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COUNCIL OF THE CITY OF PHILADELPHIA
PUBLIC HEARING AND PUBLIC MEETING
BEFORE THE COUNCIL COMMITTEE ON
LICENSES AND INSPECTIONS

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- - -
Room 400, City Hall
Philadelphia, Pennsylvania
Thursday, December 9, 1999
10:08 a.m.

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BILL 990003 - Amending "Sidewalk Sales" section of
Philadelphia Code to permit owners to conduct
sidewalk sales on Frankford Avenue between Adams
Avenue and Brill Street.

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BILL 990757 - Repealing Section 9-614, entitled
"Home Repair Businesses," and Section 9-1002,
entitled "Roofers," of the Philadelphia Code.

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BILL 990868 - Amending the Philadelphia Code to
clarify that it is illegal to possess fireworks,
except as specifically provided for in conjunction
with the permit.

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PRESENT: COUNCILMAN JAMES F. KENNEY, Chair
COUNCILMAN MICHAEL A. NUTTER
COUNCILWOMAN MARIAN B. TASCO
COUNCILMAN FRANK DICICCO

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1	99 L&I COMMITTEE	
2	I N D E X	
3		Page
4	Bill 990757	
5	Otis Haigler, Jr., Regulatory Affairs Mgr.	4
6	Department of Licenses and Inspections	
7	Bill 990868	
8	Otis Haigler, Jr., Regulatory Affairs Mgr.	10
9	Department of Licenses and Inspections	
10	Rich Bailey, I'm Battalion Chief.	15
11	Fire Department	
12	Captain William Marker.	17
13	Commanding Officer, Philadelphia Police	
14	Department's Bomb Disposal Unit	
15	Bill 990003	
16	Otis Haigler, Jr., Regulatory Affairs Mgr.	19
17	Department of Licenses and Inspections	
18		
19		
20		
21		
22		
23		
24		
25		

1 12/9/99 L&I - BILL 990757

2 P R O C E E D I N G S

3 COUNCIL PRESIDENT Verna: I would like
4 to request that members on the L&I Committee
5 please come to the chambers immediately. Thank
6 you.

7 - - -

8 COUNCILMAN KENNEY: Good morning,
9 ladies and gentlemen. This is the committee on
10 Licenses and Inspections. We have a quorum
11 present to hear testimony on three bills.

12 The first bill is Bill No. 990757,
13 which is an ordinance repealing Section 9-614,
14 entitled "Home Repair Businesses," and Section
15 9-1002, entitled "Roofers," of the Philadelphia
16 Code.

17 Is there anyone here from Licenses and
18 Inspections to testify this morning?

19 (No response.)

20 COUNCILMAN KENNEY: That's not a good
21 sign.

22 COUNCILMAN NUTTER: Otis was here.

23 COUNCILMAN KENNEY: Here he is.

24 (Otis Haigler comes forward.)

25 COUNCILMAN KENNEY: Would you please

1 12/9/99 L&I - BILL 990757

2 identify yourself for the record and proceed with
3 your testimony on Bill No. 990757, which is the
4 home repair bill.

5 Thank you and please proceed.

6 MR. HAIGLER: Good day. Good day,
7 Councilman Kenney and members of the committee. I
8 am Otis Haigler Jr., Legislative and Regulatory
9 Affairs Manager for the Department of Licenses and
10 Inspections. Today, I am here to provide
11 testimony on Bill No. 990757, repealing Sections
12 9-614 and 9-1002 of the Philadelphia Code related
13 to home repair and roofers.

14 The purpose and need for bill is so
15 that the Department can implement the requirements
16 of Bill 980334, which was passed by Council on
17 November 19, 1998 and signed by The mayor on
18 December 15, 1998. Bill 980334 was enacted to
19 regulate all contractors who perform construction,
20 repair, alteration, addition, remodeling,
21 rehabilitation, and/or demolition under one
22 license. The contractors included in the above
23 category include home repair contractors, roofing
24 contractors, general construction contractors, and
25 subcontractors, except those who are licensed

1 12/9/99 L&I - BILL 990757

2 under a specialized trade, such as plumbing,
3 electrical and fire protection system contractors,
4 which require an examination to determine
5 qualifications prior to the issuance of the
6 license.

7 As a point of clarification, it is not
8 the intent of the Department of Licenses and
9 Inspections to deregulate home repair contractors
10 and roofing contractors but to incorporate those
11 disciplines under one license category so as to
12 administratively enforce the requirements of Bill
13 980344.

14 A provision of Bill No. 980344, under
15 Section 9-1004, subsection 2, Subsection b.,
16 Subsection .4, states that the Department is
17 prohibited from issuing the contractor license to
18 a contractor who is already licensed by the
19 Department.

20 The requirements of Bill 980344 do not
21 weaken our regulatory enforcement powers
22 concerning roofing and home repair contractors.
23 To affirm this, I submit for the record testimony
24 I presented on October 21, 1999 before State
25 Attorney General Fisher's Task Force on Consumer

1 12/9/99 L&I - BILL 990757

2 Fraud. During my testimony before the Attorney
3 General and members of the Task Force, I explained
4 the requirements of the contractor's license and
5 indicated that our intentions -- what our
6 intentions are with regard to regulating home
7 repair and roofing contractors under the
8 provisions of Bill No. 980344.

9 In summary, the Department requests
10 that the committee favorably reports Bill No.
11 990757 out of committee and suspend the rules of
12 Council to permit first reading at its next
13 session.

14 Thank you.

15 COUNCILMAN KENNEY: Thank you very much
16 for your testimony.

17 Is it fair to say, Mr. Haigler, that
18 the purpose of this bill is to kind of corral all
19 of the individuals entrepreneur-type home-fixer-
20 uppers to get them under a license so that we kind
21 of know where they're working, that there will be
22 more propensity for them to pull permits and the
23 like, and it makes it easier to have these
24 individuals come in under one generic license as
25 opposed to the hodgepodge of licensing that we had

1 12/9/99 L&I - BILL 990757

2 to do?

3 MR. HAIGLER: That's correct.

4 COUNCILMAN KENNEY: Okay. Are there
5 any questions for Mr. Haigler?

6 Councilmember Tasco?

7 COUNCILWOMAN TASCO: Could you give me
8 an example? A for-instance.

9 MR. HAIGLER: Yes. Well, currently,
10 with the home repair contractor, if a person were
11 to say -- if one of our inspectors were to go out
12 and we were to come across this contractor, he
13 could, in turn, say that he's a general
14 contractor, which is not licensed.

15 So right now, we're hoping to close a
16 lot of the loopholes that we have with the
17 different contractors that we regulate by
18 requiring that all contractors be licensed under
19 one license category. We've captured all license
20 contractors and, in turn, we can enforce the
21 requirements of the code on all of the contractors
22 that we would go out to inspect for the work that
23 they do.

24 COUNCILWOMAN TASCO: Thank you.

25 COUNCILMAN KENNEY: Prior to

1 12/9/99 L&I - BILL 990757

2 Commissioner McLaughlin, I think it was
3 Commissioner Levin who took some heat over sending
4 inspectors into the parking lot of Home Depot to
5 see where people were going with large amounts of
6 Sheetrock and water heaters and the like.
7 Although I -- you know, I think the press kind of
8 ridiculed him about it.

9 I understood very clearly why it was
10 done. Numbers of people come over to the City
11 from outside of the City and inside the City and
12 set themselves up as home repair people. They
13 install water heaters, which deal with gas, they
14 do shoddy work, and they're not licensed and not
15 permitted. And then when the poor resident tries
16 to find out, you know, how they can get some
17 relief from the bad work that was done, there's
18 often, or always, no paper trail as to how to find
19 these people.

20 MR. HAIGLER: Right.

21 COUNCILMAN KENNEY: And it's often
22 senior citizens, it's often people who are poor
23 who pay these unlicensed contractors for the kind
24 of work that they get, and it's a consumer
25 protection issue in addition to a licensing issue.

1 12/9/99 L&I - BILL 990868

2 MR. HAIGLER: That's correct.

3 And I would like to add that during my
4 testimony for the Attorney General, I believe the
5 State will be looking at adopting their own
6 provisions of State regulations, State ordinances
7 to address the same thing that we've been doing
8 here in Philadelphia.

9 COUNCILMAN KENNEY: Okay, great. Thank
10 you very much.

11 Are there any other questions for Mr.
12 Haigler?

13 (No further questions.)

14 COUNCILMAN KENNEY: Seeing none, the
15 next bill is Bill No. 990868, which is an
16 ordinance amending Title 4 of the Philadelphia
17 Code ("The Building Construction and Occupancy
18 Code"), Subcode "F" ("The Philadelphia Fire
19 Prevention Code") by revising Chapter 31, entitled
20 "fireworks," to clarify that it is illegal to
21 possess fireworks, except as specifically provided
22 for in conjunction with the permit.

23 Mr. Haigler, please.

24 MR. HAIGLER: Again, I'm Otis Haigler,
25 Jr., Regulatory and Legislative Affairs Manager

1 12/9/99 L&I - BILL 990868

2 for the Department of Licenses and Inspections.

3 The purpose of this bill is to clarify
4 the requirements of the Fire Prevention Code.
5 Currently, our Fire Prevention Code, under Chapter
6 31, regulates the display, sale, and storage of
7 fireworks in the City of Philadelphia.

8 Under the provisions of the ordinance,
9 Bill No. 990868, we attempt to clarify one
10 requirement that was not mentioned in the current
11 code which deals with possession. The possession
12 issues was not addressed. I would like to offer,
13 as part of my testimony and read into the record,
14 a letter from the District Attorney, District
15 Attorney Lynn Abraham. This letter was sent to
16 Mr. David L Wismer, the director of our Planning
17 Code Development Unit.

18 COUNCILMAN KENNEY: Thank you, go
19 ahead.

20 MR. HAIGLER: And the letter reads as
21 follows:

22 "Dear Mr. Wismer: I am writing to
23 express my concern over the fireworks section of
24 the City Code. The Charging Unit of this office
25 was contacted by the Police Department after some

1 12/9/99 L&I - BILL 990868

2 confusion over what constitutes a fireworks
3 offense pursuant to the City Code. Seemingly,
4 when the former fireworks provision of the City
5 Code was repealed and reorganized in the Fire
6 Prevention Code, the language was changed.

7 "I am sure that this was an oversight,
8 but the effect of the new language is to no longer
9 make it an offense to possess fireworks. The
10 language of Section F-3103.2 of the Fire
11 Prevention Code reads: 'A person shall not
12 manufacture, store, offer, or expose for sale,
13 sell at retail, or discharge any fireworks.
14 Presumably, a person may not make or sell
15 fireworks, and a permit is required to display or
16 discharge them, but mere possession is not an
17 offense.'

18 "With the advent of the millennium, I
19 am concerned that the City of Philadelphia will
20 experience a dramatic increase in incidents
21 involving fireworks. It is, therefore, essential
22 that the Fire Prevention Code address the offense
23 of possession of fireworks.

24 "Thank you for your attention in this
25 matter. Please feel free to call me to discuss

1 12/9/99 L&I - BILL 990868

2 this further.

3 "Sincerely, Lynn Abraham, District
4 Attorney."

5 COUNCILMAN KENNEY: Thank you very
6 much.

7 Are there any questions for Mr.
8 Haigler?

9 COUNCILMAN KENNEY: Councilman Rizzo?

10 COUNCILMAN RIZZO: Is it -- does the
11 City Code mirror the State Code? 'Cause when I
12 travel in the suburbs, I see booths set up for the
13 sale of fireworks. Could someone come up, come
14 into the City, and do a similar setup at the back
15 of a pickup truck and start selling fireworks?

16 MR. HAIGLER: No, sir. No, sir. Our
17 code explicitly says that in order to -- that the
18 sale of fireworks is prohibited. The only thing
19 that we will issue a permit for would be for the
20 display, fireworks displays.

21 So it is illegal to sell fireworks in
22 the City of Philadelphia, and that's explicit in
23 the code.

24 COUNCILMAN RIZZO: Is there a
25 definition in here of what exactly fireworks are?

1 12/9/99 L&I - BILL 990868

2 I was --

3 MR. HAIGLER: Mr. Wismer has a copy of
4 it.

5 COUNCILMAN RIZZO: I was recently at an
6 event where they were selling fireworks, and they
7 said they had a loophole that the fireworks that
8 they were selling were not of the -- they weren't
9 powerful enough to categorize as a firework, and
10 they were actually selling them.

11 COUNCILMAN KENNEY: You didn't buy any,
12 did you?

13 COUNCILMAN RIZZO: Yeah, I did.

14 MR. HAIGLER: I'd like to give you the
15 definition of what fireworks consist of --

16 COUNCILMAN KENNEY: Let the record that
17 Councilman Rizzo did not buy fireworks.

18 COUNCILMAN RIZZO: It was not in
19 Philadelphia.

20 COUNCILMAN KENNEY: We were just
21 kidding.

22 Could you give the --

23 MR. HAIGLER: I'll give you the
24 definition of what fireworks consist of.

25 COUNCILMAN KENNEY: Okay.

1 12/9/99 L&I - BILL 990868

2 MR. HAIGLER: Fireworks include any
3 combustible or explosive composition and any
4 substance or combination of substances and
5 articles prepared for the purpose of producing a
6 visible or audible effect by combustion,
7 explosion, deflagration and detonation.

8 Fireworks shall include: blank
9 cartridges, toy pistols, toy cannons, toy canes,
10 and toy guns in which explosives are utilized,
11 balloons requiring fire underneath to propel the
12 balloon, fire crackers, torpedoes, rockets, Roman
13 candles, sparklers, and any other devices of
14 similar construction, any device containing any
15 explosive or flammable compound, and any tablet
16 and other devices containing any explosive
17 substance.

18 The term "fireworks" shall not
19 include: automobile flares, paper caps containing
20 not more than an average of 0.25 grams of
21 explosive content per cap, toy pistols, toy canes,
22 toy guns, and other devices utilizing such caps.

23 The sale or utilization of the types of
24 explosive devices listed herein, which are not
25 considered fireworks, shall be permitted at all

1 12/9/99 L&I - BILL 990868

2 times.

3 COUNCILMAN RIZZO: So what you just
4 described -- and in all seriousness now, I did
5 purchase some sparklers, and I was assuming that
6 sparklers were an appropriate -- people --
7 restaurants use them for cakes, and I bought
8 different colored sparklers, thinking that they
9 were an appropriate purchase. So you're telling
10 me that sparklers are --

11 MR. HAIGLER: Under the definition of
12 that I just --

13 COUNCILMAN KENNEY: Could you please
14 identify yourself for the record, Chief, and --

15 CHIEF BAILEY: My name's Rich Bailey,
16 I'm Battalion Chief with the Fire Department and
17 Chief of the Fire Code Unit, which also deals with
18 the Fire Prevention Code.

19 Sparklers, as you described, are legal.
20 They're considered fireworks, and they are legal
21 to be used. Typically the ones you find on
22 birthday cakes are acceptable. Caps are
23 acceptable.

24 But they're the limit of what is
25 acceptable but to be used.

1 12/9/99 L&I - BILL 990868

2 COUNCILMAN RIZZO: The sidewalk sales
3 of what they -- if there's a sign out that says
4 "fireworks," is that --

5 CHIEF BAILEY: That is illegal.

6 COUNCILMAN RIZZO: That is illegal.

7 CHIEF BAILEY: Yes.

8 COUNCILMAN RIZZO: And there's no
9 loophole, according to what I just heard here, to
10 say that they don't have enough powder in them to
11 categorize them as a firework, they're less
12 powerful.

13 CHIEF BAILEY: I suppose they could
14 make something that was so weak that it my justify
15 it, but no one would buy it then.

16 COUNCILMAN KENNEY: Okay. Chief, is
17 there anything else you would like to add to the
18 testimony as it relates to this bill?

19 CHIEF BAILEY: When we, the Fire
20 Department and the Department of Licenses and
21 Inspections, revised the code, we took similar
22 language and used it. We did not -- "possession"
23 was not a term used previously, and it's not in
24 the current code. We did not realized that was a
25 problem. Maybe we should have consulted with the

1 12/9/99 L&I - BILL 990868

2 Police Department, but we did not.

3 So we're happy to see anything in the
4 code that prevents this, and we're happy to see
5 that Council is acting swiftly to enact this by
6 the end of the year so that we can use it on
7 Christmas Eve.

8 So we're in support of this change.

9 COUNCILMAN KENNEY: Thank you, Chief.

10 Mr. Wismer anything to add?

11 MR. WISMER: No, I don't.

12 COUNCILMAN KENNEY: Okay, is there
13 anyone else at the table that has anything to
14 add?

15 Captain, would you like to come up? I
16 think Councilmember Nutter has a question.

17 (Captain William Marker comes forward.)

18 COUNCILMAN KENNEY: If you could just
19 identify yourself for the record.

20 CAPTAIN MARKER: Captain William
21 Marker, Commanding Officer of the Philadelphia
22 Police Department's Bomb Disposal Unit.

23 COUNCILMAN NUTTER: Good morning,
24 Captain.

25 Hopefully, with the passage of this

1 12/9/99 L&I - BILL 990868

2 bill -- I do get complaints a couple times a year
3 around various holidays, the Fourth of July, for
4 instance, and folks in my district take it upon
5 themselves to have kind of an impromptu fireworks
6 display in the neighbor and just kind of set it
7 off in a big field. And in a couple instances,
8 apparently they called actually the police about
9 it, and I think the most the police did actually
10 was stand there and look and enjoy the display.

11 What is the appropriate response under
12 those circumstance by the Police Department?

13 CAPTAIN MARKER: The appropriate
14 response would be to arrest the individuals that
15 are actually using the fireworks and to confiscate
16 the fireworks.

17 COUNCILMAN NUTTER: And is that
18 something that could have been done even without
19 this particular bill?

20 CAPTAIN MARKER: Yes.

21 COUNCILMAN NUTTER: Okay.

22 CAPTAIN MARKER: It's a matter of
23 public safety.

24 COUNCILMAN NUTTER: All right. Unless
25 you have a permit and you've gone through the Fire

1 12/9/99 L&I - BILL 990868

2 Department and the whole process and procedure.

3 CAPTAIN MARKER: That is correct.

4 COUNCILMAN NUTTER: Okay. I appreciate
5 it, thank you.

6 COUNCILMAN KENNEY: Thank you very
7 much.

8 Are there any more questions for these
9 witnesses?

10 (No further questions.)

11 COUNCILMAN KENNEY: Thank you very
12 much.

13 Is there anyone else in the room to
14 testify on this bill?

15 (No response.)

16 COUNCILMAN KENNEY: Seeing none, we
17 will now move to Bill No. 990003, which is an
18 ordinance amending Section 9-205 of the
19 Philadelphia Code, entitled "Sidewalk Sales," by
20 permitting owners to conduct sidewalk sales on
21 Frankford Avenue between Adams Avenue and Brill
22 Street, under certain terms and conditions.

23 Mr. Haigler, please identify yourself
24 for the record.

25 MR. HAIGLER: Yes. I'm Otis Haigler,

1 12/9/99 L&I - BILL 990868

2 Jr., Legislative and Regulatory Affairs Manager
3 with the Department of Licenses and Inspections.
4 Good day, Councilman Kenney and members of the
5 committee.

6 In reference to ordinance -- Bill No.
7 990003, amending Section 9-205 of the Philadelphia
8 Code, entitled "Sidewalk Sales," by permitting
9 business owners to conduct sidewalk sales on
10 Frankford Avenue between Adams Avenue and Brill
11 Street, under certain terms and conditions, the
12 Department of Licenses and Inspections has no
13 objections to the passage of this ordinance.

14 COUNCILMAN KENNEY: Thank you very
15 much.

16 Any questions for Mr. Haigler on this
17 bill?

18 (No questions.)

19 COUNCILMAN KENNEY: Anyone in the room
20 to testify on this legislation?

21 (No response.)

22 COUNCILMAN KENNEY: Seeing none, that
23 will conclude the hearing.

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1 12/9/99 L&I - PUBLIC MEETING

2 COUNCILMAN KENNEY: The Committee on
3 Licenses and Inspections will now convene a public
4 meeting.

5 The Chair recognizes Councilman Nutter
6 for a motion on Bill No. 990868.

7 COUNCILMAN NUTTER: Mr. Chairman, I
8 move that Bill 990868 be reported out of this
9 committee with a favorable recommendation and a
10 further recommendation that the rules of Council
11 be suspended so as to permit first reading at our
12 next session.

13 (Duly seconded.)

14 COUNCILMAN KENNEY: It's been moved and
15 seconded.

16 All in favor, aye?

17 There are none opposed.

18 Bill No. 990868 will be reported out of
19 this committee favorably and a request will be
20 made for a rules suspension to allow for first
21 reading at our next Council session.

22 The Chair recognizes Councilman Nutter
23 for a motion on Bill No. 990757.

24 COUNCILMAN NUTTER: Mr. Chairman, I
25 move that Bill 990757 be reported out of this

1 12/9/99 L&I - PUBLIC MEETING

2 committee with a favorable recommendation and a
3 further recommendation that the rules of Council
4 be suspended so as to permit first reading at our
5 next session.

6 (Duly seconded.)

7 COUNCILMAN KENNEY: Moved and
8 seconded.

9 All in favor, aye?

10 There are none opposed.

11 Bill No. 990757 will be reported out of
12 this committee favorably and a request will be
13 made for a rules suspension of Council to allow
14 for first reading at our next Council session.

15 The Chair recognizes Councilman Nutter
16 for a motion on Bill No. 990003.

17 COUNCILMAN NUTTER: Mr. Chairman, I
18 move that Bill No. 990003 be reported out of this
19 committee with a favorable recommendation and a
20 further recommendation that the rules of Council
21 be suspended so as to permit first reading at our
22 next session.

23 (Duly seconded.)

24 COUNCILMAN KENNEY: Moved and seconded.

25 All in favor, aye?

1 12/9/99 L&I - PUBLIC MEETING

2 There are none opposed.

3 Bill No. 990003 will be reported out of
4 this committee with a favorable recommendation and
5 a request will be made for a rules suspension to
6 allow for first reading at our next Council
7 session.

8 Thank you very much for your
9 attendance.

10 I believe that the Committee on Public
11 Health will be convening momentarily.

12 (Adjourned at 10:28 a.m.)

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RE: COUNCIL COMMITTEE ON LICENSES AND INSPECTIONS

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BILL NO.'S 990003, 990757, 990868

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JOSEPHINE CARDILLO,

Registered Professional Reporter