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COUNCIL OF THE CITY OF PHILADELPHIA
PUBLIC HEARING
COMMITTEE ON PUBLIC SAFETY

- - -

Room 401, City Hall
Philadelphia, Pennsylvania
Tuesday, June 15, 1999
1:10 p.m.

- - -

Bill 990198 -

- - -

PRESENT:

COUNCILMAN ANGEL ORTIZ, Chairman
COUNCILMAN DAVID COHEN
COUNCILMAN FRANK DI CICCIO
COUNCILMAN JAMES F. KENNEY
COUNCILMAN FRANK RIZZO

- - -

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2 THE CHAIRMAN: Having Jim Kenney, Frank
3 Rizzo and David Cohen, Frank DiCicco here, the
4 Committee of Public Safety public hearing followed
5 by a public meeting on Bill 990198. This is an
6 ordinance amending Chapter 12-1600 of the
7 Philadelphia Code entitled Special Restrictions Upon
8 Use of Vehicles In Areas Under the Control Of The
9 Fairmount Park Commission."

10 I believe we have testimony. Identify
11 yourself for the record.

12 MR. DE MARCO: My name is Richard
13 DeMarco. My title is Staff Attorney for Council
14 President Anna Verna. She asked me to just say a
15 few words on behalf of this bill in her stead. And
16 again, I apologize for my attire. I like to show
17 the proper respect when I can.

18 THE CHAIRMAN: I was dressed in shorts
19 yesterday also.

20 MR. DE MARCO: Okay. Just a preface as
21 to why we're here and where this bill comes from we
22 had many complaints about the use of all-terrain
23 vehicles on Fairmount Park property. They chew up
24 the grass. And our police correspondent who deals
25 with the Police Department received many complaints

2 from some of the friends groups of some of the park
3 groups in our district. And after researching into
4 this problem, which is the use of all-terrain
5 vehicles on grass and park property, that's where
6 the idea of this bill came. And what we found out
7 when we looked into it was that it was merely a
8 parking ticket.

9 THE CHAIRMAN: If I may, all-terrain
10 vehicles are prohibited, illegal, anywhere in the
11 City of Philadelphia.

12 MR. DE MARCO: Yes, I believe that's
13 correct.

14 THE CHAIRMAN: One of the things that --
15 because we have the same problem in Fairmount Park
16 in terms of the Hunting Park area and Ninth Street.
17 And we worked out an arrangement and we asked the
18 captains and inspectors of 25th and 26th at that
19 time, and they actually began implementing this
20 policy that they didn't give a ticket, they just
21 took the vehicle away' they confiscated the vehicle.
22 And I want to know -- when the Police Department
23 comes in, I want to know whether they are
24 confiscating those vehicles or not. Because that is
25 one of the things that has to be done. It isn't

3 vehicles. We don't need legislation here to do
4 that. Go ahead.

5 MR. DE MARCO: The bill doesn't address
6 the confiscation issue at all.

7 THE CHAIRMAN: We don't need to. We can
8 do that with current legislation on the record.

9 MR. DE MARCO: Right, exactly. Again,
10 this bill merely adds some teeth to the fine
11 provisions. It will increase the fine, which is
12 right now from what I understand from the Police
13 Department -- there are people from the Police
14 Department to testify -- is that the actual
15 violation is a \$35 fine and that's it. There's no
16 provision for parental responsibility or anything
17 like that. The idea of this bill is to put on some
18 more teeth into it when officers do make an arrest
19 based on this violation, they can instead of what
20 amounts to writing a parking ticket, they can write
21 a \$100 fine.

22 THE CHAIRMAN: We should also write the
23 \$100 fine and confiscate the vehicle.

24 THE WITNESS: I agree. Also, Mr.
25 Chairman, the bill will add parental responsibility

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2 since our understanding of the problem is that it is

3 committed most of the time by minors, individuals
4 who are minors, so we have a parental responsibility
5 clause in the bill.

6 THE CHAIRMAN: No problem.

7 MR. DE MARCO: That's really all I want
8 to say.

9 There was one other thing I want to
10 mention. There was an issue brought up about
11 recreation property. And recreation property is not
12 included in this bill, and that's something that the
13 Law Department is working on now because there is
14 some recreation property, I think, where this
15 problem is an occurring. However, most of the
16 complaints that we got which engendered this bill
17 deal with Fairmount Park properties. It's not a
18 cure-all, but --

19 THE CHAIRMAN: The biggest problem is
20 Fairmount Park. All across the City, like I said
21 Hunting Park and so on.

22 MR. DE MARCO: Right it will apply to
23 all of them.

24 THE CHAIRMAN: Councilman Rizzo.

25 COUNCILMAN RIZZO: I'm glad you brought

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2 that up, Mr. Chairman. I know that this is a
3 problem in Fairmount Park, but I think we've got a

4 problem on the streets of the City of Philadelphia.
5 I was on Lehigh Avenue just a few days ago, and four
6 all-terrain vehicles blew the red light in the
7 opposite side of the street and they had to be doing
8 50, 60 miles an hour, unlicensed vehicles, so I'm
9 curious was the Police Department's doing about it.
10 I think the police officers out there are so
11 conditioned to it, there was a police car parked on
12 the corner, and I said to myself, this officer is
13 going to have to go after these all-terrain
14 vehicles, they just continued on their way and the
15 police car didn't move.

16 THE CHAIRMAN: Well, if that was 25th
17 and 26th, they're supposed to stop them and
18 confiscate that vehicle anywhere they find them.

19 COUNCILMAN RIZZO: In my opinion, the
20 Police Department would have a very difficult time
21 ever stopping those types of vehicles.

22 THE CHAIRMAN: They've done. Captain
23 Colorudo (ph) in 25 started doing it, and within a
24 short period of time, they had like 20 all-terrain
25 vehicles that they confiscated, not just in the

4 What we need to begin doing is just
5 enforcing the laws we have right now on the books.
6 But confiscating of the vehicles has to be essential
7 if we're going to resolve this problem. And it's
8 adults also, it's not just kids. The ones that you
9 saw probably were because they use them in North
10 Philadelphia as a drug dealer's lookout. They are
11 the individuals on those things that roam around and
12 see where the police are and are able to inform the
13 corner drug dealer where the cops are at what point
14 and where. So we should be able if we enforce the
15 law we should be able without the fine just taking
16 the vehicles. Those vehicle cost a few thousand
17 dollars, so I would imagine that's much harder than
18 a hundred dollar fine. Thank you.

19 Sergeant James Weldon.

20 Councilman Nutter, you have a question?

21 COUNCILMAN NUTTER: Thank you, Mr.
22 Chairman. I was trying to figure out in the new
23 section, the new section appears to be 12-1604
24 number 2. I was trying to figure out from reading
25 that particular section how does that bill

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2 particularly relate to or primarily relate to the
3 all-terrain vehicles.

4 THE CHAIRMAN: It doesn't mention the

5 all-terrain vehicles, but the vehicle that is of
6 choice in Fairmount Park, as I've seen it, and I
7 imagine these are the complaints that have gotten to
8 President Verna's office, have been of the use of
9 these vehicles in Fairmount Park.

10 COUNCILMAN NUTTER: The larger view of
11 the world is, we're increasing penalty for anybody
12 driving or parking any motor vehicle on the grass
13 ball field, picnic ground and we are adding a new
14 provision to deal with --

15 THE CHAIRMAN: Not all-terrain vehicles,
16 any vehicle.

17 COUNCILMAN NUTTER: That's what I'm
18 saying.

19 THE CHAIRMAN: It includes the
20 all-terrain vehicles.

21 COUNCILMAN NUTTER: You're increasing
22 the fine for violating, number one; and creating a
23 new parental responsibility section to deal with
24 people who are under the age of 18 who, in your
25 words, are the primary users of the ATV vehicles.

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2 THE CHAIRMAN: Well, according to the
3 complaints that have gotten to Councilwoman Verna's
4 office. But I see it in Hunting Park, on Ninth

5 Street.

6 COUNCILMAN NUTTER: Yes, I've seen them
7 in West Philadelphia.

8 THE CHAIRMAN: And I've seen guys of all
9 ages in these all-terrain vehicles. But the point I
10 was making before was that these vehicles can be
11 confiscated had right now. And it seems that in
12 Fairmount Park they are not being confiscated. I
13 believe we can confiscate them plus the fine.

14 Sergeant James Weldon, please.

15 MR. HEALY: If you please, sir, my name
16 is my Frank Healy, I'm special advisor to Police
17 Commissioner Timoney. I was asked to testify in
18 support of this bill. To my right is Sergeant
19 Weldon. He's the State certified expert in our
20 off-road dirt bike program. I brought him along
21 just as his expertise in the park and in that area.

22 We have an officer who actually
23 primarily dedicates his time to this issue, however,
24 he had dental surgery today so he was unable to make
25 it. If it please the Council, I could read his

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2 statement if that's acceptable. And after that --

3 THE CHAIRMAN: Could you spell your name
4 for the stenographer?

5 MR. HEALY: My name is Francis Healy,

6 H-e-a-l-y, special advisor to the police
7 commissioner.

8 If it please, I could read the statement
9 and then both of us answer any questions you have.

10 THE CHAIRMAN: You can do that.

11 MR. HEALY: This is a statement of
12 Officer Zakrewski, Z-a-k-r-e-w-s-k-i, Badge No.
13 3089, assigned to the 35th District.

14 "Over the past several years when I was
15 assigned to the 2nd District and currently to the
16 35th District, I've had numerous encounters
17 regarding the operation of all-terrain vehicles
18 within the Tacony Park and surrounding area.

19 "Currently the state and local laws are
20 in place authorizing the police to enforce
21 violations pertaining to these vehicles, however,
22 the difficulty comes in apprehending the violators.
23 Because of the ATV's design, speed, and turning
24 capability, it is almost fruitless for police to
25 engage in even a prudent pursuit with conventional

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2 patrol vehicles.

3 "In a park environment, the operators of
4 ATVs will elude police by driving through narrow
5 paths, up steep grades, between trees, bushes and

6 rocks where a patrol car, even a four-wheel drive
7 patrol vehicle, would risk being damaged, or worse
8 jeopardize the safety of the officer attempting to
9 stop the violator.

10 "On the street, ATV operators also
11 disregard the safety of the public by weaving in and
12 out of traffic, not stopping for traffic signals, as
13 well as driving on the sidewalks. The attempt of
14 chasing would only add to the danger of the public.

15 "The reckless manner in which these
16 vehicles are operated in a park setting causes
17 severe damage to the already-sensitive ecosystem of
18 the forest habitat. Further, it disturbs people who
19 seek the peaceful serenity of a natural setting.
20 There are incidents where people, as they are
21 walking through the park, have been struck or forced
22 suddenly to dodge those ATVs which abruptly come
23 upon them at high speed.

24 "Frequently, several ATVs are brought to
25 Tacony Park by flat bed trucks or trailers. There

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2 is a pack of approximately three to seven violators
3 causing havoc and destruction in this park. On one
4 occasion while on patrol in Tacony Park, I became a
5 victim when two ATVs approached my vehicle head-on
6 attempting to flee pass by going to either side of

7 my patrol car. In doing so, one operator struck an
8 obstruction causing the ATV to flip sending both the
9 vehicle and the driver into the air with both
10 landing on the hood of my patrol car. He was
11 apprehended and issued tickets.

12 "Over the past several years, I've
13 issued over 200 tickets pertaining to ATVs, which
14 are not only applicable to ATV law, but also
15 included most cases no driver's license, no
16 registration, no insurance, et cetera. Since my
17 assignment to the 35th District, in addition to
18 writing tickets, I now confiscate the ATVs for
19 investigation for actual owners. This is done in
20 part that some of these vehicles may be stolen.
21 Some are repainted and/or the vehicle identification
22 numbers are covered or obscured. In other cases,
23 the titles are not properly transferred when it is
24 resold. My success rate is about 1 out of every 10
25 encounters. This is due to the driver either

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2 stalling out in an attempt to elude being stopped or
3 getting cornered in an area where he can not get out
4 of the way.

5 "At this time, I've heard complaints
6 about the operators of ATVs not only from park

7 organizations, but also from the general public who
8 will put up with these vehicles being driven
9 recklessly on the streets in various areas of the
10 City.

11 "Solutions to resolve this problem can
12 be accomplished by higher fines and more
13 accountability by parents who allow their children
14 to drive these vehicles."

15 That concludes his statement.

16 THE CHAIRMAN: If he has had 200
17 encounters, I want to know if he's confiscated 200
18 ATVs, because I think they're illegal. I don't care
19 whether they're owned. They don't need to be
20 stolen. What Inspector O'Conner said to me of the
21 25th, is that they're illegal and they can stop
22 anybody with an ATV on the street and take that ATV
23 away.

24 MR. HEALY: I believe what we can do is
25 we can confiscate to investigate the vehicle to see

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2 whether or not it's stolen or not stolen.

3 THE CHAIRMAN: But even if it's owned,
4 you can confiscate it because it is not allowable
5 within the confines of the County of Philadelphia.

6 SERGEANT WELDON: Councilman, my name is
7 Sergeant Weldon, w-e-l-d-o-n. I've been involved

8 with the off-road motorcycle program since 1992. I
9 currently supervise a program out in Fairmount Park
10 where we operate four dual purpose 250 cc Kawasaki
11 motorcycles. One of the specific purposes of the
12 patrol that we have out there is to eliminate the
13 abuses that ATVs cause out in Fairmount Park in the
14 Wissahickon Valley. But to counter what you're
15 saying, the ATVs are not illegal. You can own an
16 ATV, you can operate it on private property in the
17 City of Philadelphia. There's nothing --

18 THE CHAIRMAN: On private property. But
19 if you take it outside of your private property, you
20 can confiscate that vehicle.

21 SERGEANT WELDON: If the ATV is legally
22 owned, it has got a license tag which is issued by
23 the State, a licensed sticker for the tail fins or
24 the cowling and there's a title and it's owned and
25 the operator's got helmets and goggles on, the only

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2 thing you can do to him right now is give him
3 tickets. There is a 7700 series in our motor
4 vehicle code which covers the illegal operation of
5 the operation on a highway or in different areas
6 throughout the City where TVRs, tickets, are issued
7 and fines are given. However, if the vehicle is

8 owned and operated, legally owned and titled, you
9 have no right to confiscate that vehicle. There is
10 nothing in the law right now which covers
11 confiscation due to its being ridden on the streets
12 of Philadelphia.

13 THE CHAIRMAN: Well, I'd like to request
14 that you request the Administration to get me a
15 legal opinion on that. Ask the Commissioner,
16 because the information I got from the captain of
17 25th and the captain of 26th and the inspector was
18 that they could confiscate them, and they did. We
19 had confiscated over 1720 ATVs in Hunting Park.

20 SERGEANT WELDON: I will tell you this,
21 Councilman, we do confiscate them, but they are
22 returned. If I confiscate your ATV and take it to
23 the pound and you show up that afternoon with the
24 proper paperwork that says you're the owner of that
25 ATV, you take that ATV away. It's yours.

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2 THE CHAIRMAN: Because if we confiscate
3 them not illegal, then I would like to really make
4 it illegal and make it be able to confiscate the ATV
5 vehicle right then and there on the spot if they're
6 riding them in the park.

7 Councilman Kenney.

8 COUNCILMAN KENNEY: Can you legally

9 register them in the Commonwealth of Pennsylvania?
10 Can you get legal registration sticker and license
11 plate?

12 SERGEANT WELDON: You don't get a
13 license plate as you would for a motor vehicle like
14 an automobile. You get a sticker, a four or five
15 digit sticker that is affixed to the plastic cowling
16 of the back of the ATV.

17 THE CHAIRMAN: But they're not legal to
18 be ridden in Philadelphia.

19 SERGEANT WELDON: They're legal to be
20 ridden on the streets of Philadelphia, no, sir
21 they're not.

22 COUNCILMAN KENNEY: How do they
23 transport it? Do they have to transport it on a
24 truck?

25 SERGEANT WELDON: To be honest with you,

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2 Councilman, I don't know because I'm not there when
3 they recover it. Usually, when I've been involved
4 th confiscations where you get someone who says, "I
5 own it, I have the title at home, I have at
6 paperwork," we take it into the district, they show
7 up 10 minutes later with the paperwork, they have to
8 pickup truck or a van to take the vehicle away. We

9 don't allow them to ride it away. However, it goes
10 right back to where it was prior to us confiscating
11 it. The only thing that we have at our availability
12 is the issuance TVRs.

13 MR. HEALY: Sir, I have a copy of an
14 all-terrain vehicle registration if you'd like to
15 see it.

16 THE CHAIRMAN: I understand. Get me the
17 legal opinion because we may want to amend this
18 ordinance.

19 COUNCILMAN KENNEY: Part of the problem
20 is I don't think we would be able to make them
21 illegal in Philadelphia unless the Commonwealth
22 makes them illegal in Philadelphia County only.

23 THE CHAIRMAN: I think we might be able
24 to confiscate them. If they're illegal to be ridden
25 on the streets of Philadelphia, I'd like a legal

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2 opinion to see whether we can confiscate them if
3 they're illegal to be ridden.

4 COUNCILMAN KENNEY: I'm not speaking for
5 the Law Department, but the same problem we run into
6 with the 53,000 uninsured motorists in the street,
7 they're not really able to be riding their cars
8 either, but we still continually have this fear of
9 confiscating their automobiles. So it's a similar

10 problem with the ATVs as the cars.

11 THE CHAIRMAN: But the automobile is not
12 illegal to be driven. The ATV as a vehicle is
13 illegal.

14 COUNCILMAN KENNEY: The only
15 disagreement I have is it is not legal to drive
16 anything on the streets of any city in Pennsylvania
17 without license, insurance, and registration, so
18 those vehicles are illegal also.

19 COUNCILMAN RIZZO: Don't you think that
20 we really have two different issues here. One is
21 where a licensed insured motor vehicle pulls their
22 vehicle a wet day onto picnic area, destroys the
23 turf and the grass, that's pretty much a given that
24 this legislation would empower the police officer to
25 ticket a person that would do what I just described.

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2 In my opinion, the bigger problem is the
3 subject of unlicensed vehicles either trail bikes or
4 all-terrain vehicles. I believe that document that
5 you just circulated is to prove ownership, title of
6 origin, and that sticker is not to suggest that that
7 vehicle can be operated on the public highway.

8 MR. HEALY: They can be operated outside
9 of Philadelphia, up in the mountains and all. They

10 can't operate on the highway, to cross the a
11 highway --

12 COUNCILMAN RIZZO: Like a snowmobile.

13 Would you agree, Mr. Chairman, that the
14 problem with people in regular automobiles damaging
15 the park in my opinion is the intention of this
16 legislation.

17 THE CHAIRMAN: These vehicles that are
18 ridden, they just ruin the ball fields, they ruin
19 park and so on. I think we're in agreement on this
20 bill, these things got to be prohibited.

21 Can you get me an opinion on that and
22 the ability for us either legally or not to
23 confiscate those vehicles and under what authority
24 did we do it in the 25th and 26th districts.

25 MR. HEALY: I could tell you the reason

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2 why. We confiscate them temporarily. If there's no
3 VIN on them, no ownership papers, we take them in,
4 and often times the individuals they were taken from
5 never show back up. So we end up with a ATV with no
6 owner so it's confiscated vehicle.

7 THE CHAIRMAN: Well, maybe that's the
8 way we should go, but find me and get me a legal
9 opinion, please. Thank you very much.

10 Nancy Goldenberg, Fairmount Park

11 Commission and Jim Donaghy, too. Well, Nancy should
12 know the drill.

13 MR. DONAGHY: Good afternoon, Mr.
14 Chairman. I'm James Donaghy, D-o-n-a-g-h-y. I'm
15 the director of operations for the Fairmount Park
16 Commission. I want to thank you for this
17 opportunity to provide testimony in support of this
18 bill. Joining me today is Nancy Goldenberg, the
19 natural lands and restoration environmental program
20 administrator; and Brad Thompson from the Academy of
21 Natural Science.

22 The illegal use of all-terrain vehicles
23 and the dirt motorcycles is a significant serious
24 problem throughout the park system. The problem has
25 existed for many years and is felt in every section

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2 of the City. The list of parks where illegal ATV
3 use occurs includes Cobbs Creek Park, East and West
4 Park in Fairmount, Wissahickon Park Hunting Park,
5 Tacony Creek Park, Penny Park, a Poquessing Creek
6 Park. The ATVs are operated by adults and youth
7 alike.

8 The use of ATVs in our public parks
9 causes several problems to our park and for our park
10 users. It causes damage to park trails, athletic

11 fields, lawn areas, shrubs, trees. This damage
12 results in erosion. All this damage increases the
13 repair and maintenance cost for the park commission.

14 This ATV use also causes a very serious
15 safety problem for our park users. ATVs are
16 operated at a high rate of speed. They endanger the
17 park users they affect the quality of the park user
18 experience.

19 The physical damage caused by this
20 activity also creates unsafe conditions for our park
21 users. This activity has created a perception of
22 some parks being unsafe and it has deterred many
23 people from using the park. When you encounter an
24 ATV in the park, it creates an unsafe and unpleasant
25 park experience.

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2 And now my colleague, Nancy Goldenberg,
3 will talk about the damages and some of the related
4 costs.

5 MS. GOLDENBERG: Good afternoon. My
6 name is Nancy Goldenberg, and I'm the program
7 administrator for the for the Fairmount Commissions
8 Natural Lands Restoration and Environmental
9 Education Program. You do have a copy of my
10 testimony today as well as some photographs that
11 you might like to look at as well.

12 The Natural Lands Program is a five-year
13 initiative which began in July of 1997 to restore
14 the natural areas in seven of the park systems
15 watershed and estuary park and to build a
16 constituency for their protection through
17 environmental education and community stewardship.
18 The scope of our restoration includes the 5,441
19 acres of woodland and wetlands in Poquessing, Penny
20 Pack, and Tacony Creek Park, as well as in the
21 Wissahickon, Fairmount, Cobbs Creek, and FDR Parks.

22 I'm here along with my colleagues to
23 speak in favor of amending Chapter 12-1600 to
24 include a parental liability provision and
25 subsequent fines. As you just heard, the use of

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2 all-terrain vehicles is a public safety issue
3 presenting a menace to park users. ATVs are also a
4 menace to our ecosystem.

5 As in many urban parks, Fairmount has
6 been severely impacted by urbanization. Over the
7 course of the past two years, we've been working
8 with ecologists, gem morphologists, botanists, and
9 other scientist at the Academy of Natural Sciences
10 to assess in great detail the condition of natural
11 lands in our park. Our assessments will result in

12 the restoration master plans for each of our
13 watershed areas. Each master plan in turn will
14 contain a list of priority restoration projects that
15 we will actually implement over the next three
16 years. As we trail throughout all of our
17 watersheds, one of the most damaging conditions we
18 have seen is soil compaction by all-terrain
19 vehicles, particularly in Poquessing, Tacony, and
20 Cobbs Creek Park.

21 As you will hear in more detail in a
22 moment from Brad Thompson of the Academy of Natural
23 Sciences, compaction limits the ability of the soil
24 to soak up water. When the water isn't able to
25 percolate into the ground, the populations and

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2 diversity of aquatic organisms in our streams is
3 negatively affected.
4 Additionally, ATV users contribute
5 greatly to the loss of nutrient-rich forest top soil
6 needed to support a diverse population of shrubs
7 wild flowers, grasses, sedges. Instead, if anything
8 grows, it's typically of the weed or exotic variety,
9 and indeed, many areas of Fairmount Park have taken
10 on the all-too-familiar feature of an abandoned
11 landscape. Such degraded landscape become open
12 invitations for other illegal activities such as the

13 dumping and abandonment of cars and other trash.
14 Our parks appear unsafe, and the kinds of park
15 activities we find attractive and want to encourage
16 in our community, such as walking, picnicking, and
17 jogging, stop altogether.

18 While there is no single solution for
19 such a complex ecological problem, instituting
20 parental liability should help somewhat. Also
21 needed is assurance that our police officers
22 recognize ATV use as a serious quality of life
23 issue, that they familiarize themselves with the
24 type of damage ATVs do to our parks and that they be
25 provided with the resources need to enforce this and

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2 other existing state laws against the illegal
3 operation of ATVs in our park.

4 Unless there are any questions, I'd like
5 turn the program over to Brad Thompson.

6 MR. THOMPSON: I am Brad Thompson. I'm
7 the project manager for the Academy of Natural
8 Sciences role in the Fairmount park natural lands
9 program. I represent the team of scientists,
10 ecologist, botanists, bioengineers, landscape
11 architects and planners that have been working in
12 the park. We, the team, have observed clear and

13 undeniable damage of the natural lands in the park
14 by unauthorized vehicles. Decline of the landscape
15 due to off-road use of motorized vehicles is easily
16 observed in the six watershed parks in the City.

17 During our study of existing conditions
18 in the park over the last two years damaging use by
19 these vehicles was observed by our team at different
20 times throughout the park system. In more than one
21 instance, we were pushed off trails by the users of
22 these vehicles while performing our work. Moreover,
23 during the process of prioritizing sites for
24 restoration in Cobbs and Tacony, we identified many
25 sites severely damaged by these vehicles. Our

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2 initial estimates for repair are approximately
3 \$25,000 per acre. And you're now looking at
4 pictures of those sites in Tacony that were so
5 severely damaged that we didn't feel that we even or
6 it would make sense to do any restoration work at
7 that area. Unfortunately, this is one of the many
8 areas in the park that have been hurt by these
9 vehicles.

10 The first and immediate impact of a
11 vehicle is damage to herbaceous or the flower grass
12 area of the park and the small woody vegetation that
13 is directly under the trees. This vegetation is

14 compacted, stomped by the vehicles. Some plants
15 that aren't killed on impact die from the soil
16 compaction, a process of compressing the soil that
17 makes it unable to absorb water. Then an erosion
18 gully literally washes away the soil from the plants
19 exposing the root system. This is a simplistic
20 explanation, but plants need water and soil to
21 support plant life.

22 In addition, users of motorized vehicles
23 in the park often create new trails up or down
24 slopes. This creates erosion gullies that not only
25 damage the immediate area that has come in contact

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2 with the vehicles. But also begins to tear apart
3 the woods. Once a gully starts and long after the
4 vehicle has left the site, the gully gets bigger and
5 bigger with each storm advance. It becomes
6 increasingly difficult to repair itself by natural
7 plant regeneration. And the erosional process is
8 usually only reversed when human intervention
9 repairs the damage. When plants do not recede or
10 generate themselves, it is often the weedy species
11 that take over. What seems to be an isolated
12 erosion gully is actually part of a larger problem
13 of forest fragmentation.

14 With each intrusion into the forest, the
15 scale and the size of the habitat is reduced and the
16 potential for diversity of plant life is lessened,
17 animal life that follows. As the forest becomes
18 more fragmented or torn apart, the habitat can
19 change which often results in the reduction in the
20 numbers of plants and animals living in our woods.

21 What we have found initially is that
22 over time there is a reduction of number of species
23 in our woods which is closely associated with these
24 habitats. Our forests are under a lot of stress,
25 and this is just one of the new stresses that are

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2 tearing the woods apart. So we from the Academy
3 encourage Council to do all that's in their control
4 stop the use of these unauthorized vehicles.

5 THE CHAIRMAN: Can we do something in
6 terms of Fairmount Park barriers of some sort that
7 can prevent these individuals from having access to
8 these areas?

9 MR. DONAGHY: We have put barriers and
10 fences in many areas of the park. Short of a solid
11 fence or cables, which we do no cables because of
12 the inherent danger that they cause, there's no way
13 to prevent people from getting into the park. We
14 would have all of our parks completely fenced and

15 then we would have maintaining and repairing the
16 holes. It's a very difficult issue. But we do work
17 with the community and the police to address those
18 issue on a case-by-case basis.

19 THE CHAIRMAN: Yes, Councilman Rizzo? .

20 COUNCILMAN RIZZO: Years ago we allowed
21 trail bikes, pedaled bicycles in the park. Have we
22 done anything to suggest an alternative for the
23 people that really truly enjoy, and I don't think
24 intentionally destroy the environment, snowmobiling
25 and all-terrain vehicles and off-road motorcycles

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2 are a lot of fun. Have we tried to work with these
3 groups to come up with an area that would be
4 acceptable? Is there an area in Philadelphia County
5 where people can enjoy what they consider
6 recreation.

7 MR. DONAGHY: In the park system, no
8 there is not an area that we would feel comfortable
9 designating as an all-terrain vehicle park. I'm not
10 aware of any private parks in Philadelphia County
11 where this can be done, although there are some
12 areas outside the City that are operated privately.
13 There are tremendous amount of potential liability
14 exposure in operating a park like this due to the

15 inherent danger of operating this type of a vehicle.

16 COUNCILMAN RIZZO: Mr. Donaghy, in one
17 of the pictures that was presented to me, more than
18 erosion of the trails, do you notice the two
19 abandoned cars in our park? Did you see this
20 picture.

21 MR. DONAGHY: Yes, I did.

22 COUNCILMAN RIZZO: Does that concern
23 you?

24 MR. DONAGHY: Yes, it does. As a matter
25 of fact, this year we have removed 700 abandoned

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2 cars from the Fairmount Park System, that's
3 city-wide. Last year we removed 653 abandoned cars.
4 It's a problem; it does concern us. And there
5 again, we do work with the community and with the
6 local police district to address those issues. Both
7 groups have been very cooperative. We have a very
8 good working relationship with the police so that
9 when we remove the vehicles, the vehicles taken away
10 immediately so they're not sitting on the street.
11 It's something that we do as a task. After there's
12 an accumulation of some, we then go in and remove
13 those. It's very difficult for us to take them out
14 as soon as that occurs, although I know that's the
15 best way to do it, but with the resources we have

16 it's difficult to hand it that way.

17 THE CHAIRMAN: It's a problem and I'm in
18 total agreement with you.

19 You want to say something?

20 MR. THOMPSON: I wanted to mention that
21 these four-wheelers are often breaking new trails
22 and make it easier and easier to get the abandoned
23 vehicles in the park. So they're actually creating
24 roads as part of this process.

25 THE CHAIRMAN: It's a problem. I've

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2 been trying, like I said, actually this was about
3 four years ago, three years ago we asked 25th to
4 begin doing it and they were somewhat successful in
5 confiscation. I still believe that you can
6 confiscate and let them do something afterwards. I
7 believe they can -- it's not as difficult to go
8 after them as people claim. I think we can stop
9 them if we just make up our minds to do it. So
10 we're in agreement on this, but I wish it would be
11 more than a fine because I think confiscation is a
12 much more powerful deterrent. Thank you.

13 MR. DONAGHY: We would also support that
14 effort.

15 THE CHAIRMAN: Len Panarella and Sam

16 Ricks. Please identify yourself for record.

17 MR. RICKS: My name is Sam Ricks,
18 R-i-c-k-s, and I'm a member of Town Watch.

19 THE CHAIRMAN: This is one of the easy
20 bills in Council. I think everybody is for this.

21 MR. RICKS: In my opinion, the proposed
22 ordinance extending liability for the payment of
23 fines and cost and additional for violations of the
24 Traffic Code Section 1604-1 to parents and legal
25 guardians is insufficient response to the ATV dirt

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2 bike problem plaguing the Department of Recreations
3 parks and playgrounds.

4 First, the proposed ordinance appears to
5 apply only to areas under the control of the
6 Fairmount Park Commission excluding Department of
7 Recreation property. The park areas under the
8 control of Fairmount Park Commission are
9 specifically designating Section 15-200 of the
10 Philadelphia Code.

11 Secondly, the proposed ordinance assigns
12 liability to the parent, legal guardian, or other
13 responsible adult of a juvenile who has violated
14 Section 1604-1. According to a recent statement
15 made by Municipal Court Judge Seamus McCaffery at a
16 conference I attended, only one parent has ever be

17 changed under a parental responsibility law since
18 these law first appeared in the Philadelphia Code.
19 How effective can this proposed ordinance be if the
20 court system rarely sentences parents under the
21 existing parental responsibility laws.

22 Third, the Philadelphia Police
23 Department has issued written orders to its patrol
24 officers describing under what conditions they may
25 pursue vehicles which violate various laws. They

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2 are not permitted to chase ATVs or dirt bikes
3 observed illegal operating on Department of
4 Recreation property or on City streets because of
5 safety concerns for pedestrian and officers. This
6 is a valid policy. What other tactics are available
7 for police to safely deal with this problem?

8 Finally, the real issue here is the lack
9 of enforcement of quality of life laws already on
10 the books, including the State's Motor Vehicle Code.
11 Chapter 77 of the Motor Vehicle Code specifically,
12 the snowmobile and all-terrain vehicle law, covers
13 the registration and safe operation of ATVs. I
14 believe the Philadelphia Code already bars these
15 vehicles or bans them from Fairmount Park.

16 The dirt bike ATV issue is another

17 example of a broken window left unrepaired, another
18 sign of disorder left unchallenged. The issue is at
19 the same crossroads as the drag racing issue was in
20 1997. Police in action allowed the problem to
21 flourish to the point where it had control over
22 Southwest Philadelphia's highways was seated to a
23 bunch rich kids from the suburbs.

24 I have one quote from an 18-year-old
25 which appeared in the Philadelphia Daily News,

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1 BILL NO. 990198
2 September 19, 1997 regarding the drag racing issue,
3 "I'd rather see people down there racing than out
4 drinking." Now we have both in Southwest Philly.
5 We failed to fix one broken window and another has
6 appeared. Are we letting one more set of laws
7 dealing with quality of life and disorder fall by
8 the wayside?

9 In April 1994, New York City Police
10 Department, where our Police Commissioner John
11 Timoney was formerly deputy chief, developed and
12 introduced eight crime control and quality of life
13 strategies designed to reduce crime and improve the
14 quality of life in city residents and visitors. Of
15 interest to our current discussion are strategies 5
16 and 8 which are applicable to ATV dirt bike issue.
17 Strategy 5 stress the reclaiming of public spaces

18 such as parks. NYPD considered this particular
19 strategy as the linchpin for all other strategies.
20 According to the New York Police Department's
21 publication, a comstat process, this strategy is
22 based largely on the broken windows theory
23 contention that unaddressed forms of minor public
24 disorder are in themselves criminogenic emphasizes
25 the enforcement public orders statutes to return a

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2 sense of stability and social stability to the City.
3 ATVs and dirt bikes are frequently
4 subject to theft, robbery, or used in a drug trade
5 or fought over with guns or illegally operated on
6 streets, interfere with traffic, cause accidents,
7 and cause safety problems at City-owned park and
8 recreation facilities. Thus, ATVs and dirt bikes
9 are definitely criminogenic.
10 In addition, many of the tactics
11 outlined in their strategy involved the
12 confiscation, closing, or temporary seizure of
13 property used in public disorder offences which
14 includes street prostitution, boombox radio playing,
15 and squeegee window washers who harass motorists,
16 drag racing, and other public nuisances. These
17 tactics could certainly apply to the issue of ATVs

18 and dirt bikes.

19 Strategy 8 dealt with the enforcement of
20 traffic laws and involves similar tactics and it's
21 called "Reclaiming the Roads."

22 Our Police Commissioner had a
23 significant role in formulating and implementing
24 these strategies while he was Deputy Chief of the
25 New York City Police Department. The issue isn't

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2 what new laws and regulations can be used to curb
3 the legal operation of ATVs and dirt bikes on City
4 streets and City property, but what strategies and
5 tactics has our Police Commissioner employed to deal
6 with this problem?

7 I believe that Police Commissioner John
8 Timoney is a very capable and effective manager of
9 police. It's his turn to deal with these issues,
10 not necessarily City Council. Before another City
11 ordinance is passed, let's see what can be done with
12 existing laws. And I would request that City
13 Council table this ordinance and request a hearing
14 where the Police Commissioner can testify as to his
15 department's strategies for dealing with this
16 particular quality of life issue and the others
17 which affect our neighborhoods. Thank you.

18 THE CHAIRMAN: Thank you.

19 Mr. Panarella.
20 MR. PANARELLA: Yes. My name is Len
21 Panarella. I'm president of the Friends of Elmwood
22 Park in Southwest Philadelphia where we're having
23 this special problem. I have petitions here signed
24 by different park groups, different neighborhoods.
25 I have letters from the Pennsylvania Water Culture

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2 Society. You know all that, you know their support
3 for this bill.
4 My question is, the last time I looked
5 out my window, this the was the City of
6 Philadelphia, not Boulder, Colorado. I don't
7 understand why we need these things on the street.
8 They're dangerous. There's no need for them. The
9 last time we had snow emergency that we needed one
10 of the these vehicles, I can't remember. I've been
11 in this City 45 years. There's not need for them in
12 the City. They become the vehicle of choice for
13 drug dealers. One of these days one of our children
14 is going to get run over in the park. They go
15 flying through the parks.

16 THE CHAIRMAN: It already has happened.

17 MR. PANARELLA: It already has happened.

18 Oh, okay. So there won't be a first, it's already

19 happened. Our park is a city block square. We've
20 actually had families come over on their all-terrain
21 vehicles, mothers, fathers, and children. And when
22 you approach them and ask them, you know, you're not
23 supposed to be doing this, you should go ride it
24 somewhere else, they want to give you a hard time
25 about it. You call the police, we have absolutely

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2 no response from our Police Department with these.
3 It's a very low priority. I think it needs to start
4 being a higher priority. These are quality of life
5 issues along with loud music, loud motorcycles, dirt
6 bikes. I think the taxpayers of the City deserve to
7 be able to sleep at night. They deserve to have a
8 safe city, a safe park where they can go and relax
9 after a hard day's work. Our seniors deserve it
10 where they can go and sit and relax all day long.
11 They don't need these children riding these vehicles
12 through the park. And most of them are children.
13 You addressed the issue where you feel
14 that a higher fine, a hundred dollars. Well, to me,
15 if a parent can afford to buy his child a 4 or
16 \$5,000 toy, I don't think a hundred dollar fine is
17 big enough. I think you need to make it where they
18 do get fined, their children won't be riding these
19 things on the street anymore.

20 THE CHAIRMAN: By law, we can't go above
21 \$300.
22 MR. PANARELLA: And why is that?
23 THE CHAIRMAN: By law.
24 MR. PANARELLA: By law?
25 THE CHAIRMAN: Yes.

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2 MR. PANARELLA: Well, what's to stop
3 them from banning them altogether in the City?
4 THE CHAIRMAN: State statute.
5 MR. PANARELLA: Okay. So what's our
6 alternative?
7 THE CHAIRMAN: I think what we have
8 said, what I've asked the Police Department in
9 Hunting Park to begin doing which was confiscating
10 and stopping. You see somebody, you're a policeman,
11 you see somebody riding an all-terrain vehicle
12 anywhere in the City of Philadelphia, you stop that
13 person, you take the bicycle away and then you let
14 them do whatever it is they have to do. You begin
15 doing that. They're illegal to be ridden within the
16 confines of the City of Philadelphia. I think
17 that's enough law right there to be able to
18 confiscate the bicycle right then and there. We've
19 done it only in certain areas. I'm going to ask the

20 commissioner to give us a plan, a City-wide plan to
21 deal with this problem because legislation just
22 doesn't do it. You've got to have a plan. You've
23 got to have the will to be able to implement that
24 plan and know that you're going to get support.
25 Obviously, the community support is there for this

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2 type of thing to be done. I think the political
3 support is right here in City Council for it to be
4 done. We will ask the Commissioner. And I'm making
5 a formal, the representative for the Commissioner,
6 we would like the Commissioner to send us a plan on
7 this on how we are going to be able to deal with
8 multiplicity of all-terrain vehicles that are being
9 used in our park sites across the City, both in the
10 Recreation Department and in the Fairmount Park
11 area.

12 MR. PANARELLA: In concluding then,
13 let's make it happen.

14 THE CHAIRMAN: Let's make it happen.

15 I see no more witnesses on Bill
16 990198 -- oh, one more come forward. Anymore
17 witnesses on this bill against or for? I don't
18 think anybody is going to be against, right?

19 Yes, sir?

20 MR. WARWICK: My name is Raymond

21 Warwick. I'm the coordinator for 52nd Street Town
22 Watch Association. I'm also coordinator for Safe
23 Car Program in West Philadelphia cluster office. I
24 had gave me name to speak on this subject of the
25 dirt bikes. I call them dune buggies or

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2 what-have-you. I'm here to testify that they use
3 52nd Street from Greenway Avenue to Haverford Avenue
4 as a race track. They also wear no helmets, they
5 have no tags, and they have no goggles. They also
6 use these bikes to run across Black Oak Park which
7 is located between Pine and Larchwood Avenue, 52nd
8 street and 51st.

9 THE CHAIRMAN: Have you spoken to the
10 Captain about this.

11 MR. WARWICK: I have spoken to Captain
12 Mark Adams of 18th District. We, as a Town Watch
13 unit have watched these bikes where they go. We
14 have also turned in to the Captain where they house
15 these bikes at in the evenings.

16 THE CHAIRMAN: What have they done, if
17 anything?

18 MR. WARWICK: Nothing has been done so
19 far. We have also went to different locations where
20 the bikes go and stop in numbers of 8 and 12 and

21 turned this in to Officer Riles.

22 THE CHAIRMAN: Can you turn those things
23 into my office, please?

24 MR. WARWICK: Yes, I can.

25 THE CHAIRMAN: Please do that.

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2 MR. WARWICK: But I wanted to make it
3 known that these bikes are used on the streets.

4 THE CHAIRMAN: They are used up and down
5 North Philly, West Philadelphia, they're used for
6 racing, used for drug dealing, used for drug
7 lookouts, and a whole lot of other things that are
8 not nice.

9 MR. WARWICK: I will forward this
10 information to your office.

11 THE CHAIRMAN: Please. Yes, sir.

12 MR. MALLARD: My name is Fred Mallard.
13 I'm a member of the Tacony Creek Park and I do some
14 of the work that's already been discussed. I'm
15 quite aware of it, including Huntington Park, I do
16 surveys and that so I know the problems. I want to
17 address strictly the proposal. I think this
18 proposal ordinance is really very inadequate. It
19 only addresses a few issues and it's primarily a
20 park thing. It does not include the other parts of
21 our City, mostly of the Department of Recreation and

22 other properties being held by the Water Department.
23 So it is not inclusive enough throughout the City.
24 You already said that you'll make it City-wide. I
25 think that is an appropriate way to deal with this

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2 and make it uniform across the City rather just
3 piecemeal in the cities.

4 I do find some defects in the ordinance.
5 For instance, it uses the term "the motor vehicle,"
6 and that's incorrect term for an ATV. That's
7 defined term of state we're prohibiting only motor
8 vehicles. Actually, that's not the term that should
9 than used. I think we think we need to define what
10 is a vehicle that's in question.

11 Another part about this is that it makes
12 responsibility on the parents. Many of these
13 parents are not really approving it. It implies in
14 the ordinance that it's the authorization extending
15 from the parents. I don't think that's a direct
16 connection to the problem areas. I think you have
17 to look to these connection things a little more
18 clearly.

19 These areas that are defined in the
20 ordinance are for play areas. That's a term which
21 is not adequate. It does not forest, it does not

22 include bike trails. There are other things, for
23 instance, we can even down in Center City parks,
24 Rittenhouse Square, all those, it's not adequate
25 because it is addressing grass areas and not the

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2 parks as a whole thing.

3 THE CHAIRMAN: No, I think when you say
4 park, it's a whole park, bike trails and everything.

5 MR. MALLARD: I think you better be
6 careful when you term these because --

7 THE CHAIRMAN: We include in here. We
8 say --

9 MR. MALLARD: Do not include vehicles
10 that are used for handicapped people. So you got to
11 be careful how you do this.

12 THE CHAIRMAN: Common sense also applies
13 to enforcement.

14 MR. MALLARD: Well --

15 THE CHAIRMAN: I don't believe the
16 sponsors of his this bill believe that this is going
17 to be the panacea that solves the problem.

18 MR. MALLARD: But it is a legislative
19 process to do things correctly.

20 THE CHAIRMAN: But it is a step.

21 MR. MALLARD: And the reason why the
22 officers testified earlier, we had problems of

23 defining these things. You're confiscating cars --
24 you say you're confiscating them from your district.
25 The 25th District does not work for Tacony Creek

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2 Park.

3 THE CHAIRMAN: I understand that.

4 MR. MALLARD: So we have a problem of
5 the Administration and definition. We deal with the
6 police constantly, and they do not understand the
7 laws.

8 THE CHAIRMAN: We want this to be done
9 across the City.

10 MR. MALLARD: I'm sure you will from
11 today's hearing. I'm not opposing the ordinance,
12 I'm trying to expand the argument so you make it
13 inclusive enough so that we can observe it in our
14 own communities and deal with it people are doing
15 it. I think you need extend this not as a park
16 ordinance, but as an ordinance into other things,
17 such as the licensing and the sales of these things
18 and safety laws.

19 THE CHAIRMAN: They are already
20 prohibited within the County. We take into
21 everything into account. This is a step; it is not
22 the total answer, but it is a beginning towards the

23 full answer. And I think as we approve this, then
24 we can begin encompassing and enlarging and see
25 what else is needed, and well add to this

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2 legislation.

3 MR. MALLARD: Now, I would like to give
4 you some testimony.

5 THE CHAIRMAN: Submit it to me.

6 MR. MALLARD: I'll be glad to do it.

7 Thank you.

8 THE CHAIRMAN: Thank you. Not seeing
9 anyone else to testify on Bill 990198, the Committee
10 of Public Safety now will have a public meeting.

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COUNCIL OF THE CITY OF PHILADELPHIA

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PUBLIC MEETING

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COMMITTEE ON PUBLIC SAFETY

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Tuesday, June 15, 1999

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Public Meeting conducted by the
Committee on Public Safety, held in Room 401, City
Hall, Philadelphia, Pennsylvania, on the above date,
to consider action on the following:

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BILL 990198

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PRESENT:

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COUNCILMAN ANGEL ORTIZ, Chairman

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COUNCILMAN DAVID COHEN

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COUNCILMAN FRANK DI CICCIO

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COUNCILMAN JAMES F. KENNEY

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COUNCILMAN FRANK RIZZO

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1 PUBLIC MEETING

2 THE CHAIRMAN: Seeing a quorum present
3 with Councilman Rizzo, Councilman Cohen, Councilman
4 Ortiz, Councilman DiCicco, and Councilman Kenney, I
5 recognize Councilman Cohen for a motion with a
6 change of Rules, please.

7 COUNCILMAN COHEN: Mr. Chairman, I move
8 that Bill NO. 990198 be reported out with a
9 favorable recommendation and with the request for
10 suspension of Rules to permit First Reading at the
11 next Council Session on Thursday.

12 THE CHAIRMAN: Do I hear a second?

13 (Duly seconded.)

14 THE CHAIRMAN: All those in favor say
15 aye.

16 All those opposed?

17 Hearing no nays, Bill 990198 will be
18 recommended out of Committee with a favorable
19 recommendation and a request that the Rules of
20 Council be suspended so as to permanent First
21 Reading in the next Session of City Council.

22 The Committee on Public Safety on Bill
23 990198 is concluded.

24 (Council adjourned at 2:35 p.m.)

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C E R T I F I C A T I O N

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I HEREBY CERTIFY that the foregoing

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proceedings of the Council of the City of

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Philadelphia of June 15, 1999, were reported fully

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and accurately by me, and that this is a correct

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transcript of the same.

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RE: COMMITTEE OF PUBLIC SAFETY

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Lisa C. Bradley, RPR
and Notary Public

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