

1
2 COUNCIL OF THE CITY OF PHILADELPHIA
3 COMMITTEE OF THE WHOLE

4 - - -
5 Room 400, City Hall
6 Philadelphia, Pennsylvania
7 Wednesday, June 10, 2009, 3 o'clock p.m.
8 - - -

9 Bill 090465 - An ordinance amending Title 21
10 of the Philadelphia Code, entitled
11 "Miscellaneous," by adding a new chapter with
12 provisions relating to how and when required
13 notices shall be published and advertised, all
14 under certain terms and conditions.

15 COMMITTEE MEMBERS PRESENT:

16 Anna C. Verna, Chair
17 Marian B. Tasco, Co-Chair
18 Jannie C. Blackwell
19 Blondell Reynolds-Brown
20 Darrell L. Clarke
21 Frank DiCicco
22 Wilson W. Goode, Jr.
23 Bill Green
24 William K. Greenlee
25 Curtis Jones, Jr.
Jack Kelly
Donna Reed Miller
Brian J. O'Neill
Frank Rizzo
Maria Quiñones-Sanchez

26 - - -
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2 COUNCIL PRESIDENT Verna: Can I
3 have everyone's attention, please.

4 This is a public hearing of the
5 Committee of the Whole, and I would ask
6 Mr. Erekson to please read the title of
7 Bill No. 090465.

8 THE CLERK: Bill No. 090465, an
9 ordinance amending Title 21 of the
10 Philadelphia Code, entitled
11 "Miscellaneous," by adding a new chapter
12 with provisions relating to how and when
13 required notices shall be published and
14 advertised, all under certain terms and
15 conditions.

16 COUNCIL PRESIDENT Verna: Our
17 first witness is Martha Johnston from the
18 City Solicitor's Office.

19 Our first witness is Martha
20 Johnston from the City Solicitor's
21 Office.

22 (Witness comes forward.)

23 COUNCIL PRESIDENT Verna: Good
24 afternoon. Kindly identify yourself for
25 the record.

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2 MS. JOHNSTON: Good afternoon,
3 Council President Verna. My name is
4 Martha Johnston. I'm a senior attorney
5 in the Appeals and Legislation Unit of
6 the City Solicitor's Office. I'm here
7 this afternoon to offer testimony on
8 behalf of the Administration in support
9 of Bill No. 090465.

10 This bill provides for changes
11 in the requirements for publication of
12 notices of public hearings on bills
13 before Council and other official notice
14 in the event that a change in the number
15 of available newspapers makes the current
16 publishing requirements impossible to
17 fulfill.

18 Currently, the Charter, after
19 the approval of the amendments by voters
20 in the May election, continues to require
21 Council to provide notice of public
22 hearings on bills and notice of bills
23 reported from committee by advertising in
24 the three daily newspapers of the City
25 having the largest paid circulation,

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2 unless Council, by a two-thirds majority
3 vote, specifies different or additional
4 requirements for such notice.

5 The proposed bill would
6 implement that authority only in a very
7 limited way by authorizing Council, in
8 the event that fewer than three daily
9 newspapers with paid circulation are then
10 publishing, to publish the notices in as
11 many such newspapers as are then
12 publishing. If no such newspaper should
13 be publishing, then notice could be given
14 only on the City's official website or in
15 another manner designated by Council.

16 The bill also provides for
17 alternative methods for advertising
18 procurement, contracts available for bid,
19 also only in the event that the current
20 advertising requirement of placement in
21 one of the three newspapers having the
22 largest paid circulation in the City and
23 such other newspapers as procurement
24 deems necessary cannot be accomplished
25 because no newspaper having a paid

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2 circulation is then publishing in the
3 City.

4 Finally, the bill also provides
5 alternative methods for the Department of
6 Records to give public notice of the
7 filing of proposed regulations and the
8 availability of a hearing by providing an
9 alternative to the currently required
10 three daily newspapers of the City with a
11 paid circulation.

12 Again, only in the event that
13 three such newspapers are not publishing,
14 the department shall give notice in as
15 many such newspapers as are then
16 publishing or if none are publishing on
17 the website or in another manner
18 designated by the Managing Director.

19 I would emphasize that by its
20 own terms, this bill will lapse on
21 October 31, 2009. Therefore, it will not
22 result in any changes in the methods of
23 advertising by Council or Procurement or
24 Records, unless, before October 31, 2009
25 there should no longer be three daily

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2 newspapers with paid circulation
3 publishing in the City.

4 In that event, this bill would
5 enable the City to continue enacting
6 ordinances and regulations and
7 advertising contracts by providing
8 alternative lawful means of complying
9 with the current advertising and notice
10 requirements until Council chooses to
11 take further action.

12 Because this bill will allow
13 government operations to continue, even
14 if it became impossible to comply with
15 the current Charter advertising
16 requirements, the Administration supports
17 this bill.

18 This concludes my testimony.
19 I'll be happy to answer any questions
20 from members of the committee.

21 COUNCIL PRESIDENT Verna: Thank
22 you.

23 Are there any members of the
24 committee that have any questions of our
25 witness?

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2 (No questions.)

3 COUNCIL PRESIDENT VERNA: Thank
4 you very much.

5 MS. JOHNSTON: Thank you.

6 COUNCIL PRESIDENT VERNA: Do we
7 have anyone else to testify on this bill?

8 (Witness comes forward.)

9 COUNCIL PRESIDENT VERNA: Good
10 afternoon. Please identify yourself for
11 the record and proceed with your
12 testimony.

13 MR. SHOFF: My name is Steven
14 Shoff, and I'm a vice president of Metro
15 Newspapers.

16 Good afternoon, Councilwoman
17 Verna and all committee members. Thank
18 you for this opportunity to address the
19 Committee of the Whole.

20 I am here to ask you to amend
21 this bill to give free newspapers such as
22 Philadelphia Metro the opportunity to
23 publish public notices. I understand
24 that it is a temporary measure while we
25 await direction from the Commonwealth,

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2 but I hope to encourage you to use this
3 opportunity to open up the competitive
4 field now.

5 The bill seems to sidestep the
6 state sunshine laws by providing for
7 Internet publication of notices under
8 certain circumstances. I urge you to
9 test those limits further. And judging
10 by the results of May's Charter-change
11 referendum, the citizens of Philadelphia
12 seem to wish this too.

13 I ask for the change partly out
14 of a sense of fairness. In the day of
15 freely-accessible Internet content, much
16 less what we've long received from radio
17 and television, I cannot see why the
18 distinction between free and paid news
19 services would matter to this body. That
20 we are freely distributed certainly is of
21 no concern to our 371,000 daily readers
22 nor the nearly 1200 advertisers that we
23 serve each year. As it is for them
24 (indiscernible) simply a question of how
25 well a media outlet reaches City

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2 Council's intended audience and how much
3 it charges to do so.

4 To these points, Metro's grown
5 over the past nine years to be the most
6 widely circulated daily newspaper in the
7 City. Each day, we print 130,000 copies,
8 more than 100,000 of which are picked up
9 by Philadelphians. This is far more than
10 the Inquirer or the Daily News, which
11 distributes just over 75,000 and 56,000
12 in the City, respectively. I'm
13 submitting all of our most recent audits
14 along with this testimony.

15 Moreover, and perhaps more
16 importantly, by opening up competition
17 for the City Council's notices now, the
18 cost of your advertising will almost
19 certainly drop -- perhaps considerably.
20 And this has always been around an
21 important objective, but given these
22 economic times and our city's fiscal
23 worries, it would seem to be an
24 imperative today.

25 Thank you again.

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2 COUNCIL PRESIDENT Verna: Thank
3 you.

4 The Chair recognizes Councilman
5 Clarke.

6 COUNCILMAN CLARKE: Thank you,
7 Madam President.

8 I just wanted to clarify.
9 Although I'm not the sponsor of the bill,
10 I was the sponsor of the Charter
11 amendment that authorized such a bill to
12 be introduced.

13 I just want to make it clear
14 that this bill today is for purposes of
15 ensuring that both City Council and the
16 Administration, as it relates to
17 procurement notices and all regulatory
18 notices and advertisement, will not be in
19 jeopardy.

20 In the event -- and, again, I
21 say, as I did during the course of the
22 early public hearing, in the event that
23 any of the existing newspapers, the three
24 that we are required to advertise in, it
25 is our hope that they do not go out of

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2 business, because they have been strong
3 members of the Philadelphia community.

4 But this bill, in the event
5 that something happens and there's a
6 disruption in service, that we, the City
7 Council of Philadelphia and the
8 Administration, is in a position to
9 advertise to ensure that we have to have
10 a public hearing or any other
11 notification.

12 There's a strong likelihood
13 that there will be some stimulus notice
14 that's put out during the course of the
15 summer, and we at City Council will be
16 required an appropriations hearing during
17 the course of the summer to make sure
18 that that application will be in. I
19 understand that the City may have to
20 advertise for procurement purposes to
21 solicit bids for other goods and
22 services.

23 This bill, which is why it has
24 a sunset provision, hopefully will be in
25 a position to make sure that government

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2 does not have to shut down in the event
3 that there's a disruption in services.
4 It is not the intent for this bill to
5 craft any long-term issue with respects
6 to how we advertise it, be it Internet,
7 local newspapers, or any other issues
8 relating to advertisement. It's solely
9 for the purposes of ensuring that we have
10 an opportunity to function over the
11 summer.

12 Any discussion with respects to
13 other publications and Internet services
14 is a conversation for another day. So
15 today, we're focusing on this particular
16 issue.

17 Thank you, Madam President.

18 COUNCIL PRESIDENT Verna:

19 You're welcome.

20 Any other Councilmember want to
21 be recognized?

22 (No response.)

23 COUNCIL PRESIDENT Verna: Thank
24 you very much, sir.

25 Our next witness?

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2 (Witness comes forward.)

3 MR. ALI: Good afternoon,
4 Councilwoman.

5 COUNCIL PRESIDENT Verna: Good
6 afternoon and welcome.

7 MR. ALI: I have copies of my
8 testimony.

9 COUNCIL PRESIDENT Verna: Thank
10 you.

11 Please identify yourself for
12 the record and proceed with your
13 testimony.

14 MR. ALI: Good afternoon,
15 Chairwoman Verna. My name is Jihad Ali.
16 I'm a citizen as well as a retired
17 Philadelphia police sergeant.

18 Good afternoon, other members
19 of the Committee of the Whole.

20 I am here today to testify on
21 behalf of Bill No. 090465 amending Title
22 21 of the Philadelphia Code, entitled
23 "Miscellaneous," by adding a new chapter
24 provision relating to how and when
25 required notices shall be published and

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2 advertised, all under certain terms and
3 conditions.

4 I'm here to speak about Section
5 21-1703, Notice of Regulation Proposed by
6 Department, Boards, and Commissions,
7 Section 2-A.

8 I'm here to share my
9 experiences in dealing with the
10 Philadelphia Authority for Industrial
11 Development. I have been attending PAID
12 board meetings for at least three years
13 and have often expressed my concerns to
14 the chairman, Mr. James McManus, about
15 the requirement of notice being given for
16 actions before the board and also about
17 the TEFRA hearings, which are hearings
18 required by Internal Revenue Service,
19 IRS, anytime a bond issue comes before
20 the board.

21 When I find interesting is that
22 the TEFRA hearings are advertised
23 normally according to the existing
24 regulations that's published by the
25 Internal Revenue Service. I find it

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2 disturbing that the public notice given
3 for the dates of the monthly PAID board
4 meetings was published on December 23,
5 2008, in spite of the fact that the PAID
6 board has the authority to authorize the
7 sale of billions of dollars' worth of
8 City real estate, which includes the Navy
9 Yard, they are the authorizing body for
10 submission of redevelopment assistance
11 for capital projects, they are the agency
12 that awards millions of dollars in
13 construction contracts on a monthly
14 basis, they have no requirement per their
15 legal counsel to publish any additional
16 notices of meetings of their board other
17 than those listed on the one-time notice
18 of the preceding calendar year. Please
19 see the attached notice of the public
20 hearings.

21 As you are aware, PAID is an
22 organization which has no staff nor any
23 employees and is only ruled by the board
24 members. As you, Madam Chair, are also
25 aware, all PAID activities are managed by

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2 the management agent, the Philadelphia
3 Industrial Development Corporation, PIDC,
4 which considers itself a private
5 organization and not subject to the
6 Sunshine Act or the right-to-know law.
7 They have no requirements to publish any
8 notices and operate behind closed doors,
9 not within the light of the sun.

10 In short, we have an
11 organization, PAID, in this city that
12 publishes one notice once in the
13 preceding year supplying only a date and
14 time of future meetings in the upcoming
15 calendar year. There is no way for
16 thousands of citizens who voted for each
17 of you to have any knowledge of the
18 resolutions, grants, and disposable
19 property under the jurisdiction of this
20 organization on a yearly basis.

21 I would like to share one
22 instance where I attended a board meeting
23 where there was a resolution to sell
24 several acres of land to a local union
25 for a discounted price \$200,000 below

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2 value. When I posed the question, Why
3 would PAID be selling this union this
4 land for a discounted price when unions
5 in general have been discriminatory, in
6 my opinion, against African-American
7 males and other minorities? In addition,
8 the regulations cited at the board
9 meeting on March 17, 2009, indicated that
10 the Director of Commerce had the sole
11 authority to authorize the sale.

12 I objected for the record. And
13 when I asked if the Councilmember of the
14 district where the land was located -- in
15 this case, Councilman Brian O'Neill --
16 had approved this transaction, I was told
17 that he had not.

18 I, in turn, then sent a letter
19 to Councilman O'Neill and the Honorable
20 Mayor Nutter to bring this matter to
21 their attention. Subsequently, I
22 received a letter from the chairman of
23 the PAID board, who stated that parts of
24 the resolution -- specifically, the
25 Director of Commerce -- has sole

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2 authority to approve the sale was written
3 in error.

4 At the next board meeting, on
5 March 24th, which was a rescheduling of
6 the March 17th meeting, rescheduled due
7 to a sunshine violation, I again raised
8 the same issues and concerns. The PAID
9 board at this meeting considered a
10 resolution to amend the sunshine
11 ordinance specifically giving discretion
12 to the chairman to decide who he would
13 allow to speak at their meeting and also
14 limiting the public comment period owing
15 to what is currently before the board.

16 The chairman would also have
17 discretionary authority to restrict
18 testimony owing to the residents of the
19 City of Philadelphia and nonresidents of
20 the City who pay taxes.

21 The resolution further gave the
22 chairman discretion as to when he would
23 allow, which occurs after the board takes
24 official action.

25 The above are just a few

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2 instances that I have experienced at PAID
3 when dealing with the subject of public
4 notices in violation of the Sunshine Act
5 chosen as a citizen and have chosen to
6 fight this matter in court and have
7 retained legal counsel and have filed a
8 complaint.

9 My purpose today was to come to
10 this committee to make it aware of the
11 situation that I believe needs to be
12 investigated and works against the spirit
13 of transparency.

14 I wanted to add that every time
15 that every time that I've attended
16 Planning meetings down at this honorable
17 chamber, one thing that I think
18 Councilwoman Tasco said to me one time,
19 she said, "You know, in this city,
20 whatever your concerns is, you can come
21 down here and be heard."

22 There's a inscription at the
23 Constitution Center that says that no
24 officeholder is above the title of
25 citizen. And that's true here.

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2 When you come down here, no
3 matter what your concern, one thing, all
4 you -- you, Madam Chair and all the other
5 members of Council, you will listen.

6 But to have a board -- as I
7 said in my letter, to have a board like
8 PAID be in such a position to dispose of
9 so much assets and not have any public
10 hearings other than the one-time hearing
11 they have at the beginning of the year.

12 I understood the purpose of
13 this meeting today, but I wanted to take
14 an opportunity because sometimes -- you
15 know, President Obama says, once a week,
16 he likes to listen and take a letter from
17 a citizen so he can find out what's going
18 on in the street.

19 And I wanted to be a citizen
20 today to come down here to tell you my
21 experience because sometimes I really can
22 understand that as a member of Council,
23 you are burdened with a tremendous amount
24 of workload, so if you just take one
25 agency like PAID, you can see what goes

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2 by.

3 Now, it's no -- you know, to
4 me, it's no -- it's a very clear reason
5 why I'm the only citizen that appears at
6 a PAID meeting and I've been the only
7 citizen that has appeared at a PAID
8 meeting for the last three years.

9 There's no science to figure it out
10 there.

11 If the citizens don't know, if
12 you're not looking in the newspaper -- in
13 this case, this was the week before
14 Christmas -- you're going to miss it.

15 And so, you know, I really
16 wanted to bring this to your attention.
17 So if you had the opportunity to take an
18 instance where you have other boards that
19 might take an exception to be able to
20 close this loophole, so if they --
21 especially in today's times, when we talk
22 about transparency, we talk about the
23 stimulus money coming, a lot of that
24 money is going to be industrial
25 development money. If there's an

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2 opportunity for you to close this door,
3 that these City agencies can have more
4 sunlight come in, and that's what I'm
5 here for today.

6 COUNCIL PRESIDENT Verna: Thank
7 you very much.

8 Before you leave, I would like
9 your telephone number because I would
10 like to refer this to the Mayor.

11 MR. Ali: Thank you.

12 COUNCIL PRESIDENT Verna: Any
13 questions from members of the Committee?

14 (No questions.)

15 COUNCIL PRESIDENT Verna: Do we
16 have anyone else to testify on this bill?

17 (No response.)

18 COUNCIL PRESIDENT Verna: Thank
19 you, sir.

20 Do we have anyone else to
21 testify on this bill?

22 (No response.)

23 COUNCIL PRESIDENT Verna:
24 Seeing no one, this will conclude our
25 public hearing.

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2 We will now go into our public
3 meeting, and the Chair recognizes
4 Councilwoman Tasco.

5 COUNCILWOMAN TASCO: Madam
6 President, I move that Bill No. 090465 be
7 reported out of committee with a
8 favorable recommendation and a request
9 for a suspension of the rules.

10 (Motion duly seconded.)

11 COUNCIL PRESIDENT VERNA: It
12 has been moved and properly seconded that
13 Bill No. 090465 be reported out of
14 committee with a favorable recommendation
15 and, further, that the rules of Council
16 be suspended so as to permit first
17 reading at our next session of Council.

18 All those in favor will say
19 aye.

20 Those opposed?

21 The ayes have it, and the
22 motion carries.

23 And this concludes our public
24 meeting.

25 Thank you all very much.

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2 (Proceedings end at 3:20 p.m.)

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C E R T I F I C A T E

I HEREBY CERTIFY that the
proceedings of the City of Philadelphia
Council Committee of the Whole are contained
fully and accurately in the stenographic notes
taken by me on Wednesday, June 10, 2009, and
that this is a true and correct statement of
same.

JOSEPHINE CARDILLO

Registered Professional Reporter

(The foregoing certification of
this transcript does not apply to any
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