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COUNCIL OF THE CITY OF PHILADELPHIA

3

COMMITTEE ON LAW AND GOVERNMENT

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Room 400, City Hall
Philadelphia, Pennsylvania
Tuesday, June 12, 2007
2:10 p.m.

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PRESENT:

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COUNCILMAN WILLIAM GREENLEE, CHAIR

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COUNCILWOMAN CAROL ANN CAMPBELL

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COUNCILMAN W. WILSON GOODE, JR.

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COUNCILMAN JACK KELLY

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COUNCILMAN JAMES F. KENNEY

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COUNCILMAN FRANK RIZZO

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COUNCILMAN DANIEL SAVAGE

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BILL 070459 - An ordinance providing for the
submission to the qualified electors of the
City of Philadelphia of an amendment to the
Philadelphia Home Rule Charter creating the
office of the Inspector General...

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RESOLUTION 070474 - Resolution proposing an
amendment to the Philadelphia Home Rule
Charter to create the office of the Inspector
General...

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COUNCILMAN GREENLEE: Good

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afternoon, everybody. This is the

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Committee on Law and Government.

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For the record, we have a

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quorum. We have Councilman Kenney,

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Vice-Chair of the Committee; Councilwoman

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Campbell; Councilman Kelly; Councilman

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Goode; and Councilman Rizzo will be right

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back. He promised. So we have more than

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enough for a quorum.

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If Mr. Boyle, the Clerk of the

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Committee, could read Bill No. 070459 and

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Resolution 070474, please.

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THE CLERK: Ordinance 070459,

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an ordinance providing for the submission

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to the qualified electors of the City of

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Philadelphia of an amendment to the

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Philadelphia Home Rule Charter creating

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the office of the Inspector General, as

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approved by Resolution of the City

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Council; fixing the date of a special

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election for such purpose; prescribing

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the form of ballot questions to be voted

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on; and authorizing the appropriate

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.
2 officers to publish notice and to make
3 arrangements for the special election.

4 Resolution 070474, resolution
5 proposing an amendment to the
6 Philadelphia Home Rule Charter to create
7 the office of the Inspector General, and
8 providing for the submission of the
9 amendment to the electors of
10 Philadelphia.

11 COUNCILMAN GREENLEE: Thank
12 you.

13 We have a number of people to
14 testify. I'd like to suggest first the
15 Administration, Ms. Wilkerson, and then
16 the City Controller's Office.

17 Good afternoon again,
18 Ms. Wilkerson. Could you identify
19 yourself. You know the procedure here.

20 MS. WILKERSON: Good afternoon.
21 My name is Joyce Wilkerson. I'm Chief of
22 Staff to Mayor John Street. I'm here
23 today to offer testimony regarding
24 Resolution 070474 and Bill No. 070459,
25 which, if enacted, would place on the

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.
2 ballot the question, if approved by the
3 voters, would amend the Home Rule Charter
4 to create an independent office of
5 Inspector General to provide for terms,
6 salary and removal procedure, and to
7 specify the power and duties of the
8 Inspector General. The Administration
9 has general and specific concerns about
10 the proposed change to the Home Rule
11 Charter.

12 First, I want to offer a brief
13 comment. I made the same observations
14 last week. I'll make the same
15 observations later on this week.

16 We have a Charter that was
17 enacted in '51. For 39 years, we didn't
18 make any changes in the Charter. From
19 2002 to 2007, there have been 20 changes
20 to the Home Rule Charter. A lot of the
21 changes that are proposed are
22 appropriate. I think that it may be time
23 for us to consider a more dramatic change
24 or revisiting of the Home Rule Charter so
25 that the changes are comprehensive and

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.
2 not piecemeal.

3 The Administration has
4 supported the Inspector General function
5 within the City government. As you know,
6 there is currently an Inspector General
7 in City government created by Executive
8 Order serving in the Mayor's Office and
9 serving at the pleasure of the Mayor. To
10 strengthen that function, the
11 Administration has increased
12 substantially the resources devoted to
13 the Inspector General. There, however,
14 are limitations because the position is
15 created by Executive Order. For example,
16 the current Inspector General does not
17 have the authority to investigate matters
18 outside the administrative and executive
19 branch of government. Activities of City
20 Council, City Commissioners, for
21 instance, are beyond his reach. This
22 Charter change would create a separate
23 official appointed by the Mayor and
24 confirmed by Council who would have
25 authority to investigate throughout the

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2 government and could only be removed for
3 cause. This is a needed change.

4 I, however, urge Council to
5 delay the passage of this amendment to
6 address its substantial shortcomings.
7 The appointment and removal process for
8 the Inspector General as well as the
9 scope of responsibilities for the office
10 must be rationalized with positions
11 already existing in the Home Rule
12 Charter. I will offer just a few
13 examples.

14 The Inspector General under
15 this Charter change would be empowered to
16 investigate criminal and/or serious
17 integrity-related complaints of fraud,
18 corruption and abuse involving City
19 employees or officials and contractors,
20 vendors or consultants doing business
21 with the City and concerning inefficiency
22 and waste within programs and operations
23 of City government. The Inspector
24 General would also be tasked with
25 recommending policies and procedures to

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2 City Council. To effectuate these
3 responsibilities, the Charter amendment
4 gives the Inspector General the ability
5 to issue subpoenas, conduct public
6 hearings and staff the office with
7 limited opportunity for budgetary review.

8 Other entities also have
9 investigatory powers as to some of these
10 areas, along with other powers. For
11 example, Council recently established the
12 Board of Ethics to administer and enforce
13 all provisions of this Charter and
14 ordinances pertaining to ethical matters,
15 which for purposes of this Charter shall
16 include conflicts of interest, financial
17 disclosure, standards of governmental
18 conduct, campaign finance reports,
19 prohibited political activity and such
20 additional matters as Council may from
21 time to time assign. It's not clear
22 where the responsibilities of the Ethics
23 Board end and the Inspector General
24 begin. The same is true with
25 responsibilities for investigation and

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2 law enforcement assigned to the Law
3 Department under the Charter.

4 The responsibilities assigned
5 to the Inspector General also overlap
6 those of the City Controller who, under
7 the Charter, is tasked with conducting
8 audits of the affairs of any officer,
9 department, board, commission or agency.
10 Like the proposed Inspector General
11 position, the Controller is from time to
12 time to make recommendations to the
13 several officers, departments, boards,
14 commissions or other agencies receiving
15 appropriations from the City for the
16 improved efficiency and economy of their
17 operations involving the expenditure of
18 City funds. Similar areas of overlap
19 exist with the Human Relations
20 Commission, the Police Department and the
21 District Attorney.

22 Because independence and
23 integrity are critical to the operation
24 of the Ethics Board, the Charter
25 provisions with respect to appointment

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2 and removal were structured to assure
3 independence. Provisions also were
4 incorporated to eliminate even the hint
5 of politics. Section 3-806 regarding
6 Post Service and Employment Restrictions
7 was added preventing Board members,
8 directors and counsel from seeking
9 elective office within two years after
10 expiration of a term of service or
11 termination of employment. Some thought
12 should be given to applying the same
13 restrictions or a similar form of
14 restriction to all integrity positions in
15 the Charter. Given the similar charge of
16 these two entities, it may be less
17 confusing for the public if appointment,
18 removal and qualifications for these
19 positions are handled in the same way.
20 It will also provide a more consistent
21 way of interpreting the Charter.

22 Again, I urge you to delay
23 final passage of this proposed Charter
24 amendment. Throughout government at
25 every level, offices of the Inspector

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2 General perform critical functions. I
3 urge Council to consider carefully the
4 difficult approaches and to adopt a
5 Charter amendment that is not just a best
6 practice, but fits with the City's Home
7 Rule scheme.

8 COUNCILMAN GREENLEE: Thank
9 you, Ms. Wilkerson.

10 Just a couple of questions, and
11 probably other members of the Committee
12 have questions. We got copies of
13 proposed amendments. Are these the
14 Administration's proposals?

15 MS. WILKERSON: No. Those are
16 some -- I'm aware of them. The Law
17 Department worked on them. I think we
18 have, as an Administration, more
19 fundamental concerns about working to
20 align the various places in government
21 where we're going to have investigations
22 conducted. There needs to be some
23 rationale for how those responsibilities
24 are assigned.

25 I think the proposed changes

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2 would clean up some of the more obvious
3 problems, but I think we probably ought
4 to spend more time thinking it through.

5 COUNCILMAN GREENLEE: When
6 you're saying the proposed changes, what,
7 these amendments that were given --

8 MS. WILKERSON: They're not
9 presented on --

10 COUNCILMAN GREENLEE: They're
11 just part of what you might be talking
12 about?

13 MS. WILKERSON: Right.

14 COUNCILMAN GREENLEE: As far as
15 the issue of overlap -- and I'm just
16 being a devil's advocate here. I'm not
17 saying this is necessarily my feeling.
18 What's wrong with another entity also
19 looking at some of the same thing?

20 MS. WILKERSON: I just think at
21 some point it just gets to be a really
22 inefficient way of operating government.
23 One of the ironies is, the Inspector
24 General is supposed to be increasing
25 efficiency in government, and when you

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2 have investigations going on by a number
3 of bodies, you end up spending a lot of
4 time responding to -- and sometimes on
5 the same issue -- to different authorized
6 bodies.

7 The Administration is
8 responding not just to local authorities,
9 but we have federal Inspector Generals
10 that are investigating federal funds. At
11 some point, it would be helpful to have
12 this streamlined.

13 I've seen Inspector Generals
14 operate effectively. I'm thinking of the
15 Housing Authority, for example, that has
16 an Inspector General. They come up with
17 a plan of -- a plan for the entire year
18 of what it is they're going to be looking
19 at. It's something that's negotiated
20 between the Housing Authority and its
21 Inspector General that's also fairly
22 autonomous. It can be a function that
23 serves well, but I think without
24 tailoring it, with having it as
25 broad-ranging as it is in this instance,

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2 you're almost assured of having an
3 inefficient process.

4 COUNCILMAN GREENLEE: Thank
5 you.

6 Are there other questions?
7 Councilman Goode.

8 COUNCILMAN GOODE: Thank you,
9 Mr. Chair.

10 Good afternoon, Ms. Wilkerson.

11 MS. WILKERSON: Good afternoon.

12 COUNCILMAN GOODE: I agree with
13 most of your testimony, although I don't
14 necessarily agree with the conclusion
15 that we can't necessarily move forward
16 today. My particular concern with your
17 testimony is, you talk about not just
18 providing an example of best practices,
19 but making it fit within the Home Rule
20 scheme. Clearly, we can't change the
21 powers and duties that are already within
22 the Home Rule Charter related to those
23 other offices. So, clearly, what we're
24 discussing here is how we not broadly
25 define but more specifically define the

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2 duties and responsibilities of the
3 Inspector General through this
4 legislation, and so we in fact can just
5 more specifically define those powers and
6 duties so that they would not conflict
7 with the other powers and duties within
8 the Charter; is that correct?

9 MS. WILKERSON: You could do
10 that. I mean, that's one approach. I
11 think that at some point we probably need
12 to look at it all, but I think you could
13 more narrowly define these
14 responsibilities and avoid some of the
15 areas of overlap and confusion.

16 COUNCILMAN GOODE: And, in
17 fact, it's usually done in two different
18 ways: Either that ordinance may
19 accompany the other Charter change
20 legislation or that ordinance may in fact
21 come at a later point. So we could in
22 fact amend this legislation that allows
23 for a future ordinance that would specify
24 in detail the powers and the duties of
25 the Inspector General; is that correct?

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2 MS. WILKERSON: Yeah. I think
3 that you probably could clean this up so
4 that -- to address some of the problems.
5 I think some time ought to be spent
6 thinking it through. I was surprised at
7 how many different places in the Charter
8 you end up with overlap.

9 But, yes, I think you could
10 amend this legislation and have it simply
11 empower Council to enact other
12 legislation. I think that's what was
13 done with some of the ethics legislation.
14 It was a broad power created within the
15 Charter, and that power was implemented
16 through legislation of City Council.

17 COUNCILMAN GOODE: So if that
18 amendment was offered today and agreed
19 upon by the sponsor, then most of the
20 Administration's objections would be
21 resolved?

22 MS. WILKERSON: I would have to
23 see it.

24 COUNCILMAN GOODE: The
25 amendment would simply say that Council

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2 has the authority to detail the powers
3 and duties of the Inspector General's
4 office through future ordinance.

5 MS. WILKERSON: Well, I think
6 it would have to be consistent with the
7 authorization in the Charter. I guess my
8 concern is that in the Charter, it's set
9 out so broadly that I don't know that you
10 could then turn around and limit it
11 through legislation, but the lawyers
12 would have to opine on that.

13 COUNCILMAN GOODE: We can
14 further define and detail it.

15 MS. WILKERSON: I'd rather -- I
16 don't want to opine on that. If you have
17 a really -- if you have a lot of specific
18 authorization within the Charter that
19 talks about investigating anybody doing
20 reports, I don't know that you can then
21 turn around and limit it specifically
22 through ordinance.

23 COUNCILMAN GOODE: Well, if the
24 ordinance and legislation which creates
25 the Charter amendment also says that

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2 Council has the power to detail those
3 powers and duties, then basically as it's
4 becoming effective, it's becoming
5 effective with the understanding that
6 Council has the power to amend it.

7 MS. WILKERSON: I'd defer to my
8 City Solicitor for that.

9 COUNCILMAN GOODE: Okay. The
10 only other question related to this,
11 particularly since the Administration in
12 some way seems to be looking toward a
13 delay, it is not the position of this
14 Administration that they would be looking
15 to appoint an Inspector General if this
16 legislation were approved?

17 MS. WILKERSON: If the
18 legislation were approved, I don't recall
19 a provision that gives an implementation
20 date. If it's an implementation date
21 that falls during the term of this Mayor,
22 we would appoint an Inspector General.

23 I'm not looking for delay as
24 much as I am -- as much as the
25 Administration is a piece of legislation

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2 that actually works that has appointment
3 and removal provisions that are
4 consistent within the Charter and that
5 also doesn't create overlap with other
6 departments in the Charter.

7 I think that it is an effective
8 office to have within government. I have
9 seen it -- I have used Inspector Generals
10 to have areas investigated, to get
11 guidance on some of the systems within
12 government. So I think there's a lot
13 that can be gained. I think it's
14 probably worthwhile to spend time looking
15 at the kinds of things -- the kinds of
16 benefits that an Inspector General can
17 bring to government. It's not all
18 investigating for fraud and corruption.
19 What I found most advantageous is where
20 you just want a second set of eyes to
21 take a look at what's happened, how did
22 we get to this point, what kind of
23 practices and procedures do we need to
24 have in place in order to avoid those
25 kinds of problems. That's what the big

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2 benefit of an Inspector General. It's
3 not somebody else running around
4 investigating, issuing subpoenas.

5 COUNCILMAN GOODE: As I say, I
6 agree with most of your testimony, and so
7 it's my assumption that the
8 Administration and as a representative of
9 the Administration, that you have no
10 problem with Council deciding that it
11 would try to in some later point amend
12 this legislation to further detail the
13 powers and duties of the Inspector
14 General and setting an implementation
15 date into the next Administration?

16 MS. WILKERSON: As long as it's
17 a function that fits within the whole
18 system of government, we would support
19 that.

20 COUNCILMAN GOODE: Thank you.

21 COUNCILMAN GREENLEE:
22 Councilman Rizzo.

23 COUNCILMAN RIZZO:
24 Ms. Wilkerson, are you aware of any City
25 employee, from the legislative branch to

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2 the executive branch, that's exempt from
3 being investigated by the Inspector
4 General?

5 MS. WILKERSON: Under the
6 current -- currently, the Executive Order
7 just applies to the executive branch of
8 government. The Inspector General that
9 we have has no authority to investigate
10 Council, the other elected officials
11 within government. It's simply the
12 people who report to the Mayor.

13 COUNCILMAN RIZZ0: Do you think
14 that's a good thing?

15 MS. WILKERSON: I think that as
16 long as it's an appointee of the Mayor, I
17 think that's a good thing. I think if
18 it's a Charter-created position, it is
19 appropriate to have somebody authorized
20 to investigate throughout the entire
21 government. I think that's appropriate.

22 COUNCILMAN RIZZ0: I'm asking
23 you. I guess maybe you're not the right
24 person to ask the question to, and I'm
25 not sure who to. In this pending

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2 legislation, would it just be the
3 executive branch of government or would
4 it include all employees that receive a
5 paycheck from the City of Philadelphia?

6 MS. WILKERSON: It would apply
7 to everyone, every department throughout
8 government, not just the executive
9 branch.

10 COUNCILMAN RIZZO: Thank you.

11 COUNCILMAN GREENLEE: Thank
12 you, Councilman.

13 Any other questions of this
14 witness?

15 (No response.)

16 COUNCILMAN GREENLEE: Thank
17 you, Ms. Wilkerson.

18 MS. WILKERSON: Thank you.

19 COUNCILMAN GREENLEE: The next
20 witnesses or witness is Harvey Rice, City
21 Controller's Office, and after that will
22 be a representative of the Committee of
23 Seventy.

24 Good afternoon, Mr. Rice.

25 MR. RICE: Good afternoon.

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2 COUNCILMAN GREENLEE: Please
3 identify yourself for the record and
4 proceed.

5 MR. RICE: I'm Harvey Rice,
6 First Deputy City Controller, Office of
7 City Controller. The City Controller
8 couldn't be here today. He asked me to
9 present and read his letter. He's
10 accepting an award from a national
11 organization for our police facilities
12 report and audit.

13 It is my understanding that a
14 proposed resolution and corresponding
15 ordinance to amend the Philadelphia Home
16 Rule Charter to make certain changes to
17 the City's Office of the Inspector
18 General will be considered today at the
19 City Council's Law and Government
20 Committee.

21 As I am sure you realize, any
22 proposed change to the Home Rule Charter
23 should always be approached with the
24 utmost caution and should only occur if
25 and when the change or changes in

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2 question have been carefully and fully
3 examined.

4 As currently designed, the
5 Office of the Inspector General already
6 plays a crucial role investigating fraud
7 and abuse in municipal government. While
8 I suspect that the intent of the proposed
9 amendment to the Home Rule Charter,
10 hereinafter referred to as "amendment,"
11 is aimed at making the Office of the
12 Inspector General more independent from
13 the appointing Mayor, it fails to include
14 specific detailed provisions which would
15 guarantee certain protections and ensure
16 the very independence the ordinance seeks
17 to create.

18 In addition to not ensuring the
19 hope for mayoral independence, the
20 proposed amendment also does not provide
21 sufficient specificity of definitions in
22 a number of crucial areas. The amendment
23 states that the Inspector General may be
24 removed by the Mayor only for cause, yet
25 the term "cause" is not clearly defined,

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2 nor is it outlined in the proposed
3 amendment.

4 While the ordinance states that
5 the Mayor shall appoint the Inspector
6 General, there is no timeline requirement
7 outlined in the amendment for the actual
8 appointment, nor is there any stated
9 requirement that the position and office
10 must be fully funded. The goal of an
11 independent Inspector General is not
12 fully achieved when the Inspector General
13 serves at the pleasure of the Mayor and
14 is dependent upon the Mayor for his or
15 her funding.

16 Also, whereas there are no
17 specific qualifications outlined for the
18 City's Inspector General in the amendment
19 in question, all federal Inspector
20 Generals are required to possess certain
21 qualification as outlined in the
22 Inspector General Act of 1978.

23 Additionally, the amendment,
24 Section K, calls for the Inspector
25 General to appoint an unspecified number

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2 of staff, with no guidelines for
3 compensation, as well as no specific job
4 descriptions and required qualifications
5 for each staff position. All key staff
6 positions in all offices of federal
7 Inspector Generals are clearly defined in
8 the law.

9 In the area of hiring and
10 compensation, there is no mention of
11 existing civil service rules under
12 regulations which govern the hiring,
13 placement, promotion and compensation for
14 the overwhelming majority of personnel
15 employed by the City of Philadelphia.

16 The amendment would also grant
17 a mayoral appointed official as opposed
18 to an elected official the power to
19 appoint an unspecified number of
20 employees and determine each employee's
21 compensation, without approval of any
22 other City official or office. This
23 level of empowerment of an appointed
24 official would be a radical departure
25 from existing standards and procedures.

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2 Members of City Council and other City
3 elected officials do not have such
4 unlimited power to hire and determine
5 compensation primarily because the
6 potential for abuse and related risk
7 concerning patronage.

8 In the case of the City
9 Controller's Office and newly created
10 Board of Ethics, the City Home Rule
11 Charter ensures that each entity have
12 adequate funding resources to perform
13 their respective independent
14 Charter-mandated duties by providing a
15 process whereby each entity can petition
16 the Court of Common Pleas for a mandamus
17 action to compel City Council to provide
18 sufficient and adequate funding.

19 In the Home Rule Charter,
20 Section 2-300 with the annual operating
21 budget ordinance is included this
22 language: In every annual operating
23 budget ordinance regarding the City
24 Controller, the amount appropriated to
25 the auditing department shall be adequate

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2 to enable the City Controller to perform
3 the duties of his office and of the
4 auditing department. Should the Council
5 fail to make an adequate appropriation to
6 the auditing department, the City
7 Controller may petition any Court of
8 Common Pleas of Philadelphia County for a
9 mandamus to the Council to perform its
10 duties under this section.

11 "Regarding the Board of Ethics,
12 for the first two fiscal years
13 immediately following the elective date
14 of this subsection, at least one million;
15 and for all subsequent fiscal years, an
16 amount adequate to enable the Board to
17 perform the functions assigned to it by
18 this Charter, shall be appropriated for
19 the work of the Board of Ethics. Should
20 the Council fail to make an adequate
21 appropriation to the Board of Ethics, the
22 Board may petition any Court of Common
23 Pleas of Philadelphia County for a
24 mandamus to the Council to perform its
25 duty under this section."

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2 The amendment as currently
3 drafted fails to provide any possibility
4 of mandamus action for funding from City
5 Council, should the appointing Mayor
6 and/or City Council wish to suspend
7 funding for the Office of the Inspector
8 General, thus severely hampering any
9 independent ability to function.

10 Additionally, whereas federal
11 departmental Inspector Generals are all
12 required to submit two semi-annual
13 reports each year, there is no provision
14 in the proposed amendment for the City
15 Inspector General to file any such
16 reports over any stated time period. In
17 the federal Inspector General's Act, each
18 Inspector General is required to submit a
19 semi-annual report to the President,
20 Congress and department head outlining
21 their activities, investigations, open
22 matters and recommendations for the
23 preceding six-month period. The City
24 Inspector General should also be mandated
25 to report his or her actions to the

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2 Mayor, City Council and to the public to
3 ensure greater transparency and
4 accountability.

5 Should the City Inspector
6 General find criminal wrongdoing in the
7 course of his or her investigation, there
8 is no provision in the proposed amendment
9 for reference of its findings to the
10 appropriate law enforcement entity for
11 prosecution, as in the case of the
12 Philadelphia District Attorney's Office.
13 Both the federal and Pennsylvania
14 Inspector Generals are required to notify
15 the appropriate law enforcement and/or
16 legal authority of any criminal
17 wrongdoing it uncovers.

18 Additionally, unlike the
19 federal statute, the Inspector General
20 Act of 1978, which provides for oversight
21 of all federal departmental Inspector
22 Generals, there is no such oversight
23 provision in the proposed amendment as
24 currently drafted. Under the federal
25 statute, an Integrity Committee exists

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2 for oversight purposes, which consists of
3 an officer of the FBI, the Special
4 Counsel of the Office of Special Counsel,
5 the Director of the Office of Government
6 Ethics, three or more Inspector Generals
7 from other federal departments, a
8 representative from the President's
9 Council on Integrity and Efficiency, as
10 well as the Executive Council on
11 Integrity and Efficiency. This
12 guarantees that the Inspector General is
13 conducting him or herself in a
14 professional and legal manner and does
15 not overstep its duties, responsibilities
16 and authority.

17 The resolution and the
18 corresponding amendment also failed to
19 outline clearly defined standards and
20 procedures for conducting an
21 investigation. There is no mention of
22 any internal procedures for oversight,
23 supervision and quality control measures
24 to ensure the integrity and legal
25 durability of an investigation and any

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.
2 and all evidence gathered.

3 In comparison to existing
4 oversight agencies run by appointed
5 officials; i.e., PICA, the Pennsylvania
6 Intergovernmental Cooperation Authority,
7 the respective Executive Director, Board
8 members and employees of PICA are
9 prohibited from seeking political office
10 for one year after employment and their
11 Board service. There is no such
12 prohibition in the amendment.

13 Furthermore, Commonwealth
14 statutes in the Philadelphia Home Rule
15 Charter establish broad duties and
16 functions for the Office of City
17 Controller for financial oversight,
18 supervision and control of all
19 departments of the City government and of
20 all other departments which are paid out
21 of the City treasury. The proposed
22 duties and powers outlined in the
23 ordinance for the Inspector General would
24 duplicate and cause substantial conflict
25 with the existing state and local law as

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2 it regards to mandated duties and
3 responsibilities of the Office of City
4 Controller.

5 The amendment could also
6 effectively create a situation where an
7 appointed official would have greater
8 oversight powers than a duly elected
9 official, while at the same time
10 duplicating the duties and
11 responsibilities of the independently
12 elected City Controller, all while
13 causing a considerable amount of
14 confusion and possible chaos.

15 I would suggest the following
16 recommendations to achieve the desired
17 goal of creating a truly independent and
18 effective Office of Inspector General,
19 while eliminating any potential conflict
20 with the existing provisions of the Home
21 Rule Charter which govern and dictates
22 the duties and responsibilities of the
23 Office of City Controller:

24 One, a comprehensive review of
25 the proposed drafted resolution be

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.
2 conducted to provide detailed definitions
3 of all terms; a specific timeline for the
4 appointment by the Mayor of the Inspector
5 General; a list of qualifications for
6 Inspector General, plus key staff and
7 other staff within the office; an
8 itemized list of all staff positions and
9 corresponding guidelines; a provision for
10 an independent oversight over the
11 Inspector General; accountability clause
12 should be added to the amendment to
13 assure appropriate jurisdictional and
14 oversight; a defined mechanism for
15 funding for the Office of Inspector
16 General if it should be cut by the Mayor
17 or City Council; examination and analysis
18 of existing civil service rules and
19 regulations so that the positions in the
20 Inspector General's Office coincide; the
21 amendment should include a detailed list
22 of reasons for the removal of an
23 Inspector General by the Mayor; a
24 provision which requires minimum of one
25 annual report to both the Mayor and City

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.
2 Council; steps and procedures for
3 conducting investigations; outline the
4 necessary steps for involving any and all
5 law enforcement agency notification; a
6 one-year prohibition on the Inspector
7 General and/or his or her key management
8 personnel seeking elective office; and a
9 third examination of all current and
10 relevant Commonwealth statutes and the
11 Philadelphia Home Rule Charter.

12 The Office of the Inspector
13 General plays an important role in the
14 function of City government. In weeding
15 out fraud, abuse and possible corruption,
16 it works to ensure an open and honest
17 municipal government in Philadelphia.
18 While we need to strengthen the Inspector
19 General's Office and provide it with the
20 necessary tools to perform its duties,
21 the proposed amendment, while
22 well-intentioned, fails to address
23 concerns which I have raised. If the
24 amendment comes out of the Law and
25 Government Committee as drafted, I

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.

2 believe the objective which this
3 Committee seeks will in the long run be
4 unattainable.

5 If the goal is to provide
6 additional powers to the Inspector
7 General to assure its effective
8 independence, we must carefully draft
9 legislation that will ensure the
10 independence, while safeguarding the
11 integrity and strength of the
12 Philadelphia Home Rule Charter and
13 existing state and local statute
14 governing the oversight jurisdiction and
15 the independent authority elected
16 Controller.

17 Thank you for taking the time
18 to consider the concerns and
19 recommendations I have presented to you
20 and members of City Council's Law and
21 Government Committee.

22 Any questions?

23 COUNCILMAN GREENLEE: Thank
24 you, Mr. Rice.

25 Just a couple things, and some

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.
2 of the Committee members may have
3 questions, too.

4 In the Controller's letter it
5 says early on on Page 2, it says, "The
6 goal of an independent Inspector General
7 is not fully achieved when the Inspector
8 General serves at the pleasure of the
9 Mayor and is dependent upon the Mayor for
10 his or her funding." But in this
11 proposed legislation, City Council has a
12 part in this, too, as far as approval,
13 and obviously the suggestion of funding
14 comes through City Council. What other
15 entity should be involved? You may not
16 know this. But if it's not the Mayor and
17 City Council that gets involved in this,
18 who does, in setting this up?

19 MR. RICE: Well, one thing that
20 could be established is that a committee
21 be formed which would then -- and that
22 committee could consist of the President
23 of the Bar Association, the District
24 Attorney, President Judge of Common Pleas
25 Court and others, someone from the

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.
2 Committee of Seventy, who would then
3 recommend three names to the Mayor, and
4 the Mayor could choose from one of those
5 three and then present that to City
6 Council for their advice and consent.

7 COUNCILMAN GREENLEE: By the
8 way, if I could digress for a second.
9 I'm sorry. I didn't recognize that
10 Councilman Savage is here, as is
11 Councilman Rizzo. Sorry about that.

12 Do you know, the suggestions
13 you made, is that something that other
14 entities do, either municipalities or
15 states in having their Inspector General
16 appointed?

17 MR. RICE: I'm not sure if it's
18 the federal Inspector General, but I
19 believe that the Independent Counsel is
20 appointed by the judiciary, because they
21 oversee the executive branch or the
22 legislative branch. So I think maybe
23 Council could look to something along
24 those lines.

25 COUNCILMAN GOODE: Point of

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.
2 information.

3 COUNCILMAN GREENLEE: Sure.
4 Councilman Goode.

5 COUNCILMAN GOODE: I did not
6 understand his answer. Could he repeat
7 it?

8 COUNCILMAN GREENLEE: He asked
9 could you repeat your answer to the last
10 question.

11 MR. RICE: I'm not sure
12 exactly. I think the federal Inspector
13 Generals are appointed by the
14 President --

15 COUNCILMAN GOODE: I believe
16 the question was what municipalities.

17 COUNCILMAN GREENLEE:
18 Particularly I was thinking of
19 municipalities, because obviously that's
20 what we are, but I was willing to go a
21 little broader, but I'm particularly
22 thinking of what cities have them.

23 MR. RICE: I'm not sure what --
24 how they all appoint their Inspector
25 Generals. I don't think there's just one

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.
2 cookie-cut format. What I will tell you
3 that --

4 COUNCILMAN GOODE: Point of
5 information.

6 COUNCILMAN GREENLEE: Excuse me
7 one second, Mr. Rice.

8 COUNCILMAN GOODE: I believe
9 the question was, are you aware of any
10 other municipalities that do it the way
11 you suggest it be done.

12 MR. RICE: No, I'm not aware.

13 COUNCILMAN GOODE: Thank you.

14 COUNCILMAN GREENLEE: All
15 right. Thank you, Mr. Rice.

16 COUNCILMAN RIZZO:
17 Mr. Chairman.

18 COUNCILMAN GREENLEE:
19 Councilman Goode, did you have another
20 question?

21 COUNCILMAN GOODE: I have
22 several questions, but that was a point
23 of information. Councilman Rizzo.

24 COUNCILMAN GREENLEE:
25 Councilman Rizzo.

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2 COUNCILMAN RIZZO: This is just
3 a short one.

4 Could you tell us your office's
5 policy on making Council aware or the
6 public aware of cases involving fraud or
7 in cases that lead to termination or
8 indictment or whatever? What is your
9 office's policy on making the public and
10 Council aware of your successes or lack
11 of?

12 MR. RICE: Our office policy
13 is, every report that we issue, City
14 Council gets a copy of our report. If we
15 find criminal wrongdoing, we will send
16 that to the District Attorney's Office
17 for prosecution. Such as if we found in
18 a residency case that there was insurance
19 fraud, then we would send that over to --
20 we would report that to the District
21 Attorney's Office, and then when we
22 release the residency case to City
23 Council and the public, that would be
24 part of the case. That's just an
25 example. But everything that the office

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2 completes, Council gets a copy of. I
3 think it's actually even prior before we
4 release it.

5 COUNCILMAN RIZZO: Is there an
6 arrangement or is there any working
7 relationship with the Inspector General?
8 You heard the Chief of Staff talking
9 about the problem with having overlapping
10 investigations and progress, which we all
11 know is not a good thing. Most of the
12 cases that I believe have made the media
13 at least have been worked from the
14 Inspector General's Office. How
15 aggressive is the Controller's Office on
16 issues like you just described, residency
17 and a myriad of potential violations that
18 need to be addressed?

19 MR. RICE: When they are
20 reported to us, we investigate fully. I
21 think a high profile one was the
22 Deputy -- I forget the exact title -- in
23 the Mayor's Office of Information
24 Services which we found. And we have
25 worked at some point with the Inspector

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2 General's Office so that we weren't
3 duplicating. When we had our Fraud
4 Director, she was in more contact with
5 the Inspector General's Office on issues
6 that she was looking at so that we
7 wouldn't run into each other.

8 COUNCILMAN RIZZIO: Thank you.

9 Thank you, Mr. Chairman.

10 Thank you, Councilman Goode.

11 COUNCILMAN GREENLEE: Thank
12 you.

13 Councilman Goode.

14 COUNCILMAN GOODE: Thank you,
15 Mr. Chairman.

16 Mr. Rice, thank you for your
17 testimony. I actually did agree with a
18 lot of it. One question -- and I will
19 probably return to a bunch of questions I
20 asked the Mayor's Chief of Staff. The
21 first question is, throughout your
22 testimony you refer to the term the
23 "amendment" and speak about what the
24 amendment says and what the amendment
25 should say. Which amendment are you

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.
2 referring to?

3 MR. RICE: The proposed
4 resolution ordinance that will be the
5 amendment to the Home Rule Charter.

6 COUNCILMAN GOODE: So you're
7 actually referring to the actual
8 amendment to the Home Rule Charter?

9 MR. RICE: Right.

10 COUNCILMAN GOODE: And you
11 would expect that the amendment to the
12 Home Rule Charter would actually provide
13 that much detail?

14 MR. RICE: Well, we raised
15 various concerns that we think should be
16 considered in compiling.

17 COUNCILMAN GOODE: But you are
18 aware or you are not aware that the
19 actual Charter provision would not be
20 that detailed?

21 MR. RICE: Right.

22 COUNCILMAN GOODE: The way it
23 is normally done is that there is a bill
24 setting the date of the election and
25 proposing the question. There is a

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.
2 resolution which actually contains the
3 actual amendment to the Home Rule
4 Charter. There is sometimes another bill
5 that then provides the detail that would
6 go within The Philadelphia Code.

7 MR. RICE: Correct.

8 COUNCILMAN GOODE: And/or the
9 legislation will call for future
10 ordinances that might provide further
11 detail.

12 So when you refer to the
13 amendment, were you referring to the
14 amendment to the Home Rule Charter or the
15 amendment to The Philadelphia Code?

16 MR. RICE: It would be The
17 Philadelphia Code.

18 COUNCILMAN GOODE: So you do --

19 MR. RICE: To the corresponding
20 amendment on --

21 COUNCILMAN GOODE: So you do
22 realize, as previously discussed within
23 this hearing, that Council still can
24 retain the authority to offer amendments
25 through future ordinance?

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2 MR. RICE: Well, I think you
3 have that right. I would urge Council,
4 though, that whatever is being put forth
5 to the citizens of Philadelphia when they
6 do vote on it, that all these issues are
7 addressed, so going to the bill for The
8 Philadelphia Code to the corresponding
9 amendment --

10 COUNCILMAN GOODE: Mr. Rice,
11 I'm going to stop you, because at first
12 you said the amendment should be to the
13 Home Rule Charter, then you said that the
14 amendment should be to The Philadelphia
15 Code. Now you're saying the amendment
16 should be to the Home Rule Charter,
17 because, in essence, you're asking it to
18 be put to the voters, which means that we
19 should put everything you asked to be
20 detailed in 75 words?

21 MR. RICE: Councilman, maybe I
22 misunderstood you. I thought you said
23 that there would be a corresponding law
24 in The Philadelphia Code that would be
25 corresponding to the amendment of the

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.

2 Charter, which would outline what --
3 that's all I'm asking for.

4 COUNCILMAN GOODE: That is
5 exactly what I said.

6 MR. RICE: Well, then we're
7 asking that the corresponding bill in The
8 Philadelphia Code to the amendment of the
9 Charter consider these options, these
10 concerns.

11 COUNCILMAN GOODE: And I
12 believe that they should and I believe
13 that they can, and if Council chooses,
14 this Committee in particular, chooses to
15 amend the legislation before us to say
16 that Council shall have the power by
17 ordinance to further detail the powers
18 and duties of the Inspector General in a
19 manner not inconsistent with the
20 provisions of the section, you have no
21 problem with that?

22 MR. RICE: The only concern I
23 would have is that if we leave it too
24 vague and --

25 COUNCILMAN GOODE: It's

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2 going --

3 MR. RICE: -- that at some

4 point --

5 COUNCILMAN GOODE: Mr. Rice,

6 I'm going to be very specific with you so

7 we don't keep going there. The Charter

8 is going to remain general. It's not

9 going to contain the type of specificity,

10 the detail that you want. Furthermore,

11 if you're going to get into a discussion

12 of what the voters will or will not

13 approve, the voters will approve a

14 question that has 75 words. That's not

15 going to change.

16 MR. RICE: Right.

17 COUNCILMAN GOODE: That's not

18 going to change based upon any bill that

19 we pass or when we pass it.

20 MR. RICE: I totally agree with

21 that. As long as those words go to

22 the -- whatever you put in the

23 corresponding bill -- that doesn't have

24 to be on the ballot, but when they vote

25 on that, that whatever that corresponding

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.

2 code --

3 COUNCILMAN GOODE: Seventy-five
4 words are going to read the same either
5 way.

6 MR. RICE: Councilman, I agree
7 with you. I just want to make sure that
8 when they vote yes or no, that whatever
9 the outcome of the vote is, that all the
10 concerns that the Controller has proposed
11 today are thought by City Council and
12 when they consider the Code bill that
13 will coincide with the amendment. We're
14 not asking that all of this be put on the
15 exact ballot, but when they vote on it,
16 that these concerns are actually what
17 will take place if that vote should
18 succeed.

19 COUNCILMAN GOODE: I'm a little
20 bit confused now, because you're in a
21 public hearing where you're presenting
22 the Controller's concerns. The Committee
23 is considering the public's concerns.
24 The Committee will consider amending the
25 legislation to say that we will, by

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2 future ordinance, consider those
3 concerns. What more do you want?

4 MR. RICE: If that's the way
5 you need to go before it gets put on, we
6 totally agree with that, before it gets
7 put on the Charter.

8 COUNCILMAN GOODE: Thank you.

9 COUNCILMAN GREENLEE: I guess
10 just to further define that, you're
11 saying, as Councilman Goode explained, as
12 long as that wording that Councilman
13 Goode talked about, the Controller -- and
14 with the understanding that those
15 concerns -- maybe not every single word,
16 but the concerns of the Controller would
17 be taken into consideration, you're okay
18 with that? Is that what you said? I'm
19 just trying to be clear, too.

20 MR. RICE: Could you please --
21 I don't know where we're going with this.

22 COUNCILMAN GREENLEE: Well, I'm
23 not trying to repeat what Councilman
24 Goode said, and if I say this wrong,
25 Councilman, interrupt me, please.

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2 But he said that there will be
3 a bill subsequently submitted, correct,
4 that addresses at least some of those
5 concerns, maybe not every single one?

6 COUNCILMAN GOODE: Takes into
7 consideration.

8 COUNCILMAN GREENLEE: Takes
9 into consideration, thank you.

10 If that's the case, is the
11 Controller's Office supportive then of
12 the --

13 MR. RICE: So are you saying
14 that to consider the Controller's
15 proposals, that you would make amendments
16 to your bill and then vote it out of
17 Committee and then go to the full Council
18 and two-thirds and then it goes on the
19 ballot?

20 COUNCILMAN GREENLEE: Now I'm
21 confused.

22 Councilman Goode.

23 COUNCILMAN GOODE: We would
24 amend the resolution. The resolution
25 would read, Council shall have the power,

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.
2 by ordinance, to further detail the
3 powers and duties of the Inspector
4 General in a manner not inconsistent with
5 the provisions of this section.

6 The provisions of the section
7 would stay the same unless changed by
8 Council. The matter will be voted on by
9 Council and, if approved by Council,
10 would go to the voters. Regardless of
11 when the voters approve it, Council can
12 at some later point further detail, by
13 ordinance, the powers and duties of the
14 Inspector General and take into full
15 consideration all the concerns raised by
16 the City Controller.

17 MR. RICE: But if that
18 occurred, couldn't then Council, if it
19 was a different Council or a different
20 IG, then decide to take away certain
21 powers or certain duties or
22 responsibilities and, thus, infringe upon
23 the very independence that Council is
24 trying to --

25 COUNCILMAN GOODE: It read in a

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2 manner not inconsistent with the
3 provisions of this section. We can't
4 take away. We can detail.

5 MR. RICE: I would have to
6 discuss it with the Controller and then
7 he can give you a call or we can get back
8 to you on that.

9 COUNCILMAN GOODE: Actually,
10 we're not going to let the Controller
11 write the bill.

12 MR. RICE: He's just putting
13 forward his concerns.

14 COUNCILMAN GOODE: And we will
15 take it into full consideration.

16 MR. RICE: He's not in the
17 legislative process of writing a bill.

18 COUNCILMAN GOODE: We will take
19 into full consideration his concerns as
20 we draft the future legislation.

21 MR. RICE: Thank you.

22 COUNCILMAN GREENLEE: Okay.

23 Thank you.

24 Any other questions from
25 members of the Committee?

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2 (No response.)

3 COUNCILMAN GREENLEE: Thank
4 you, Mr. Rice.

5 MR. RICE: Thanks.

6 COUNCILMAN GREENLEE: The next
7 witness, Ellen Kaplan, the Committee of
8 Seventy.

9 Good afternoon.

10 MS. KAPLAN: Good afternoon.

11 COUNCILMAN GREENLEE: I think
12 we have copies of your testimony, but if
13 you could state your name for the record
14 and proceed, please.

15 MS. KAPLAN: For the record, my
16 name is Ellen Mattleman Kaplan and I am
17 the Vice-President and Policy Director of
18 the Committee of Seventy.

19 Thank you so much for allowing
20 us to testify today. We greatly
21 appreciate it. And as you know, the
22 Committee of Seventy was established over
23 100 years ago and we were involved in the
24 initial effort to create the Home Rule
25 Charter and have been involved in every

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.
2 effort to amend the Charter since that
3 time.

4 I want to make clear that the
5 Committee of Seventy believes that
6 creating a permanent and independent
7 Office of the Inspector General is
8 appropriate for a Charter amendment, and
9 we're here today because it fits within
10 our organizational mission to promote
11 greater accountability and transparency
12 in local government. And that's why
13 we're pleased to testify today, and we
14 commend Councilwoman Campbell for taking
15 the initiative in introducing this
16 legislation.

17 What concerns the Committee of
18 Seventy is not the importance of the
19 Office of the Inspector General. We
20 think that it is a very important office
21 and, again, something that should be made
22 a permanent part of City government by
23 placing it within the Home Rule Charter,
24 but rather the interrelationship between
25 the office and that of the Mayor. As you

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2 know, Philadelphia's Inspector General is
3 not only appointed by but reports
4 directly to the Mayor, and we believe
5 that it is very important that the
6 greatest possible distance should be
7 placed between the Mayor and the person
8 who is charged with routing out municipal
9 waste and fraud.

10 No clearer example of this was
11 reported in Chicago just under two weeks
12 ago. You may have read that a federal
13 judge approved a \$12 million settlement
14 to compensate victims of politically
15 based personnel decisions by Mayor
16 Richard Daly's Administration. One of
17 the conditions of the settlement was that
18 Mayor Daly issue an Executive Order
19 banning political hiring. And whose job
20 is it to investigate alleged violations
21 of that but that city's Inspector
22 General. And when the federal judge
23 talked about the need for adequate
24 funding so the Inspector General could do
25 that job, he pointed to the importance of

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.
2 having independence between the Inspector
3 General and the Mayor's Office. So we
4 think that it's very important that our
5 Inspector General have that same
6 independence.

7 Now, it was mentioned earlier
8 the question of a mayoral appointment and
9 what do other cities do. Again, we're
10 not suggesting that the Mayor not be able
11 to appoint the Inspector General going
12 forward, along, of course, with the
13 approval of City Council as in
14 Councilwoman Campbell's proposed
15 amendment, but let me just say that other
16 cities do do it differently, just because
17 you asked. Just, for example, in Miami,
18 Dade County, the Inspector General used
19 to be selected by that county's
20 Commission on Ethics and Public Trust,
21 and it was then decided by that city's
22 legislative body that that wasn't enough
23 to ensure the independence of the
24 Inspector General, and since March of
25 2005, the Inspector General in Miami,

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2 Dade County has been chosen by a
3 committee that's comprised of the State
4 Attorney and Public Defender of the 11th
5 Judicial Circuit for the county, the
6 Chair of the county's Commission of
7 Ethics and Public Trust, which again is
8 their version of our Ethics Board, the
9 President of the local Police Chief's
10 Association and a special agent in charge
11 of the Miami Field Office of the Florida
12 Department of Law Enforcement.

13 And, again, I'm not suggesting
14 that we have a similar kind of selection
15 process, but simply because the question
16 was asked earlier what do other cities
17 do, most cities do have a mayoral
18 appointment, with the input of the
19 legislative bodies to choose the
20 Inspector General, but there are other
21 ways of doing it.

22 Let me just say that the
23 Committee of Seventy does believe that
24 there are certain ways in which the
25 independence and the effectiveness of the

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2 Office of the Inspector General should be
3 strengthened. And to Councilman Goode's
4 point, I think it is true that we need to
5 pay careful attention to what belongs in
6 a Charter amendment and what belongs in a
7 code, because I don't think we want to
8 have pages and pages of our Home Rule
9 Charter devoted to the Inspector General
10 or to any other office.
11 For one thing, I think it makes
12 good sense to appoint an Inspector
13 General whose professional experience and
14 deep knowledge base qualifies him or her
15 to perform the duties of that office.
16 That indeed would be consistent with the
17 mandate in the Charter for other boards
18 and commissions, including the City
19 Planning Commission, which the voters
20 approved just this past May, that the
21 people who are appointed to that body
22 should have their credentials relevant to
23 the work of their respective
24 organizations. And, again, we can look
25 to Miami, Dade County that requires its

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2 Inspector General to have at least ten
3 years' experience in one or more of the
4 following: A federal, state or local law
5 enforcement officer or government
6 attorney; a federal or state court judge;
7 a position with progressive supervisory
8 experience in an investigative public
9 agency similar to that of Inspector
10 General's office. In New Orleans, their
11 Inspector General must have at least five
12 years' experience as a federal law
13 enforcement officer; federal or state
14 judge; senior level auditor; Inspector
15 General; or a lawyer with experience in
16 investigating fraud, corruption or abuse
17 of power.

18 And, by the way, this was also
19 brought up earlier. No one who has been
20 an elected or appointed official in New
21 Orleans or in the state government in the
22 past two years is eligible for the post
23 of an Inspector General.

24 We also would suggest that
25 before removal for cause of an Inspector

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2 General, that it shouldn't just be a
3 hearing if the Inspector General requests
4 a hearing. We'd prefer a more stringent
5 test that applies to members of the
6 City's Board of Ethics, which is removal
7 for cause requires concurrence of
8 two-thirds of Councilmembers,
9 irrespective of whether there's been any
10 request for a hearing by the person whose
11 removal is sought.

12 The Council amendment should
13 also provide as much clarity as is
14 possible and is appropriate for inclusion
15 within the City Charter on the division
16 of responsibilities between the Board of
17 Ethics, the City Controller and the
18 Inspector General. I'm not going to talk
19 a lot about that, because we've heard a
20 lot of testimony about that today, but,
21 again, I think it ought to be clear what
22 the Inspector General does, what the City
23 Controller does and what the Board of
24 Ethics does.

25 As with the Charter amendment

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2 creating the Board of Ethics, we
3 recommend that there be a provision
4 requiring full cooperation by all
5 departments, offices, boards and
6 commissions and their respective heads
7 with the Inspector General. While that
8 may be self-evident to some people, but
9 we believe, again, like in the Board of
10 Ethics amendment, that there ought to be
11 specific language to this effect.

12 Finally, people within City
13 government who report information to the
14 Inspector General must be completely
15 protected against retaliation. Now, as
16 we all know, whistle-blower protections
17 are now accepted provisions in federal,
18 state and local laws. In Baltimore, the
19 Executive Order that creates the
20 Inspector General's position prohibits
21 any retaliation or threats of retaliation
22 against any person for complaining to,
23 submitting information to or cooperating
24 with the Inspector General in any way.

25 In Chicago, there is a penalty

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2 of between \$300 and \$500 for any person
3 who violates their prohibition against
4 any retaliation from people, again,
5 complaining to or cooperating with or
6 assisting that city's Inspector General.

7 Again, let me be clear that we
8 do fully support the intent of the
9 proposed amendment to create and
10 permanently embed in the City Charter the
11 Office of an Inspector General and we
12 would be happy to provide Councilwoman
13 Campbell and this Committee with any of
14 the research that we have about best
15 practices in other cities, what other
16 municipalities do with respect to their
17 Office of Inspector General.

18 And I just wanted to say
19 something about a letter that we did send
20 yesterday to President Verna with copies
21 to other members of City Council, and
22 that has to do with our growing concern
23 about the proliferation of Charter
24 amendments. As you know, there were
25 eight proposed Charter amendments on the

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2 May ballot, and 14 of the last 16 ballot
3 questions have been proposed
4 constitutional amendments. I don't have
5 to tell anybody in this room that the
6 City Charter is the basic governing
7 document of the City of Philadelphia that
8 defines the organization, the powers,
9 functions and essential procedures of the
10 City.

11 Our concern is that there
12 appears to be a growing trend to put
13 items on the ballot that, in our view,
14 are not appropriate for a Charter
15 amendment. And let me just bring up one
16 that just happened in May having to do
17 with removing the troops from Iraq.
18 Irrespective of whether anybody in this
19 room or in the City believes that the
20 troops should be removed from Iraq in
21 2007, our concern is putting it in the
22 City Charter has no effect on what the
23 federal government is going to do in that
24 regard. There are other ways, we
25 believe, to express the sentiments of the

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2 citizens of Philadelphia. There are
3 Executive Orders, City ordinances, City
4 Council resolution, and we're really
5 concerned that we have a growing number
6 of City Charter amendments on the ballot.

7 And, as you know, the Committee
8 of Seventy does have volunteers that work
9 all over the City on election day to
10 monitor the polls, and what we heard
11 repeatedly from voters was, Look at the
12 ballot questions, there's so many of
13 them, what do they mean, and I think that
14 we really do need to be concerned about
15 voter fatigue. They look at such a long
16 ballot question. We don't want to turn
17 them away from the polls. We want them
18 to vote, and we particularly want them to
19 vote on amendments to the City's basic
20 governing document.

21 So the Committee of Seventy
22 respectfully asks that this Council, in
23 reviewing issues that they are proposing
24 for the Home Rule Charter, ask that
25 whether the proposed amendment is either

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2 required under the law to effect the
3 proposed change or otherwise necessary or
4 appropriate to achieve an effective and
5 enduring change to the organization,
6 powers, functions and essential
7 procedures of City government.

8 Thank you very much again for
9 allowing the Committee of Seventy to
10 testify today.

11 COUNCILMAN GREENLEE: Thank
12 you, Ms. Kaplan.

13 Councilman Rizzo.

14 COUNCILMAN RIZZO: We went
15 through a lot of conversation here in
16 Council about the process when we want to
17 put something before the voters that it's
18 required by law to be treated like an
19 amendment to the City Charter. It wasn't
20 clear to me what you were trying to
21 communicate. That you don't want to see
22 so many ballot questions or the process
23 of amending the City Charter to get it on
24 the ballot?

25 MS. KAPLAN: What I'm trying to

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2 say -- and I'm sorry that I wasn't
3 clear --

4 COUNCILMAN RIZZO: Maybe I just
5 didn't understand. Everybody else might
6 have understood.

7 MS. KAPLAN: What we're trying
8 to say is that we believe that there are
9 amendments that have been proposed to the
10 City Charter that are perhaps not
11 appropriate for the City Charter, which
12 is the basic governing document. For
13 example, the example that I used is with
14 regard to the war in Iraq, which doesn't
15 have to do with municipal governance,
16 that perhaps if Council wanted to state
17 its views, the views of Philadelphia,
18 perhaps that would have been more
19 appropriate for a Council resolution than
20 putting it to the voters by way of a
21 proposed amendment to the Home Rule
22 Charter.

23 Another issue had to do with
24 voters' feelings about real estate tax
25 assessments. Again, it is perhaps

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2 helpful to know what the voters think,
3 but that, in our view, was not a question
4 that belonged in the City Charter.

5 COUNCILMAN RIZZO: I think we'd
6 like to do that, but the only mechanism
7 to get it there is the process that we
8 use. Matter of fact, we even asked,
9 short of paying for a poll on particular
10 issues, that there is no other mechanism
11 to get the question on the ballot other
12 than the way we do it.

13 MS. KAPLAN: I guess my
14 concern, Councilman Rizzo --

15 COUNCILMAN RIZZO: Maybe we
16 need to have an amendment to the Charter
17 to change the way we do it.

18 MS. KAPLAN: Well, that's
19 something to consider.

20 COUNCILMAN GREENLEE: We might
21 have more questions on the ballot then.
22 I don't know.

23 Along those same lines,
24 Ms. Kaplan, just so I'm clear, on this
25 particular issue that we're talking about

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2 with the Inspector General, the Committee
3 of Seventy doesn't deny a Charter change
4 is really the only way to do it, right?
5 So you're not disputing the issue, this
6 particular issue, as being appropriate --

7 MS. KAPLAN: No. This
8 particular issue, the creation of a
9 permanent Office of the Inspector
10 General, is entirely appropriate for a
11 Charter amendment.

12 COUNCILMAN GREENLEE: All
13 right. Just so I'm clear on that. And
14 also to be clear, you raise some
15 question -- I mean, what is the Committee
16 of Seventy's position on this bill and
17 resolution as of now? Do you have
18 suggested amendments?

19 MS. KAPLAN: Yes. The
20 Committee of Seventy supports placing on
21 the ballot the question of Philadelphia
22 creating a permanent Office of the
23 Inspector General. Like other people
24 today, we think that there are a number
25 of improvements to be made. Whether it

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2 happens in the Code, how that happens,
3 that's what this body is all about, but
4 what we're saying is, we think there
5 needs to be things that are placed in the
6 amendment or placed in the Code that
7 relate to the qualifications of the
8 person being chosen as Inspector General.
9 Certainly we think the removal provision,
10 which already is in the legislation,
11 ought to be clarified so that City
12 Council is absolutely involved in any
13 removal for cause of the Inspector
14 General.

15 So there are some things that,
16 yes, should be in the amendment that are
17 not there now that we think should be
18 added before it goes to the voters.

19 COUNCILMAN GREENLEE: Or be put
20 in the Code, as Councilman Goode
21 suggested?

22 MS. KAPLAN: Right.

23 COUNCILMAN GREENLEE: Okay.

24 Any other questions?

25 Councilman Savage.

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2 COUNCILMAN SAVAGE: In the
3 proposed resolution that you read and
4 we're talking about today, is there
5 anything in there that you feel -- we
6 talked about possible amendments, but is
7 there anything in there that you feel
8 should be deleted?

9 MS. KAPLAN: That should be
10 deleted? Not deleted, but changed.

11 COUNCILMAN SAVAGE: Do you
12 think that there's any discrepancies --
13 Joyce Wilkerson, the Chief of Staff to
14 the Mayor, she spoke about some parallels
15 that are happening between the City
16 Controller's Office. Do you think that
17 there's -- two offices doing the same
18 job, do you think there's any
19 discrepancies there that you can touch
20 on?

21 MS. KAPLAN: Councilman, I
22 don't pretend to be so knowledgeable
23 about what the City Controller does to be
24 able to comment on that. My only comment
25 was that other people, of course, are

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2 raising that who are more knowledgeable
3 than I. I think what I'm just expressing
4 is the Committee of Seventy's concern --
5 and, again, this is also a fiscal
6 concern -- that we're not paying two
7 different bodies to do the same exact
8 thing, just to make sure that everybody
9 knows what their precise role is.

10 For example -- and I think I
11 didn't mention this right now -- with
12 respect to the -- with the Board of
13 Ethics, in Chicago there is something
14 specifically in their bill that -- excuse
15 me; not Chicago. It's in Baltimore --
16 that specifies that Baltimore's Inspector
17 General shall refer to that city's Board
18 of Ethics any complaint that alleges a
19 violation of the ethics provisions in the
20 Baltimore City Code and shall investigate
21 a complaint referred to that Board of
22 Ethics only if the Board asks him or her
23 to perform such an investigation, or the
24 complaint has matters that are not within
25 the jurisdiction of the Board of Ethics.

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2 So I just think everybody needs
3 to be very, very clear on what the
4 responsibilities are so we don't have the
5 Controller doing what the Inspector
6 General is also doing.

7 COUNCILMAN SAVAGE: Thank you.

8 COUNCILMAN GREENLEE: Thank
9 you, Councilman.

10 Any other questions?

11 (No response.)

12 COUNCILMAN GREENLEE: Thank
13 you, Ms. Kaplan.

14 MS. KAPLAN: Thank you.

15 COUNCILMAN GREENLEE: On my
16 list here -- Mr. Mandel, did you want to
17 testify?

18 MR. MANDEL: No.

19 COUNCILMAN GREENLEE: No?
20 Okay.

21 COUNCILMAN GOODE: That's a
22 first.

23 COUNCILMAN GREENLEE: Yeah.

24 Mark this date down.

25 We have Seth Williams, the

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.
2 current Inspector General. Now, I also
3 have on my list Benjamin Redmonz, former
4 Inspector General. Is he here? I don't
5 think so.

6 MR. WILLIAMS: Unfortunately,
7 he could not be here. Mr. Benjamin
8 Redmonz was the third Inspector General
9 and he's currently in Harrisburg with the
10 Committee of, I think, Delinquency and
11 Crime Prevention or Juvenile Crime
12 Control and he couldn't be here, but he
13 supports the legislation that would make
14 the Office of Inspector General a more
15 permanent fixture in the Home Rule
16 Charter.

17 COUNCILMAN GREENLEE: Okay.
18 Mr. Williams, why don't you identify
19 yourself officially for the record and
20 proceed.

21 MR. WILLIAMS: My pleasure.
22 Good afternoon. For the record, my name
23 is Rufus Seth Williams.

24 COUNCILMAN GREENLEE: You just
25 told me something I didn't know.

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2 MR. WILLIAMS: There you go.

3 It's hard going through grade school with
4 that as a first name.

5 If I can proceed. Good
6 afternoon, Mr. Chairman, members of the
7 Committee. It's a pleasure to be here.
8 I'd like to thank you sincerely both
9 personally and professionally for holding
10 this hearing and taking public testimony
11 about this very critical matter. I'd
12 also like to thank personally and
13 professionally Councilwoman Campbell for
14 her initiative and strength of courage of
15 introducing this legislation. I'd also
16 like to thank her staff for working so
17 diligently to prepare it in its original
18 form and the amendments that have been
19 made, most specifically Mr. Eubanks and
20 Mr. Wright. I'd like to thank them for
21 their hard work, because I recognize
22 that. And in this day and age, when
23 everyone is speaking and talking about
24 addressing corruption, fraud and waste, I
25 recognize the hard work of those that are

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2 willing to roll up their sleeves and to
3 actually work on it. So I'd like to
4 thank Councilwoman Campbell and her
5 staff.

6 I'd also like to thank Ms.
7 Wilkerson, Mr. Rice and Ms. Kaplan for
8 testifying today. I think the public
9 discourse needs this conversation, and I
10 think that in the free marketplace of
11 ideas, you'll hear all of the ideas and
12 all of the different opinions, and I
13 respect whatever outcome Council has in
14 drafting the most appropriate legislation
15 you see fit. But I would like to, if I
16 could, read briefly some of my written
17 testimony that I have presented to the
18 Committee. I would then like to address
19 some of the questions that I read in
20 Mr. Butkovitz's letter that was presented
21 to the Committee yesterday, and then I've
22 also included in my packet for you a copy
23 of a report that you can now read if you
24 go online to the Office of the Inspector
25 General's website.

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2 We've tried in my tenure as the
3 Inspector General to make our office as
4 transparent as we believe the rest of
5 government should be. So you can go to
6 our website and review our most recent
7 cases we've opened and how many we have
8 opened and what their status is, and that
9 is reflective of that.

10 I'd also like to bring to your
11 attention that I was only reminded
12 yesterday that my testimony would be
13 required today at 1:00. So along with my
14 staff, we worked to prepare these
15 documents for you. So whatever you see
16 that's good, I attribute to my staff, and
17 whatever errors you see or omissions or
18 misspelling or grammatical errors, please
19 attribute those to me.

20 If I could with my letter.

21 Dear Mr. Chairman, good afternoon. I'm
22 Seth Williams, Inspector General for the
23 City of Philadelphia. I was appointed by
24 Mayor Street on November the 14th, 2005.

25 Today, the future of

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2 Philadelphia is at a crossroads. The
3 voices of our citizens were loud and
4 clear on May 15th. They demanded an end
5 to municipal corruption and an increase
6 in the governmental accountability.
7 Business as usual is over. You now have
8 the opportunity to personally show your
9 commitment to the people of Philadelphia.
10 The Office of the Inspector General is
11 not only an essential component to the
12 enforcement of ethical governing, it is
13 at the front line in the fight against
14 municipal corruption. However, as it
15 stands today, any future Mayor may
16 terminate the Office of the Inspector
17 General at his or her whim. Therefore,
18 it is essential that the citizens be
19 given the right to vote whether the
20 Philadelphia Home Rule Charter shall be
21 amended to make the Office of the
22 Inspector General a permanent office in
23 the City of Philadelphia.
24 The history of the Office of
25 the Inspector General in the City of

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2 Philadelphia began on May the 22nd, 1984
3 when Mayor W. Wilson Goode, Sr. signed
4 Executive Order No. 1084 creating the
5 Office of Performance Assessment. The
6 goal of that office was to prevent or
7 correct fraud, abuse, waste and
8 mismanagement in the programs and
9 operations of the government of
10 Philadelphia. Today, the Office of
11 Performance Assessment is called the
12 Office of Inspector General.

13 The necessary expansion of the
14 OIG has been exceedingly slow, but an
15 otherwise naturally evolving process.
16 Since 1984, two successive Executive
17 Orders have been enacted in order to more
18 effectively combat municipal fraud and
19 corruption. On March 1, 1985, Mayor
20 Goode amended Executive Order No. 1084 in
21 order to change the name from the Office
22 of Performance Assessment to the Office
23 of Inspector General.

24 That would have been a mouthful
25 to have to answer the phone that way.

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2 On November 28, 1994, Mayor
3 Edward G. Rendell signed Executive Order
4 No. 494, which more clearly defined the
5 mission, jurisdiction and organization of
6 the Office of Inspector General. In the
7 past eight years, Mayor John F. Street
8 has doubled the personnel in the office
9 to 11 and recently approved the hiring of
10 an attorney to handle legal affairs.

11 The proposed amendment before
12 you is only an initial draft, I
13 understand, yet a starting point. The
14 language of the proposed amendment must
15 be clear, concise and specific. It must
16 establish and outline several components
17 of the OIG, including the office's
18 mission, permanency, independence,
19 authority, jurisdiction, funding and
20 staff qualifications. Therefore, I
21 propose that the distinguished members of
22 City Council refer to the Association of
23 Inspectors General for guidance. The
24 Association was created in 1996. It is
25 the premiere organization for Inspectors

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2 General throughout the United States. On
3 October the 26th, 1999, the Association
4 enacted the Principles and Standards for
5 Offices of Inspectors General. Copies of
6 relevant portions of the principles and
7 standards have been provided to you
8 today.

9 So in the letter that was
10 submitted to you by Mr. Butkovitz, he
11 made reference to the federal Inspector
12 General's Act of 1978, which is the
13 governing legislation for all of the
14 Inspector Generals in the federal
15 government across our nation. And it's
16 important for me to understand all this,
17 because prior to being appointed
18 Inspector General, I had never heard of
19 the Office of the Inspector General in
20 the City of Philadelphia. And I think
21 that does a great disservice to the
22 public and the mission of the office.

23 So we have tried to expand our
24 ability to meet with communities, to meet
25 with legislators such as yourselves. I

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2 see Councilman Kelly shaking his head. I
3 met with him. He was one of the first
4 people I went and talked to, as was City
5 Controller Seidel when he was still the
6 City Controller. So it was very
7 important for me, I think, to move
8 forward, because it's my finding as the
9 Inspector General that people do what's
10 inspected and not expected. People do
11 what's inspected, not expected.

12 So a famous Sister of St.
13 Joseph that taught me in seventh and
14 eighth grade said that the best judge of
15 one's character is what you do when
16 you're not being watched. Therefore, the
17 inverse is true. People act right when
18 they're being watched.

19 So with that being said, it's
20 very important for all municipal
21 employees and the public to know what it
22 is that Mayor Goode created, that Mayor
23 Rendell strengthened, Mayor Street
24 doubled and whatever future Mayors have,
25 that there is a watchdog to ensure public

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2 accountability. So that's why I'm very
3 glad that there's a move afoot to make
4 this a permanent fixture in the City
5 government.

6 As I stated earlier, at any
7 time in the future a Mayor theoretically
8 could be upset about our investigations
9 or maybe it hits too close to home and by
10 a mark of the pen, poof, could eliminate
11 the Office of the Inspector General, and
12 I think we don't want that to happen.

13 So while some of the comments
14 made by Mr. Rice on behalf of
15 Mr. Butkovitz are relevant and I think
16 could be made part of whatever
17 legislation or ordinance you have in the
18 future, I would ask that you look to what
19 we refer to in the world of Inspectors
20 General as the Green Book and that it has
21 many of the same issues that were brought
22 up as questions today about the mandate
23 for the Office of the Inspector General,
24 qualifications, how we conduct our
25 investigations, how we refer appropriate

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2 criminal matters to whichever authority
3 is most appropriate to handle that. So I
4 just ask you to look to that.

5 You can look to the federal Act
6 for guidance, if you'd like, but there
7 was questions that were posed to
8 Ms. Kaplan and to Mr. Rice. I've gone to
9 a conference -- we have two conferences
10 every year for Inspectors General and
11 I've learned an immense amount about the
12 different ways different cities try to
13 grapple with this, and the Green Book
14 tries to show you what the general
15 opinion is on the best way to do it.

16 So in conclusion, the great
17 cities of New York and Chicago have
18 demonstrated a well-publicized commitment
19 to holding all their employees and
20 officials accountable for any fraudulent
21 or unethical conduct, conduct that
22 disproportionately discriminates against
23 the quality of life of their citizens.

24 The Department of Investigation
25 for the City of New York with a budget of

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2 \$22 million employs 295 people. The
3 Chicago Office of the Inspector General
4 with a budget of 5 million employs 61
5 people. On the other hand, the
6 Philadelphia Office of Inspector General
7 presently employs a total of 11 people to
8 investigate and monitor over 27,000
9 municipal employees. Accordingly, the
10 staff in New York City is 37 times larger
11 and the office in Chicago is
12 approximately eight times larger.
13 Despite our small staff and operations
14 and investigations into misconduct by
15 City employees and officials, we have
16 yielded approximately \$1.6 million in
17 savings in the most recent fiscal year.

18 In 1903, Lincoln Stevens
19 observed that Philadelphia was "corrupt
20 and contented." Sadly, this remains a
21 prevailing opinion today both locally and
22 nationally. Most City officials and
23 employees follow the rules. They don't
24 steal money. They don't rig bids. They
25 don't commit fraud. Sometimes, however,

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2 people don't do what is expected. They
3 only do what is inspected. If
4 Philadelphia is to become the next great
5 city, it is essential that the Office of
6 the Inspector General has the tools to
7 find these violators and hold them
8 accountable. Clearly, we cannot fully
9 serve the rights of the people without
10 giving them the power to vote to amend
11 the Home Rule Charter to make the Office
12 of the Inspector General a permanent
13 institution of the City. Now is the time
14 to enact the independence and autonomy
15 that the OIG needs to more fully fulfill
16 its mission.

17 And as I've stated, I've
18 included for you relevant portions of the
19 Green Book. I also have for your reading
20 pleasure what appears on our website.
21 This page, this document, shows monthly
22 data, and if you would like, I can go
23 through that with you now or you can just
24 have that. I've also included a
25 breakdown that shows the complaints

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2 received in Fiscal Year '07 by department
3 and the complaints received in Fiscal
4 Year '07 by category. I think you may
5 find that helpful just in background,
6 just in understanding what it is that we
7 do and how we do it. I think the most
8 important use of my time here today would
9 be to answer any questions that you have
10 related to anything you've heard earlier
11 about overlap or how we do our job, so at
12 this time, I'd like to answer your
13 questions.

14 COUNCILMAN GREENLEE: Thank
15 you, Mr. Williams, and I should note for
16 the record the fine job you do do in your
17 job.

18 MR. WILLIAMS: My mother thanks
19 you.

20 COUNCILMAN GREENLEE: Great.

21 Since you brought it up, the
22 first thing I was going to ask, I was
23 going to ask generally, but you heard the
24 other witnesses, particularly Mr. Rice
25 and Mr. Butkovitz's comments, he makes a

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2 lot of suggestions, but certainly one of
3 the bigger concerns is the overlap. What
4 are your thoughts on that? Do you think
5 they're accurate criticisms? What would
6 you change, that kind of thing?

7 MR. WILLIAMS: Well, there's
8 nothing that I see in the legislation as
9 proposed that grants us any additional
10 authority, with the exception of
11 Councilman Rizzo's question of would we
12 investigate other entities other than the
13 executive branch, which I think is a good
14 thing and should be done. But other than
15 that, there's nothing that's expanding
16 what we currently do.

17 So is there overlap? There's
18 some, but I don't think that is a bad
19 thing. Having multiple people shine
20 flashlights in the basement to see what's
21 going wrong I don't think is a bad thing.
22 But the same point, we're not out there
23 bumping into each other while we're
24 conducting these investigations that I've
25 had a history of.

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2 But it's true, the U.S.

3 Attorney's Office, the Attorney General
4 for the Commonwealth of Pennsylvania, the
5 District Attorney, the Controller's
6 Office, the Inspector General, the
7 Housing Inspector General, SEPTA
8 Inspector General all exist and they
9 could sometimes come over the same type
10 of information. For the most part, when
11 that happens, if we do become aware of it
12 and with the help of Councilman Goode, I
13 was able to host a meeting for all of the
14 regional Inspector Generals for all the
15 various departments sometime in the
16 summer of last year. That was very
17 helpful for us just to get together,
18 because it had never been done before.

19 So it's helpful to know who is
20 doing what, but sometimes that's a bad
21 thing. Different people have different
22 agendas and different reasons why they do
23 what they do. So having some people
24 investigating the same thing sometimes
25 isn't a bad thing. I have tried to reach

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2 out to -- the first person I met after I
3 was appointed was Mr. Seidel, who was the
4 Controller, to make sure we get on the
5 same page at least about some things.
6 When Mr. Butkovitz was elected and was
7 sworn into office, I then reached out to
8 him, and I had the courtesy of meeting
9 with him and Mr. Rice. I've spoken with
10 their staff.

11 One of the greatest areas that
12 there is overlap between the Controller's
13 Office and the Office of the Inspector
14 General relates to residency
15 investigations, and I would hate to
16 utilize duplicative resources in tracking
17 down an employee that chooses to live in
18 Lansdowne as opposed to West
19 Philadelphia. So we're trying to work
20 out where if we have concluded an
21 investigation, if they have additional
22 information or they conducted an
23 investigation also, that we would use all
24 of that information if the case were to
25 be appealed to the Civil Service

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2 Commission. But in situations like that,
3 the more evidence you have, the better.
4 So it's not something where we would say,
5 Don't do what you're investigating. So
6 as it relates to overlap, that would be
7 my expressed opinion.

8 COUNCILMAN GREENLEE: Just one
9 question and then I'll recognize
10 Councilman Rizzo. Either with the former
11 City Controller or the present one, in
12 any of these overlaps, in your opinion --
13 I should have asked Mr. Rice this
14 question. Maybe I'll call him back and
15 ask him if he could answer it, too --
16 have the overlaps turned into conflicts
17 at all that you have noticed? In other
18 words, has that caused friction and then
19 somehow maybe caused problems with your
20 investigations, in your opinion?

21 MR. WILLIAMS: No. I think I
22 was quoted today in the Metro by saying
23 that there could be 20 agencies
24 investigating corruption, fraud and waste
25 in the City and that might not be enough.

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2 So there have not been, to my
3 experience since November of 2005, any
4 conflicts or tension between myself, my
5 staff and the Office of the City
6 Controller. To the contrary, we were
7 both investigating various aspects of the
8 use of public funds for Oracle and the
9 Water Revenue Bureau and tracking who
10 owes how much money to the City of
11 Philadelphia, and when it came to my
12 knowledge that Mr. Butkovitz had assigned
13 Ellen Ceisler Green to conduct a similar
14 investigation, I contacted her and we
15 allowed her to come to our office and
16 review every document that we had, and if
17 there was anything that she thought she
18 wanted a copy, she had full access to
19 copy it and take it out the door with
20 her.

21 So that's my experience. If
22 they have any other experience, they can
23 speak for themselves, but it has not been
24 my -- most of the investigators, they
25 find somebody is looking into something,

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.

2 they're happy.

3 COUNCILMAN GREENLEE: I know
4 Councilman Rizzo had a question, but
5 while he's aside for a minute, but
6 Mr. Butkovitz makes basically 15
7 suggestions here in his letter. Are
8 there ones -- you don't have to go over
9 each one, but are there ones particularly
10 that you think should be included or some
11 you particularly have a problem with?
12 Have you had a chance to read that?

13 MR. WILLIAMS: I did, and I
14 didn't commit it to memory.

15 COUNCILMAN GREENLEE: No. I
16 understand. I didn't know if something
17 struck you one way or the other.

18 MR. WILLIAMS: I think what was
19 more appropriate was instead of me going
20 tit for tat with whatever he stated was
21 to put what I thought was appropriate,
22 and that's why I included the Green Book
23 and what Inspectors General live by, not
24 by what City Controllers live by. So
25 that's why I included what was written

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.
2 here.

3 I think what's important if
4 you're talking about overlap, the City
5 Controller, they have mandates from the
6 state government, from the City
7 government and the federal government to
8 conduct annual audits, and I would say
9 they probably do it very well. The
10 audits that are conducted by the Office
11 of the Inspector General are more
12 forensic audits that come to us as a
13 result of investigations we're doing or
14 as a result of tips that we get or as a
15 result of a mayoral or a departmental
16 inquiry.

17 So we're not out there counting
18 the beans every year for every department
19 as the Controller does, nor would we want
20 to, but often we have investigators
21 assigned to our office and we have
22 auditors. The investigators conduct the
23 "who done it." They might find that the
24 Department of Recreation is losing a lot
25 of resources at a warehouse. Ping pong

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2 balls and basketballs are walking out the
3 door. Our investigators would then find
4 out the "who done it," who is stealing
5 the items from the warehouse. Our
6 auditors would then get involved with the
7 integrity officer for the Department of
8 Recreation and the Commissioner to
9 correct the "how done it" so that they
10 have better audit controls, so that two
11 people have to sign to take the
12 basketball hoops out or whatever it is.

13 That type of mundane -- we
14 handle everything from Fairmount Park
15 employees that are stealing pick-up
16 trucks to people that are taking pictures
17 of the dead at the morgue and selling
18 them on the Internet, everything in
19 between. Those aren't the types of
20 things where there would be overlap with
21 the City Controller's Office.

22 The Ethics Board, as you are
23 well aware, handles primarily campaign
24 and elections code violations. When we
25 have an allegation -- because generally

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.
2 when people make allegations about
3 wrongdoing, they send a letter to us. It
4 might be written in crayon, but they'll
5 send courtesy copies to the Controller,
6 the Ethics Board, the Pope, everyone. So
7 when that happens, if it's something that
8 we think is most appropriate for the
9 Ethics Committee, I send a copy of that
10 letter, a cover letter to Shane Creamer
11 and say, If you need our assistance,
12 contact us, and generally that's how we
13 work together.

14 COUNCILMAN GREENLEE:
15 Councilman Rizzo.

16 COUNCILMAN RIZZO:
17 Mr. Williams, overlap is something I've
18 been involved in in a long time, knowing
19 people that work for the various federal
20 agencies, et cetera. I mean, there's
21 times when the criminal division of IRS
22 or the FBI are both on the same case, and
23 at some point they lock in and say, Look,
24 this is your job or this is -- and I
25 assume that you would work the same way,

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2 if the Controller has more of it or
3 further along, that you would work things
4 out, I would assume, or either work
5 together.

6 MR. WILLIAMS: Definitely.

7 COUNCILMAN RIZZO: Because I
8 know definitely the federal agencies,
9 many times they don't even know each
10 other are working on it until it gets to
11 a certain point, and then that's where
12 they separate it out. And, by the way,
13 before you answer that, wasn't that case
14 that the Controller's Office said that --
15 I thought I read that you --

16 MR. WILLIAMS: Maybe they were
17 investigating Michael Dean also. I
18 didn't know it, but I was out sitting in
19 front of his house in Havertown in a Ford
20 Taurus that's assigned to me with tinted
21 windows making sure that it was in fact
22 Mr. Dean coming out of that house,
23 getting on the light rail and riding into
24 the City from Havertown.

25 COUNCILMAN RIZZO: It was your

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.
2 organization? Okay.

3 MR. WILLIAMS: Yes.

4 COUNCILMAN RIZZO: I thought
5 that that was the case. Thank you.

6 COUNCILMAN GREENLEE: Any
7 questions?

8 Councilman Kelly.

9 COUNCILMAN KELLY: Inspector
10 General, I just want to say that even
11 though you have limited resources and
12 staff, I think you're doing an admirable
13 job. You really are. I think you're to
14 be commended.

15 In saying that, I just want to
16 say that would you have any problem --
17 because I know the City Controller has
18 sent us a list of things that might be
19 included to strengthen this bill or
20 resolution. For instance, I am
21 absolutely -- I'll go on record as saying
22 we need a totally independent Inspector
23 General. That's without a doubt. But
24 what we also need, in my opinion, is that
25 we need to protect that Inspector General

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2 from all the political people around, so
3 that the Mayor, City Council or whatever,
4 if they don't like what you're doing,
5 they can't really harm you in any way,
6 because your job is to route out
7 corruption, no matter where it is. And I
8 just want to ask you, would you have any
9 problems if we took some more time to
10 look at some of these recommendations or
11 proposals from various agencies such as
12 the Controller's Office and see if we can
13 make this a better bill than what it is
14 today? Would you have any objections,
15 for instance, if it doesn't go on the
16 ballot in November, but perhaps it will
17 go on in the spring of next year?

18 MR. WILLIAMS: Again, it
19 wouldn't be my place to tell you how to
20 do your job. You should do whatever you
21 think is most appropriate to ensure that
22 the voters have the opportunity to make
23 the Office of the Inspector General
24 permanent. If that's in November, if
25 that's in May, whatever you see fit I

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2 believe is most appropriate.

3 But I've spoken with several
4 members, maybe almost all of you, about
5 the Office of the Inspector General and
6 I'd just like to credit again
7 Councilwoman Campbell for asking me a
8 couple questions, saying, What? It's
9 like that? No. We have to fix that. So
10 I commend her for that.

11 COUNCILMAN GREENLEE: That was
12 a good imitation, by the way.

13 MR. WILLIAMS: Thank you.
14 Don't forget to tip your waitresses and
15 bartenders. I'll be here 'til next
16 Thursday.

17 I think that what's important
18 is, if the Inspector General is going to
19 be independent and autonomous, there are
20 several things that are critical that
21 have to take place, and the devil, of
22 course, is in the detail. You can work
23 those things out, but the Inspector
24 General needs to be appointed by the
25 Mayor, with the advice and consent of the

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.
2 legislative body. The Inspector General
3 has to have a fixed term, because
4 currently if we're conducting an
5 investigation and somebody says, We don't
6 like that, they could say, Seth, just go
7 home. And while I would go back to
8 working or delivering the newspaper or
9 something, I'd be able to take care of
10 myself, but I think for the autonomy of
11 the office, there should be a fixed term.

12 Also, that the Inspector
13 General could only be removed for cause.
14 And I didn't think we needed to define
15 "cause" because in other places in the
16 Home Rule Charter and the City's Code, it
17 defines what "cause" is, but the Mayor
18 could only remove or Council could only
19 remove the Inspector General for just
20 cause, not for a political whim or
21 because they don't like where the
22 investigation is going.

23 And the reason, to answer a
24 point that the Committee of Seventy had
25 brought to your attention, the reason why

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2 we said that there could be an
3 alternative, the Mayor could say, I want
4 you to resign. The Inspector General
5 might then say, Okay, and just leave, but
6 if the Inspector General was opposed to
7 that, could request a hearing that would
8 require then two-thirds of City Council
9 to remove him or her from office. That's
10 why we had -- oh, she's not here. That's
11 why we had that wording, I thought. We
12 suggested that. That's why I thought it
13 was important. But, of course, you have
14 to have an appointment, fixed term. The
15 removal of office is important and also a
16 separate and distinct independent budget.
17 Whatever that budget is that the Mayor
18 and Council agree on, the Inspector
19 General needs to control that budget.

20 COUNCILMAN KELLY: Let me ask
21 you about that point.

22 MR. WILLIAMS: Yes, sir.

23 COUNCILMAN KELLY: If the
24 budget is approved, it would be approved
25 by this Council; would it not?

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.

2 MR. WILLIAMS: It would be
3 approved by the Council of the City of
4 Philadelphia, yes, sir.

5 COUNCILMAN KELLY: Now, would
6 that require you to come before this
7 Council each year or something to ask for
8 additional appropriations, as the
9 Controller does, as everyone else does?

10 MR. WILLIAMS: Again, I'm not
11 an expert. My good friend, Mr. Goode,
12 who I've known since high school, is, of
13 course, an expert on this, but I would
14 assume that the Mayor would set the
15 budget, there would be a hearing before
16 Council for Council then to approve or
17 make adjustments to whatever they saw fit
18 based upon testimony you might hear from
19 the department head, the Inspector
20 General or whomever. But I think that's
21 important.

22 But as it is currently, the way
23 the Executive Order was created and the
24 practice is in place, when we need more
25 paper clips, if we need more paper, if we

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2 need more business cards or training for
3 our staff, it requires an e-mail or a
4 letter or a memo from me to the Mayor's
5 Office. And I'm sure they have many
6 other things that may be on top of that
7 pile or below that pile and sometimes
8 things might not get to it as quickly as
9 we might need and we might go without
10 some things.

11 So I say that even if the
12 budget, that total number of X, will
13 remain the same, it would be important
14 for future Inspector Generals to have
15 control of their own budget so that other
16 people can't, if they don't like their
17 investigation, say, No more paper for
18 you.

19 COUNCILMAN KELLY: If the Mayor
20 doesn't like you, you'll have to use
21 those No. 2 pencils all the way down, and
22 then you'll have to go buy your own.

23 MR. WILLIAMS: Yes, sir.

24 COUNCILMAN RIZZO: Point of
25 information.

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.

2 I'm a bit confused. You just
3 said that the Mayor would set your
4 budget. If the Mayor wanted to lowball
5 your office and give you insufficient
6 amount of money to do what you need,
7 don't you think the Inspector General
8 should develop a budget and present that
9 to Council? Because if you get a Mayor
10 that doesn't particularly want to be
11 cooperative, they could not appropriately
12 fund your office.

13 MR. WILLIAMS: That's correct,
14 and I believe in one of the most recent
15 amendments presented or prepared by
16 Councilwoman Campbell's staff, it
17 includes language that would allow the
18 Inspector General to petition the Court
19 of Common Pleas for an adjustment if they
20 thought that there was some sort of a
21 political hoodwinking, if you were, to
22 lowball the budget to eliminate the
23 potential to conduct investigations
24 appropriately.

25 COUNCILMAN RIZZO: Thank you.

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.

2 Thank you, Mr. Chairman, for
3 that point of information.

4 COUNCILMAN GREENLEE: Any other
5 questions?

6 COUNCILMAN GOODE: Just one
7 last comment.

8 COUNCILMAN GREENLEE: Yes.
9 Councilman Goode.

10 COUNCILMAN GOODE: I agree with
11 the comments of the City Controller. I
12 agree with the comments of the Mayor's
13 Chief of Staff and I agree with the
14 comments of my colleague, Jack Kelly.
15 I'm just not sure how much that affects
16 what decision we should make today,
17 because what needs to be detailed needs
18 to be detailed by future ordinance. It's
19 not something that's going to change the
20 Charter change question for November.
21 It's not something that's going to change
22 what generally goes into the City
23 Charter. It's something that should be
24 detailed by a separate ordinance that
25 would go into The Philadelphia Code. So

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2 I don't think it really affects the
3 decision we need to make today.

4 COUNCILMAN GREENLEE: Any other
5 questions or comments?

6 (No response.)

7 COUNCILMAN GREENLEE: Thank
8 you, Mr. Williams.

9 MR. WILLIAMS: Thank you very
10 much. And, again, if any constituents
11 call your offices and they make you aware
12 of any corruption, fraud or waste, please
13 call us at 686-1770. And, again, thank
14 you for this opportunity and I'd like to
15 thank Ms. Campbell.

16 COUNCILMAN GREENLEE: Thank
17 you, Mr. Williams.

18 Is there anyone else here to
19 testify on this bill and resolution?

20 (No response.)

21 COUNCILMAN GREENLEE: Seeing
22 none, that will conclude our hearing.
23 We're going to go into a public meeting,
24 and I would ask everybody's indulgence
25 for about two minutes while we confer for

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.

2 a minute. Thank you.

3 (Short recess.)

4 COUNCILMAN GREENLEE: We're
5 finally ready. This is the meeting of
6 the Committee on Law and Government.

7 First dealing with Resolution
8 No. 070474, first I recognize Councilman
9 Goode for the purpose of an amendment.

10 And maybe you could explain
11 those amendments, Councilman.

12 COUNCILMAN GOODE: No problem,
13 Mr. Chairman. Mr. Chairman, I offer an
14 amendment to Resolution No. 070474. It's
15 been circulated to all members of the
16 Committee and discussed. The resolution
17 reads on Page 4 as amended, Letter L,
18 "Council shall have the power by
19 ordinance to further detail the powers
20 and duties of the Inspector General in a
21 manner not inconsistent with the
22 provisions of this Section." Further
23 down the page on Page 4 of the amendment
24 under Chapter A-4, under Inspector
25 General, No. 1, it says, "The amendment

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.
2 to the Charter creating the Office of the
3 Inspector General shall become effective
4 January 7, 2008."

5 I move for the adoption of this
6 amendment.

7 (Duly seconded.)

8 COUNCILMAN GREENLEE: All in
9 favor of the adoption of Councilman
10 Goode's amendment please say aye.

11 (Aye.)

12 COUNCILMAN GREENLEE: Opposed?

13 (No response.)

14 COUNCILMAN GREENLEE: I now
15 recognize Councilwoman Campbell for
16 additional amendments to Resolution No.
17 070474.

18 COUNCILWOMAN CAMPBELL: This is
19 proposed amendments to Resolution No.
20 070474. Proposed deletions and proposed
21 additions in bold, and I can go ahead and
22 I can read it. "Every ordinance shall,
23 before it takes effect, be certified to
24 the Mayor for his approval. The Mayor
25 shall sign the ordinance if he approves

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.
2 it, whereupon it shall become law. If he
3 disapproves it, he shall return it to the
4 Council with the reason for his
5 disapproval at the first meeting thereof
6 held not less than ten days after he
7 receives it. If the Council shall pass
8 the bill by a vote of two-thirds of all
9 of its members within seven days after
10 the bill has been returned with the
11 Mayor's disapproval, it shall become law
12 without his approval. If the Mayor does
13 not return the ordinance within the time
14 required, it shall become law without his
15 approval. The Mayor may disapprove or
16 reduce any item or items of any ordinance
17 making appropriations, except the items
18 in the annual operating budget ordinance
19 making appropriations to the Auditing
20 Department for the compensation of
21 auditors regularly employed by it, and
22 for the work of the Personnel Director
23 and the Civil Service Commission."
24 COUNCILMAN GREENLEE: Point of
25 order, Councilwoman. Just one second.

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.

2 (Off-the-record discussion.)

3 COUNCILWOMAN CAMPBELL: "And

4 for the work of the Inspector General,

5 which shall become law if any part of the

6 ordinance is approved. Subject only to

7 the foregoing exceptions, the approved

8 part or parts of any ordinance making an

9 appropriation shall become law, and the

10 part or parts disapproved shall not

11 become law unless passed by the Council

12 over the Mayor's veto as provided

13 therein."

14 "For the first two fiscal

15 years, immediately following the

16 effective date of this subsection, at

17 least \$1 million; and for all subsequent

18 fiscal years, an amount adequate to

19 enable the Office of Inspector General to

20 perform the functions assigned to it by

21 this Charter, shall be appropriated for

22 the work of the Inspector General.

23 Should the Council fail to make an

24 adequate appropriation to the Inspector

25 General, the Inspector General may

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.
2 petition any Court of Common Pleas of
3 Philadelphia County for a mandamus to the
4 Council to perform its duty under this
5 section."

6 Let me put on the record that
7 we are deleting certain terms of office.
8 I believe it's Page 3 and Page 4.

9 I move for the adoption.
10 (Duly seconded.)

11 COUNCILMAN GREENLEE: It's been
12 moved and seconded that the amendments to
13 Resolution 070474 as read by Councilwoman
14 Campbell be adopted.

15 All in favor please say aye.
16 (Aye.)

17 COUNCILMAN GREENLEE: Opposed?
18 (No response.)

19 COUNCILMAN GREENLEE: The
20 amendments are adopted.

21 I now recognize Councilman
22 Goode regarding Resolution No. 070474 as
23 amended.

24 COUNCILMAN GOODE: Thank you,
25 Mr. Chairman. I move that Resolution No.

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.

2 070474 as amended by both amendments be
3 reported out of Committee with a
4 favorable recommendation.

5 (Duly seconded.)

6 COUNCILMAN GREENLEE: It's been
7 moved and seconded that Resolution 070474
8 be reported out of this Committee with a
9 favorable recommendation.

10 All those in favor please say
11 aye.

12 (Aye.)

13 COUNCILMAN GREENLEE: Opposed?

14 (No response.)

15 COUNCILMAN GREENLEE: The Chair
16 now recognizes Councilman Goode regarding
17 Bill No. 070459.

18 COUNCILMAN GOODE: Thank you,
19 Mr. Chairman. I move that Bill No.
20 070459 be reported out of Committee with
21 a favorable recommendation and that the
22 rules of Council be suspended so as to
23 permit first reading at our next Council
24 session.

25 (Duly seconded.)

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.

2 COUNCILMAN GREENLEE: It's been
3 moved and seconded that Bill No. 070459
4 be reported out of this Committee with a
5 favorable recommendation and that the
6 rules of Council be suspended to allow
7 for first reading at the next session of
8 Council.

9 All in favor please say aye.

10 (Aye.)

11 COUNCILMAN GREENLEE: Opposed?

12 (No response.)

13 COUNCILMAN GREENLEE: The
14 motion carries.

15 Let me just add for the record
16 that as it was talked about during the
17 hearing, there will be an additional bill
18 introduced at some point by City Council
19 to further define the roles and the rules
20 of the Inspector General.

21 Any other comments by any
22 members of this Committee?

23 (No response.)

24 COUNCILMAN GREENLEE: Seeing
25 none, that concludes the hearing of the

1 6/12/07 - LAW & GOV'T - BILL 070459, ETC.

2 Committee on Law and Government.

3 Thank you very much.

4 (Committee on Law and
5 Government adjourned at 4:05 p.m.)

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CERTIFICATE

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I HEREBY CERTIFY that the

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proceedings, evidence and objections are

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contained fully and accurately in the

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stenographic notes taken by me upon the

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foregoing matter on June 12, 2007, and that

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this is a true and correct transcript of same.

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MICHELE L. MURPHY

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RPR-Notary Public

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