eight homes --
7 and there are only eight -- on a property
8 that if you see it, it's like living in a
9 park-like setting and it will remain so,
10 will benefit them.

11 They have taxes that are unpaid
12 because they can't afford all the taxes.
13 Having eight more homeowners will allow
14 them to pay the taxes.

15 I don't know if they have
16 insurance, if somebody falls in the
17 common area and gets hurt, they're
18 hunting or they shoot themselves in the
19 leg.

20 So this development should be
21 embraced. They should want neighbors.
22 We're not a city that turns our back on
23 development.

24 The 12 feet of water, I'm sure
25 that was downstream. We're upstream

1 10/20/10 - STREETS - BILL 100545, ETC.
2 here. The people who have problems with
3 flooding, we are sorry for them, but your
4 Water Department, your commissioners and
5 your Planning Commission have made sure
6 that this development will improve the
7 situation. So really, the faster we get
8 this done, the less water is going to be
9 coming down their property. So if we can
10 work together, we can avoid a situation
11 where it's old school, switching the
12 rules, when we've already followed the
13 rules, and for what? So that they can
14 have continual rain dumping on their
15 property? Let's help them, and not at
16 government's expense but at the private
17 developer's expense.

18 Thank you.

19 COUNCILMAN DiCICCO: Before I
20 entertain Councilman Jones, you answered
21 a number of my questions about the cost
22 involved already since this project has
23 been approved, and you also answered, I
24 believe, in your opinion at least, that
25 the development of the eight new houses

1 10/20/10 - STREETS - BILL 100545, ETC.

2 would not exacerbate the problems that
3 already exist today.

4 MR. PRIMAVERA: And we have the
5 engineer who can walk you through at the
6 right time the entire infrastructure.
7 For the benefit of the neighbors, they
8 had an explanation, and then yesterday at
9 the Planning Commission, we went through
10 a very elaborate discussion. You would
11 be amazed at what these requirements are
12 for eight homes. I mean, in the old days
13 we would do 200 units with very little.
14 Today, eight homes, it's like building
15 the Eiffel Tower.

16 COUNCILMAN DiCICCO: I'm sure
17 that when we get to that part of the
18 testimony, we'll all certainly be aware
19 of what is being suggested and how this
20 will be made better. I don't know how we
21 ever can get the folks who live there now
22 and have experienced some of the
23 conditions that Councilman Jones spoke
24 to, convince them that it's going to get
25 better. I mean, it's just one of those

1 10/20/10 - STREETS - BILL 100545, ETC.

2 things, there's the fear of the unknown,
3 regardless of all the expertise that goes
4 into these things. No one really can
5 control Mother Nature, as best we try,
6 but we can't control that. So I'm
7 sensitive to that.

8 The common area, you mentioned
9 there's a common area. Is that area that
10 has not yet been developed? Is there a
11 cost involved to the six houses that are
12 already there, the homeowners?

13 MR. PRIMAVERA: The way this
14 was developed, it was a homeowners
15 association. The first six homes are
16 there and there's what we call a large
17 common area. The common area is
18 everything except where the homes will be
19 built. So even when we build the eight
20 homes, there's going to be a large open
21 area. It also includes the driveway.

22 The open area is how many
23 acres?

24 About two acres.

25 COUNCILMAN DiCICCO: That will

1 10/20/10 - STREETS - BILL 100545, ETC.

2 remain, assuming the eight get built?

3 MR. PRIMAVERA: That will

4 remain. Open space.

5 COUNCILMAN DiCICCO: And is

6 there a maintenance fee as the homeowners

7 association?

8 MR. PRIMAVERA: Well, that's

9 been the problem. The homeowners

10 association has been struggling because

11 the developers have been through

12 bankruptcy, foreclosure. So what we said

13 was, since there are back taxes on your

14 property -- I don't know if they have

15 insurance. I hope to God they do.

16 COUNCILMAN DiCICCO: Let me

17 stop you. When you say "back taxes on

18 your property," meaning the property that

19 is being proposed to be developed on?

20 MR. PRIMAVERA: No; the whole

21 common area that the people currently are

22 responsible for. They filed an appeal

23 with the City. It didn't work. My

24 client said, Look, as a way to help ease

25 the pain, we'll take care of the taxes.

1 10/20/10 - STREETS - BILL 100545, ETC.

2 I think it's \$17,000. We'll write the
3 check. Because why end up fighting in
4 court? Why not make this nice? We're
5 going to take care of the storm water
6 problem. We're going to take care of
7 your back taxes.

8 Right now if you go to sell
9 your property, the six people, they have
10 this open area that's not been provided
11 for with taxes, they have this kind of
12 situation with the storm water, and
13 people are going to say what about Phase
14 II. They're going to say, Well, it can't
15 be built. We're going to say it can be.

16 Why not finish the job? It
17 should have been done in the '80s, I
18 agree. The passage of time has only
19 allowed people to get comfortable with
20 the status quo. But here's what it has
21 done: If these additional eight units
22 had been built in the '80s, they would
23 not have about \$300,000 of
24 infrastructure, not the homes, just all
25 this detention basin and piping to help

1 10/20/10 - STREETS - BILL 100545, ETC.
2 the situation. So the passage of time
3 has allowed the legal requirements for
4 storm water to get to the level that we
5 have now. And you'll see in the reports,
6 the Army Corps of Engineer had to come
7 out, the Department of Environmental
8 Protection from the state, the Water
9 Department. So clearly this is
10 beneficial.

11 We have a right to develop
12 private property. If it was like
13 Manatawna Farm, I would understand, if it
14 was private with the City. But this is a
15 property that has always been scheduled
16 for redevelopment, and we've paid a lot
17 of money and time to get it ready, and
18 we're doing all the right things. We're
19 following the rules. The rules have to
20 mean something, whether it's storm water
21 or planning or zoning.

22 We have a zoning permit in our
23 package. We're ready to get our final
24 water permits. We're ready to get
25 everything we need to start, and that's

1 10/20/10 - STREETS - BILL 100545, ETC.
2 why this bill was introduced, because
3 they realized that we have reached the
4 level of performance that we could
5 satisfy every city, state and federal
6 agency, so the only way to knock us out
7 of the box was to kind of go back on the
8 ordinance that was given. And that, to
9 me, is changing the rules when you've
10 already played the game, and it sends the
11 message that I talked about, that you
12 elect people to be fair and responsible
13 and then all of a sudden something like
14 this -- I know we want to protect
15 constituents and I know we want to do the
16 right thing, but sometimes doing the
17 right thing is telling the constituent we
18 have technical people in our City
19 government and we have rules and
20 regulations, and if you follow those
21 rules and regulations, we all are going
22 to move ahead. But if I do something
23 that's sneaky or underhanded or
24 circumventing the rules, that's going to
25 look bad on everybody. That doesn't make

1 10/20/10 - STREETS - BILL 100545, ETC.

2 us feel good about our government.

3 COUNCILMAN DiCICCO: I just
4 want to go back on the tax issue again,
5 the 17,000 that you spoke in back taxes.
6 Is that assessed against the homeowners
7 association or is it against the
8 individual --

9 MR. PRIMAVERA: It's against
10 the open space, which is part of the
11 association.

12 COUNCILMAN DiCICCO: But if any
13 of the six homeowners were to sell their
14 homes, would that come up as a lien
15 against those properties?

16 MR. PRIMAVERA: Paul is saying
17 he doesn't think it's a lienable item.

18 MR. CANTINELLA: I'm Paul
19 Cantinella.

20 We currently own the eight lots
21 there that are similar to their six lots,
22 and we're paying the taxes, by the way,
23 on a current basis like they are, but the
24 open space of about two acres, plus or
25 minus, is in tax arrears, because the 14

1 10/20/10 - STREETS - BILL 100545, ETC.
2 lot owners haven't come together to pay
3 them.

4 COUNCILMAN DiCICCO: Well, so
5 then it's part of -- the six are also
6 responsible for that area as well. My
7 point is, would not a lien be placed --
8 would they be able to sell their property
9 without having satisfied that lien?

10 MR. CANTINELLA: Those tax
11 delinquencies are not part of the
12 property as far as a lien currently,
13 Councilman. They're on the open space.

14 COUNCILMAN DiCICCO: I'm a
15 little confused on that, because if
16 you're saying that it's part of the
17 association and it's part of the 14 --

18 MR. CANTINELLA: It's something
19 that the City BRT is trying to work
20 through right now, because it's very --

21 COUNCILMAN DiCICCO: Therein
22 lies the answer to my question. All
23 right. I got it now. Now I know why I'm
24 confused.

25 MR. CANTINELLA: But here's

1 10/20/10 - STREETS - BILL 100545, ETC.

2 what's not confusing is, we are paying
3 taxes on eight lots that we have the
4 right to build on.

5 COUNCILMAN DiCICCO: That I
6 understood. I just was curious about the
7 17.

8 MR. PRIMAVERA: And here's
9 another issue. We explained this to the
10 Planning Commission. If you look at the
11 plan, it shows eight new homes. Four of
12 them are not in the right-of-way. So we
13 would say why don't you build the four
14 and call it a day. The problem is, to
15 build the infrastructure that you're
16 going to hear about, we have to put the
17 cost across all the eight. If we build
18 the four without this infrastructure,
19 there would be a problem. The City
20 wouldn't let us build it without the
21 infrastructure. So it's cost
22 prohibitive. So all we're saying and
23 what was done is taking this paper
24 right-of-way with no improvement in it
25 and moving it out of the way. It will

1 10/20/10 - STREETS - BILL 100545, ETC.
2 remain there in case the City ever wants
3 to put in infrastructure. They doubt
4 they ever will, because if you look at
5 what it's like, it's like Fairmount Park.

6 So it's a technical issue that
7 was agreed to back in the '80s by all the
8 City agencies, and now, right when we're
9 ready to start construction, we
10 understand that we could go backwards
11 instead of forward. We just want to make
12 peace with everybody.

13 COUNCILMAN DiCICCO: I get that
14 part of it and I'll come back to that in
15 a few minutes. One final just comment.
16 You mentioned you could build four houses
17 on that piece that's left and still not
18 touch the right-of-way. Maybe another
19 way to skin a cat. Is there any
20 discussion with the current six owners
21 and figuring a way in which you would
22 only build four more as opposed eight but
23 get compensated for your investment by
24 not building the eight and only building
25 four?

1 10/20/10 - STREETS - BILL 100545, ETC.

2 MR. PRIMAVERA: I mean, we're
3 willing to look at anything.

4 COUNCILMAN DiCICCO: But it
5 would obviously be a cost to them, but it
6 also could be, in their minds, maybe an
7 investment in that community as well.

8 MR. PRIMAVERA: Right. There's
9 a term called "intifada," which I think
10 they use in the Middle East, and I think
11 that because certain people have been
12 successful since 1980 in preventing these
13 neighbors from coming onto their
14 property, they developed a taste for the
15 fight, taste for the blood, as they say.
16 So convincing them to do anything has
17 been difficult. The pressure on the
18 Councilman must be excruciating, and I
19 think that's where we are today.

20 COUNCILMAN DiCICCO: Is that
21 where those gray hairs are coming from.

22 Councilman Jones.

23 COUNCILMAN JONES: Thank you
24 very much.

25 I'm so very glad that your law

1 10/20/10 - STREETS - BILL 100545, ETC.
2 firm is here to help the City of
3 Philadelphia and very happy to know
4 you're here really to help the citizens
5 that live in that area, because that's
6 your sole concern, not money, not profit,
7 none of those things, but concerned about
8 our environment, correct?

9 MR. PRIMAVERA: Yes. We want
10 to follow the law. That's what we want
11 to do. We're all about the law.

12 COUNCILMAN JONES: That's what
13 you said. And you also used words like
14 "sneaky" and "transparent." Have you
15 ever given me money? No.

16 MR. PRIMAVERA: Yes.

17 COUNCILMAN JONES: You have?

18 MR. PRIMAVERA: We attended a
19 fundraiser. We raised a lot of money for
20 you.

21 COUNCILMAN JONES: So you
22 attended a fundraiser, right?

23 MR. PRIMAVERA: Pardon me?

24 COUNCILMAN JONES: And I stand
25 against you at this point.

1 10/20/10 - STREETS - BILL 100545, ETC.

2 MR. PRIMAVERA: I know. So it
3 shows that you are willing to go on
4 principle.

5 COUNCILMAN JONES: Yeah. There
6 you go.

7 MR. PRIMAVERA: But I want you
8 to go on law, too.

9 COUNCILMAN JONES: I want to go
10 on law, too, and I have the right to
11 introduce a bill to change the law.

12 MR. PRIMAVERA: Not if it's
13 illegal.

14 COUNCILMAN JONES: If it's
15 illegal, it will be proven in court --

16 MR. PRIMAVERA: And you want
17 the City to expose that?

18 COUNCILMAN JONES: But what
19 is -- here's what's right. Here's what's
20 right.

21 COUNCILMAN DiCICCO: Gentlemen,
22 let's be nice.

23 COUNCILMAN JONES: When I walk
24 down that gully and when I walk into that
25 community and I see how they have to live

1 10/20/10 - STREETS - BILL 100545, ETC.
2 after a storm, that's not right, and
3 that's the principle I stand on. And
4 whether it offends you or surprises you,
5 you shouldn't have been surprised when in
6 June we introduced this bill.

7 MR. PRIMAVERA: And you said
8 you weren't going to run it. You said
9 you were --

10 COUNCILMAN JONES: I said that
11 to you? I told you that?

12 COUNCILMAN DiCICCO: Excuse me.
13 Gentlemen?

14 MR. PRIMAVERA: In September.

15 COUNCILMAN JONES: I told you
16 that?

17 COUNCILMAN DiCICCO: Excuse me.
18 Councilman?

19 COUNCILMAN JONES: I see your
20 representation all the time.

21 COUNCILMAN DiCICCO:
22 Councilman?

23 COUNCILMAN JONES: And we said
24 we were going to introduce it, and when
25 he told me about it and confronted me

1 10/20/10 - STREETS - BILL 100545, ETC.
2 about it, I said unfortunately this is
3 our position. And I don't care who you
4 give to, and matter of fact, let's find
5 out how much you gave me. You can have
6 it back, because I'm going to move this
7 bill.

8 MR. PRIMAVERA: All right. I
9 appreciate that. We're just wanting to
10 act on facts, and that's why there's been
11 so much misinformation. We're not here
12 to act as the City, but we're here to
13 follow the City's rules. We have done
14 everything. We have gone over and beyond
15 the call of duty to create storm water
16 management in the highest levels of
17 performance, because we want to do the
18 right thing and because we want to build
19 in the City of Philadelphia, so you have
20 to do the right thing.

21 We thought that when the
22 original ordinance went through, signed
23 by the Mayor, came out of this, sponsored
24 by you, it had been on the books to be
25 done for 30 years and we finally were

1 10/20/10 - STREETS - BILL 100545, ETC.
2 doing it, that it was a good piece of
3 investment and redevelopment. When all
4 the City agencies said it was good and it
5 was the right thing, we expended the
6 money, the time and the energy, and I
7 think that because people are
8 resisting -- sometimes leaders need to
9 teach, and I think we need to teach
10 people that that's why we have these new
11 storm water requirements.

12 We have private property. We
13 want to develop it, and I know it's
14 hurtful to people in the neighborhood,
15 because they say it's another piece of
16 development, it's more progress, we live
17 in a green space area, but these are only
18 eight townhouses.

19 COUNCILMAN JONES: One person's
20 progress is another person's flood.
21 Okay. I've been in that --

22 (Applause.)

23 COUNCILMAN JONES: --
24 development. I see how a fire engine
25 would have to travel to get to the back

1 10/20/10 - STREETS - BILL 100545, ETC.
2 portion of your area. It's not feasible.
3 They couldn't turn around. They couldn't
4 do those kinds of safety things for the
5 people who live in that area.

6 So for you to insinuate that
7 somehow this is like a surprise to you,
8 then -- your people have been here.
9 They've been in discussion with us. We
10 said -- the first thing we advised you to
11 do was talk to the community. And we
12 listened to them. We've heard their
13 concerns, and we are taking appropriate
14 action.

15 MR. PRIMAVERA: We met, at your
16 suggestion, many times with the community
17 at this development. We brought all the
18 City people that told them repeatedly
19 this is the right thing by the City, the
20 right thing by development.

21 You sponsored the ordinance.
22 You were the one that made this happen,
23 because you believed in your heart it was
24 the right thing.

25 COUNCILMAN JONES: No.

1 10/20/10 - STREETS - BILL 100545, ETC.

2 MR. PRIMAVERA: You're only now
3 doing this because you're getting
4 pressure. I feel for you, but you have
5 to lead.

6 COUNCILMAN JONES: You don't
7 have to feel for me. Here's what the
8 leadership is: When you listen to
9 people, you keep an open mind, and when
10 you get different information, you adjust
11 to that. And I heard those people loud
12 and clear. I went into their backyards,
13 saw their floods. I saw what happens to
14 their homes, and I'm going to do
15 something about it.

16 MR. PRIMAVERA: Did you talk to
17 the Water Department, the engineers? You
18 pay a lot of money to the City for
19 expertise and instead -- you're not an
20 engineer, Councilman, and the City has
21 laws and regulations, the state, the
22 federal government. If every
23 Councilperson decided that they're going
24 to become the best determinant of a
25 regulatory scheme, you're going to say,

1 10/20/10 - STREETS - BILL 100545, ETC.

2 Oh, well, this neighbor says the building
3 is too tall, forget the Planning
4 Commission. This neighbor says we don't
5 need a sewer. Forget the sewer.

6 The Water Department here has
7 jurisdiction. They've said that this is
8 the right thing to do.

9 COUNCILMAN JONES: What we have
10 jurisdiction over is to introduce a bill
11 that changes things. Now, you do have a
12 right to hire an engineer, which you have
13 in your employ, but he is not a Water
14 Department employee, and don't try to
15 convince this body that he is. He works
16 for you.

17 MR. PRIMAVERA: But you have a
18 thousand engineers -- you have hundreds
19 of engineers in the Water Department.
20 Talk to them. Have them testify. Have
21 them come in and talk to you. Have Brian
22 Mohl talk to you. They will tell you
23 that this is -- the same thing that they
24 told the neighbors. The neighbors booed
25 them out.

1 10/20/10 - STREETS - BILL 100545, ETC.

2 They had the unlikely
3 opportunity to meet with the neighbors
4 and say this is going to help. These new
5 environmental controls are expensive and
6 very productive. This is what you've
7 been waiting for to happen, and they
8 booed them out. And I'm just saying that
9 let the people who have the expertise.

10 You can -- like I said, you can
11 look and say the world is flat because it
12 looks flat. You could go and see where
13 there's been flooding. You don't know
14 unless you're an engineer whether or
15 not --

16 COUNCILMAN JONES: Here's what
17 I do know without being an engineer, you
18 mentioned upstream and downstream, that
19 what happens upstream affects downstream.
20 It doesn't take an engineer to know and
21 see that after a rain event. And I know
22 you don't live in that area. You won't
23 have to --

24 MR. PRIMAVERA: I do.

25 COUNCILMAN JONES: You won't

1 10/20/10 - STREETS - BILL 100545, ETC.
2 have to live on that complex. You won't
3 live downstream. You won't be impacted
4 by this. And these people will. And so
5 if I have to err on the side of
6 judgment -- it won't be an engineer that
7 lives in the high ground. It will be
8 those people who have to deal with it
9 every day.

10 MR. PRIMAVERA: If you don't
11 trust the City's regulatory agencies,
12 where are you?

13 COUNCILMAN DiCICCO: I have a
14 question about that. Has the Water
15 Department -- and there's no one from the
16 Water Department here, I guess, who could
17 answer it. Have they made a
18 determination to do anything to mitigate
19 the existing problems as relates to
20 flooding?

21 MR. PRIMAVERA: Yes. What
22 they've done is, they've said --

23 COUNCILMAN DiCICCO: Aside from
24 the development, if there was no
25 development.

1 10/20/10 - STREETS - BILL 100545, ETC.

2 MR. PRIMAVERA: No. They have
3 nothing to say or do. So if we go away,
4 it's going to be left the way it is.

5 COUNCILMAN DiCICCO: If there's
6 no development, the situation as it
7 exists today will continue?

8 MR. PRIMAVERA: Yes.

9 COUNCILMAN DiCICCO: They have
10 no reason to do anything to mitigate the
11 flooding.

12 MR. PRIMAVERA: They won't
13 spend two cents. It's only a few homes.

14 The other thing is, this
15 condition, although problematic, exists
16 in a lot of places. So if we're going to
17 have development and we need development,
18 we need the jobs, we need the taxes, then
19 it has to be sustainable development.

20 That's what this is all about. We can't
21 stop development, but we can make
22 development right. We can take care of
23 the problems of the past.

24 COUNCILMAN DiCICCO: I hear
25 you. I mean, we've made adjustments to

1 10/20/10 - STREETS - BILL 100545, ETC.
2 building standards where you now have to
3 have retention basins and other things
4 when the building is over so many square
5 feet. We've come a long way in that
6 area. I guess for me, my only concern
7 is -- and I certainly want to respect the
8 desire of the District Councilman -- is
9 that there's been, as you said, an
10 extreme amount of expenses on behalf of
11 your client, and I expect it will
12 continue to be costly to your client. Is
13 the --

14 MR. PRIMAVERA: And we're
15 paying the taxes, we're paying --

16 COUNCILMAN DiCICCO: Is the
17 City going to be exposed as a result of
18 the actions we have taken in the past?
19 That's my only big concern.

20 MR. PRIMAVERA: I have two
21 positions on that.

22 COUNCILMAN DiCICCO: Which
23 leads me to suggest -- and we can talk a
24 little bit more about it -- maybe we
25 don't vote on this bill, but we get all

1 10/20/10 - STREETS - BILL 100545, ETC.
2 the testimony, continue to talk about
3 that. But I'll leave that up to the
4 sponsor of the bill.

5 MR. PRIMAVERA: What I would
6 do -- and I suggest this -- one, if you
7 want to hear from the engineer, and, two,
8 more importantly, because it seems like
9 there's some skepticism, the City has, I
10 think, very competent people in your
11 employ, in the engineering and Water
12 Department, the head of the Planning
13 Commission. Let's get this right. Let's
14 not guess. Because I agree with the
15 Councilman, we don't want to flip a coin.
16 We think we've already done Herculean
17 tasks to do this and to get everybody on
18 board, but why not talk to them.

19 We have permits. We could sue
20 to say you have to give us the permits or
21 we could sue for a condemnation. I don't
22 want to sue. We want to build. We want
23 to make this situation into something
24 good. I don't want the City of
25 Philadelphia to be in a situation where

1 10/20/10 - STREETS - BILL 100545, ETC.
2 we invest time, money and find out that
3 the rules change. I mean, this is not
4 public property. This is property that
5 my client has a mortgage on, he's paying
6 taxes, he's paying insurance. He
7 shouldn't build on it, Councilman, ever?
8 He can't build --

9 COUNCILMAN JONES: Are you
10 asking me a question?

11 MR. PRIMAVERA: Sure. What's
12 he supposed to do?

13 COUNCILMAN JONES: Is that a
14 question to me? Let me say this to you:
15 You are doing a great job of zealously
16 representing your client. I'm going to
17 do a great job of zealously representing
18 mine. And we differ and we disagree, and
19 I'll tell you what, I won't say bad
20 things about your law firm and who you
21 support and your motivations for
22 representing them, but don't give
23 indications that I don't care about what
24 happens to those people, because I do.

25 What I want you to understand,

1 10/20/10 - STREETS - BILL 100545, ETC.

2 what I want you to understand is that I
3 listened to them and I paid attention to
4 their concerns, and we changed a
5 direction.

6 Do I want you to sue the City
7 of Philadelphia? No. As a responsible
8 steward, I don't want you to do that.
9 But I'm not going to make a public policy
10 decision based on whether or not you will
11 sue.

12 Everyone at this table has
13 taken a principle position at some time
14 to do what is right, irrespective of what
15 the risk by way of suits were, based on
16 representing their people, and I choose
17 to do that today.

18 MR. CANTINELLA: Councilman --

19 (Applause.)

20 MR. CANTINELLA: You're
21 listening to the neighbors, but they
22 don't have the facts.

23 COUNCILMAN DiCICCO: Excuse me.
24 Identify yourself for the record.

25 MR. CANTINELLA: I'm Paul

1 10/20/10 - STREETS - BILL 100545, ETC.
2 Cantinella, the owner of the property.
3 And we've been paying the real estate
4 taxes on these eight lots for a number of
5 years, even the back taxes when we had to
6 foreclose on the property. And I
7 appreciate where you're coming from. If
8 you go out there and just look at it,
9 physically you could see the drainage
10 situations that are out there, but the
11 part that we're not really dealing with
12 here is the fact that we're improving the
13 situation. And they're taking the
14 position because they don't want any
15 construction, nails and hammers and
16 neighbors, that the storm water is going
17 to destroy the neighborhood. That's just
18 not true. That's not true. Whether we
19 build or not, we are not going to
20 increase the flow of water. We're going
21 to improve it. And the Army Corps of
22 Engineers, DEP and the Philadelphia Water
23 Department has made us go through a lot
24 of hoops to prove that to them, and we
25 have.

1 10/20/10 - STREETS - BILL 100545, ETC.

2 So after we had the ordinance
3 signed and we have all the permits
4 basically in place to move forward, then
5 we say that we don't believe you. I
6 don't -- how can we do financing in the
7 City of Philadelphia? I have a thousand
8 units under construction in the City.

9 COUNCILMAN JONES: And I don't
10 want you to leave the City. I want you
11 to take care of the thousand. You can do
12 without the eight.

13 (Applause.)

14 COUNCILMAN GREEN:
15 Mr. Chairman?

16 COUNCILMAN DiCICCO: Councilman
17 Green.

18 COUNCILMAN GREEN: Thank you,
19 Mr. Chairman.

20 I just have a simple question,
21 because I'm about to be forced to leave
22 this meeting because I have an
23 appointment at 4:00 that I have to get
24 to, and so I'm going to have to ask the
25 Chairman to go into a public meeting, out

1 10/20/10 - STREETS - BILL 100545, ETC.
2 of the hearing, allow me to vote right
3 now against this so that I can leave and
4 my vote will be recorded.

5 So my question is, is there a
6 way -- have you sat down with the
7 neighbors? Is there any hope of working
8 out something that will satisfy the
9 people who will be the neighbors of
10 people who would move into four or eight
11 townhomes?

12 MR. PRIMAVERA: Yes, there is.

13 COUNCILMAN GREEN: Are you
14 willing to sit down again? Are you
15 willing to meet them on their site? Have
16 you met them on their site?

17 MR. PRIMAVERA: Yes, all of the
18 above. When we first spoke to the
19 Councilman, he said, We want you to meet
20 with the neighbors, hear them, educate
21 them and address their concerns. We
22 spent two years doing that, various
23 meetings at the property. We brought
24 City officials. They have taken the
25 position first we don't want people

1 10/20/10 - STREETS - BILL 100545, ETC.
2 coming down our street, the new
3 neighbors, then we don't want new
4 development, then the water. The water
5 came late in the day, and that's where
6 they got some traction, I guess. So it's
7 been every excuse in the world.

8 But we're willing to sit down.
9 We're willing to pay the back taxes.
10 We're willing to help them moving
11 forward. This is their development.
12 It's a homeowners association. We're
13 willing to meet and do anything.

14 We don't want to confront the
15 Councilman. We don't want to confront
16 the neighbors. We have other business in
17 this city. We're willing to sit down and
18 do everything humanly possible, but what
19 we can't do is what we're being suggested
20 to do, which is walk away and have
21 private property. Is the City going to
22 make us pay taxes for the next 20 years
23 on property that we can't build?

24 So we would love to meet. We
25 would love to sit -- I would like to

1 10/20/10 - STREETS - BILL 100545, ETC.
2 think that maybe somebody can be a
3 mediator, because we've had an attempt
4 before to reach resolution. Maybe
5 there's somebody who the parties can have
6 to mediate this, because I believe that
7 there's got to be a difference between
8 where we are now and where we should be,
9 which is where we should be is a
10 community that was developed in the '80s,
11 completed, and everybody moves forward
12 following the rule of law.

13 COUNCILMAN GREEN:

14 Mr. Chairman?

15 COUNCILMAN DiCICCO: Yes.

16 COUNCILMAN GREEN: I don't want
17 to take a vote, frankly, without having
18 heard from the community, and I'm not
19 going to be able to stay for that. And
20 this is obviously a very highly charged
21 issue on both sides. You know, I guess I
22 liked your suggestion of a cooling off
23 period while we look at this. So I'm
24 not -- that's all I have to say.
25 Unfortunately, I have to go, and I hope

1 10/20/10 - STREETS - BILL 100545, ETC.

2 that this can be worked out in some way.

3 COUNCILMAN DiCICCO: Okay. But
4 as concerns the suggestion I made earlier
5 about a continuance, that would have to
6 come obviously from the sponsor, but I
7 think what we would need to do is get all
8 this testimony for the record. I guess
9 for me the only concern is that at the
10 end of the day, whether the bill passes
11 or not, but assuming it doesn't pass and
12 there is litigation, it's going to be
13 very expensive for a lot of parties and a
14 lot of people, and I don't know what the
15 end result of that will be. I went
16 through that with casinos, 18 cases in
17 front of the Supreme Court and lost every
18 one of them.

19 MR. PRIMAVERA: The other
20 thing, Mr. Chairman, if there is
21 litigation, unfortunately we'll have to
22 involve the homeowners, and that would be
23 so expensive for them. And, again, I
24 don't want them to spend their good
25 money --

1 10/20/10 - STREETS - BILL 100545, ETC.

2 COUNCILMAN DiCICCO: Carl,
3 that's where I was going. That's going
4 to be --

5 MR. PRIMAVERA: That is hurtful
6 to them, because --

7 COUNCILMAN DiCICCO: We have a
8 fiduciary responsibility. We're stewards
9 of the taxpayers' money. As Councilman
10 Jones says, he doesn't want to see the
11 City have to pay for litigation, and I
12 certainly don't want the homeowners to
13 have to do that. It's painful enough.
14 There's still that fear of the unknown, I
15 think, which is really what is driving
16 this concern, that it won't get better,
17 it's going to get worse, and I don't know
18 if any charts or any engineers,
19 discussions and talk about retention and
20 how we're going to make it better is
21 going to satisfy that question in their
22 mind. I don't know if we ever get to
23 that point.

24 COUNCILMAN GREEN:
25 Mr. Chairman, I'm going to have to excuse

1 10/20/10 - STREETS - BILL 100545, ETC.
2 myself. I would like to explain to the
3 neighbors that it is my policy and has
4 been my position that I vote with the
5 Planning Commission, because I believe
6 that they are the experts and I am not.
7 But I will not -- I will reserve
8 judgment. If this comes out, I'll be
9 happy to meet with them and talk with
10 them prior to a vote on the floor and
11 also sit down with the developer.

12 COUNCILMAN DiCICCO: Thank you.

13 COUNCILMAN GREEN: Thank you.

14 COUNCILMAN DiCICCO: Are we
15 ready to go on or do you have something
16 else you want to add?

17 COUNCILMAN JONES: I just want
18 to hear from people that have to leave.

19 COUNCILMAN DiCICCO: Thank you.

20 If you're ready to testify,
21 please come to the witness table,
22 identify yourself for the record and then
23 proceed with your testimony. You decide
24 who wants to go first.

25 (Witnesses approached witness

1 10/20/10 - STREETS - BILL 100545, ETC.

2 table.)

3 MR. CELLINI: My name is David

4 Cellini.

5 COUNCILMAN DiCICCO: Just bring

6 the microphone -- speak into the

7 microphone, please.

8 MR. CELLINI: My name is David

9 Cellini. I have lived on Shawmont Avenue

10 for 25 years. I'm also President of a

11 local civic group in the area.

12 COUNCILMAN DiCICCO: Do you

13 live in one of the six homes,

14 Mr. Cellini?

15 MR. CELLINI: Shawmont.

16 COUNCILMAN DiCICCO: You live

17 in the six homes?

18 MR. CELLINI: No, no, no. I

19 live down the road. I'm sorry.

20 COUNCILMAN DiCICCO: All right.

21 I'm sorry.

22 MS. BARON: My name is Lisa

23 Baron and I do live in one of the homes

24 in Phase I, the first one. I was --

25 myself and my husband were the original

1 10/20/10 - STREETS - BILL 100545, ETC.
2 first buyers of Phase I, 190 Shawmont
3 Avenue. I'm also the Treasurer of the
4 Blair Meadows Homeowners Association.

5 MR. WYPER: My name is Jamie
6 Wyper. I'm a resident in Roxborough and
7 I am the President of the Roxborough
8 Conservancy, which is an organization
9 that watches over this area with great
10 keenness.

11 COUNCILMAN DiCICCO: Again,
12 whoever is going to testify, you decide
13 among yourself who wants to begin. And,
14 again, identify yourself for the record.

15 MR. CELLINI: Again, my name is
16 David Cellini and I'd like to start off
17 by thanking the Councilmembers and for
18 the time to listen to us and hear our
19 concerns on what is occurring here. I
20 also would like to thank the Councilman
21 for introducing the bill, and we all
22 thank you for doing that.

23 We are here to support that
24 bill, and the reasons, we are very
25 concerned about -- the movement of the

1 10/20/10 - STREETS - BILL 100545, ETC.
2 right-of-way a year ago was -- first of
3 all, we were never advised of it being
4 moved. None of the affected private
5 homeowners have been asked to sign off on
6 the bill, nor were we consulted about it.
7 So whenever there's a reference about
8 transparency, I have to be concerned
9 about that, because we were never advised
10 of any of these occurrences here, and I
11 have to address that at this point.

12 We have seen from previous
13 attempts to develop this area increased
14 storm water downstream from these areas,
15 and even without those previous
16 developments, we've been flooded out at
17 least three times over the last five
18 years, and we've lost foundations, we've
19 lost bridges that are going to cost
20 anywhere from \$35,000 and up to replace.
21 One of our neighbors has had to replace
22 her foundation walls. It cost \$140,000.
23 PECO has had to replace two of their
24 bridges in the last five years because of
25 flooding from this stream. The last

1 10/20/10 - STREETS - BILL 100545, ETC.

2 thing we want to see happen is more
3 development next to a stream, which, by
4 the way, according to the current Zoning
5 Code Reform Commission's recommendations,
6 would not be allowed, because this
7 development is right on the stream. It's
8 within -- they have to build retaining
9 walls for the parking lot on the stream.

10 I also want to bring your
11 attention to the fact that they have a
12 very good engineer. Mr. Leapson is
13 probably one of the better engineers in
14 the City, the developer, and I have to
15 thank him for his efforts to do
16 everything possible to resolve this
17 flooding. But we've also seen some of
18 the best engineers in the City address
19 the flooding issues at Green Tree Run, at
20 Hunters Point, and these developments
21 occurred within the last year or two and
22 they flood our area constantly. The
23 amount of water runoff from these
24 developments has cut a ravine down, has
25 flooded our properties, has caused

1 10/20/10 - STREETS - BILL 100545, ETC.
2 property damage.

3 So that is a new development
4 with the best engineers and the City
5 approval, and no one can deny the amount
6 of water that we're impacted with from
7 those developments.

8 Back to Green Tree Run, which
9 is the stream that runs behind our
10 properties, it's a first-order stream.
11 It's one of the most pristine streams in
12 Philadelphia. And by "first order," I
13 mean its headwaters originate in the
14 watershed above us. It's got plenty of
15 good indicator species in it. There's
16 fish in it, there's crayfish in it,
17 there's fresh water shrimp in it. And I
18 don't -- I guess my concern is that any
19 development that occurs right on the
20 stream bank, and it just doesn't make
21 sense to me, why jeopardize all that.

22 Also, I guess most of the
23 systems that are being developed today
24 are up to a hundred-year storms. In the
25 last five years, we've had at least three

1 10/20/10 - STREETS - BILL 100545, ETC.
2 incidences of storms that have been
3 over -- that have dumped over a 100-year
4 amount of water in our valley. So I
5 guess what everybody's pointing out is
6 that because the Water Department has
7 these new stringent regulations, that
8 it's okay for us to still be flooded out
9 and sustain that property damage three or
10 four times every decade.

11 So it cost me thousands of
12 dollars to repair my property. In the
13 last five years, I have had to do it
14 three times and take a lot of time,
15 personal time, and a lot of money, in the
16 thousands of dollars, to repair the
17 damage. My neighbor up the street has a
18 \$35,000 bill to repair her bridge from
19 this flooding, and no one is stepping up
20 to that, and no one is threatening to sue
21 anybody for that. We just don't want
22 more aggravation from this. It's that
23 simple, really.

24 We're not being asked to sign
25 off on this right-of-way. We were never

1 10/20/10 - STREETS - BILL 100545, ETC.

2 asked to move the right-of-way. And when
3 this first came up in 2005, all the
4 adjacent property owners were asked to
5 sign off on the right-of-way, and we're
6 not being asked to be involved at this
7 point, and we don't understand why.

8 I have to say to you, to drive
9 up Shawmont Avenue and watch during a
10 storm the amount of water that's coming
11 down from Hunters Point, Shawmont Glen
12 and Green Tree Run, which were all zoned
13 RC-6 and were built -- maybe not all of
14 them, but they were built with those
15 requirements in mind. So we weren't
16 relieved from flooding at that point, nor
17 were the current regulations protecting
18 us at this point. We're still getting
19 property damage. We still have a problem
20 driving up our street during heavy rains,
21 because there's not enough storm water
22 regulation in our neighborhood. And I
23 guess -- I think the current property
24 owners, as much as anybody else has a
25 right to develop, the current property

1 10/20/10 - STREETS - BILL 100545, ETC.

2 owners have a right to exist without
3 always sustaining property damage from
4 flood waters, and nor do we need to have
5 the risk of an additional development
6 stream side on a steep slope in our
7 neighborhood that could bring more flood
8 waters into our area.

9 I might want -- I want to add
10 that we had the support of all the
11 surrounding civics in Roxborough and the
12 21st Ward, which is the umbrella group in
13 Roxborough.

14 I think one of the things I do
15 want to point out to you is that Jim
16 Thorne from Natural Lands Trust, who is
17 doing some work along the Schuylkill
18 River, has pointed out that Green Tree
19 Run Stream is a rare stream, it's a rare
20 gem for an urban area. Because it's a
21 first-order stream, it has a high base
22 flow. This is something that makes the
23 Water Department proud. They have worked
24 with the homeowners to do backyard buffer
25 programs to maintain and improve the

1 10/20/10 - STREETS - BILL 100545, ETC.
2 quality of water in Green Tree Run
3 Stream.

4 I think that's all I really
5 have to say. I appreciate you listening
6 to me, and thank you for your time.

7 COUNCILMAN DiCICCO: Thank you.

8 Next witness. Identify
9 yourself again, please.

10 MR. WYPER: Jamie Wyper. I'm a
11 35-year resident of Philadelphia. I live
12 in Roxborough. I'm an architect. I have
13 a firm in Center City of 25 people, and I
14 am the President of the Roxborough
15 Conservancy, which is a 501(c)(3)
16 organization formed to protect the
17 character of our area.

18 Do you all have this set of
19 maps?

20 COUNCILMAN DiCICCO: Yes.

21 MR. WYPER: So on the second
22 page, there is the -- it shows the layout
23 of the Upper Roxborough National Historic
24 District, which is in the green shaded
25 area, and it also shows you where Green

1 10/20/10 - STREETS - BILL 100545, ETC.

2 Tree Run is. So, again, the second page
3 is our -- what is now the national Upper
4 Roxborough Historic District.

5 This area is the last remnant
6 of rural Philadelphia, and it is largely
7 untouched since the consolidation of the
8 City and the County in 1854. It is an
9 area distinguished by beautiful farmland,
10 over 90 historic structures, country
11 roads, small streams and valleys, and a
12 very rich and diverse habitat. When
13 people visit this area, they cannot
14 believe they are in one of the great
15 metropolitan centers of the world.

16 Another thing that
17 distinguishes this area is the
18 topography. I have attached the City's
19 steep slope map, which shows, by and
20 large, all of these steep slopes occur in
21 Manayunk and Roxborough and along the
22 Wissahickon Creek. And this is because
23 the broad Atlantic Coastal Plain that
24 starts hundreds of miles off the Atlantic
25 coast and sweeps in across New Jersey,

1 10/20/10 - STREETS - BILL 100545, ETC.
2 meets a different geologic formation in
3 Philadelphia. The first hint of this
4 formation we see at the rocky outcrop on
5 which the Art Museum sits. The sandy
6 soil of the coastal plain gives way to
7 the bedrock of the Piedmont Upland
8 section that continues out to Lancaster
9 and beyond.

10 The Piedmont section is a
11 remnant of a significant mountain range
12 that existed here 450 million years ago,
13 eventually to be eroded down to the more
14 general topography we see now in
15 Roxborough. The erosion exposed the
16 mountain range's bedrock of Wissahickon
17 shifts that has been the building
18 material of choice here for centuries.
19 Over time rivers and creeks work their
20 way through this formation, creating the
21 ridges and valleys and large and small
22 watersheds. In Philadelphia, along Ridge
23 Avenue these express themselves as a
24 series of small creek watersheds leading
25 to the Wissahickon on one side and the

1 10/20/10 - STREETS - BILL 100545, ETC.

2 Schuylkill on the other. This natural
3 process continues today.

4 For 60 to 70 million years,
5 these small perennial creeks carved out
6 the distinctive valleys of Roxborough,
7 but in the last hundred years, we have
8 lost most of them to encapsulation and
9 development. There are three left on the
10 Schuylkill side of Roxborough. Of these
11 three, Green Tree Run is the most
12 natural. This small stream, which is
13 four to six feet wide most of the way
14 down to the Schuylkill, is spring fed and
15 flows all year long. It has quietly
16 flowed this way in its pristine valley
17 for millions of years. It has slowly
18 carved the 80-foot-deep Shawmont Valley
19 that we know today.

20 There are two branches, one
21 that runs along Shawmont Avenue and the
22 other more significant one, the west
23 branch, that runs deep and isolated
24 through Shawmont Valley. Along the west
25 branch, there is no development. It is a

1 10/20/10 - STREETS - BILL 100545, ETC.
2 beautiful and undisturbed space, enclosed
3 by a native forest that is hundreds of
4 years old itself. It is truly unique in
5 Philadelphia.

6 Forty years ago, the City
7 placed a sewer and water right-of-way up
8 the entire length of the west branch.
9 This right-of-way is now enabling this
10 project and certainly others in the
11 future. When there are so many
12 development opportunities in
13 Philadelphia, we don't want to ruin one
14 of the last exquisite pieces of our
15 native past and evidence of our geologic
16 history millions of years in the making
17 for the sake of a few more houses. This
18 is our history, and it's yours.

19 The project in question is a
20 small project, but it portends poorly for
21 our community. It is the first
22 development along the west branch, and it
23 is being built within a few feet of the
24 stream bed. It is being built deep into
25 the green tree valley, and it is being

1 10/20/10 - STREETS - BILL 100545, ETC.
2 built contrary to the Water Department's
3 latest thinking on stream-side
4 protections.

5 The community -- and by that I
6 mean every civic association in the 21st
7 Ward, and it's not just the six
8 homeowners -- would like to see this
9 project go away. This development is a
10 domino that will spur development all the
11 way up the valley.

12 We are at an impasse, brought
13 by two different perspectives on the
14 valley of this land. On one hand we have
15 Mr. Cantinella, who by all accounts is a
16 reputable businessman and who seems to
17 have done everything by the book in
18 pursuing this project. He is pursuing a
19 business interest. For him, the land is
20 an opportunity to make money. It is an
21 entry into the ledger book. It has no
22 history. It has no story. Once the deal
23 is made and the houses are built, he will
24 never think about it again. We will
25 never see him again. For a few thousand

1 10/20/10 - STREETS - BILL 100545, ETC.

2 dollars of profit, another piece of our
3 and your history will disappear from our
4 memories and from the face of this earth.

5 On the other hand, the Upper
6 Roxborough community have fought for
7 decades to preserve this story. It is a
8 beloved and irreplaceable asset. We are
9 its stewards. Yes, we are landowners in
10 the area, but in the longer view, we are
11 just the temporary occupants and stewards
12 of what we own. We raise our families,
13 restore the land for 30 to 40 years and
14 then pass it on to the next generation of
15 Philadelphians to protect. That an area
16 like this exists today where it does
17 testifies to the fierceness of this
18 stewardship.

19 We are here today to help --
20 ask you to help us out. We are
21 tremendously appreciative of Councilman
22 Jones' effort on behalf of the community.
23 He has understood right from the start of
24 his tenure both what an amazing district
25 this is and its value as a regional asset

1 10/20/10 - STREETS - BILL 100545, ETC.

2 for the City and beyond.

3 We have two conflicting but
4 legitimate interests here, and we have a
5 solution proposed today on Bill 100546
6 that honors one side but not the other.
7 Is there a solution that can satisfy
8 Mr. Cantinella's economic interests while
9 at the same time preserving Green Tree
10 Run and its valley in perpetuity? I was
11 wondering if the possibility exists to
12 bring the community, Mr. Cantinella and
13 the City together to work out a way to
14 take Mr. Cantinella out of the project
15 and for the City to work to incorporate
16 the valley into the park system, an idea
17 already in place in the City's Greenworks
18 plan. And if you look at the fourth map
19 in the handout, the opportunities map,
20 you'll see that the Green Tree Run Valley
21 has already been identified as a
22 potential parkland. This would surely
23 avoid the head-butting which will result
24 from the proposal before you.

25 If there is no other way, we

1 10/20/10 - STREETS - BILL 100545, ETC.
2 fully and completely support Bill No.
3 100546. I believe I can say this for the
4 entire 21st Ward.

5 For its introduction, we thank
6 Councilman Jones wholeheartedly, and for
7 your consideration, we thank you as well.

8 COUNCILMAN DiCICCO: I'll get
9 your testimony, because I want to come
10 back to your closing remarks. It goes
11 back to something I alluded to earlier on
12 possibly some sort of compromise, but
13 I'll get back to you.

14 We'll get your testimony,
15 ma'am, and then I'll get into the
16 question.

17 MS. BARON: Thank you,
18 Chairman, Councilman DiCicco. I just
19 wanted to speak -- since Jamie and Dave I
20 believe really spoke to you quite
21 eloquently about the fragile
22 environmental impact that this
23 development will have, I don't need to
24 speak to that anymore. What I would like
25 to speak to is specifically some of the

1 10/20/10 - STREETS - BILL 100545, ETC.

2 items that Mr. Primavera had brought up
3 to you regarding the association itself
4 regarding what he indicated to you, I
5 guess, first about the tax bill.

6 He mentioned without ever -- I
7 don't know -- speaking to us about it,
8 that for some reason we wanted to use the
9 land for ourselves. That's totally
10 untrue. I have lived there for over 20
11 years. I love the development. I knew
12 full well, and they will say to you that
13 I've known full well, when we bought into
14 Phase I that there was a Phase II that
15 was to be built. It was to be built 20
16 years ago. The developer number one,
17 John Flaity (ph) and Mr. Gagliardi, were
18 the two original developers. Mr. Flaity
19 practically lived on the site. He lived
20 at 220 Shawmont Avenue, just above where
21 we are. We saw him every day. Built the
22 homes, built Phase I. Couldn't build
23 Phase II. This man dedicated his life to
24 Blair Meadows. He drove a truck that
25 said "Blair Meadows" on it. I mean, he

1 10/20/10 - STREETS - BILL 100545, ETC.

2 wanted this project built and it became
3 financially impossible for him to do so.
4 We waited and waited. He never built the
5 second phase.

6 We 20 years ago as new buyers
7 came in assuming this was a completely
8 approved plan. As we know now today, it
9 wasn't. Phase II had permits that needed
10 to be put in place, ROWs that needed to
11 be moved. We did not know this. It was
12 never done. It sat dormant all these
13 years.

14 We, of course, have insured the
15 property. We have made the property
16 beautiful. I wish that you could come
17 and see it. If you had -- of course,
18 Councilman Jones has been there, and
19 thank you so much for taking the time to
20 come down and to walk through and to see
21 the beauty and to see how my neighbors
22 downstream have suffered as a result of
23 the erosion that has occurred there.
24 Time changes everything.

25 Mr. Primavera eloquently said

1 10/20/10 - STREETS - BILL 100545, ETC.
2 about the world being flat at one time
3 and everyone believed it. Well, as time
4 went on, you realize, no, it's round. As
5 time has gone on, we realize this is not
6 a good plan. It's a terrible plan. Just
7 because it was approved 20 years ago, I
8 live there, I see it, I see the changes
9 that have occurred.

10 Now, here we are today. There
11 is a tax bill that was mentioned. That
12 tax bill was paid for years by developer
13 number one's -- Mr. Gagliardi passed
14 away. His wife used to pay it. It was a
15 300-and-some dollar bill. The
16 association never paid it because it was
17 for the developer's common ground.

18 2005 when Mr. Flaity and
19 Mrs. Gagliardi sold the premises to
20 Mr. Heuser, he was developer number two.
21 At that time the land was dedicated, not
22 known to us, to Blair Meadows Homeowners
23 Association and thus a tax bill was
24 created. We did not know about this.
25 Developer number two had the tax bill

1 10/20/10 - STREETS - BILL 100545, ETC.

2 sent to his address in Lafayette Hill,
3 Pennsylvania. We had no knowledge until
4 one day last August 2009 someone knocked
5 on my neighbor Sandy's door and
6 someone -- a server from the City to say,
7 You have to pay this \$17,000 tax bill.
8 We immediately contacted -- what's going
9 on with these eight? We don't know. We
10 heard they might have been foreclosed
11 upon. Oh, they were by Mr. Cantinella,
12 developer number three now.

13 We contacted him. We sent him
14 a letter. We said, Mr. Cantinella, we
15 must pay this tax bill. You own eight,
16 we own six. We think it's a combined
17 bill. We don't know. That's the first
18 correspondence we ever had with
19 Mr. Cantinella, the first. I have yet to
20 this day to even meet the man. I know
21 his attorney. I do not know him.

22 He didn't pay his portion, so
23 we filed for a review with the Tax Review
24 Board, which was just last month. We
25 appeared before the Tax Review Board. We

1 10/20/10 - STREETS - BILL 100545, ETC.

2 said, Listen, help us out here. At least
3 since we didn't know this bill existed,
4 help us with the penalties and interest.
5 We don't need him to pay our portion. We
6 want the bill paid.

7 TRW said, We see what's going
8 on here, you need to go to the BRT. You
9 know what this is about, the Bureau --
10 I'm not sure which is which with the BRT.

11 We walked over to the BRT.
12 Larry Shubert from the BRT has taken on
13 the case and has told us that more than
14 likely this bill is the responsibility of
15 the developer, not of us.

16 So that is the history on the
17 tax portion. As far as this Phase II
18 being done, please remember that in 1987
19 a storm water retention basin was not a
20 requirement of the plan. Retaining walls
21 were not requirements of the plan. Now
22 they are, all these years later, and we
23 are going to be forced as an association,
24 the six that are here and the eight that
25 will come on -- now, the eight that will

1 10/20/10 - STREETS - BILL 100545, ETC.
2 come on will hopefully understand the
3 cost. We don't know what those costs are
4 going to be. We have asked -- yes, we've
5 had numerous meetings. We've heard a lot
6 of science, but we haven't heard facts.
7 What is it going to cost to ensure this
8 bridge now? What is it going to cost to
9 maintain the storm water retention
10 system? As Jamie said, these homes are
11 going to build them, they're going to
12 pack up as fast as they can, sell them as
13 fast as they can, go back to Montgomery
14 County, and we are going to be left
15 enduring the cost of something that we
16 had nothing to do with. It's unfair.

17 We're not making any money on
18 this. Mr. Cantinella obviously is. Why
19 else would he be doing this?

20 So I ask you to please -- our
21 Councilman has listened to us and has
22 helped us. We can't afford to hire
23 attorneys to go up against these guys.
24 There are only six homes. We need help
25 somewhere, and we received help from our

1 10/20/10 - STREETS - BILL 100545, ETC.

2 Councilman, and I commend him so much for
3 helping us. It's unfair and it's unjust,
4 as far as I'm concerned.

5 I'm not against the
6 development. I'm against these costs
7 that are being imposed on us.

8 COUNCILMAN DiCICCO: Thank you.
9 Thank you. I have a couple comments. I
10 don't know if my colleagues have any
11 questions, but I just want to get back to
12 an earlier comment I made.

13 I kind of like to think of
14 myself as a compromise person. I
15 generally try to find some middle ground.
16 I'm not always successful.

17 Sir, I didn't get your name.

18 MR. WYPER: Jamie Wyper.

19 COUNCILMAN DiCICCO: Jamie?

20 MR. WYPER: Yeah.

21 COUNCILMAN DiCICCO: You had
22 mentioned in your closing remarks about
23 maybe a little bit of time, maybe there's
24 some opportunity for some compromises
25 here. Again, as I alluded to earlier, I

1 10/20/10 - STREETS - BILL 100545, ETC.
2 know that there's a certain cost
3 obviously involved in development. I
4 don't have the answers to what I'm about
5 to say, but I'm going to make a
6 recommendation to this Committee, and
7 certainly we'll have to yield to the -- I
8 will yield to the desires of the District
9 Councilperson.

10 Maybe there's a compromise here
11 as it relates to doing less than eight
12 units. Certainly the developer will not
13 make as much unless he is able to market
14 a lesser number of homes, using four as
15 an example as opposed to eight, because
16 they could be maybe larger houses. Is
17 there a market for that? I don't know.
18 The developer knows that. These are
19 difficult times in the real estate
20 market, and I understand that.

21 Is there a way in which if a
22 lesser number were developed we can still
23 maintain the existing right-of-way?
24 We're certainly going to build -- which
25 eliminates some of the impervious soil,

1 10/20/10 - STREETS - BILL 100545, ETC.

2 but we can preserve that, and does that
3 add value to the entire development,
4 including the six homes that already
5 exist, by maintaining more open green
6 space? Does that become a marketing
7 tool, not only for the developer, for the
8 existing homeowners in the event that
9 they decide for whatever reason that they
10 want to move, the resale of their houses?

11 I don't have those answers, and
12 I think those are the types of
13 discussions that I think could be
14 beneficial.

15 To the lady's point, no one
16 wants to see anyone go through any
17 litigation, except maybe the lawyers, on
18 either side. But having said that -- and
19 I said this earlier -- I don't want to
20 see that cost have to be borne by the
21 people who live there, who want to
22 protect your quality of life, and you
23 have every reason to. With all the
24 things that I said earlier about the
25 engineers' reports and all that, it

1 10/20/10 - STREETS - BILL 100545, ETC.
2 sounds good on paper, it looks good on
3 paper, but who knows. Maybe it works,
4 maybe it doesn't. Worst-case scenario,
5 it doesn't. Maybe your worst fears come
6 to reality and exacerbates the existing
7 problem.

8 So what I would suggest, with
9 the approval of the sponsor of the bill,
10 is that we would vote this bill out
11 today. We will not do a suspension of
12 rules, which would give all parties an
13 opportunity to talk about maybe some of
14 the things that I've suggested or things
15 that I haven't thought of or anyone else
16 has thought of at this time, and give
17 everybody a little bit more time to talk
18 about what we can do to not only preserve
19 what is there, but maybe allow for some
20 development that could complement the
21 existing situation that is there today.
22 And there's some people who will never
23 move off that point. They just maybe
24 don't want any development. But we have
25 a developer who came in. Yes, he will

1 10/20/10 - STREETS - BILL 100545, ETC.
2 leave after it's developed, unless he
3 decides to live there, but that's not
4 wrong. That's what developers do. And
5 he has a right to make a profit, and we
6 as a city want to see our city grow and
7 we want to bring more residents in and
8 provide good, decent housing for them.
9 So we have to balance that. We as
10 legislators have to balance all those
11 things, with always taking into
12 consideration, as best we can, that
13 priority of the people who already live
14 there, and that's what we try to do, and
15 it's not always easy, again, as we're
16 trying to build the City and make it a
17 more attractive place for people to want
18 to move to and make it a more friendly
19 place for developers to want to invest
20 their money.

21 So I will make that -- I am
22 making that recommendation to the
23 sponsor, and I will yield to his
24 decision, that we vote this bill out
25 today without a suspension. And what

1 10/20/10 - STREETS - BILL 100545, ETC.
2 that means, folks, it won't be put on a
3 fast track. It can sit there for as long
4 as the sponsor of the bill does not call
5 the bill up for a final vote. At some
6 point if we're at an impasse and no other
7 ideas, recommendations, suggestions are
8 acceptable to all parties, I suspect that
9 the sponsor will call the bill up for a
10 vote. If there are some reasonable ways
11 in which we can come up with a compromise
12 that is acceptable to all parties, then
13 the bill would be withdrawn, rewritten in
14 a different form for our consideration
15 again.

16 So, again, that is my
17 recommendation to the sponsor and --

18 MR. WYPER: Could I comment on
19 your --

20 COUNCILMAN DiCICCO: Yes, sir.

21 MR. WYPER: Thank you,
22 Mr. DiCicco, for your conciliatory ways.
23 I think that's beneficial. But I think
24 that subtext from the community here is
25 that they don't want to see any

1 10/20/10 - STREETS - BILL 100545, ETC.
2 development. I think that's pretty clear
3 for a lot of reasons. And if we could
4 draw a line around the historic district,
5 the national historic district there,
6 we'd like to keep it the way it is. But
7 having said that, let me suggest another
8 approach here.

9 This development project is not
10 without risk. I mean, we know that
11 there's going to be significant
12 infrastructure investment that's got to
13 be spread out over only eight units.
14 There's the risk of lawsuits, legal
15 bills, both for the developer and the
16 community and possibly the City. We also
17 know that Fairmount Park is somewhat
18 committed to incorporating another 500
19 acres into the park system. They've
20 already taken approximately 47 acres in
21 the historic district. The Upper
22 Roxborough reservoirs are now part of the
23 park system or will be soon.

24 Our goal as a conservancy is to
25 see this entire Green Tree Valley brought

1 10/20/10 - STREETS - BILL 100545, ETC.
2 into the park system. Maybe -- I don't
3 know. I know the City has no money.
4 Maybe Mr. Cantinella could donate this
5 land to the conservancy and get tax
6 benefits, and for a little more
7 consideration, maybe he could leave the
8 project. Again, this is a project that
9 is not without a significant risk to him.
10 It's a horrible real estate market.

11 We see -- we'd like to pursue
12 that avenue as a solution here.

13 COUNCILMAN DiCICCO: Well,
14 again, I appreciate your comments and
15 recommendations, but those are the kinds
16 of discussions I think need to be had
17 with the developer, the neighbors and
18 your District Councilperson, and that's
19 why I'm suggesting that we can vote the
20 bill out, but not suspend the rules, and
21 give you some time to explore those
22 options. At the end of the day, we may
23 find ourselves right back where we are
24 today, but I think given the fact that it
25 has taken all these years to get finally

1 10/20/10 - STREETS - BILL 100545, ETC.

2 what appears to be a developer who
3 actually is ready to develop -- developer
4 one, developer two, that is all history.
5 He finally looks like he's ready to
6 develop, has pulled permits. I think
7 another couple more weeks might be
8 beneficial to all parties to have that
9 conversation.

10 MR. WYPER: Agreed.

11 COUNCILMAN DiCICCO:

12 Councilman, do you have any --

13 COUNCILMAN JONES: I think -- I
14 want to just say this is the first time
15 I've been in this Chambers where I was
16 actually mad. And so I'd like to vote
17 this out with a favorable recommendation
18 without a suspension of rules so that
19 people have time to get together --
20 calmer heads prevail -- and see what we
21 can come up with.

22 COUNCILMAN DiCICCO: Are there
23 any other comments from members of this
24 Committee before we adjourn this and get
25 into the public meeting?

1 10/20/10 - STREETS - BILL 100545, ETC.

2 (No response.)

3 COUNCILMAN DiCICCO: Anyone
4 else who wishes to testify on this bill
5 for matters that we have not already
6 discussed or heard about?

7 (No response.)

8 COUNCILMAN DiCICCO: Seeing
9 none, this concludes the public hearing.
10 We will now go into the public meeting on
11 the Committee of Streets and Services.

12 Thank you. We're now in the
13 public meeting of the Committee of
14 Streets and Services.

15 COUNCILWOMAN SANCHEZ: Thank
16 you, Chair. I move that Bill 100551,
17 Bill 100636, Bill 100652, Bill 100653,
18 Bill 100545 be moved out of Committee
19 with a favorable recommendation and the
20 rules of Council be suspended to allow
21 first hearing at our next public session.

22 (Duly seconded.)

23 COUNCILMAN DiCICCO: It's been
24 properly moved and seconded that the
25 bills that have just been read into the

1 10/20/10 - STREETS - BILL 100545, ETC.
2 record be reported out of this Committee
3 with a favorable recommendation and also
4 that the rules of Council be suspended.

5 All those in favor?

6 (Aye.)

7 COUNCILMAN DiCICCO: Those
8 opposed?

9 (No response.)

10 COUNCILMAN DiCICCO: The bills
11 pass.

12 Councilwoman Quinones-Sanchez.

13 COUNCILWOMAN SANCHEZ: I move
14 that Bill 100546 be moved out of
15 Committee with a favorable
16 recommendation.

17 (Duly seconded.)

18 COUNCILMAN DiCICCO: It has
19 been properly moved and seconded that
20 Bill No. 100546 be reported out of this
21 Committee with a favorable
22 recommendation.

23 All in favor?

24 (Aye.)

25 COUNCILMAN DiCICCO: Those

1 10/20/10 - STREETS - BILL 100545, ETC.

2 opposed?

3 (No response.)

4 COUNCILMAN DiCICCO: The bill

5 passes.

6 This concludes the public
7 meeting on the Committee of Streets and
8 Services.

9 Thank you all for your
10 attendance. Thank you.

11 (Committee on Streets and
12 Services adjourned at 4:20 p.m.)

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1
2 CERTIFICATE

3 I HEREBY CERTIFY that the
4 proceedings, evidence and objections are
5 contained fully and accurately in the
6 stenographic notes taken by me upon the
7 foregoing matter on October 20, 2010, and that
8 this is a true and correct transcript of same.

9
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11
12
13 -----
14 MICHELE L. MURPHY
15 RPR-Notary Public
16
17
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19

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