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

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Room 400, City Hall
Philadelphia, Pennsylvania
Tuesday, November 17, 1998
10:30 a.m.

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Bill No. 980750 - Amending Title 14 of The
Philadelphia Code relating to "Zoning and
Planning," by amending Section 14-1612 entitled
"South Street/Head House Square Special Services
District Controls". . .

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Bill No. 980749 - Approving the plan, estimated
costs, and proposed method of charges of the City
Avenue Special Services District. . .

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Bill No. 970549 - Amending the Philadelphia Zoning
Maps by changing the zoning designations of
certain areas of land in the 14th Ward. . .

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Bill No. 960822 - Amending Title 14 of The
Philadelphia Code entitled "Zoning and Planning,"
by amending Section 14-1603.1, entitled "Storm
Water Management Controls". . .

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PRESENT: COUNCILMAN JAMES F. KENNEY, Chair
COUNCILMAN DAVID COHEN
COUNCILWOMAN ANNA C. VERNA
COUNCILMAN MICHAEL A. NUTTER
COUNCILMAN FRANK DICICCO

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VINCENT VARALLO ASSOCIATES, INC.
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Eleven Penn Center, Suite 600
Philadelphia, PA 19103
(215) 561-2220

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

3 COUNCILMAN KENNEY: Ladies and
4 gentlemen, good morning. Thank you for your
5 patience. The Council Committee on Rules is now
6 in session.

7 Our first bill for consideration this
8 morning is Bill No. 980750, which is an ordinance
9 amending Title 14 of The Philadelphia Code
10 relating to "Zoning and Planning," by amending
11 Section 14-1612 entitled "South Street/Head House
12 Square Special Services District Controls," under
13 certain terms and conditions.

14 COUNCILMAN KENNEY: Please identify
15 yourself for the record and proceed with your
16 testimony.

17 MR. LOMBARD0: Good morning, Mr.
18 Chairman and members of the committee. Richard
19 Lombardo, Philadelphia Planning Commission. I'm
20 here to testify on behalf of Bill No. 980750.

21 First of all, I want to begin by saying
22 that this bill is a bill that was prepared by us.
23 Our normal policy on any text amendments is that
24 when we prepare it, we go to the Law Department
25 for a legal opinion from a legal counsel person.

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2 But because of the time constraints of this bill,
3 we actually were preparing it to give to
4 Councilman DiCicco for introduction as we
5 simultaneously sent the bill over -- sent a
6 request to the Law Department for an opinion. So
7 we don't have an official planning Commission
8 Policy recommendation on the bill, but I will
9 explain to you what the bill does.

10 This bill amends the underlying zoning
11 of the Head House Square District at Front Street
12 and 11th Street and on both sides of South
13 Street. What it does is allows buildings or
14 properties that control more than 50 percent of a
15 lot frontage to occupy 100 percent of the lot
16 provided they would have certain other conditions
17 -- one being off-street parking in the garage.

18 The second thing this would allow is,
19 it would allow a property to have a single curb
20 cut. This would allow an ingress only to
21 necessary parking provided you had 50 percent of
22 the block and you had two streets (unintelligible)
23 like Rodman Street, at least an ingress off of
24 South Street.

25 The last part it allows is that

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2 buildings within this zone meet other conditions.
3 Controlling over half the block would not be
4 limited to the 25 percent limitation on accessory
5 uses again because of requirements of structured
6 parking, assuming, you know, that the company or
7 whatever it would cost to build a parking garage.
8 By nature more than 25 percent of the area of the
9 rest of the building. If you don't have that
10 provision in the code, what happens is if it
11 exceeds the 25 percent, you wind up before the
12 Zoning Board for exceeding the 25 percent
13 accessory use. You would have to go before the
14 Zoning Board for a variance.

15 The last thing, in order to have
16 benefit of all these special things, you can also
17 handle all your loading, all your trash and
18 storage off-street within the property.
19 Obviously, you could ask, Why is all this being
20 done? It's being done because of the fact that
21 under all the underlying zoning on South Street,
22 there is no zoning classification that would
23 accommodate what we call a bigger box retail type
24 of use, a business having customer parking that
25 leaves a bigger footprint, you know, to occupy a

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2 hundred percent of the lot like a supermarket.

3 This whole issue was brought up in case of a
4 supermarket that's proposed on South Street or a
5 Borders or a Gap or any new big building.

6 So that's basically the rationale.

7 This bill comes about because there is a proposal
8 for a supermarket that is supported by the vast
9 majority of the area residents and business people
10 and District Councilperson. But there's no way
11 this could happen without a zoning variance.

12 COUNCILMAN KENNEY: Thank you. Any
13 questions?

14 (No questions.).

15 COUNCILMAN KENNEY: Mr. Kujolik and Mr.
16 Ostrander, please.

17 Good morning. Please identify
18 yourselves for the record.

19 Is there anyone else here wants who to
20 come forward to testify in support of the proposal
21 first?

22 (Gray Smith comes forward.)

23 COUNCILMAN KENNEY: Are you for it?

24 MR. SMITH: I'm for it.

25 (Laughter.)

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2 COUNCILMAN KENNEY: Sorry, Gray. Mr.
3 Smith, I'm sorry. It's not often you're at the
4 same table with these people. I think it's very
5 scary.

6 (Laughter.)

7 MR. SKLAROFF: Mr. Chairman and members
8 of the committee my name is Michael Sklaroff, I'm
9 the attorney for the South Street/Head House
10 District in this matter. With me on my left is
11 Steven Kujolic, the Chairman; and to my right is
12 Dick Ostrander, the Executive Director.

13 We concur largely with what Mr.
14 Lombardo has said. However, we do want to
15 emphasize that this is not restricted to one
16 particular block. This would have the effects of
17 legalizing the existing Superfresh on the ten
18 hundred block of South Street.

19 It really addresses the future of South
20 Street and the ability of the South Street
21 District to accommodate the modern uses which
22 would require 100 percent occupancy which would
23 benefit at mid block an ingress only on South
24 Street. It would also encourage parking beyond
25 the 25 percent accessory use requirements in some

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2 of the other underlying districts.

3 Mr. Kujolic would also like to make a
4 statement on behalf of the district.

5 COUNCILMAN KENNEY: Mr. Kujolic, please
6 proceed.

7 MR. KUJOLIC: Thank you. I know the
8 supermarket has a big play into this, as was
9 brought to our attention, but the problem is in
10 the future. We have Abbott Square, which is a
11 wide open piece of property, and we also have New
12 Market, which is a big piece of property down
13 there, which we understand wants to be developed.

14 One of the other big causes for the
15 South Street District to step in on this is that
16 we now go to 11th Street. As far as our district
17 goes, we know that the future on Broad Street is
18 going to come down to South street. So from 11th
19 to Broad, we're looking into the possibility of
20 expanding our district so that we will probably
21 need some -- there's more open lots in that area,
22 so for the future of the City and the future of
23 ourselves, this is one of the reasons that this
24 all came about, and we feel that we need this to
25 expand the district itself.

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2 COUNCILMAN KENNEY: Thank you.

3 Please identify yourself.

4 MR. OSTRANDER: I am Richard
5 Ostrander. I am the Executive Director of the
6 South Street/Head House Square District. There's
7 just a couple of things I'd like to add, if I may.

8 First of all, I want to say thank you
9 very much for putting the zoning overlay in
10 place. It was a benefit and is a benefit.
11 However, after living with it for several years,
12 you find things improve or you find things which
13 you had overlooked.

14 In this case, the larger use is clearly
15 something we had overlooked, and we hope that you
16 will give this all your consideration so that
17 there's no such thing as too much parking in our
18 area. And the provision arrangements will be
19 helpful also.

20 And, just finally, I would like to
21 reemphasize the fact that Gray Smith obviously is
22 sitting next to me, and I'm pleased with that. In
23 addition to SSNA putting its stamp of approval on
24 this particular proposal, we also have run it past
25 the Society Hill Civic Association, which approved

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2 it, and the Queen Village Neighborhood Association
3 and the Washington Square Civic Association, which
4 also approved it.

5 COUNCILMAN KENNEY: Thank you.

6 The Chair recognizes Councilman Cohen.

7 COUNCILMAN COHEN: Mr. Sklaroff, you
8 referred to a hundred percent occupancy.

9 MR. SKLAROFF: Correct.

10 COUNCILMAN COHEN: Explain what that
11 means compared to other occupancies.

12 MR. SKLAROFF: In some of the lots, the
13 underlying zone would permit only 80 percent or 90
14 percent occupancy of the block.

15 COUNCILMAN COHEN: What about the
16 rest?

17 MR. SKLAROFF: The rest would be open
18 space.

19 COUNCILMAN COHEN: Other than, say, the
20 normal sidewalks?

21 MR. SKLAROFF: Yes. It would be kind
22 of just open space and used, I assume, for
23 landscaping or whatever.

24 This bill would permit 100 percent open
25 space provided there was parking and loading and

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2 trash handling within the building. In other
3 words, one of the things you could use the open
4 space for would be trash and so forth and
5 parking.

6 But here, you would be able to have a
7 hundred percent occupancy if you accommodated
8 loading, trash removal, and parking within the
9 structure.

10 COUNCILMAN COHEN: All right, thank
11 you.

12 COUNCILMAN KENNEY: Thank you very
13 much.

14 Mr. Smith?

15 MR. SMITH: My name is Gray Smith,
16 Chairman of the Zoning and Code Enforcement
17 Committee of the South Street Neighborhoods
18 Association. And in our meeting of last week, our
19 general membership meeting, we voted unanimously
20 with one abstention to approve this bill.

21 I just wanted to emphasize that on
22 Friday, it was erroneously indicated that December
23 1st was the date of this hearing, although it
24 previously showed today's date as the hearing
25 date. A couple people called me, and I indicated

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2 to them that it was December the 1st, so you may
3 get some subsequent mail or calls from those that
4 didn't attend this hearing because they thought it
5 was to be on December the 1st.

6 COUNCILMAN KENNEY: Councilman Cohen?

7 COUNCILMAN COHEN: Is it all right if
8 we refer them to you for an explanation?

9 MR. SMITH: Well, I gave a pretty
10 lengthy explanation to both of them and explained
11 the date problem and that they still had a few
12 days to get in touch with you. But I think I
13 convinced them that they shouldn't oppose, in any
14 event, what are known as the "Fresh Fields
15 Bills."

16 For those of you who follow the Fresh
17 Fields situation, there are actually four zoning
18 hearings over a period of several months to
19 primarily address the inadequacies of the
20 underlying zoning code and overlying zoning code
21 on the South Street corridor referred to earlier.

22 And because of those inadequacies,
23 there was something like 10 or 11 zoning variances
24 that were sought in order to build the Fresh
25 Fields property, which is very similar in

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2 structure and layout to the Superfresh, with a
3 garage on top, a grocery store on the first
4 floor. Obviously, it's a more modern commercial
5 strip type of configuration, which, we believe,
6 because of the Fresh Field project, will stimulate
7 the prospect of more larger-scale tenants who
8 might want to come in, like Borders.

9 And because of that, in order to avoid
10 the lengthy process of going through a lot of
11 zoning hearings and zoning variances and to add
12 sufficient controls in the event that one of these
13 larger facilities comes in, then this bill is
14 necessary. That would probably mean representing
15 the community who many times oppose projects that
16 have too much impact on their neighborhood.

17 Probably you want to see three or four
18 more controls added to it right now. It's good,
19 particularly the off-street loading requirement in
20 the building because right now -- and correct me
21 if I'm wrong, Michael -- but I think you don't
22 have to have any off-street loading unless you
23 have 40,000 square feet of commercial space.

24 MR. SKLAROFF: I'm not sure whether it
25 applies in underlying districts, maybe C4-C5.

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2 MR. SMITH: In any event, there's no
3 off-street loading on South Street so virtually
4 every facility on the street -- certainly the
5 smaller ones and larger ones are doing loading on
6 South Street, which is a heavily-traveled area.
7 So this will help that situation.

8 We need to have these kind of controls,
9 so we are supporting the bill, and we urge you to
10 support it to.

11 COUNCILMAN KENNEY: The Chair
12 recognizes Councilmember DiCicco.

13 COUNCILMAN DICICCO: Mr. Smith, you've
14 been involved in this process from the beginning
15 and with the Fresh Fields efforts, which basically
16 brought this bill.

17 In your opinion, as a community leader
18 who represents the residents in your community and
19 who is very active in that community, is it safe
20 to say that you concur with the previous testimony
21 that the other civic associations -- Society Hill,
22 Washington Square West, and Queens Village --
23 unanimously approve of this bill? Because we're
24 always going to get somebody who will oppose it;
25 it's just the nature of these things.

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2 Is it safe to say that the other groups
3 mentioned also supported this bill?

4 MR. SMITH: I don't know about
5 unanimously but, we do communicate amongst
6 ourselves frequently. My understanding from
7 discussions is that Washington Square West had a
8 discussion about it and had some internal conflict
9 but they also ultimately approved it.

10 I should mention that the zoning
11 overlying was invented by these guys, the business
12 community, and they put a lot of controls in it
13 against business. They were very uncomfortable
14 with it in the beginning, but it's a neighborhood
15 improvement bill that protects against onerous and
16 unsatisfactory uses and conditions, which did not
17 exist in the underlying zoning scheme. And when
18 they passed it, I was frankly quite surprised but
19 appreciative of it.

20 In recent months, our district has
21 become virtually almost religious about zoning
22 overlay and enforcement. And anything that adds
23 to the controls that are into it, such as this
24 one, are always a benefit to the community as well
25 as to the business environment. These guys -- let

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2 me tell you, a lot of businesses on the street are
3 voluntarily complying with the rules and
4 regulations of the rules of zoning overlay.

5 But to answer your question, yes the
6 area civic associations support it and are
7 obviously all aware it, were all informed on it
8 and shared mail and so on and so forth.

9 COUNCILMAN DICICCO: I just want to
10 make it clear for the record what I meant by
11 "unanimous" was the associations, not necessarily
12 the entire membership, but the associations all
13 voted to support the bill.

14 MR. SMITH: Bella Vista and Hawthorne
15 didn't participate. Hawthorne is somewhat
16 remote.

17 MR. SKLAROFF: In both cases, Hawthorne
18 and Bella Vista, were both given the information
19 and given the opportunity too, but they have
20 generally been inactive.

21 If I could just reemphasize the point
22 on the trash. The interior care of trash is
23 really important to the district. One of our
24 principal founding things is clean an safe an
25 clean is very hard to come by in a very intense

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2 commercial area like South Street interior for
3 trash is a super benefit because that builds up
4 open spaces previously described just walk behind
5 stores and find out their trash bins frequently
6 not moved.

7 COUNCILMAN KENNEY: Mr. Sklaroff?

8 MR. SKLAROFF: One point of
9 clarification. Although the district worked in
10 support of Fresh Fields, the district's interests
11 as to the entire corridor is not only in
12 legalizing Superfresh, which as been there for
13 years, but also is concerned about the growth
14 potential and the potential for serving the
15 residents in the entire corridor too. The
16 interest of the district is broad; it's not
17 narrow.

18 The second thing is that I understand
19 that Councilman DiCicco is going to present an
20 amendment to the bill; is that correct,
21 Councilman?

22 COUNCILMAN DICICCO: Yes.

23 COUNCILMAN KENNEY: Councilman Cohen?

24 COUNCILMAN COHEN: Can somebody, for
25 the record, please explain simply what is meant by

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2 Fresh Fields?

3 MR. SKLAROFF: Fresh Fields, Councilman
4 Cohen, is a proposed development in the 900 block
5 of South Street, which will be similar to the
6 Fresh Fields at 20th and Hamilton. I believe it
7 is a very desirable use in the community. It's a
8 supermarket kind of use.

9 It has widespread support of the
10 community. That use has been approved already by
11 the Zoning Board of Adjustment. It has been
12 granted three or four variances which were
13 required. So that is moving forward.

14 From another perspective, in treating
15 the entire corridor, it will also make it easier
16 for Fresh Fields, and it's something that's very
17 much wanted in the community because it will bring
18 services to the district residents and it will
19 stimulate the economics of the corridor.

20 COUNCILMAN COHEN: Thank you.

21 COUNCILMAN KENNEY: Thank you very
22 much.

23 Does anyone else have anything else to
24 add relative to the bill in front of us? Is that
25 the amendment?

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2 MR. SKLAROFF: Yes.

3 COUNCILMAN KENNEY: Do you want to
4 offer it?

5 MR. SKLAROFF: I'll read it into the
6 record.

7 COUNCILMAN KENNEY: Give me the
8 section.

9 MR. SKLAROFF: I will. This would
10 basically be Section 9. And it would read:
11 "Notwithstanding, capital S, subsection,
12 parenthesis, 6, close parenthesis, capital S,
13 Section, comma, the specific provisions contained
14 in subsections (7) (8) of this Section, capital S,
15 shall control in the event that they conflict with
16 other more restrictive provisions of this title,
17 capital T, end of quote.

18 The purpose of this --

19 COUNCILMAN KENNEY: Do me a favor.
20 Read the amended section version of that section
21 9. Do it again.

22 MR. SKLAROFF: "Notwithstanding
23 Subsection (6) of this Section, the specific
24 provision contained in Subsection (7) and (8) of
25 this Section shall control in the event that they

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2 conflict with other more restrictive provisions of
3 this Title."

4 COUNCILMAN COHEN: The section that you
5 refer to, is it now in this printed version of the
6 bill?

7 MR. SKLAROFF: What I believe it refers
8 to is former 6, which becomes --

9 COUNCILMAN KENNEY: 9.

10 MR. SKLAROFF: 9.

11 COUNCILMAN COHEN: So's it the very
12 last paragraph on page 3, before section 2?

13 MR. SKLAROFF: That is correct.

14 COUNCILMAN COHEN: It's a substitute
15 version of what now exists?

16 MR. SKLAROFF: Yes.

17 COUNCILMAN COHEN: We would delete the
18 existing provision in the pink bill and substitute
19 for it the language you're proposing.

20 MR. SKLAROFF: I believe that that's
21 correct.

22 COUNCILMAN KENNEY: Thank you very
23 much. Anything else to add?

24 Is there anyone else in the room to
25 testify for or against the bill?

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2 MR. SKLAROFF: Mr. Chairman, we also
3 request a suspension of the rules.

4 COUNCILMAN KENNEY: Fine. Thank you.

5 Next is Bill No. 980749, which is an
6 ordinance approving the plan, estimated costs, and
7 proposed method of charges of the City Avenue
8 Special Services District for and concerning
9 business improvements and administrative services
10 to portions of the City Avenue area of the City of
11 Philadelphia and Township of Lower Merion.

12 COUNCILMAN KENNEY: Is there anyone
13 here to testify on this bill?

14 (David L. Cohen comes forward.)

15 COUNCILMAN KENNEY: Please identify
16 yourself for the record and proceed with your
17 testimony.

18 MR. COHEN: My name is David Cohen.

19 COUNCILMAN COHEN: Not even an L.

20 COUNCILMAN NUTTER: Actually, it is L.

21 COUNCILMAN KENNEY: It's David L.

22 Cohen?

23 MR. COHEN: Yes, it is.

24 COUNCILMAN KENNEY: Please identify
25 yourself and proceed.

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2 MR. COHEN: Good morning. Again, my
3 name is David Cohen. I am a consultant to the
4 City Avenue Special Services District. Thank you
5 for allowing me to testify today on Bill No.
6 980749, which concerns the approval of the plan,
7 estimated costs, and proposed method of charges of
8 the City Avenue Special Services District.

9 I plan to give a brief background and
10 overview in my testimony today of the City Avenue
11 Special Services District.

12 Let me start by stating that the City
13 Avenue Special Services District is unique in that
14 it is the first known Special Services District in
15 North America out of more than 1200 districts that
16 is bijurisdictional.

17 The City Avenue Special Services
18 District plan represents over ten years of vision,
19 planning, and work by elected officials from
20 Philadelphia and Lower Merion, including
21 Councilman Michael Nutter, State Representative
22 Lita Cohen, and Commissioner James Ettelson and
23 Commissioner Joseph Manko of Lower Merion
24 Township. It also represents the involvement,
25 participation, and cooperation of the 18-member

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2 Board of Directors representing properties,
3 businesses, and institutions in the City Avenue
4 Special Services District.

5 The City Avenue Special Services
6 District represents cooperation between the public
7 and private sector; between for-profit and
8 nonprofit owners; and between Philadelphia and
9 Lower Merion Township.

10 As indicated on Exhibit B, the City
11 Avenue Special Services District includes 264
12 properties and extends from the Schuylkill
13 Expressway to 63rd Street along City Avenue.

14 The mission of the City Avenue Special
15 Services District is to engage property owners,
16 business, tenants, and other stakeholders to
17 retain and improve the economic and real estate
18 vitality of the City Avenue area so that it can
19 successfully compete as an attractive location in
20 which to live, work, shop, visit, receive
21 health-care services, and study.

22 The City Avenue Special Services
23 District was created under the Pennsylvania
24 Municipality Authorities Act of 1945 (as amended)
25 and was incorporated by the Commonwealth of

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2 Pennsylvania on August 13, 1998. The Lower Merion
3 Township Board of Commissioners Economic
4 Development Committee approved a resolution that
5 contains similar language to Bill No. 980749 on
6 November 9, 1998.

7 The budget of the City Avenue Special
8 Services District ranges from \$825,160 in 1999 to
9 \$1,057,564 in the year 2003. Now, 83 percent of
10 the revenue will be derived from an assessment on
11 properties within the City Avenue Special
12 Services District.

13 Key areas of programming include public
14 safety, public space improvements, and marketing.
15 The District plans to build upon existing programs
16 and identify needs by working with the public and
17 private sectors through the Board of Directors and
18 local governments to develop programming that
19 addresses unmet needs and works towards achieving
20 goals for the City Avenue Special Services
21 District.

22 In closing, I would be pleased to
23 answer any questions that the Committee members
24 may have. Thank you.

25 The I have with le advised Exhibit B

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2 which I don't know if it's been passed up.

3 COUNCILMAN COHEN: The Chair recognizes
4 Councilmember Nutter.

5 COUNCILMAN NUTTER: Thank you, Mr.
6 Chairman.

7 Just very briefly, I would first like
8 to thank the members of City Council for their
9 initial support of the City Avenue Special
10 Services District. We passed the first of the
11 required two bills in this matter some time ago.
12 And, as Mr. Cohen has indicated, Lower Merion
13 Township has now passed their required legislation
14 for the second part, and we here in Philadelphia
15 have this part to do.

16 I have a letter which I'd like to read
17 into the record from State Representative Lita
18 Cohen, dated November 17, 1998. It is addressed
19 to me.

20 "Dear Councilman Nutter: I regret
21 that I am unable to join you on this most
22 important day. However, the legislature is in
23 session in Harrisburg.

24 "I'm writing to ask for your support of
25 the proposed ordinance to approve the plan for the

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2 City Avenue Special Services District. The plan
3 before you is responsible and responsive, serving
4 the needs of the community while operating under a
5 thoughtfully prepared budget. Its approval is
6 essential to the continued development of the
7 District.

8 "Public approval of the plan has been
9 overwhelming. In fact, only 5 percent of the
10 District' stakeholders did not approve of the plan
11 as submitted.

12 "I respectfully ask that you and the
13 honorable members of the Philadelphia City Council
14 Rules Committee support the ordinance before you
15 today. This plan has received the support of the
16 Lower Merion Township Board of Commissioner, and
17 as stated before, the vast majority of the
18 District's stakeholders. Your support of the
19 ordinance to approve the submitted plan is
20 critical.

21 "Thank you in advance for your
22 consideration and for your continued support of
23 this initiative.

24 "Respectfully, Respectfully, Lita
25 Cohen, State Representative, 148th Legislative

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2 District."

3 Mr. Cohen, if I could just ask you a
4 couple questions just so we have a complete
5 record.

6 As required by State statute, there was
7 a public hearing on the plan, I believe, on
8 September 15, 1998; is that correct?

9 MR. COHEN: That is correct.

10 COUNCILMAN NUTTER: And there was
11 notification provided to every business, whether
12 an owner or commercial tenant, located within the
13 boundaries of the plan, as provided; is that
14 correct?

15 MR. COHEN: That's correct. I would
16 just add that it was to all property owners and
17 commercial tenants, including some residential.

18 COUNCILMAN NUTTER: Right. And it's
19 now my understanding that after the end of the
20 open-comment period, which is 45 days, which, I
21 believe, expired sometime at the end of October,
22 that on the Philadelphia side, it's my
23 understanding that only one property owner sent in
24 a letter of objection; is that correct?

25 MR. COHEN: That is correct.

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2 COUNCILMAN NUTTER: Okay. The exhibit
3 that you handed up which, Mr. Chairman, I've at
4 least marked, and I think you may have marked, is
5 a revised Exhibit B, which is the map that should
6 be amended into the bill.

7 That revision comes as a result of our
8 realization that there may have been some
9 properties included in the original map, as
10 provided, that are either being taken out or --
11 essentially, this is a technical change for this
12 particular map; is that correct?

13 MR. COHEN: That is correct.

14 COUNCILMAN NUTTER: Okay.

15 COUNCILMAN KENNEY: Is that the only
16 amendment?

17 COUNCILMAN NUTTER: That is the only
18 amendment, Mr. Chairman.

19 And I believe, Mr. Chairman, that I am
20 done.

21 COUNCILMAN KENNEY: I'm sorry?

22 COUNCILMAN NUTTER: I'm finished.

23 COUNCILMAN KENNEY: Okay, thank you
24 very much.

25 Are there any questions for Mr. Cohen?

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2 COUNCILMAN COHEN: One question.

3 COUNCILMAN KENNEY: Councilman Cohen?

4 COUNCILMAN COHEN: I just note in your
5 statement, Mr. Cohen, that in the next to the last
6 paragraph, you indicate what the budget is. And
7 as I read it, there's a gap of about \$232,000
8 that's not being provided by the owners of the
9 property. Where does that funding come from?

10 MR. COHEN: That funding is projected
11 to come from a variety of sources, including
12 grants from foundations, fee for services, and
13 also support from governments.

14 Just as a brief background, so far, the
15 District has received a variety of grants and
16 start-up fees, including \$15,000 from Lower Merion
17 Township, \$60,000 from the Pew Charitable Trusts,
18 and \$50,000 Commonwealth, with the promise of an
19 additional \$200,000 from the Commonwealth once the
20 District starts operations.

21 So that would be a starting point
22 towards making up that gap in the revenue.

23 COUNCILMAN COHEN: Thank you.

24 COUNCILMAN KENNEY: Thank you very
25 much.

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2 Are there any other questions?

3 (No further questions.)

4 COUNCILMAN KENNEY: Thank you.

5 Is there anyone else to testify on this
6 bill?

7 (No response.)

8 COUNCILMAN KENNEY: Seeing none, we
9 will now move to Bill No. 970549, which is an
10 ordinance to amend the Philadelphia Zoning Maps by
11 changing the zoning designations of certain areas
12 of land in the 14th Ward and located within an
13 area bounded by Spring Garden Street, Eighth
14 Street, Vine Street, and 11th Street.

15 We'll hear from the Planning Commission
16 first. Please identify yourself for the record.

17 MR. LOMBARD0: Good morning, Mr.
18 Chairman and members of the committee. Richard
19 Lombardo, Philadelphia Planning Commission. I'm
20 here to testify on behalf of Bill No. 970549.

21 This bill is a bill that was prepared
22 by our office after a series of community meetings
23 that were held by the Philadelphia Chinatown
24 Development Corporation and Councilman DiCicco.

25 This is a remapping bill. Basically,

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2 it deals with the area north of Vine Street,
3 between 11th Street and Eighth Street, off of
4 Spring Garden Street, the area north and west of
5 Holy Redeemer and the new Chinatown housing.

6 This bill is, as I say, a continuation
7 of our community zoning program. The proposed
8 rezoning that would take place here is similar to
9 what the city did a number of years ago with Old
10 City and also, even before Old City, with
11 Chinatown, below Vine Street.

12 In both cases, what this represents is
13 an indication by changing of zoning that this area
14 is no longer an industrial area predominantly, but
15 an area that is emerging as a mixed-use commercial
16 and residential -- hopefully, a more residential
17 community.

18 Back when we did the other zoning for
19 Chinatown and Old City, basically, the predominant
20 zoning in both those areas was G-2 general
21 industrial, which is a heavy industrial district
22 that permits neither commercial uses nor
23 residential uses. In both cases, we used C-3
24 commercial with the new zoning classification, and
25 L-4 limited industrial.

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2 C-3 is a district that allows both
3 retail, commercial and multi-family and
4 single-family residential. L-4 is an industrial
5 classification that allows both industrial uses
6 and commercial uses.

7 So basically, what this remapping does,
8 is it indicates that this area is now more
9 appropriate for a mixed-use residential and
10 commercial type of development. As I said, this
11 is very similar to the zoning that we did in Old
12 City prior to its changeover to a more residential
13 community and the Chinatown before that, before
14 its transition over to a more, I guess, mixed use
15 commercial and residential.

16 COUNCILMAN KENNEY: Let me interrupt
17 you for one minute, and I want to go off the
18 record.

19 (Discussion continues off the record.)

20 COUNCILMAN KENNEY: Back on the record.
21 Please continue with your testimony.

22 MR. LOMBARDI: Okay like I was saying,
23 this bill is -- I explained to you what the bill
24 did. Basically, it indicates that this area is
25 appropriate for transition to a residential and

1 11/17/98 COMMITTEE ON RULES - Bill 980549
2 mixed-use residential -- residential/commercial
3 and light industrial. Industrial is more
4 compatible with residents in a retail area.

5 This bill was the subject of several
6 meetings, the last being a community-wide meeting
7 held at Holy Redeemer Hall. That meeting was held
8 in May of 1997. The Councilman -- I think it was
9 set up through the Councilman's office and through
10 PCDC.

11 My recollection is that there was
12 unanimous support of the bill. There was a series
13 of questions and answers, but the upshot of the
14 meeting was that people seemed to come out of the
15 meeting wanting to do it yesterday because they
16 all saw a benefit to them as people who lived in
17 this area, to see the area become more residential
18 an commercial and less heavy industrial. It was
19 actually the heavy industrial, if you're familiar
20 with the area now, it was more like open storage
21 and various sort of low-tech industrial.

22 And for the record, the Planning
23 Commission, in its meeting of September 25, 1997,
24 recommended approval of Bill 970549.

25 COUNCILMAN KENNEY: Thank you very

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2 much.

3 Any questions for this witness?

4 (No questions.)

5 COUNCILMAN KENNEY: Thank you.

6 Is there anyone else to testify on the
7 bill?

8 (Cecilia Yip and Sophia Pham come
9 forward.)

10 MS. PHAM: Good morning.

11 COUNCILMAN KENNEY: Good morning please
12 identify yourself for the record, and if you
13 could speak into the microphone.

14 MS. PHAM: Sure.

15 COUNCILMAN KENNEY: Thank you.

16 MS. PHAM: Good morning, Mr. Chairman,
17 and members of the Committee on Rules. My name is
18 Sophia Pham. I'm the Director of Development at
19 PCDC. And to my left is Cecelia Yip, Executive
20 Director of the Philadelphia Chinatown Development
21 Corporation.

22 We are here in support of Bill No.
23 970549 today. PCDC is a nonprofit development
24 corporation representing Chinatown. Our mission
25 is to preserve, protect and promote Chinatown as a

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2 viable ethnic residential and business community.

3 Since our inception in 1969, PCDC has
4 developed over 200 units of affordable housing and
5 22 uses of commercial spaces. PCDC's success has
6 transformed a community whose existence was once
7 threatened by urban renewal, and now it is a
8 stable, thriving community.

9 Chinatown is a growing community, and
10 this bill is critical to its growth because it
11 will rezone approximately 44 acres of land that is
12 currently underutilized. Land which once served
13 an industrial era stands abandoned and desolate.
14 The existing industrial land use does not meet the
15 current and future demands for residential and
16 economic development in the area.

17 In order to meet the needs of our
18 community and to revitalize the area, the existing
19 zoning must be changed, and the timing of this
20 zoning is most appropriate.

21 This year, PCDC successfully completed
22 51 units of newly constructed homes north of the
23 Vine Street Expressway. This project created a
24 lot of excitement in the community as well as in
25 the city because it signifies a new era for

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2 Chinatown North.

3 PCDC is planning the next phase of
4 housing development directly across from the 51
5 units of new homes. It will eliminate blight of
6 vacate lots and provide ten units of affordable
7 housing for low- moderate-income families. And
8 mixed-use units with commercial grounds suitable
9 for a convenience store is a part of this
10 project.

11 PCDC believes that residential and
12 economic development go hand in hand, and hopes to
13 continue this approach in Chinatown North.
14 Chinatown is a growing community without a public
15 facility for recreation and social services. To
16 fill this gap, PCDC is working on a multipurpose
17 community center, which will also be located in
18 Chinatown North. Along with the development met
19 by PCDC is a search of development, both
20 residential and economic, met by the private
21 sector.

22 The progress and opportunities we have
23 here are exhilarating. We hope the members of the
24 committee share our vision and our excitement for
25 Chinatown North and approve Bill No. 970549.

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2 Thank you.

3 COUNCILMAN KENNEY: Miss Yip, do you
4 have anything to add?

5 MS. YIP: No. I think that Sophia has
6 said it all.

7 COUNCILMAN KENNEY: Great, thank you.

8 Any questions for these witnesses?

9 Anyone.

10 (No response.)

11 COUNCILMAN KENNEY: Thank you very much
12 for coming in and for your patience.

13 MS. PHAM: Thank you.

14 MS. YIP: Thank you.

15 COUNCILMAN KENNEY: Thank you.

16 The next bill for consideration is Bill
17 No. 960822, which is an ordinance amending Title
18 14 of The Philadelphia Code, titled "Zoning and
19 Planning," by amending Section 14-1603.1, entitled
20 "Storm Water Management Controls," so that the
21 requirements of a permit and approved storm water
22 management control plan apply to specified
23 development activity undertaken anywhere within
24 the City; and by amending Section 14-1980,
25 entitled "Criteria for Granting Variance," so that

1 11/17/98 COMMITTEE ON RULES - Bill 960822
2 the criteria for granting variances is set forth
3 in Subsection 14-1802(2) (relating to certain
4 environmental considerations) apply to variances
5 with respect to property located anywhere within
6 the City.

7 Please identify yourself for the
8 record.

9 MR. LOMBARDO: Good morning, Mr.
10 Chairman and members of the Committee. Richard
11 Lombardo from the Planning Commission here to
12 testify today on this bill.

13 This bill was prepared at the request
14 of the Law Department to clarify an error that
15 occurred back in July of 1995 when the current
16 flood plain legislation was adopted by City
17 Council.

18 At the time that bill was before the
19 Rules Committee, the Pennsylvania Department of
20 Environmental Resources commented that they wanted
21 us to amend the bill, and it had to do with
22 subparagraph 3, which listed the designated
23 watersheds that were going to be subject to the
24 controls contained in that section of the code.
25 And the State basically said that since we're

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2 going to control every watershed in the City,
3 there no need to have a paragraph that listed
4 designated watersheds. So we -- I mean, the
5 Council deleted that paragraph.

6 Unfortunately, when they deleted that
7 paragraph, they should have also deleted paragraph
8 4, which basically says that controls will apply
9 to the watersheds listed in paragraph 3. Since
10 there was no paragraph 3, and though more of it
11 falls into the category of a technical amendment,
12 I mean, you could see where someone reading the
13 bill could say, Well, the City never listed
14 watersheds; therefore, it doesn't apply anyplace
15 in the City.

16 And a practical matter, at least at the
17 Planning Commission, through our environmental
18 unit, ever since this bill, the current
19 legislation was passed, we have been enforcing it
20 on all watersheds. The enforcement usually takes
21 place at the building permit phase of the
22 development, not at the zoning permit normally
23 because, when people are going for zoning permits,
24 they may not own the ground and are resistant to
25 spending the additional money for the engineering

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2 necessary to do a storm water management plan.

3 That leads some people to feel that
4 it's not being enforced because they don't see it
5 at the time someone has plans before the Zoning
6 Board. But, in fact -- and I'm sure you can point
7 out cases -- someone can point out cases where
8 they have slipped through and they got a zoning
9 permit without a plan and never filed a storm
10 water management plan.

11 But as a practical matter, the way
12 we've been trying to deal with it is at the
13 building permit stage. And it is through our
14 environmental unit and on a more technical, like
15 in a big subdivision or a big shopping center,
16 it's also bounced over to the Engineering
17 Department and the Water Department also to do
18 more sizing calculations.

19 A lot of times, these plans take the
20 form of sizes of the pipes and underground storage
21 chambers. And in those types of cases, we also
22 rely on the engineers at the Water Department in
23 terms of proper sizing and what have you for those
24 types of storm water management controls, permit
25 controls.

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2 But for the record, the Planning
3 Commission, at its meeting of April 6, 1995
4 recommended approval of this bill.

5 COUNCILMAN KENNEY: Thank you very
6 much.

7 Are there questions for these
8 witnesses?

9 (No questions.)

10 COUNCILMAN KENNEY: Thank you very
11 much.

12 Is there anyone else to testify on this
13 bill?

14 (Gray Smith comes forward.)

15 COUNCILMAN KENNEY: Please identify
16 yourself for the record.

17 MR. SMITH: Good morning, Mr. Chairman
18 and members of the committee. My name is Gray
19 Smith. I'm an architect and urban planner. And a
20 lot of my work involves working with community
21 organizations that have some concerns about
22 developments in their neighborhood that have
23 adverse impacts, including, in some cases, the
24 problems of storm water and flooding as well as
25 erosion control.

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2 Section 16-03.1 of the Storm Water
3 Management Controls of the Zoning Code has been
4 the code for several years since 1995. But
5 unfortunately, as good as it is written, it is
6 meaningless unless, of course, it is enforced
7 beyond what it says, as the City Planning
8 Commission claims that they have been doing.

9 This bill will correct the major defect
10 in that section which was alluded to earlier. The
11 current code fails to identify the eight
12 watersheds in Philadelphia in which storm water
13 management is actually required by the zoning
14 code. It inadvertently leaves that section blank
15 and it doesn't correct in another area; whereas
16 this bill will correctly identify the whole city
17 as a network of watersheds. Since virtually every
18 square inch of the city is in a water shed of one
19 of our streams or rivers, the whole city is
20 therefore incorporated.

21 And the map that I handed up. Which was
22 developed by the Water Department shows you where
23 those eight watersheds are.

24 And the zoning code does have some
25 protections for the Wissahickon watershed in the

1 11/17/98 COMMITTEE ON RULES - Bill 960822
2 form of the zoning overlay, which is somewhat
3 archaic now. But it doesn't go so far as to
4 require the storm water management controls to the
5 extent that that Section 16-03.1 does.

6 There have been -- that loophole has
7 actually been used. It has been used both by
8 developers and, to some degree, in the Planning
9 Commission and L&I, from my experience. And the
10 City has been somewhat failing to comply with the
11 Pennsylvania Clean Streams Act and the
12 Pennsylvania Storm Water Management Act. And some
13 development projects have slipped through the
14 loophole, and developments have occurred that can
15 create that problem.

16 In working with a particular project in
17 the last several years with the several civic
18 associations in Roxborough, and with Councilman
19 Nutter, who has participated heavily in that
20 controversy, the 32-acre Hunters Point property in
21 Roxborough, where several high-impact developments
22 have been proposed over the years by various
23 developers, it's a wooded and sloped site in the
24 Shawmont area next to Shawmont Avenue, and it's on
25 the hillside of the Schuylkill River watershed, and

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2 it's close to the river.

3 Because of the defect in the code and
4 the way that it is administered with respect to
5 storm water management, environmentally
6 destructive plans have actually been approved by
7 the City, by the City Planning Commission and by
8 the Zoning Section of the Department of Licenses
9 and Inspections.

10 And those approvals at the Zoning phase
11 and at the City Planning Commission phase, because
12 it's an R-C6 zoning classification, have never
13 mentioned or reviewed them with respect to storm
14 water management, although the significant
15 information in the code regarding storm water
16 management is there. And, in fact, legally, they
17 don't have to because of the defect in the code.

18 Shawmont Avenue and Umbria Street, at
19 the bottom of the site, already flood when it
20 rains. If you can imagine the impact of cutting
21 down several thousand trees and moving thousands
22 of tons of dirt on the 32-acre hillside, you can
23 imagine what the problems would cause if there's
24 no storm water management plan. So far, there is
25 none for this site.

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2 And it is the subject of a number of
3 appeals to the Zoning Board, to the Common Pleas
4 Court, and to the Board of L&I Review because of
5 those quick approvals that were done away from the
6 public view.

7 Right now, because of this defect, the
8 City Planning Commission and L&I can approve
9 similar plans throughout the City without asking
10 for a storm water management plan.

11 Now, one of the problems here is that
12 this is clearly written in the zoning code. And
13 in my experience as an architect who frequently
14 applies for zoning approvals for large and small
15 projects is that the zoning examiners are charged
16 with the responsibility of seeing if the project
17 complies with the zoning code.

18 Frequently, they approve projects that
19 have no response whatsoever to the storm water
20 management requirements of the zoning code. They
21 approve them, and they use the excuse that, Well,
22 the City Planning Commission looked at it and
23 approved it, and they're legally the one who's
24 responsible for enforcing it, but they approved it
25 too.

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2 Using the excuse that, Well, I don't
3 want to spend the money, I'm a developer, I'm
4 getting ready to spend \$10 million on a
5 development but I don't want to spend \$5,000 on a
6 storm water management plan before I get zoning
7 approval is a bad excuse. They don't do it in the
8 suburbs. You can't walk into a planning
9 commission or a township commissioner's hearing
10 with a plan to develop any site in the suburbs
11 around Philadelphia without a storm water
12 management plan. If you don't, you get turned
13 down immediately. In Philadelphia it's too
14 "loosie-goosie."

15 It has to be done and it's obviously --
16 and I believe you're going to approve this because
17 it's a long-term defect that should have been
18 there. Unfortunately, the Planning Commission has
19 been enforcing it sometimes, sometimes not.

20 It should also include with it strong
21 language to the zoning people and the Planning
22 Commission that at those initial review phases,
23 subdivision review, R-C6 review, and the Planning
24 Commission has an obligation to review it. And
25 certainly when City Council reviews it, the R-C6

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2 proposal, which is also required in the zoning
3 code, and when the Zoning Section of L&I reviews
4 it, assuming there's someone in there who can
5 understand storm water management, that storm
6 water management plan must be included with those
7 initial submissions, and they must meet all the
8 criteria that's spelled out in the zoning code,
9 and they don't get zoning approval until that
10 happens.

11 And that would be my testimony. And I
12 urge you to support the bill.

13 COUNCILMAN KENNEY: Thank you very much
14 for your testimony.

15 Any questions for this witness?

16 (No questions.)

17 COUNCILMAN KENNEY: Thank you very
18 much.

19 Is there anyone else here to testify on
20 this bill?

21 (No response.)

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

24 - - -

25 COUNCILMAN KENNEY: We will now convene

1 11/17/98 COMMITTEE ON RULES - Public Meeting
2 a public meeting.

3 The Chair recognizes Councilmember
4 DiCicco for a motion to approve the amendment to
5 Bill No. 980750.

6 COUNCILMAN DICICCO: I so move.

7 (Duly seconded.)

8 COUNCILMAN KENNEY: It's been properly
9 moved and seconded.

10 All in favor, aye?

11 There are none opposed. Bill No.
12 980750 will be amended accordingly.

13 The Chair recognizes Councilmember
14 DiCicco for a motion on the amended bill, 980750.

15 COUNCILMAN DICICCO: I make a motion
16 that Bill No. 980750 be amended.

17 COUNCILMAN KENNEY: We're accepting a
18 motion on the approval of the amended bill.

19 COUNCILMAN DICICCO: I move that this
20 bill, as amended, be reported out of committee
21 with a suspension of the rules.

22 (Duly seconded.)

23 COUNCILMAN KENNEY: Moved and seconded.

24 All in favor, any?

25 There are none opposed. Bill No.

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2 980750, as amended, will be reported out of this
3 favorably, and a request will be made for rules
4 suspense to allow for reading at our next Council
5 session.

6 The Chair recognizes Councilmember
7 Nutter for a motion to approve the amendment to
8 Bill No. 980749.

9 COUNCILMAN NUTTER: Mr. Chairman, I
10 move the adoption of the amendment, which is
11 called the "Revised Exhibit B" to Bill No. 980749,
12 as was handed up by the witness in the second
13 hearing.

14 (Duly seconded.)

15 COUNCILMAN KENNEY: Moved and second.

16 All in favor, aye?

17 There are none opposed. Bill No.
18 980749 will be amended accordingly.

19 The Chair recognizes Councilmember
20 Nutter for a motion on the amended bill.

21 COUNCILMAN NUTTER: Mr. Chairman, I
22 move that Bill No. 980749, as amended, be reported
23 out of this committee with a favorable
24 recommendation and a further recommendation that
25 the rules of Council be suspended so as to permit

1 11/17/98 COMMITTEE ON RULES - Public Meeting
2 first reading at our next session.

3 (Duly seconded.)

4 COUNCILMAN KENNEY: Moved and seconded.

5 All in favor, aye?

6 There are none opposed. Bill No.
7 980749, as amended, will be reported out of this
8 committee favorably, and a request will be made
9 for a rules suspension so as to allow first
10 reading at our next Council session.

11 The Chair recognizes Councilmember
12 Cohen for a motion to approve Bill No. 960822.

13 COUNCILMAN COHEN: Mr. Chairman, I move
14 that Bill No. 960822 be reported out favorably
15 with a recommendation for suspension of rules.

16 (Duly seconded.)

17 COUNCILMAN KENNEY: Moved and seconded.

18 All in favor, aye?

19 There are none opposed. Bill No.
20 980822 will be reported out of this committee
21 favorably, and an additional request will be made
22 to allow for first reading at our next regular
23 session of Council.

24 Bill No.'s 980713 and 970549 will be
25 held to the call of the Chair.

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2 That concludes the business of the
3 Rules Committee public meeting. Thank you for
4 your attendance.

5 (Adjourned at 11:30 a.m.)

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C E R T I F I C A T E

I HEREBY CERTIFY that the foregoing
proceedings of the Council of the City of
Philadelphia of Tuesday, November, 17 1998, were
reported and accurately by me, and that this is a
correct transcript of same.

RE: COUNCIL COMMITTEE ON RULES

BILL NO.'S 960822, 970549, 980749, 980750

_____,
JOSEPHINE CARDILLO,
Registered Professional Reporter