

1
2 COUNCIL OF THE CITY OF PHILADELPHIA
3 COMMITTEE ON PARKS, RECREATION
4 AND CULTURAL AFFAIRS
5
6

7 Room 400, City Hall
Philadelphia, Pennsylvania
8 Wednesday, March 9, 2011
2:00 p.m.
9
10

PRESENT:

11 COUNCILWOMAN BLONDELL REYNOLDS BROWN, CHAIR
COUNCILMAN DARRELL CLARKE
12 COUNCILMAN FRANK DiCICCO
COUNCILMAN CURTIS JONES, JR.
13
14

BILL 110002 - An Ordinance amending Chapter
15 15-100 of The Philadelphia Code, entitled
"Parks," by prohibiting the transfer or
16 conversion of outdoor public park and
recreation land in the City to other uses or
17 to third parties unless certain procedures and
requirements are met.
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2 COUNCILWOMAN BROWN: Good
3 afternoon. Good afternoon, everyone. We
4 now have a quorum for the Council
5 Committee on Parks, Recreation and
6 Cultural Affairs, and we now will move
7 into a public hearing to hear testimony
8 on Bill No. 110002.

9 With us this afternoon is
10 Vice-Chair of the Committee, Councilman
11 Curtis Jones, and Councilmembers Darrell
12 Clarke and Frank DiCicco.

13 I will now ask the Clerk to
14 read the title of Bill No. 110002.

15 THE CLERK: An Ordinance
16 amending Chapter 15-100 of The
17 Philadelphia Code, entitled "Parks," by
18 prohibiting the transfer or conversion of
19 outdoor public park and recreation land
20 in the City to other uses or to third
21 parties unless certain procedures and
22 requirements are met.

23 COUNCILWOMAN BROWN: Ginny
24 Doerr, known to be a public policy wonk,
25 stated, and I quote, I think it could be

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2 argued that during the most challenging
3 moments, people with ideas and a
4 willingness to work together and give of
5 themselves cannot only meet but rise
6 above and succeed brilliantly. We are at
7 such a moment.

8 So I want to say that and say
9 thank you, open with a thank-you to
10 everyone that has been a part of this
11 continuing, ongoing dialogue to make our
12 parks more incredible than what they are.

13 I would be remiss also not to
14 again acknowledge and celebrate in my own
15 way Councilman Darrell Clarke, two mayors
16 and countless stakeholders who have been
17 on all sides of the Parks and Recreation
18 Commission. Regardless of which opinions
19 and ideas were being advocated for,
20 argued for or debated, it was clear that
21 the common thread in this debate was a
22 mutual love of our city's diverse park
23 system.

24 To all the stakeholders here
25 this afternoon to provide testimony on

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2 the Open Parks Land Ordinance, including
3 the Administration, Commissioners from
4 Parks and Recreation and the Philadelphia
5 Parks Alliance, you are here due to the
6 unique assets each of you as stakeholders
7 bring to this dialogue around our
8 Philadelphia Fairmount Park. So I feel
9 confident that along with all of you, we
10 will continue to work together to further
11 broaden and create an even more dynamic
12 park system for all of the residents, not
13 only of Philadelphia but of this region.

14 And let me say as well that we
15 have overcome a number of bumps in the
16 road, and we know that in reaching a
17 mountain is not a smooth trek. So as we
18 move now to consider and act on the
19 provisions of this bill, we must be
20 mindful to keep the dialogue open.

21 With that, I will call up the
22 testifiers to testify on the bill as
23 panels. With every testifier who comes
24 up, we need you to state your name for
25 the record, and when that panel is done,

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2 we will pose questions.

3 There are four panels -- three
4 panels, and we will start with members of
5 the Commission and the Administration.

6 Please approach the witness
7 table, Nancy Goldenberg, Chairman, and
8 Deborah Wolf Goldstein, Commissioner on
9 Parks and Recreation, and Mark Focht, the
10 Executive Director for the Department of
11 Parks and Recreation.

12 (Witnesses approached witness
13 table.)

14 COUNCILWOMAN BROWN: Good
15 afternoon. You may proceed with your
16 testimony.

17 MS. GOLDENBERG: Good
18 afternoon, Councilwoman and members of
19 the Committee. My name is Nancy
20 Goldenberg and I am honored to serve as
21 Chair of the City's Commission on Parks
22 and Recreation. Joining me is my
23 colleague Commissioner, Deborah Wolf
24 Goldstein, who, as Chair of our Land Use
25 Committee, took the lead in crafting this

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2 important piece of legislation. Also
3 with us today are other members of the
4 Commission, Jeff Hackett, Barbara Capozzi
5 and Commissioner Joan Schlotterbeck.

6 In 2004, a very ambitious
7 strategic plan was completed for
8 Fairmount Park, a plan that proposed
9 broad changes in order to transform and
10 revitalize our park system. It offered a
11 roadmap, sometimes controversial, to
12 achieving a park system that operates
13 efficiently, develops rational policies,
14 invests in its properties and programs,
15 and is both accountable and transparent
16 in its transactions.

17 This plan was among the
18 catalysts, along with the tireless
19 leadership of Councilwoman Blondell
20 Reynolds Brown and Councilman Darrell
21 Clarke, who paved the way in 2008 to the
22 historic adoption of a Charter change
23 that created a single Department of Parks
24 and Recreation and created the Commission
25 on Parks and Recreation. We owe a great

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2 deal of thanks to your persistence and
3 insistence that a better way of doing
4 business is implemented.

5 Under the Charter, the
6 Commission's role is to adopt standards
7 and guidelines concerning park and
8 recreation land and facilities, including
9 those relating to land use, preservation
10 of green space, watershed management,
11 sustainability, and the conveyance and
12 acquisition of park and recreation land
13 or facilities, including the assessment
14 and evaluation of proposed conveyances
15 and acquisitions. The Charter also calls
16 upon us to advise the Commissioner on
17 opportunities for revenue enhancement as
18 well as promoting the Fairmount Park
19 system.

20 As you know, the day this
21 Commission was appointed, which was a
22 very warm July day, I remember, at Mander
23 Recreation Center, Mayor Nutter asked
24 that we not simply adopt standards and
25 guidelines for the conveyance and

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2 acquisition of park and rec land; he
3 called on us to deliver a piece of
4 legislation, and we are here today with
5 that legislation before you.

6 In brief, this bill proposes
7 that no land under the jurisdiction of
8 the Department of Parks and Recreation
9 can be transferred or converted to
10 another use without a review by the
11 Commission and City Council of an
12 alternative analysis. If the proposed
13 transfer is to a non-park or recreation
14 use, not only is an alternative analysis
15 required to be submitted, but substitute
16 land for park use must be identified.
17 Once the Commission reviews the analysis,
18 it provides its recommendations to City
19 Council and to the Mayor. City Council
20 would then hold a public hearing on the
21 bill, considering the recommendation of
22 the Commission in either approving or
23 denying that transfer.

24 This ordinance was developed in
25 a highly collaborative and methodical

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2 manner. We assessed current policies and
3 directives. We examined procedures
4 guiding past park and rec land
5 transactions. We reviewed best practices
6 from other municipalities and consulted
7 with the City Law Department and City
8 Council legal staff. We met with the
9 Mayor and with members of this Committee.
10 We held a briefing for all of City
11 Council and their staffs. We attended
12 public meetings called by the Parks
13 Alliance and encouraged the public to ask
14 questions, review our drafts and make
15 recommendations. We heard from people
16 via e-mail, through our blog, at our
17 public meetings and by phone, and we
18 responded to every single question that
19 was asked of us. In fact, last November,
20 the Commission actually delayed a vote
21 approving this legislation at the request
22 of the Parks Alliance to allow the
23 opportunity for yet additional public
24 comment.

25 The legislation before you sets

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2 a goal of no net loss of park and
3 recreation land. It establishes a
4 predictable, transparent process and
5 clear assessment criteria. The citizens
6 of this city can argue about a lot of
7 things, but the one thing everyone agrees
8 with is that park and recreation lands
9 are uniquely valued and need to be
10 protected. We believe this legislation
11 takes a major step in assuring that
12 happens, and we encourage its swift
13 passage and respectfully ask for
14 suspension of the rules.

15 Thank you for your
16 consideration. We appreciate all of your
17 leadership, and we are happy to answer
18 any questions.

19 COUNCILWOMAN BROWN: Okay. We
20 will hear from other members of the
21 panel, then we'll open it up for
22 questions.

23 Please.

24 MS. GOLDSTEIN: I have no
25 additional testimony. I'm here to

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2 support the Chairperson's testimony.

3 COUNCILWOMAN BROWN: So that we
4 know that you're here, just state your
5 name for our record here.

6 MS. GOLDENBERG: You did say
7 that. I'm sorry. Debra Wolf Goldstein.
8 I am the Chair of the Land Use Committee
9 on the Park and Recreation Commission.

10 COUNCILWOMAN BROWN: Thank you
11 very much.

12 Please, Mark Focht.

13 MR. FOCHT: Good afternoon,
14 Chairwoman Reynolds Brown and members of
15 the Committee. My name is Mark Focht.
16 I'm the Executive Director of the
17 Fairmount Park system in the Philadelphia
18 Department of Parks and Recreation. I
19 also bring greetings and regrets from
20 Deputy Mayor and Parks and Recreation
21 Commissioner Michael DiBerardinis, who is
22 unable to join us today.

23 I'm here to testify on behalf
24 of the Commissioner and the entire
25 Department in support of Bill No. 110002,

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2 which was introduced by Councilpersons
3 Reynolds Brown and O'Neill on January
4 27th, 2011.

5 I would like to thank the Parks
6 and Recreation Commission for their hard
7 work on this important issue.

8 Specifically, we as a staff and
9 department would like to acknowledge the
10 leadership of Nancy Goldenberg as the
11 Commission's Chair and Deborah Wolf
12 Goldstein as the Chair of the Committee
13 on Land Use in their roles in providing
14 valuable leadership and guidance in
15 drafting and advancing this ordinance.

16 The Parks and Recreation Commission
17 undertook a thorough and thoughtful
18 process to develop this ordinance, which
19 included assessment of current policies
20 and directives, a review of past
21 procedures and best practices from other
22 municipalities and, as Nancy has
23 indicated, extensive feedback from
24 engaged citizens. This Commission worked
25 collaboratively with the Law Department,

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2 the Parks Alliance, numerous partners and
3 friends, as well as Parks and Recreation
4 staff who provided valuable work,
5 thought, feedback and support throughout
6 this process.

7 The Department of Parks and
8 Recreation feels that this ordinance
9 could serve as a valuable tool to help
10 protect and support the parks and
11 recreation system, which, as we all know,
12 is a community asset used daily by
13 everyone from pre-school-aged citizens to
14 senior citizens in each and every
15 neighborhood in our city. Therefore, for
16 these reasons, we at Parks and Recreation
17 support Bill No. 110002, and I
18 respectfully request this Committee's
19 favorable review and approval of this
20 legislation.

21 Thank you.

22 COUNCILWOMAN BROWN: Thank you
23 for your testimony.

24 Vice-Chair Councilman Curtis
25 Jones, question.

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2 COUNCILMAN JONES: Good

3 afternoon. Just for the record and for
4 people that might be listening and
5 clarity for us all, define park use and
6 non-park use, examples.

7 MS. GOLDENBERG: Park use is
8 defined -- and Debra can correct me if
9 I'm wrong -- by the state regulations and
10 laws. So that's where we took the
11 definition that the state uses to be
12 consistent. So things like museums, for
13 example, are considered a park use,
14 according to state, but it's everything
15 from baseball and softball and trails and
16 walking and running, picnicking.

17 A non-park use might be
18 condominiums, housing, things like that.

19 COUNCILMAN JONES: I just want
20 to -- common sense is something that
21 often is a matter of interpretation, and
22 a good attorney often makes that line
23 blur, and what I would like for this
24 Chair and its Committee, an acceptable
25 commonly known set of uses so that, along

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2 with our Zoning Code and other things, we
3 can have predictability. And so that
4 some, decades from now, some clever
5 attorney comes in and says, This is a
6 park use. Because I've heard all kinds
7 of uses for the park that include auto
8 racing and things like that, at a point
9 could be defined recreational, and I
10 really want a clearer picture of what
11 that is so that we can all agree on it
12 and move forward.

13 So that would be my question,
14 Madam Chair.

15 MS. GOLDSTEIN: Councilman
16 Jones, if I might add to your excellent
17 comment, that we do also have, as Nancy
18 said, guidance from our court system.
19 There are a line of cases from the
20 Pennsylvania Supreme Court interpreting
21 what is acceptable park use and what is
22 not acceptable park use. So I think we
23 have that to back up our position about
24 what is and is not acceptable.

25 COUNCILMAN JONES: Madam Chair?

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2 COUNCILWOMAN BROWN: Please.

3 Councilman Jones.

4 COUNCILMAN JONES: I just want
5 to for the record -- and I'm glad it is
6 found in caselaw, because there's a host
7 of people that would gladly, for whatever
8 reason, challenge it. So that we have a
9 clear defining set of uses that we can
10 just look down the list and say, well,
11 obviously -- and even with those lists,
12 there's going to be interpretation of is
13 this a tomato or is this a tomato, you
14 know. But I really want us, as close as
15 we can, to give those defining uses so
16 that there's no ambiguity.

17 All right. Thank you, Madam
18 Chair.

19 COUNCILWOMAN BROWN: That's
20 critically important, and it's a great
21 segue to a question I would have, and I
22 don't know yet if it's a concern. But
23 what we know is that there are a lot of
24 arts and cultural institutions in our
25 city that have parkland, like the Art

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2 Museum of Philadelphia, the Rodin Museum,
3 Please Touch Museum and others. How
4 would this measure impact those
5 institutions who may want to do, expand,
6 have capital projects that then require
7 expanding onto parkland?

8 MS. GOLDSTEIN: Assuming that
9 what one of those institutions wants to
10 do is park use and if it's a museum or
11 other cultural institution, I think the
12 caselaw is clear that that is considered
13 a park use. Then what they would be
14 required to do under this ordinance is
15 submit an alternatives analysis, which
16 basically justifies why they need the
17 land, what do they plan to do, and has a
18 transparent process for submitting the
19 information, which we would then post on
20 our website so the public can see what
21 their plans are.

22 COUNCILWOMAN BROWN: What would
23 be the case for those institutions if
24 this was not in place? What is the
25 standard operating procedure now for

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2 those institutions when they want to
3 expand, have capital projects? So what's
4 the practice or protocol?

5 For example, the Art Museum had
6 this terrific expansion in a green way,
7 and so what did they have to go through
8 that will be different than what they
9 might have to go through from this point
10 forward, presuming this bill is enacted?

11 MS. GOLDENBERG: Previously
12 they would have gone to the Fairmount
13 Park Commission, and that would have been
14 a public process. With the elimination
15 of the Park Commission with the merger,
16 in that case they would go to the
17 Department, and there would be a thorough
18 review by Department staff.

19 What we are doing is adding
20 back in, if you will, that level of
21 transparency, that level of public
22 knowledge of what they're doing that the
23 Park Commission had had formerly.

24 COUNCILWOMAN BROWN: I see. So
25 this process then is designed to enhance

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2 and open up that potential transaction,
3 if you will? Is that a fair assessment?

4 MS. GOLDENBERG: Mm-hmm.

5 MR. FOCHT: Yes.

6 COUNCILWOMAN BROWN: Okay,
7 then.

8 Councilman Clarke.

9 COUNCILMAN CLARKE: Thank you,
10 Madam Chair.

11 Good afternoon. I, like
12 Councilwoman Brown, would like to again
13 commend you all for your steadfast
14 commitment to the park system, to this
15 process and your continued commitment as
16 we see you here today, having worked on
17 your first piece of legislation. One of
18 the things that we requested early on in
19 the process when we established a new
20 Parks and Rec Commission, we said that it
21 should not just be an advisory
22 commission; it should be an active,
23 working body that comes up with
24 significant recommendations that will
25 ultimately end up being either

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2 legislation or change in regulations. So
3 I want to say that you have done that,
4 and I want to congratulate you and thank
5 you so much for your continued
6 commitment.

7 There is one issue that I
8 wanted to get a little clarity on, and
9 this may actually need the Law
10 Department. In the bill, No. 5 where it
11 establishes, quote/unquote, criteria or
12 standards as it relates to the City's
13 ability to convey parkland, particularly
14 the section that talks about the
15 conditions, let me read -- summarize the
16 language.

17 The continuation of the
18 original use is no longer practical or
19 possible and has ceased to serve the
20 public interest. The proposal transfer
21 is necessary for the public interest and
22 there is no reasonable and practical
23 alternative.

24 The question is, I guess, is,
25 who makes the determination as to whether

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2 or not it is practical? Who makes a
3 determination as to whether or not there
4 is no alternative use, particularly given
5 the fact that it must be included in the
6 ordinance that Council authorizes? It's
7 like most things, it depends on an
8 individual's perspective on whatever the
9 issue is.

10 So I'm just -- I need to get a
11 little clarity on who decides whether or
12 not it's no longer a practical use or no
13 longer in the best interest of the
14 public.

15 MS. GOLDSTEIN: Thank you. I
16 think that's an excellent question. When
17 that comes before the Commission -- and
18 that kind of finding only needs to happen
19 if it's a proposed change from a park use
20 to a non-park use. That high standard,
21 that hurdle does not have to be met if
22 it's one park use changing to another
23 park use or in the example that
24 Councilwoman Reynolds Brown had with an
25 expansion of an existing cultural

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2 organization, doesn't have to meet that
3 standard. But if it were a proposal for
4 a change from a park use to a non-park
5 use, it would have to meet this standard.
6 The Commission would review the
7 alternatives analysis that was submitted
8 to them, in which the applicant makes the
9 argument as to why the continuation of
10 the original use is no longer
11 practicable, and the Commission makes a
12 recommendation one way or the other about
13 that. And when it comes before Council,
14 the Council can decide to follow the
15 recommendation or make its own
16 determination, giving substantial weight
17 to the Commission's recommendation, but
18 it's not required to follow the
19 recommendation of the Commission. So the
20 City Council members get the opportunity
21 to make that decision on their own.

22 COUNCILMAN CLARKE: Okay. I
23 hear you. I'm just -- and we were
24 begging people to provide the appropriate
25 standards.

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2 COUNCILWOMAN BROWN: I'll just
3 say parenthetically, remember, he has the
4 benefit of speaking as a former
5 Commissioner. So he comes with a dual
6 perspective, if you will, which I think
7 is of great value.

8 COUNCILMAN CLARKE: Thank you.
9 Thank you, Councilwoman.

10 I just want -- I guess I just
11 want to know, are you basically saying
12 that those standards shall be determined
13 by the Commission? Because first you
14 said that the applicant has the
15 responsibility of telling why this would
16 no longer be viable park use or no longer
17 in the public interest. I'm just trying
18 to find out who determines that.

19 MS. GOLDSTEIN: I should have
20 prefaced my remarks by saying the
21 language of this particular standard is
22 from caselaw, from the Erie case that was
23 handed down by the Pennsylvania Supreme
24 Court, in which it said that this is
25 what -- for the kind of cases that fall

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2 within the Erie case, to change from park
3 use to non-park use, the use had to meet
4 this standard. So where this language
5 came from is directly from caselaw in
6 which a court said that change has to
7 meet this standard.

8 Now, as to your question who
9 gets to determine it --

10 COUNCILMAN CLARKE: Yeah.

11 MS. GOLDSTEIN: -- who gets to
12 determine it --

13 COUNCILMAN CLARKE: Somebody
14 has to decide what the standard is and
15 whether or not it's an appropriate
16 standard. That's all I'm trying...

17 MS. GOLDSTEIN: The Commission
18 would make the determination and issue a
19 recommendation, and then City Council
20 would determine whether to follow the
21 recommendation or not.

22 COUNCILMAN CLARKE:
23 Mr. Copeland, could we have you up there,
24 please. You're our lawyer. I just need
25 to get an interpretation.

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2 (Witness approached witness
3 table.)

4 (Off-the-record discussion.)

5 COUNCILMAN CLARKE: I was
6 actually asking you to explain it to us.

7 COUNCILWOMAN BROWN: State your
8 name for the record, please, sir.

9 MR. COPELAND: Good afternoon.
10 My name is Larry Copeland. I'm a senior
11 attorney in the City of Philadelphia Law
12 Department.

13 As I understood the
14 Councilmember's original question and the
15 provision that he cited, under that
16 particular provision, City Council would
17 make the determination. To try to
18 clarify what my clients were saying, is
19 that the applicant surely would try to
20 make the argument that they have
21 satisfied these conditions, and then the
22 Commission would consider that and decide
23 whether it agrees or disagrees.

24 Assuming the Commission agreed
25 and then sent a recommendation forward in

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2 that vein, City Council would have the
3 opportunity to review that as well and,
4 as Ms. Goldstein said, agree or disagree,
5 which would, in effect, be making that
6 determination under the provision you
7 cited.

8 Does that help?

9 COUNCILMAN CLARKE: Yes.

10 COUNCILWOMAN BROWN: Point of
11 information.

12 COUNCILMAN CLARKE: Absolutely.

13 COUNCILWOMAN BROWN: Councilman
14 Jones.

15 COUNCILMAN JONES: Oh, I was
16 going to wait.

17 COUNCILWOMAN BROWN: Very well.

18 COUNCILMAN JONES: Thank you,
19 Madam Chair.

20 COUNCILMAN CLARKE: You know,
21 trust me, this is not an adversarial
22 conversation, because we're all together
23 on this.

24 You prefaced your statements by
25 saying your client. So you're not

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2 working in a capacity -- and I understand
3 you have this dual role, because we have
4 the Commission, which is a part of
5 government, and you have Council as a
6 part of government. So if I'm asking you
7 for clarity on a bill, is your response
8 based on the client that you sit beside
9 at this point or the client -- and I'm
10 not your client today.

11 MR. COPELAND: You're all my
12 client. It is a multi-faceted role.

13 COUNCILMAN CLARKE: All right.
14 Because you said, well, you're responding
15 to your client.

16 This is the issue --

17 MR. COPELAND: I'm not
18 accustomed to coming to the table.

19 COUNCILMAN CLARKE: I think
20 everybody is comfortable -- and I'm
21 speaking for myself. I'm very
22 comfortable, because I ask people to make
23 sure that this would be one of the
24 priorities as it related to developing
25 standards for park disposition.

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2 The question is, one, who those
3 standards -- how those standards are
4 developed and who determines what those
5 standards are, and then at the end of the
6 day, who has the authority to adopt the
7 standards or reject the standards or
8 determine what the ultimate standards are
9 as it relates to being able to pass the
10 bill. You get that?

11 MR. COPELAND: I think so, yes.

12 COUNCILMAN CLARKE: You
13 understand? You understand what I'm
14 saying? And it's okay to say no. A lot
15 of people don't understand what I'm
16 saying.

17 MR. COPELAND: Let me try to
18 restate it. You wanted to be clear about
19 who develops the standards and who makes
20 the decisions in applying the standards.

21 COUNCILMAN CLARKE: Right.

22 MR. COPELAND: The
23 Commission -- this ordinance doesn't
24 change the Commission's stature under the
25 Home Rule Charter. It is boiled down to

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2 an advisory commission. So it would make
3 a decision about a recommendation, but it
4 would be a recommendation.

5 COUNCILMAN CLARKE: All right.

6 MR. COPELAND: The decision
7 would still come before City Council to
8 review the Commission's recommendation
9 and make a decision for itself.

10 COUNCILMAN CLARKE: Okay. So
11 my original question was, basically the
12 Commission would develop the standards.
13 I mean, that's what it sounds like to me.
14 And it would then come to Council for
15 their review. Those standards would be
16 the recommendations based on the
17 Commission's review?

18 MR. COPELAND: Yes.

19 COUNCILMAN CLARKE: Basically.

20 MR. COPELAND: Yes.

21 COUNCILMAN CLARKE: Okay. I'm
22 okay with that. I just want to get
23 clarity on who determines what those
24 standards are and then are they binding
25 as it relates to our ability to do

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2 whatever. But if we decided to reject
3 the recommendation, it would be based on
4 the understanding that this information
5 was put before us and under the Charter,
6 we have the ability to reject or adopt.
7 I just want to get clarity on that.

8 MR. COPELAND: Yes.

9 COUNCILMAN CLARKE: But that
10 Commission's recommendation must be
11 included in the bill?

12 MR. COPELAND: The Commission's
13 recommendation would be presented to City
14 Council and to the Mayor.

15 COUNCILMAN CLARKE: At the
16 hearing? It would not have to be
17 included in the bill?

18 MR. COPELAND: In the bill
19 itself?

20 COUNCILMAN CLARKE: Yeah.

21 MR. COPELAND: No. City
22 Council's findings, whatever City Council
23 ultimately decided, would be in the bill.
24 The ordinance that authorizes the
25 transfer includes findings, and those

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2 findings would be City Council's
3 findings.

4 COUNCILMAN CLARKE: So we have
5 to determine what the findings are at the
6 time of the introduction of the bill?

7 MR. COPELAND: Yes. City
8 Council has to decide whether it agrees
9 that continuation of the original use is
10 no longer practical or possible or has
11 ceased to serve the public's interest.
12 The Commission would make a
13 recommendation saying it believes that is
14 the case or that is not the case.

15 COUNCILMAN CLARKE: The
16 ordinance of the transfer includes
17 findings, the conversion includes
18 findings, that's a requirement. So those
19 findings will be whose findings?

20 MR. COPELAND: City Council's.

21 COUNCILMAN CLARKE: City
22 Council's findings. So we look at the
23 recommendations and then we base our
24 findings on the actual recommendation
25 from whomever, the developer or the --

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2 I'm just trying to find out whose
3 findings they are.

4 MS. GOLDSTEIN: It's City
5 Council's findings, Councilman. When you
6 say "base City Council's findings on a
7 recommendation," it doesn't have to be
8 based on our recommendation. You could
9 consider -- review our recommendations
10 but then reject it and come up with
11 different findings.

12 COUNCILMAN CLARKE: So the
13 bottom line is that whatever we do as it
14 relates to the conveyance of land, we
15 have to explain it in the bill?

16 MS. GOLDSTEIN: Correct.

17 COUNCILMAN CLARKE: All right.

18 COUNCILWOMAN BROWN: My
19 follow-up to that would be -- let me put
20 a qualifier in here. I'm not a lawyer,
21 but I've learned in being here that
22 language does matter, and I'm trying to
23 find where it says in the bill, it says
24 Council's ordinance "must" include
25 findings versus "shall" include findings.

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2 So "must" becomes a trigger or a red
3 flag, because it suggests that a new idea
4 or a new enterprise or a new park use
5 must fit these criteria.

6 So if you would, go to Page 3
7 of the ordinance, if you will, and where
8 I am unclear is language in the bill that
9 assures that Council as a body and
10 Councilmembers individually, that they
11 indeed do have the option to reject, if
12 you will, a recommendation offered by the
13 Commission. And when you look at Page 3,
14 15-102, it says "no land," which may
15 signal some concern, and then the last
16 sentence there, it says "unless each of
17 the following conditions are satisfied."

18 So is that a conflict in
19 language? You're offering Council the
20 recommendation to give them the option to
21 approve or disapprove. Yet, this
22 language here suggests that you really
23 don't have the option, Council, because
24 we've already decided on our end in our
25 proceedings that these conditions must be

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2 met prior to us sending it to you, City
3 Council.

4 MR. COPELAND: Councilwoman, if
5 City Council received a recommendation to
6 approve a transaction, let's say, and
7 City Council looked at that and decided
8 under Subsection (5) of the provision you
9 were citing that the land could continue
10 to be used as parkland, so it rejected
11 the Commission's recommendation, then
12 that condition would not be satisfied and
13 the land could not be transferred. So it
14 very much would be in Council's domain to
15 make that decision. If it agrees that
16 the land can no longer be used as outdoor
17 public land and the other elements of
18 Subsection (5), then it would satisfy
19 that condition and, assuming all the
20 other conditions are satisfied, then the
21 transaction could go forward. And the
22 land that is referred to in 15-102 is
23 land that is held for outdoor park or
24 recreation purposes, not all land but
25 just that outdoor land.

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2 COUNCILWOMAN BROWN: All right,
3 then.

4 Councilman Jones.

5 COUNCILMAN JONES: Madam Chair,
6 you may not be a lawyer, but you are a
7 lawmaker, and you are meticulous in your
8 due diligence here.

9 Scenario: It's 111 years ago.
10 We're talking about the Centennial
11 District, a group of wide-eyed
12 visionaries decide they want to do a
13 Centennial celebration in Parkside.
14 Let's assume this law was there. How
15 would this scenario go? They put -- how
16 many was it, Mark, over 100 structures?

17 MR. FOCHT: Two hundred
18 seventy.

19 COUNCILMAN JONES: Two hundred
20 and seventy structures up on parkland and
21 brought one million people in to visit --

22 MR. FOCHT: Ten million.

23 COUNCILMAN JONES: How many?
24 Seven?

25 MR. FOCHT: Ten.

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2 COUNCILMAN JONES: Ten million
3 people into that section of the park to
4 learn about everything from the banana to
5 hashish, as I recall. How would that
6 kind of activity be reviewed by this new
7 law? Would we -- I mean, let's go with
8 that scenario.

9 MS. GOLDSTEIN: I think every
10 situation is going to be analyzed
11 differently, but in the scenario that you
12 raised, it strikes me that it would be a
13 permissible use of parkland, just looking
14 at caselaw that we talked about earlier,
15 which allows art galleries, museums,
16 exhibit space, that kind of thing. So
17 there wouldn't be a requirement for
18 substitute land, but there would be an
19 alternatives analysis requirement, which
20 is basically saying here's why we want to
21 use the parkland, in that case largely
22 temporary basis, and here's what we want
23 to do, and the other requirements of the
24 alternatives analysis would need to be
25 filed with the Commission.

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2 COUNCILMAN JONES: So under
3 your strict scrutiny of this proposal,
4 which was the celebration of the 100
5 years of our city, that would have made
6 the grade if it was temporary? And it
7 was, but it lasted a year.

8 So if they requested to
9 transfer that land, then it would be a
10 little more stringent? Because they put
11 a small city in a mile area. So I'm
12 trying to understand and put my arms
13 around it.

14 MS. GOLDSTEIN: In that
15 scenario, let's say it's something that
16 is considered a permissible park use, but
17 the Commission might make a
18 recommendation to City Council saying, We
19 think the scope of it is too big. We
20 think that it should be approved only if
21 it were taken down in one year, and
22 here's what the footprint should be.

23 So our recommendation might
24 give you some guidance as to what kind of
25 approval might be best for the park use.

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2 COUNCILMAN JONES: Okay. That
3 would be an exaggerated circumstance, we
4 had them once every hundred years or so.
5 So okay.

6 What I would understand too
7 that is important for me, if they were
8 trying to temporarily do it, that might
9 be okay, but if we were trying to do it
10 permanently, you'd meet it a little
11 differently? Because that's like
12 creating a neighborhood.

13 MS. GOLDENBERG: No. There's
14 no distinction in this ordinance. I
15 think the alternatives analysis would
16 look at things like traffic. Maybe not
17 110 years ago did they have as much as
18 they do now, but they would look at
19 traffic, they would like at environmental
20 impact. All those kinds of things is
21 part of the alternative analysis that
22 would come before the Commission for us
23 to make our recommendations to you. So
24 we might say it is a park use, it will
25 remain a park use, but we recommend that

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2 this area of the district be -- is more
3 sensitive, so you might want to consider
4 this when you consider the bill.

5 COUNCILMAN JONES: Finally, a
6 lease versus transfer of payment. Leases
7 are also reviewed, and so it doesn't
8 matter the term of the lease?

9 (Witnesses shaking head in the
10 negative.)

11 COUNCILMAN JONES: So every use
12 will be examined that way.

13 Well, I actually -- and this is
14 the commentary part. It gives me some
15 comfort that, A, the District
16 Councilperson still maintains some input,
17 Councilman Clarke, but also it gives me
18 comfort that people who spend a lot more
19 time than I ever will safeguarding this
20 park get a chance to review it and make
21 recommendations to us as to the best use
22 or your view of the world.

23 So I'm comfortable with that,
24 Madam Chair. Thank you.

25 COUNCILWOMAN BROWN: Thank you

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2 very much, Councilman Jones.

3 Councilman Clarke.

4 COUNCILMAN CLARKE: Thank you.

5 This is my personal view.

6 Personally, I have an issue with the
7 language that requires that we basically
8 explain why we're doing the conveyance.

9 My thought was, when we had this
10 conversation about the process, that the
11 recommendation that would come from the
12 Commission would actually be the
13 recommendation that we as Council
14 reviewed. I did not anticipate that then
15 we would be required to review that
16 recommendation and then explain our
17 position on the recommendation. I
18 actually personally -- and some
19 Councilmembers may not feel comfortable
20 with this -- would not have a problem
21 with the Commission's recommendation,
22 because I agree, like Councilman Jones,
23 that you all spend a lot more time and
24 are a lot more committed to parkland in
25 this particular issue than we are,

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2 because we're doing other things, as I
3 know you are also, because you're not
4 getting paid to do this.

5 I personally wouldn't have a
6 problem with having the recommendations
7 as an exhibit or an appendix to the bill
8 so it's within the language, because I
9 understand that you want to have some
10 documentation as it relates to what the
11 Commission's work was, but I'm not sure
12 that Councilmembers or myself thought
13 that we would then have to list our own
14 basis for why we would be moving
15 parkland. I thought it was our
16 responsibility to review the
17 recommendations of the Commission, the
18 staff, and based on that, we would then
19 take an action, but not adding another
20 step where we now have to come up with
21 a --

22 MS. GOLDSTEIN: It would be
23 possible, Councilman, if City Council
24 were in agreement with the
25 recommendations of the Commission to,

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2 counsel has told me, to simply adopt the
3 Commission's recommendation, and that
4 would serve to be the findings of
5 Council. It wouldn't have to go through
6 the whole process itself.

7 COUNCILMAN CLARKE: Suppose we
8 didn't agree.

9 MS. GOLDSTEIN: Pardon me?

10 COUNCILMAN CLARKE: Suppose we
11 don't agree, which is probably not going
12 to happen frequently or rarely at all,
13 but, I mean, if we didn't agree, you're
14 basically saying that then we have to, I
15 guess, basically come up with our reason
16 as to why we don't agree and why we're
17 taking the action. I don't know if
18 that's -- I'm being very honest, as you
19 know, as I've always been with all of
20 you. That's a step beyond what we kind
21 of got Councilmembers to kind of go along
22 with as it relates to the formulation of
23 this process to establish criteria.

24 COUNCILWOMAN BROWN: I might
25 add, regretfully, sometimes we have to

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2 sit here and look in a crystal ball for
3 the next 10, 20 years. There's something
4 called unintended consequences. So to
5 the extent that it's humanly possible to
6 anticipate those type of rare occasions,
7 we need to anticipate as much as possible
8 and put in place safeguards, if you will,
9 for a possible circumstance like that,
10 which is why now is the time for the
11 discussion.

12 MS. GOLDSTEIN: A part of the
13 thinking in having the Section 5 that
14 you're referencing, Councilman, is, in a
15 sense, a safeguard for Council, because
16 if this were -- if a decision of Council
17 to go forward with a conversion from park
18 use to non-park use were to end up in the
19 court system, this is the standard that a
20 court would likely use in reviewing
21 whether it was a legal conversion from
22 park use to non-park use. So by having
23 this in the record as to why or the
24 finding that the original use was no
25 longer practicable or that it's necessary

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2 for the public interest -- or "and" I
3 should have said -- and there's no
4 alternative, that helps bolster the
5 evidentiary case for the City in case it
6 were ever brought into court, somebody
7 challenging what the City was doing.

8 COUNCILMAN CLARKE: I got to
9 tell you, if we did our business around
10 here as it relates to speculating as to
11 whether or not we were going to
12 ultimately be challenged, we wouldn't get
13 a lot done around here. I mean, to craft
14 legislation -- I mean, we do a lot of
15 legislation. So if every time we thought
16 we were going to do something, we said,
17 Well, you know, this could possibly be
18 challenged somewhere in court down the
19 line on a speculative process, a
20 speculative transaction, you know, that's
21 not what we do. I mean, we do it based
22 on advice of counsel, based on our
23 internal staff review.

24 So that particular aspect of
25 it, I think it's a stretch, frankly

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2 speaking. I'm just personally concerned
3 about having the ability to be a
4 Councilperson, to some degree, altered.
5 I mean, at the end of the day, people
6 decided that we should be here to make a
7 decision. If it was a bad decision, then
8 ultimately it will come back on us,
9 probably in about two months.

10 So I'm a little concerned about
11 the scope of this proposal going a little
12 beyond what I thought we had agreed on
13 when we talked about the recommendation
14 of the body. I mean, I'm real
15 comfortable, as I say, with having that
16 recommendation as a part of the bill;
17 i.e., an exhibit or an addendum to the
18 bill so the record reflects what the
19 recommendation of the Commission was.
20 But beyond that, I think it may require a
21 little further conversation, because I
22 know a couple of members of Council, I
23 know them, because I know them very well,
24 would have a little concern about
25 including that in there.

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2 MR. COPELAND: Councilman,
3 maybe I can give you a little bit of
4 comfort. It seems there's only a few
5 possible scenarios here. The first would
6 be an ordinance comes to Council and the
7 Commission has gone through this analysis
8 and recommended for various reasons that
9 it satisfies -- the use of the land is no
10 longer practical, possible, et cetera,
11 and City Council can agree and simply
12 adopt those recommendations. If City
13 Council disagreed, then presumably they
14 wouldn't pass the ordinance to authorize
15 the deal to go forward.

16 COUNCILMAN CLARKE: Suppose
17 they disagree and they want to pass the
18 ordinance. Suppose they disagree with
19 the recommendations. The recommendations
20 say you shouldn't convey this bill, this
21 parcel, and then they say, Well, we think
22 for the greater good in our minds that we
23 should do this.

24 MR. COPELAND: Well, Council
25 could include a statement as simple as a

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2 finding that the continuation of the
3 original use of the land as open park or
4 recreation land is no longer practical or
5 possible, and leave it at that. It could
6 be as simple as that. If you're thinking
7 that it has to be a lengthy analysis, it
8 doesn't necessarily have to be.

9 COUNCILMAN CLARKE: I just
10 think that it's all based on
11 interpretation of that individual, and
12 that's why I'm a little unclear about
13 whether or not we should go that other
14 step. And I may ultimately get there.
15 At this point as we sit here today, I'm a
16 little uncomfortable about it. And, like
17 I say, I can't speak for Councilmembers,
18 but I do know of a couple of
19 Councilmembers who would have a little
20 concern about having to insert a
21 provision that requires that there's an
22 explanation as it relates to the passage
23 of the bill beyond the public hearing and
24 beyond ultimately their vote and their
25 testimony.

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2 So that's pretty much it. I
3 don't mean to get heavy-handed as it
4 relates to this, because, as you know, I
5 begged you all to do, to a degree, to do
6 this and come up with standards.

7 So I'm actually done.

8 COUNCILWOMAN BROWN: So we will
9 push the pause button on that particular
10 issue and continue with testimony so that
11 we can actually get through this portion
12 of the hearing.

13 Thank you for your testimony
14 and for the dialogue.

15 MS. GOLDSTEIN: Thank you very
16 much.

17 COUNCILWOMAN BROWN: The next
18 panel up, if we could please invite up
19 Lauren Bornfriend, Executive Director of
20 the Philadelphia Parks Alliance; Laura
21 Shell, Interim Executive Director of the
22 Fairmount Park Conservancy. Please
23 proceed to the witness table. And then
24 after that will be Panel No. 3, Brian
25 Glass and Robert Vance.

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2 (Witnesses approached witness
3 table.)

4 COUNCILWOMAN BROWN: Welcome.
5 State your name for the record and
6 proceed with your testimony.

7 MS. BORNFRIEND: Good
8 afternoon. I am Lauren Bornfriend, the
9 Executive Director of the Philadelphia
10 Parks Alliance, and I would like to begin
11 by thanking Councilwoman Reynolds Brown
12 and Councilman O'Neill for introducing
13 Bill No. 110002.

14 The Parks Alliance has long
15 advocated for the creation of guidelines
16 concerning parkland protection and use.
17 After considerable review and discussion,
18 it is our pleasure to be here today in
19 support of this bill as it was introduced
20 on January 27th.

21 The leadership of
22 Councilmembers Reynolds Brown and Clarke,
23 along with that of Mayor Nutter, has laid
24 the groundwork for the creation and
25 introduction of this legislation. This

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2 bill is the outgrowth of a broad-based
3 reform initiative that has included
4 robust dialogue between City Council, the
5 Administration, the Commission on Parks
6 and Recreation, Department staff,
7 advocates and the people of Philadelphia.

8 All have worked together
9 through considerable challenges, as you
10 well know, with a shared goal: maximize
11 opportunities to improve parks and
12 recreation for every citizen in every
13 neighborhood of our city, while
14 protecting the extraordinary legacy of
15 our children.

16 The Parks Alliance thanks the
17 members of the Commission on Parks and
18 Recreation for their dedication to
19 protecting and improving Philadelphia's
20 parks. Specifically, Deborah Wolf
21 Goldstein and Nancy Goldenberg have put
22 an enormous amount of time and effort
23 into creating an ordinance that protects
24 not only best practices but balances the
25 input, experience and concerns of

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2 citizens, government officials, the
3 City's Law Department, key stakeholders
4 and citizens.

5 The Parks Alliance urges the
6 Committee on Parks and Recreation and
7 Cultural Affairs to refer this bill to
8 the Committee of the Whole, and we ask
9 Council to support its timely passage.

10 Thank you.

11 COUNCILWOMAN BROWN: Thank you
12 very, very much for your testimony. And
13 it is important to at any time celebrate
14 where we've come from, and I do
15 appreciate the fact that you and I
16 started at -- that was, what, 2002, 2003,
17 and there were many who believed that we
18 would never, ever, ever, ever get to the
19 point of a merger, but we did work
20 through a lot of bumps and skinned knees
21 and thoughts and ideas and debate over
22 many, many, many, many meetings that most
23 of the world would never know about. But
24 I thank you for hanging in there with us,
25 because we really did work through -- I

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2 mean, we dissected language in that bill
3 even after we got it on paper, and the
4 yield of that is that we're here today
5 now looking forward.

6 So thank you very, very much
7 for your leadership on that as well,
8 because that was important, too.

9 MS. BORNFRIEND: Thank you.

10 COUNCILWOMAN BROWN: You're
11 welcome.

12 Okay. This is your first time
13 to these proceedings?

14 MS. SHELL: This is my first
15 time here, yes. Thank you.

16 COUNCILWOMAN BROWN: Well,
17 welcome.

18 MS. SHELL: Thank you. It's a
19 pleasure to be here. The Fairmount Park
20 Conservancy -- again, sorry, my name is
21 Laura Shell, Interim Executive Director
22 of the Fairmount Park Conservancy for
23 about two more weeks and then our new
24 permanent Executive Director begins.

25 The Fairmount Park Conservancy

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2 wishes to express its support for this
3 important Ordinance No. 110002. The
4 ordinance's goal of no net loss of park
5 and recreation land is clearly aligned
6 with William Penn's original vision that
7 Philadelphia be planned as a "green
8 country towne." The Conservancy, founded
9 in 2001 to support and enhance Fairmount
10 Park, believes that the ordinance will
11 protect our treasured park for the
12 enjoyment of future generations. The
13 ordinance demonstrates Philadelphia's
14 commitment to protecting its open space,
15 which provides critical and beloved
16 recreational opportunities for our
17 citizens, as well as important
18 environmental benefits to the City.

19 The alternatives analysis,
20 public review and environmental impacts
21 analysis mandated by the ordinance
22 establishes an open, thoughtful process
23 before any transfer of parkland may be
24 considered. Furthermore, the substitute
25 land requirement will ensure that the

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2 public's interest is protected and that
3 the park will not diminish in size over
4 time.

5 We applaud the steadfast
6 efforts of the Commission on Parks and
7 Recreation in crafting this legislation
8 and your leadership in its introduction.

9 Thank you so much.

10 COUNCILWOMAN BROWN: We thank
11 you very, very much.

12 Councilman Jones, any questions
13 for this witness or for these witnesses?

14 COUNCILMAN JONES: Thank you,
15 Madam Chair. I don't know if it's for
16 these witnesses, but this particular
17 provision calls for substitute land even
18 when -- if at some point we decided
19 collectively, jointly to allow a non-park
20 use to happen and we would lose land,
21 let's say -- I don't want to use the
22 example of the cancer treatment center in
23 O'Neill's district.

24 MS. SHELL: But that's a good
25 example.

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2 COUNCILMAN JONES: I'll use it,
3 then. But we would have had to find
4 acreage somewhere else to put back into
5 the parkland?

6 MS. SHELL: Yes.

7 COUNCILMAN JONES: So is adding
8 the parkland also going to be
9 scrutinized? Because there's probably
10 some land we might not want in the system
11 that may have some environmental
12 challenges. Somebody wants to get rid of
13 a couple of acres that they used to have
14 something on, and that we wind up stuck
15 with it and the clean-up bill.

16 Are we going to look at that
17 process and scrutinize that process as
18 well?

19 MS. BORNFRIEND: That's an
20 excellent question, and actually the
21 Commissioners are going to go back to the
22 table once an ordinance is passed, this
23 piece is passed, to create guidelines for
24 acquisition of parkland so they're not
25 stuck with things that they don't need or

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2 want.

3 COUNCILMAN JONES: You know, I
4 don't know if this is councilmanically
5 correct, but I'm a freshman, so write it
6 off to that. But, I mean, we would have
7 to look long and hard if we were going to
8 include the sinking homes in --

9 COUNCILWOMAN BROWN: West
10 Philadelphia or Logan?

11 COUNCILMAN JONES: -- Logan as
12 a consideration for parkland because of
13 some of the liability. And in my
14 district, I have a street called Daggett
15 Street and there were some problems
16 because that was built on ash and some of
17 the homes sunk. We'd have to -- that's
18 in the Carroll Park area.

19 We'd have to look at whether or
20 not it is worth it to us as a
21 municipality to take on certain
22 liability. So I would hope that's the
23 kind of thing that we consider.

24 MS. SHELL: I think absolutely.
25 I think part of it too, the City would

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2 want to make sure that the land that was
3 the substitute land serves the
4 appropriate park purpose. Perhaps it
5 would be substituted for an environmental
6 benefit if it had a significant woodland
7 on it or stream on it, something like
8 that. I think that's all part of the
9 process.

10 MS. BORNFRIEND: I think the
11 guidelines will address all of this.

12 I see the Commissioners have
13 left.

14 Yeah. And that was part of the
15 Charter change, the Charter referendum,
16 called for the creation of guidelines
17 addressing acquisition. So it will be
18 done.

19 COUNCILMAN JONES: Thank you.

20 Thank you, Madam Chair.

21 COUNCILWOMAN BROWN: Just by
22 way of context, Councilman Jones, that
23 was one of the persistent, if you will,
24 ongoing concerns raised throughout the
25 entire process, I believe legitimate

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2 concern, raised throughout the entire
3 discussion and dialogue over those many
4 years around the merger. So to hear that
5 that has not been -- it's not sitting on
6 a shelf, but up for the look-see is
7 encouraging.

8 Councilman Clarke, anything
9 else for these witnesses?

10 COUNCILMAN CLARKE:

11 Unfortunately, I did not hear the
12 testimony. I was in the hall for a
13 discussion with the earlier witnesses,
14 but I just want to thank you all for your
15 commitment, continued commitment. We
16 will move this process.

17 MS. BORNFRIEND: Thank you as
18 well.

19 COUNCILMAN CLARKE: We'll end
20 up in a common place at the end of the
21 day.

22 COUNCILWOMAN BROWN: Ms. Shell,
23 I wish you best wishes in your leadership
24 there at the Conservancy.

25 MS. SHELL: Thank you so much.

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2 We look forward to our new Executive
3 Director working with you.

4 COUNCILWOMAN BROWN: Okay.

5 Thank you for your testimony.

6 MS. SHELL: Thank you.

7 COUNCILWOMAN BROWN: If we
8 could please invite to the witness table
9 Brian Glass, Citizens for Pennsylvania's
10 Future and Philadelphia Parks Alliance;
11 Robert Vance, Friends of the Wissahickon;
12 Linde Lauff, Friends of Pennypack Park;
13 Frank Chance, Clark Park; and at some
14 point when a seat empties out, Doris
15 Gwaltney -- please correct me when you
16 get to the witness table -- of Carroll
17 Park Neighbors.

18 (Witnesses approached witness
19 table.)

20 COUNCILWOMAN BROWN: Welcome,
21 all of you, to these proceedings. And
22 Mr. Brian Glass, we'll start with you.

23 MR. GLASS: Thank you. Good
24 afternoon. My name is Brian Glass and
25 I'm a senior attorney at PennFuture, a

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2 statewide public interest membership
3 organization that works to create a just
4 future where nature, communities and the
5 economy thrive. At the request of and
6 together with our partner, the
7 Philadelphia Parks Alliance, PennFuture
8 reviewed and commented on earlier
9 iterations of the proposed ordinance
10 that's before you today back when it was
11 under consideration by the Commission on
12 Parks and Recreation. PennFuture is
13 pleased to support the bill that is under
14 consideration by the Committee this
15 afternoon.

16 PennFuture believes that
17 Philadelphia's outdoor park and
18 recreation space has provided a number of
19 economic, public health and environmental
20 benefits to the City and its residents.
21 For that reason, PennFuture believes that
22 the City should aggressively safeguard
23 these holdings.

24 At the same time, PennFuture
25 appreciates that strategic periodic

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2 conveyances of some of its holdings can
3 result in an overall net benefit to the
4 City, its residents and the park and
5 recreational system as a whole. For that
6 reason, PennFuture does not categorically
7 oppose the conveyance of outdoor park and
8 recreation spaces, provided it's done in
9 a thoughtful and transparent manner.
10 PennFuture believes that the proposed
11 ordinance before you today will result in
12 future conveyances that can meet this
13 standard.

14 The ordinance communicates a
15 strong preference for protection by
16 setting forth, as a general rule, that no
17 land that the City owns or holds now or
18 in the future as outdoor park or
19 recreation land may be transferred or
20 converted unless certain conditions are
21 met. Those conditions, in turn, ensure
22 that various impacts and alternatives are
23 considered, that the public has an
24 opportunity to be heard, that there is no
25 net loss of outdoor park or recreation

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2 land and that there is full compliance
3 with state laws governing the disposition
4 of land entrusted to the public before
5 outdoor park and recreation land can be
6 conveyed.

7 PennFuture believes that the
8 proposed ordinance before you today
9 strikes the right balance between
10 protection and flexibility, and we urge
11 you to move the bill out of Committee for
12 consideration by the Council as a whole.

13 Thank you.

14 COUNCILWOMAN BROWN: Please
15 tell me, how old is Pennsylvania Future?
16 Just give me some --

17 MR. GLASS: We celebrated our
18 tenth anniversary about a year and a half
19 ago. So we're about 11 years old.

20 COUNCILWOMAN BROWN: And are
21 you local?

22 MR. GLASS: We are statewide,
23 but we have a Philadelphia office on
24 Walnut Street.

25 COUNCILWOMAN BROWN: I see.

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2 Welcome.

3 MR. GLASS: Thank you.

4 COUNCILWOMAN BROWN: Okay.

5 Good afternoon.

6 MR. VANCE: Good afternoon. My
7 name is Robert Vance and I'm the
8 President of the Board of Directors of
9 the Friends of the Wissahickon. The
10 Friends of the Wissahickon, which is also
11 known as FOW, is the oldest and largest
12 of the non-profit volunteer groups active
13 in the Fairmount Park system. For over
14 85 years, the Friends have been stewards
15 of Wissahickon Valley Park, which is the
16 beautiful northern stretch of Fairmount
17 Park that should be familiar to most of
18 you. Our members maintain and preserve
19 trails and historic structures, care for
20 native plant and animal species and
21 protect the watershed.

22 I am here today to add the
23 voice of the FOW to the chorus of
24 individuals and organizations calling for
25 the passage of Bill No. 110002, the

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2 so-called Open Lands Ordinance. This
3 legislation is long overdue. Fairmount
4 Park is a diamond among the many gems
5 that comprise Philadelphia, and it is
6 worthy of the protection called for in
7 this legislation.

8 All Philadelphians deserve
9 safe, clean, green and adequate park and
10 recreation areas. This legislation
11 furtheres that goal by ensuring that the
12 transfer or conversion of open space is
13 the exception rather than the rule. It
14 also makes clear that public
15 participation is paramount by ensuring
16 that the public has a meaningful
17 opportunity to be heard on any proposed
18 transfer or conversion of parkland. And
19 the FOW is particularly pleased that the
20 legislation requires a proposed
21 transferee of parkland to provide to the
22 Commission on Parks and Recreation and to
23 City Council a written alternatives
24 analysis containing a description of the
25 environmental impact of the proposed

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2 transfer on storm water management,
3 natural habitat, canopy preservation and
4 noise, light and water pollution.

5 The FOW has a long history of
6 work in these areas, and this legislation
7 will ensure that the work of FOW and
8 other organizations and individuals in
9 these areas and the care, maintenance and
10 preservation of parkland has not been and
11 will not be in vain.

12 So the Friends of the
13 Wissahickon would like to thank the
14 Philadelphia Parks Alliance for their
15 leadership on this issue, Councilwoman
16 Reynolds Brown and Councilman O'Neill for
17 introducing the legislation, all of the
18 members of the Committee on Parks,
19 Recreation and Cultural Affairs for their
20 leadership in crafting this legislation.
21 We urge Council to pass Bill No. 110002
22 as introduced.

23 Thank you.

24 COUNCILWOMAN BROWN: Thank you
25 very much for your testimony.

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2 Congratulations on your leadership there.

3 Let me seize the moment and ask
4 you, might you have any comment or
5 perspective on the view, concern raised
6 by Councilman Clarke? I'm interested
7 purely because you're a lawyer and
8 because of your rich involvement with
9 Friends of the Wissahickon.

10 MR. VANCE: If you're talking
11 about the issue of the findings, whether
12 Council makes findings, yeah, I think the
13 Solicitor pretty much addressed that by
14 stating that you have options. If you
15 agree with the recommendation from the
16 Commission, then the Council can just
17 adopt the findings of the Commission. If
18 you disagree with the recommendation of
19 the Commission, then you can reject them
20 and not pass the ordinance, and if you
21 disagree with the recommendation, for
22 example, that the property not be sold
23 but Council still wants to go ahead and
24 sell the property, it's not a complicated
25 process to make legislative findings,

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2 which can be as simple as if the
3 Fairmount Park -- if the Commission says
4 A, but Council believes B, then that's
5 your finding, that it's B rather than A.

6 So I understand the
7 Councilman's concern about standards and
8 what City Council members are going to be
9 doing and voting on these ordinances as
10 they come up, but I think it's an issue
11 that can be resolved relatively simply.

12 COUNCILWOMAN BROWN: Councilman
13 Jones.

14 COUNCILMAN JONES: I think in
15 the history of my tenure here, which is
16 very brief, I've never disagreed with my
17 colleague ever, and so this is like a
18 first for me, but I kind of get -- I
19 actually do -- the counterbalance of what
20 this legislation intends to do. Speaking
21 on behalf of the 4th District, which has
22 the most parkland of any district in it,
23 I'm keenly aware of what the consequences
24 could be in places like Wissahickon and
25 want to make sure that two sets of eyes,

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2 four sets of eyes, ten sets of eyes
3 review what we do, because we act in
4 haste, we will repent in our leisure, as
5 one great Councilperson said.

6 So I don't mind -- if I have a
7 position, I don't mind making it public
8 and saying why I think this is a higher
9 and best use, and I don't mind arguing
10 from time to time with others who may
11 have a contrary view. But I think it's
12 very important for us to have that open
13 dialogue so that people justify their
14 positions or change their minds in some
15 cases. So, I mean, that's just where I'm
16 at.

17 MR. VANCE: I agree. I think
18 the history of this legislation and the
19 meetings and the back and forth certainly
20 demonstrate to Council that the issue of
21 transferring parkland is very important
22 to all of the citizens of Philadelphia
23 and it's important that you have a public
24 dialogue about those issues as they come
25 up. I think that's very important. So I

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2 agree with Councilman Jones 100 percent.

3 COUNCILMAN JONES: I need to

4 say that in front of my colleague,

5 because -- I said this is the first time,

6 Councilman, that I had a contrary view

7 possibly between you and -- I've been

8 here a short amount of time, but this is

9 like the first, but it's not -- it's just

10 in the philosophy and view of how that

11 particular aspect of this legislation

12 goes. And I was saying that I felt

13 comfortable with justifying my position,

14 even if it's in contradiction to the

15 Commission, because you guys spend a lot

16 of time on it, I spend a lot of time in

17 my district, and sometimes those things

18 may be in conflict. But it is good to

19 have the dialogue, because if we act too

20 quickly -- I swear I remember when I was

21 at the Commerce Department, they wanted

22 to put a high Indianapolis-style race in

23 the park. I remember that. I remember

24 the proposal. I remember what it was

25 going to bring in to the City. And we

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2 were cash-strapped then. We're
3 cash-trapped now, and we'll probably
4 sometime in the future be cash-strapped
5 again and somebody will come up with some
6 cockamamy idea to sell, lease to some
7 enterprise, and I think that dialogue
8 right then should be encouraged and at
9 least memorialized in a way so that at
10 the end of the day, when something -- and
11 as it often does -- goes wrong, we can
12 say, Well, what was your thought process
13 on this. And I just feel comfortable
14 with it.

15 Thank you, Madam Chair.

16 COUNCILWOMAN BROWN: Councilman
17 Clarke.

18 COUNCILMAN CLARKE: Thank you,
19 Madam Chair.

20 Thank you, Councilman.

21 Let me be clear. The issue
22 that is before us today as it relates to
23 what Council must or shall insert in an
24 ordinance is a broader issue, and I
25 probably didn't make it clear when I had

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2 the earlier conversation, because we were
3 talking about a particular issue as it
4 relates to park conveyance.

5 Council has its set of rules in
6 terms of the way we do things. We have a
7 certain requirement for the passage of
8 bills and you have a requirement for
9 super majority. So there are a number of
10 things we do as a Council. If you now
11 say -- and this is actually a change in
12 process, Council change in process, which
13 is being recommended in terms of
14 inserting language that explains
15 legislation. It goes way beyond just
16 simply doing this for this particular
17 proposal. Every property that Council
18 disposes of beyond park, there will then
19 be a request to explain that. Every
20 contract that Council does as it relates
21 to a lease or a sale of land beyond
22 parkland will then have to -- people will
23 say you should have an explanation in
24 that.

25 And I'm not necessarily opposed

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2 to that, but what I'm saying to you
3 today, that something of that magnitude
4 when you are now changing the rules of
5 Council, which is essentially what this
6 would do in terms of how you pass
7 legislation, require explanations for the
8 actions of City Council, will require a
9 broader discussion among Councilmembers.
10 That's my concern, because you're setting
11 a precedent when you're establishing
12 legislation that requires that Council
13 insert an explanation as to why they have
14 taken legislative action. That's the
15 issue. And I didn't get into that
16 earlier, because I wasn't sure that that
17 was the intent of the people who were
18 involved in this particular process, but
19 I got to tell you that it's a little
20 broader than simply a conveyance of
21 parkland, because you're setting a
22 precedent that will then require every
23 action that Council takes, the
24 explanation be inserted in legislation.
25 And I just think that that has to be a

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2 much broader discussion among
3 Councilmembers. So that's my issue.

4 COUNCILWOMAN BROWN: Thank you,
5 Councilman Clarke. And that simply again
6 speaks to you're a seasoned Councilmember
7 in that way and as a former Commissioner.
8 So the backdrop and the big picture is
9 extremely instructive. Thank you very
10 much.

11 Okay. Please proceed.

12 MS. LAUFF: Good afternoon.
13 I'm Linde Lauff and as President, I
14 represent approximately 2,000 members of
15 the Friends of Pennypack Park in
16 Northeast Philadelphia. I'm here to ask
17 the Committee on Parks, Recreation and
18 Cultural Affairs to approve Bill No.
19 110002 concerning parks and outdoor
20 spaces.

21 Our parks are valued assets to
22 Northeast residents. They're our
23 baseball and soccer fields, bicycle and
24 horse trails, picnic areas and
25 educational facilities. This is where we

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2 walk our pets, meet our friends, bring
3 our visitors and often establish new
4 friendships. Our parks are where local
5 residents spend countless hours of
6 leisure time. Our members support the
7 vision of preserving these spaces for the
8 next generation and for many more to
9 come.

10 We would like to thank
11 Councilmembers Reynolds Brown and O'Neill
12 for introducing this legislation and the
13 work of the new Commission on Parks and
14 Recreation, as well as staff, friends
15 groups and many other park supporters to
16 create legislation that will help protect
17 our parks as demonstrated -- excuse me;
18 has demonstrated that we can work
19 together. We look forward towards the
20 next phase of protecting our open spaces.

21 In closing, the Friends of
22 Pennypack Park support this legislation
23 and urge that the Committee of Parks,
24 Recreation and Cultural Affairs approve
25 this passage.

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2 Thank you.

3 COUNCILWOMAN BROWN: Thank you
4 for your testimony.

5 We thank all of you for your
6 testimony, and we would now like to
7 invite up Frank Chance of Clark Park and
8 Doris Gwaltney of Carroll Park Neighbors.

9 (Witnesses approached witness
10 table.)

11 COUNCILWOMAN BROWN: Good
12 afternoon. Welcome to these proceedings.

13 Mr. Chance, proceed with your
14 testimony.

15 MR. CHANCE: Good afternoon.
16 My name is Frank Chance. I'm a resident
17 of West Philadelphia and former President
18 of the Friends of Clark Park. Thank you
19 for offering me the opportunity to speak
20 on behalf of the Parks and Open Lands
21 Protection Ordinance.

22 I've been a resident of the
23 University City section of West
24 Philadelphia for more than 20 years,
25 during which time I have come to greatly

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2 value and appreciate the parks and open
3 spaces of our city. As a volunteer, I
4 have helped with maintenance and
5 administration of parks and park
6 facilities in the former Fairmount Park
7 system, as well as in the Recreation
8 Department parks, particularly in Clark
9 Park near my home.

10 One of the first actions of the
11 newly united Parks and Recreation
12 Commission has been to propose the Parks
13 and Open Land Protection Ordinance, Bill
14 No. 110002. This ordinance has been
15 carefully prepared, and the Commission
16 has allowed significant public input
17 during the preparation process, resulting
18 in a strong ordinance that outlines a
19 public process for the transfer of land
20 into or out of the park system. This
21 process will protect our parks by making
22 such transfers exceptional rather than
23 routine and will preserve the land for
24 future generations of park users.

25 The Friends of Clark Park

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2 strongly support the ordinance. We also
3 wish to recognize the efforts of the
4 Philadelphia Parks Alliance during the
5 process of preparing this ordinance and
6 also commend the Parks and Recreation
7 Commission for their work in preparing
8 it.

9 Thank you.

10 COUNCILWOMAN BROWN: Thank you
11 very, very much, Mr. Chance.

12 Good afternoon.

13 MS. GWALTNEY: Good afternoon.
14 Thank you, Madam Chair, members of
15 Council. I am Doris Gwaltney. I'm the
16 President of the Carroll Park Neighbors
17 and I'm also a Board member of the
18 Philadelphia Parks Alliance.

19 The Carroll Park Neighbors
20 Advisory Council supports Bill No. 110002
21 as it was introduced.

22 Sufficient time and discussion
23 has been given to this issue of park and
24 recreation land protection, and we
25 believe that this bill, as introduced by

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2 Councilmembers Reynolds Brown and
3 O'Neill, will suffice.

4 Thank you.

5 COUNCILWOMAN BROWN: Thank you
6 for your testimony.

7 The City Council Committee on
8 Parks, Recreation and Cultural Affairs
9 will recess for five minutes.

10 (Short recess.)

11 COUNCILWOMAN BROWN: That
12 concludes testimony on Bill No. 110002.
13 This concludes our public hearing. We
14 will now move into a public meeting.

15 And I would like to call on
16 Councilman Jones to make a motion to
17 adopt the amendment.

18 COUNCILMAN JONES: Thank you,
19 Madam Chair. I make a motion to adopt
20 the amendment to Bill No. 110002.

21 (Duly seconded.)

22 COUNCILWOMAN BROWN: All in
23 favor?

24 (Aye.)

25 COUNCILWOMAN BROWN: All

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2 opposed?

3 (No response.)

4 COUNCILWOMAN BROWN: I will now
5 ask Councilman Jones to make a motion to
6 adopt the bill, as amended.

7 COUNCILMAN JONES: Thank you,
8 Madam Chair. I make a motion to adopt,
9 as amended, Bill No. 110002 with a
10 favorable recommendation, thus allowing
11 the first reading at our next scheduled
12 meeting.

13 (Duly seconded.)

14 COUNCILWOMAN BROWN: Thank you.
15 All in favor say aye.

16 (Aye.)

17 COUNCILWOMAN BROWN: All
18 opposed?

19 (No response.)

20 COUNCILWOMAN BROWN: None.
21 Therefore, Bill No. 110002, as amended,
22 will be reported out of this Committee
23 with a favorable recommendation and
24 further recommended that the rules of
25 Council be suspended so as to permit

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2 first reading at our next scheduled
3 session of City Council.

4 This concludes the meeting of
5 the Committee on Parks, Recreation and
6 Cultural Affairs. We will want to thank
7 all of you for your good work and we
8 thank you for your attendance. Thank you
9 very much.

10 (Applause.)

11 (Committee on Parks, Recreation
12 and Cultural Affairs concluded at 3:20
13 p.m.)

14 - - -

1
2 CERTIFICATE

3 I HEREBY CERTIFY that the
4 proceedings, evidence and objections are
5 contained fully and accurately in the
6 stenographic notes taken by me upon the
7 foregoing matter on March 9, 2011, and that
8 this is a true and correct transcript of same.

9
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13 -----
14 MICHELE L. MURPHY
15 RPR-Notary Public
16
17
18

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20 transcript does not apply to any reproduction
21 of the same by any means, unless under the
22 direct control and/or supervision of the
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