

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON APPROPRIATIONS

Room 400, City Hall
Philadelphia, Pennsylvania
Thursday, April 12, 2012
9:15 a.m.

PRESENT:

COUNCILMAN W. WILSON GOODE, JR., CHAIR
COUNCILWOMAN JANNIE BLACKWELL
COUNCILMAN BOBBY HENON
COUNCILMAN CURTIS JONES, JR.
COUNCILMAN BRIAN J. O'NEILL
COUNCILWOMAN MARIA D. QUINONES-SANCHEZ

BILL 120252 - An ordinance authorizing
transfers in appropriations for Fiscal Year
2012 within the General Fund from the Office
of Property Assessment to the Law Department.

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COUNCILMAN GOODE: Good

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morning. This hearing is called to

4

order. This is a public hearing of the

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Appropriations Committee on Bill No.

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120252. My name is W. Wilson Goode, Jr.,

7

Chair of the Committee.

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I note that a quorum is

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present. To my immediate right is

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Councilwoman Sanchez. To my far right is

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Councilman O'Neill. To my immediate left

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is Councilman Jones, Vice Chair of the

13

Committee, and to his left is Councilman

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Bobby Henon.

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The title of Bill No. 120252,

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authorizing transfers in appropriations

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for Fiscal Year 2012 within the General

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Fund from the Office of Property

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Assessment to the Law Department.

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The first witness.

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(Witnesses approached witness

22

table.)

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COUNCILMAN GOODE: Please state

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your name for the record and proceed with

25

your testimony.

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2 MS. RHYNHART: Good morning.

3 Rebecca Rhynhart, Budget Director.

4 Good morning, Chairman Goode
5 and members of the Appropriation
6 Committee. I am here to testify -- to
7 offer testimony on Bill No. 120252.

8 Bill No. 120252 requests an
9 appropriation transfer of \$1 million
10 within the General Fund from the Office
11 of Property Assessment to the Law
12 Department.

13 The purpose of the transfer is
14 to fund a number of contracts to secure
15 property appraisals for use in an
16 unusually large number of tax assessment
17 appeals pending with the Board of
18 Revision of Taxes of the Court of Common
19 Pleas.

20 I respectfully request that you
21 report this bill out of Committee with a
22 favorable recommendation, and I further
23 request that the rules of Council be
24 suspended so as to permit first reading
25 at the next session of Council.

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2 I appreciate the opportunity to
3 testify and would be happy to answers any
4 questions you may have. Shelley Smith,
5 the City Solicitor, is going to offer
6 testimony at this point.

7 SOLICITOR SMITH: Good morning,
8 Councilman Goode and members of the
9 Appropriations Committee. I am City
10 Solicitor Shelley Smith. With me today
11 are Donna Mouzayck, First Deputy City
12 Solicitor; Daniel Cantu-Hertzler, Chair
13 of the Corporate and Tax Group; Frances
14 Beckley, our Chief Revenue Counsel; and
15 Diana Bork, our Chief Budget Officer. We
16 are here today to offer testimony
17 relating to Bill No. 120252, which will
18 effect the transfer of appropriations of
19 \$1 million from the Office of Property
20 Assessments to the Law Department.

21 This transfer of appropriations
22 is necessary because the Law Department
23 requires a number of contracts to secure
24 property appraisals for use in an
25 unusually large tax assessment appeals --

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2 in unusually large tax assessment appeals
3 pending with the Board of Revision of
4 Taxes or the Court of Common Pleas. The
5 total cost of the contracts to hire
6 appraisers in appropriate cases is
7 estimated to exceed \$1.85 million.
8 Following the hearing on Bill No. 120169,
9 the Appropriations Committee amended the
10 bill requesting 1.85 million by reducing
11 it to 850,000. The Law Department Class
12 200 budget is without sufficient funds to
13 pay the remaining \$1 million for these
14 contracts.

15 Thank you for the opportunity
16 to testify today. We are happy to answer
17 any questions that you have at this time.

18 COUNCILMAN GOODE: Thank you
19 for your testimony.

20 Let me note for the record
21 Councilwoman Jannie Blackwell is also
22 present.

23 I will start off with a few
24 questions.

25 There are firms actually under

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2 contract now?

3 SOLICITOR SMITH: There are
4 firms under contract now, that's correct.

5 COUNCILMAN GOODE: How many of
6 the firms are based in Philadelphia?

7 SOLICITOR SMITH: None of them.

8 COUNCILMAN GOODE: How many of
9 the firms are owned by women or people of
10 color?

11 SOLICITOR SMITH: I don't
12 believe any of the firms are owned by
13 people of color and women. None.

14 COUNCILMAN GOODE: And so the
15 Law Department didn't know this at the
16 last hearing?

17 SOLICITOR SMITH: I'm sorry?

18 COUNCILMAN GOODE: The Law
19 Department didn't know this at the last
20 hearing?

21 SOLICITOR SMITH: Didn't know
22 this at the last hearing?

23 COUNCILMAN GOODE: That none of
24 the firms were located in Philly and none
25 of them were owned by women or people of

1 4/12/12 - APPROPRIATIONS - BILL 120252
2 color.

3 SOLICITOR SMITH: I think at
4 the last hearing when this question came
5 up, we promised to get the information
6 back to you and I believe that's what we
7 did.

8 COUNCILMAN GOODE: The problem
9 I'm having is that I don't believe that
10 two things can be true at the same time,
11 that these are the only firms that are
12 available -- that you know that these are
13 the only firms that are available that
14 are qualified, but at the same time, no
15 one realized that the firms were not
16 located in Philly and that none were
17 owned by women or people of color.

18 So if the testimony is that
19 these are the only firms that are
20 actually available and you know the field
21 of firms well enough to know that they're
22 the only ones available, then it can't be
23 true that you didn't know who the firms
24 were.

25 SOLICITOR SMITH: Well, I was

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2 the person answering the question, and

3 the person who solicited the -- who

4 reached out to the firms was not present

5 at that hearing, as I recall, who is the

6 person who actually does know the firm.

7 So I personally may not know the

8 information, but that person certainly

9 does. And in between that hearing and

10 providing the information to you

11 subsequently and this hearing, we spoke

12 with Frances Beckley, who is here today,

13 who works directly with -- who has been

14 working directly with this process.

15 COUNCILMAN GOODE: Is that

16 person available?

17 SOLICITOR SMITH: She is.

18 Frances.

19 (Witness approached witness

20 table.)

21 COUNCILMAN GOODE: Please state

22 your name for the record and please tell

23 us what the selection process was.

24 MS. BECKLEY: Good morning. My

25 name is Frances Ruml Beckley. I'm Chief

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2 Counsel to the Revenue Department.

3 The solicitation for the
4 appraisers were actually done by James
5 Zwolak, who is the Divisional Deputy for
6 Real Estate Tax. He spoke to everyone
7 who -- and he's been doing real estate
8 assessment appeals for at least two
9 decades. He spoke to all the appraisers
10 that he was personally aware of or who
11 were recommended to him by OPA's staff,
12 and, in fact, we were seeking to put six
13 appraisal firms under contract and we
14 were only able to find five.

15 SOLICITOR SMITH: I'd also note
16 that we contacted the Office of Economic
17 Opportunity to identify diverse firms to
18 reach out to and were not provided with
19 any additional firms that were diverse
20 firms that we could reach out to for this
21 purpose.

22 COUNCILMAN GOODE: So they said
23 there were none?

24 SOLICITOR SMITH: That's
25 correct.

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2 MS. BECKLEY: And if I could
3 also add to that. Usually we have 650
4 originally were filed appeals of
5 properties that are worth three-quarters
6 of a million dollars or more. In every
7 one of those appeals, the taxpayer, if he
8 wants to dispute the fair market value,
9 has to bring his own appraisals. Most of
10 the -- I shouldn't say the majority, but
11 almost half of the appraisers we
12 approached were already conflicted out
13 because they were under contract with
14 large taxpayers.

15 COUNCILMAN GOODE: We generally
16 don't rely upon any employee regardless
17 of their length of experience to decide
18 who they're going to solicit; is that
19 correct? We usually post the
20 opportunity.

21 SOLICITOR SMITH: If there's
22 not an emergency, which existed in this
23 case, we would post an opportunity. But
24 because there was an emergency here, we
25 did not do that.

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2 COUNCILMAN GOODE: Are we bound
3 to use the selected firms?

4 SOLICITOR SMITH: To the extent
5 that we are under contract with the
6 selected firms, we are contractually
7 bound to those firms, yeah.

8 COUNCILMAN GOODE: The ones we
9 are not under contract with, we are not
10 bound to use them.

11 SOLICITOR SMITH: If there are
12 firms that we're not under contract with,
13 that's correct, we're not bound to use
14 them. And we are -- as we've said, I
15 think, a number of times, to the extent
16 that anyone is aware of additional
17 appraisal firms, diverse appraisal firms,
18 that we could use, we're happy to reach
19 out to them.

20 COUNCILMAN GOODE: So we're not
21 prohibited from using additional firms;
22 in fact, we need other firms?

23 MS. BECKLEY: We could
24 certainly use more firms if we could find
25 qualified ones, yes.

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2 SOLICITOR SMITH: Who were not
3 conflicted out.

4 MS. BECKLEY: Who are not
5 conflicted out. The emergency -- it was
6 our sense that it was an emergency, and
7 that was confirmed by the number of firms
8 that we approached who were already under
9 contract with taxpayers.

10 COUNCILMAN GOODE: So why can't
11 you post the opportunity now?

12 SOLICITOR SMITH: Well, I don't
13 suppose there's anything stopping us from
14 posting the opportunity now. We can do
15 that. We have firms that we've already
16 selected pursuant to the efforts that we
17 made to solicit firms, and the fact of
18 the matter is, we'll still need the money
19 if we post the opportunity for the firms.

20 COUNCILMAN GOODE: Will you
21 post it?

22 SOLICITOR SMITH: I beg your
23 pardon?

24 COUNCILMAN GOODE: Will you
25 post the opportunity?

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2 SOLICITOR SMITH: I suppose we
3 could, sure.

4 COUNCILMAN GOODE: And what if
5 we say we won't give you the money until
6 we post it?

7 SOLICITOR SMITH: Council has
8 the discretion to act within Council's
9 discretion. I have no control over that.

10 COUNCILMAN GOODE: I'll tell
11 you what I'm going to do. I'm going to
12 ask for the bill to be voted out of
13 Committee with suspension of the rules,
14 as requested. There's no reason why this
15 can't be posted by next week. So if you
16 want a vote by next week, then it should
17 be posted by next week.

18 SOLICITOR SMITH: That's fine.

19 COUNCILMAN GOODE: Any
20 questions from members of the Committee?

21 COUNCILMAN JONES: Yes, Mr.
22 Chairman.

23 COUNCILMAN GOODE: Councilman
24 Jones.

25 COUNCILMAN JONES: Thank you,

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2 Mr. Chairman. I'll be very brief.

3 In the industry, isn't it like
4 with realtors, they are independent
5 contractors and that there is a list?
6 And usually when you get a real estate
7 certification, a lot of people go and get
8 an appraiser certification and there's
9 probably an association of real estate
10 appraisers in the Commonwealth's
11 inventory of information. And I was
12 wondering that usually because realtors
13 act as sole proprietors and often are
14 independent contractors, why couldn't we
15 appeal to any association of realtors to
16 get independent contractors as opposed to
17 contracting with firms?

18 MS. BECKLEY: When we say
19 "firms," some of these people are sole
20 proprietors. These are not large
21 concerns. But do understand that we're
22 talking about a very small universe here.
23 We're not hiring anybody to appraise -- I
24 don't believe we're doing any residential
25 appraisals, and almost all of our

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2 appraisals, again, are only of the larger
3 commercial buildings that are roughly
4 around a million dollars. Those
5 appraisals take a minimum of two months
6 to put together. We have those
7 imminent -- the reason we went ahead and
8 did this in an emergency process is, we
9 really have our backs against the wall
10 throughout this whole appeals process.

11 COUNCILMAN JONES: All right.
12 Thank you, Mr. Chairman.

13 COUNCILMAN GOODE: Are there
14 questions from members of the Committee?

15 COUNCILWOMAN SANCHEZ: Just a
16 point of clarification.

17 So you're saying that this is
18 based on the lawsuit from the commercial
19 sector and, therefore -- because you said
20 something about qualified. So what are
21 the qualifications for people to do these
22 appraisals versus, as Councilman Jones
23 was mentioning, a certified appraisal?

24 SOLICITOR SMITH: So first I
25 want to clarify we didn't say it's a

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2 lawsuit. We said -- at the previous
3 hearing, I think we said it's over 2,000
4 individual appeals, individual taxpayer
5 appeals, and most of them are of
6 commercial properties. And I'll let
7 Frances answer your question about
8 qualifications.

9 MS. BECKLEY: There is a
10 designation sort of like being a CPA or a
11 lawyer. I can't remember if it's MIA or
12 MAI. And those are -- you would be most
13 credible if you get your appraiser from
14 somebody who has that qualification. You
15 also want somebody who has significant
16 experience with high-end commercial real
17 estate.

18 In all these cases, if the
19 property is worth three-quarters of a
20 million dollars or more and the taxpayer
21 has put the fair market value of the
22 property at issue, they are going to have
23 to have brought their own appraisal. So
24 it's not like we're just getting to come
25 in and say, This is what we think it's

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2 worth. The Board or the Common Pleas
3 Court will be presented with competing
4 appraisals, and ours has to be at least
5 as good or we hope more credible.

6 COUNCILWOMAN SANCHEZ: You
7 mention that in the preparation of this,
8 people need to know the real estate of
9 the certification. Isn't it also true
10 that it would be helpful if someone
11 understood the market? Because all of
12 the appraisals, all of the firms came
13 from outside of the City of Philadelphia.
14 Wouldn't you want someone who also
15 understands kind of the changing market
16 in an urban city?

17 MS. BECKLEY: Absolutely. All
18 of our firms are from the greater
19 Philadelphia area, and we have not
20 selected anybody who doesn't have
21 significant experience in the City.

22 COUNCILWOMAN SANCHEZ: How
23 many --

24 MS. BECKLEY: And I should
25 underscore, we were not insensitive to

1 4/12/12 - APPROPRIATIONS - BILL 120252
2 the fact that we would have preferred to
3 have a firm that was inside the City and
4 we would have preferred to have had
5 minority firms, women-owned firms. We
6 were really working with what we have.
7 Again, we didn't even get the six
8 appraisers we wanted.

9 COUNCILWOMAN SANCHEZ: How long
10 from the point that you decided this was
11 an emergency until the selection, how
12 much time?

13 MS. BECKLEY: Arguably, the
14 selection process is still going on. We
15 will still put somebody under contract if
16 we find somebody who is qualified.

17 COUNCILWOMAN SANCHEZ: So you
18 started this process how long ago?

19 MS. BECKLEY: Probably
20 somewhere in November. And we didn't --
21 we had to start getting even the
22 Administration behind us in terms of -- I
23 mean, this is a significant expenditure,
24 and explain to people how important this
25 was and how much revenue is on the line

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2 here.

3 COUNCILWOMAN SANCHEZ: And how
4 many appraisals are these folks expected
5 to conduct and how many have been
6 conducted thus far?

7 MS. BECKLEY: I don't believe
8 any of the large appraisals have been
9 completed. We have preliminary reports
10 on some of them, and we expect to do a
11 couple hundred. We do not have the
12 capacity given the number of appraisers
13 we were able to hire to do all 650 of the
14 larger cases.

15 COUNCILWOMAN SANCHEZ: So
16 there's 658 cases. You guys are going to
17 do several hundred. You started in
18 November, and none of them have been
19 concluded as of now?

20 MS. BECKLEY: Correct.

21 COUNCILWOMAN SANCHEZ: What's
22 your timeframe to have this project
23 completed?

24 MS. BECKLEY: We could be doing
25 appeals in Common Pleas Court past the

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2 end of the calendar year. So I don't --
3 there is no end in sight yet.

4 COUNCILWOMAN SANCHEZ: Okay.

5 MS. BECKLEY: The good news is
6 that as you're, I'm sure, aware, the
7 common level ratio was raised from 18.1
8 percent to 25.2 percent. That has
9 resulted in some property owners who are
10 aware that their properties are
11 undervalued already withdrawing their
12 appeals voluntarily, because they know
13 that we're going to pursue them on the
14 fair market value issue. If we were not
15 actively pursuing this, they would have
16 no incentive not to take the automatic 20
17 percent discount they get at 25.2.

18 COUNCILWOMAN SANCHEZ: You made
19 a point and just for the record in terms
20 of the ratio was increased, but assuming
21 all things are equal and this particular
22 ratio is established, what is the loss to
23 the City at this time?

24 MS. RHYNHART: There is a
25 potential loss of up to \$18 million,

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2 which is why this is such a significant
3 issue for the City and one which we
4 really have to address.

5 MS. BECKLEY: And there's
6 another 23 for the School District.
7 That's just the General Fund loss.

8 COUNCILWOMAN SANCHEZ: Okay.
9 Thank you.

10 Nothing else, Mr. Chair.

11 COUNCILMAN GOODE: Councilman
12 Jones.

13 COUNCILMAN JONES: I'm sorry,
14 Mr. Chairman.

15 It just blows my mind that we
16 can't find Philadelphia appraisers. It
17 blows my mind that we can't find folk
18 that can accommodate that level of
19 commercial scrutiny, and it just begs
20 that we need to find them. And my only
21 question is, when you inquired to OEO,
22 you did that in writing and they wrote
23 you back and said there are none?

24 SOLICITOR SMITH: I don't know
25 whether we did it in writing, but it's

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2 not uncommon for us to reach out to OEO
3 when we are looking for -- when we have
4 these kinds of opportunities, by which I
5 mean just generally speaking, not
6 appraisers specifically. And so by
7 whatever means we normally reach out to
8 them, we reached out to them.

9 COUNCILMAN JONES: Can you find
10 what means we -- because it just seems to
11 me there's a difference between -- not to
12 say that you're doing this. I don't want
13 to come across like doubting that you
14 sincerely searched. But there's a
15 difference between me saying, Councilman,
16 do you know any people that do this, and
17 then the Councilman going out and
18 contacting the associations that are
19 affiliated with the credentials. That is
20 a formal search. That's not off the top
21 of my head.

22 And so with something this big
23 and this important, I'd like to know the
24 methodology in which we searched.

25 SOLICITOR SMITH: Yeah. And

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2 OEO did reach out to make its contacts
3 aware of the opportunity. So we'll find
4 out what that process was.

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

7 SOLICITOR SMITH: But it's the
8 process they ordinarily use, I'm sure.
9 This is not an anomalous procedure.

10 COUNCILMAN JONES: I think
11 that's important, because, again, a
12 casual, Councilwoman Sanchez, do you know
13 some people that do this, versus a
14 systematic search of the appropriate
15 associations that a firm might be
16 found --

17 SOLICITOR SMITH: Right.

18 COUNCILMAN JONES: -- is
19 different.

20 SOLICITOR SMITH: Just
21 remember, though, that the threshold at
22 which we begin is that the taxpayers who
23 are appealing have already hired
24 appraisers, which limits the number and
25 conflicts a bunch of them out, and we are

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2 working with a sizable number of
3 commercial properties, which results in
4 the need for a particular specialty,
5 which eliminates a number of other
6 people. So we're already looking at a
7 relatively narrowed universe, and then
8 trying to find all of the ideals within
9 that narrowed universe becomes even more
10 challenging.

11 So just remember that we're not
12 looking at an absolutely -- we're not
13 looking at the baseline. We've already
14 elevated the need several steps, and then
15 up at that level, we're trying to find
16 firms in Philadelphia, we're trying to
17 hopefully find diverse firms, and we've
18 already narrowed the pool of people who
19 are potentially available to do it.

20 COUNCILMAN JONES: Which then
21 begs the question, are certifications of
22 appraisers accepted in more than one
23 state? Like is it that a firm in New
24 York or a firm in New Jersey is allowed
25 to practice in Philadelphia, so you could

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2 broaden the search. I'm not --

3 MS. BECKLEY: But this goes
4 back to Councilwoman Sanchez's point.
5 You really don't want to bring against a
6 taxpayer's very savvy, very knowledgeable
7 appraisal somebody from another state.
8 You want somebody else who is equally
9 knowledgeable about Philadelphia, and
10 this is why we started our search with
11 the people who are known to our lawyers
12 who do these appeals and the people who
13 are known to the OPA appraisers who do
14 appeals, because, quite frankly, you're
15 not likely to really want to hire an
16 appraiser who nobody in that group has
17 ever met. I mean, you're dealing with a
18 subset of people who are knowledgeable
19 about this city, about this market, and
20 it's really a closed universe.

21 COUNCILMAN JONES: Okay.
22 Listen, I'm going to stop, because that's
23 probably true, but if I could get Donald
24 Trump to come in here and be a gunslinger
25 for the City of Philadelphia who knows

1 4/12/12 - APPROPRIATIONS - BILL 120252
2 about real estate development, I'd take
3 him.

4 SOLICITOR SMITH: You would?

5 COUNCILMAN JONES: Yeah.

6 SOLICITOR SMITH: I bet a lot
7 of people wouldn't believe him either.

8 COUNCILMAN JONES: All right.
9 Thank you.

10 COUNCILMAN GOODE: Any other
11 questions or comments from the Committee?

12 (No response.)

13 COUNCILMAN GOODE: You are
14 going to post the opportunity?

15 SOLICITOR SMITH: I beg your
16 pardon?

17 COUNCILMAN GOODE: You are
18 going to post the opportunity?

19 SOLICITOR SMITH: We will post
20 the opportunity.

21 COUNCILMAN GOODE: Thank you.

22 We will now move from our
23 public hearing into a public meeting to
24 consider Bill No. 120252.

25 The Chair recognizes Councilman

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2 Jones for a motion on Bill No. 120252.

3 COUNCILMAN JONES: Thank you,
4 Mr. Chairman. I move that Bill No.
5 120252 be reported out of this Committee
6 with a favorable recommendation and
7 request a suspension of the rules to
8 allow the first reading at our next
9 Council session.

10 (Duly seconded.)

11 COUNCILMAN GOODE: All in
12 favor?

13 (Aye.)

14 COUNCILMAN GOODE: Those
15 opposed?

16 (No response.)

17 COUNCILMAN GOODE: Bill No.
18 120252 is reported out of Committee with
19 a favorable recommendation and a
20 suspension of the rules to allow first
21 reading at our next Council session.

22 This concludes our public
23 meeting.

24 Thank you very much.

25 (Committee on Appropriations

1 4/12/12 - APPROPRIATIONS - BILL 120252
2 concluded at 9:30 a.m.)

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CERTIFICATE

I HEREBY CERTIFY that the
proceedings, evidence and objections are
contained fully and accurately in the
stenographic notes taken by me upon the
foregoing matter on April 12, 2012, and that
this is a true and correct transcript of same.

MICHELE L. MURPHY
RPR-Notary Public

(The foregoing certification of this
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