

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON RULES

Room 400, City Hall
Philadelphia, Pennsylvania
Tuesday, October 2, 2012
10:10 a.m.

PRESENT:

COUNCILMAN WILLIAM K. GREENLEE, CHAIR
COUNCILWOMAN CINDY BASS
COUNCILMAN W. WILSON GOODE, JR.
COUNCILMAN BILL GREEN
COUNCILMAN BOBBY HENON
COUNCILMAN JAMES KENNEY
COUNCILMAN DENNIS O'BRIEN
COUNCILWOMAN BLONDELL REYNOLDS BROWN
COUNCILWOMAN MARIAN B. TASCO

BILL 120645 - An ordinance amending Title 14
of The Philadelphia Code, entitled "Zoning and
Planning," by making, revising, and
consolidating certain regulations regarding
flood protection...

BILL 120397 - An ordinance continuing the Port
Richmond Industrial Development Enterprise
Neighborhood Improvement District beyond its
termination date...

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COUNCILMAN GREENLEE: Good morning, everyone. Good morning. This is the Committee on Rules. For the record, we have a quorum consisting of Councilman Henon, Councilman Goode, Councilman Green, Councilwoman Reynolds Brown, and myself, Bill Greenlee, the Chair.

Ms. Marconi, will you please read the title of the first bill before us today.

THE CLERK: Bill No. 120645, an ordinance amending Title 14 of The Philadelphia Code, entitled "Zoning and Planning," by making, revising, and consolidating certain regulations regarding flood protection, and by further repealing Chapter 10-1100A of The Philadelphia Code, entitled "Development in Defined Flood Plain Areas"; all under certain terms and conditions.

COUNCILMAN GREENLEE: Thank you. And could you read the name of the first witness before us.

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2 THE CLERK: Eva Gladstein.

3 (Witness approaches witness
4 table.)

5 COUNCILMAN GREENLEE: Good
6 morning, Ms. Gladstein.

7 MS. GLADSTEIN: Good morning.

8 COUNCILMAN GREENLEE: Please
9 identify yourself and proceed.

10 MS. GLADSTEIN: Good morning.
11 My name is Eva Gladstein. I'm Deputy
12 Executive Director of the Philadelphia
13 City Planning Commission. Thank you for
14 the opportunity to testify today.

15 This bill, No. 120645, was
16 introduced by Councilmember Jones for
17 Council President Clarke on September
18 13th of this year. Its purpose is to
19 amend flood protection provisions in the
20 Philadelphia Zoning Code by adding
21 technical definitions at 14-203,
22 clarifying sources of information and
23 permitting requirements in 14-704, and
24 removing an October 31st "sunset"
25 provision on flood protection in the

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2 Zoning Code, also contained in 14-704.

3 In June 2012, Council placed
4 this sunset provision on flood protection
5 in the new Zoning Code so that City
6 Council, the Administration, and Federal
7 Emergency Management Agency
8 representatives could meet over the
9 summer to further review the flood
10 protection provisions and make technical
11 modifications to this portion of the
12 Code. There was a meeting and several
13 back and forths and conversation over the
14 summer.

15 It's very important that this
16 bill be passed in a timely fashion to
17 ensure that Philadelphia can continue to
18 participate in the National Flood
19 Insurance Protection Program. Should the
20 flood protection provisions of the Code
21 expire at the end of October, as
22 contained in the current Code, many
23 homeowners living near the City's rivers
24 and streams will be placed in financial
25 jeopardy in the event of a major storm

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2 and subsequent flooding.

3 Last spring, the City Planning
4 Commission recommended approval for, and
5 City Council passed, legislation
6 containing these FEMA-sanctioned, model
7 flood protections. This bill further
8 clarifies and, most importantly, makes
9 these protections permanent in the new
10 Zoning Code.

11 At its meeting of September
12 18th, 2012, the City Planning Commission
13 recommended that Bill No. 120645 be
14 approved.

15 That concludes my testimony.
16 I'd be happy to answer any questions you
17 may have.

18 COUNCILMAN GREENLEE: Thank
19 you. And just for the record, the
20 meetings that were over the summer, there
21 were no problems that were found with
22 this, there was no concerns that were not
23 addressed?

24 MS. GLADSTEIN: Not to my
25 knowledge.

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2 COUNCILMAN GREENLEE: Thank
3 you.

4 Councilman Green.

5 COUNCILMAN GREEN: Thank you.

6 Just a few quick questions for
7 the record. Under, I guess, (e)
8 Identification of Area, "base elevation
9 and floodway information shall be from
10 the Flood Insurance Study and
11 accompanying Flood Insurance Rate Map
12 issued by FEMA, except as follows:

13 "For AE zones where no floodway
14 has been identified, floodway information
15 from other Federal, State or other
16 acceptable sources shall be used when
17 available."

18 What other sources would these
19 be and who decides what's acceptable?

20 MS. GLADSTEIN: We put this
21 language in mostly to make it clearer
22 than it was before. I understand it's
23 still fairly technical.

24 There may be information that
25 an engineer would do on behalf of a

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2 specific developer to look at an area
3 which has not yet been fully studied by
4 FEMA or the City, and that information
5 could be reviewed by the City and with
6 FEMA. The City would share it with FEMA.

7 COUNCILMAN GREEN: Sources
8 acceptable to whom? It's not clear to me
9 that somebody couldn't by regulation just
10 determine on their own what an acceptable
11 source is and that an acceptable source
12 could have an impact on the ability of
13 people to develop their land.

14 MS. GLADSTEIN: It would be
15 acceptable to the City of Philadelphia.
16 The City's Floodplain Administrator is
17 the Commissioner of the Department of
18 Licenses and Inspections.

19 COUNCILMAN GREEN: So
20 acceptable by that person? Acceptable by
21 FEMA? I'm trying to understand what
22 this --

23 MS. GLADSTEIN: It would be the
24 City of Philadelphia, and on behalf of
25 the City of Philadelphia, I believe the

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2 ultimate decisionmaker is the Floodplain
3 Administrator, who we have designated as
4 the City and, within the City, to be the
5 L&I Commissioner.

6 COUNCILMAN GREEN: And what are
7 the consequences where no floodway has
8 been identified of having the Floodplain
9 Administrator determine base elevation
10 and floodway? Does this prevent people
11 from building in this area or does it
12 just provide whether or not -- can you
13 explain?

14 MS. GLADSTEIN: FEMA has
15 different levels of certainty as to
16 floodplain areas and floodways. So
17 there's a designated floodplain, but we
18 don't know exactly where the floodway has
19 been. These tend to be in areas that are
20 not subject to flooding as much as other
21 areas. There's -- not as much study has
22 been done. So if this information is
23 accepted by the City, it could impact
24 further development in that floodway.

25 COUNCILMAN GREEN: Who would

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2 accept -- I don't understand your answer.
3 So there is no existing floodplain on any
4 FEMA map or study and --

5 MS. GLADSTEIN: No, no, no. In
6 these areas, there are different
7 floodplain designations within FEMA's
8 system, and some of those designations
9 which are in areas -- this is an AE area
10 where there's been a fair amount of
11 certainty and study, but the floodway
12 itself, which is an area within the
13 floodplain where the water may travel
14 within the floodplain where you may have
15 additional protections, the floodway
16 itself has not been established. So we
17 may be able, in one of those areas where
18 the floodway has not been established and
19 there is construction being proposed, to
20 get additional information through
21 engineering studies done for a particular
22 project or program. It could even be a
23 City project there, and that would help
24 us understand better where the floodway
25 may be.

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2 I believe -- and we have FEMA
3 representatives here if my answer is not
4 adequate, but I believe that that would
5 help -- we as a city would provide that
6 information to FEMA and it may help
7 influence how they map the floodway in
8 the future, but it's not -- it doesn't
9 mean that it's on the map, is my
10 understanding.

11 Is that correct enough?

12 MR. FRENGS: Yeah. The --

13 COUNCILMAN GREENLEE: Sir, you
14 can't talk from back there. If you want
15 to talk, you got to come up here and
16 identify yourself, please.

17 (Witness approached witness
18 table.)

19 COUNCILMAN GREENLEE: Thank
20 you. Just identify yourself for the
21 record and then proceed.

22 MR. FRENGS: Good morning. My
23 name is Marty Frengs. I work for FEMA
24 here in Philadelphia, FEMA Region 3, and
25 I'd like to try to explain a little bit

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2 about the purpose of the floodway.

3 The floodway is really a
4 mathematical line developed in the
5 floodplain, and it's sort of like a
6 setback line where you can build and fill
7 up to that line and build in the
8 floodplain, but that's sort of like a
9 setback line where no more fill can take
10 place. And it's done based on a one-foot
11 rise in the hundred-year flood level. So
12 as you fill in the floodplain, you're
13 causing increases to flood heights.

14 So the whole purpose of the
15 floodway is really to limit additional
16 flooding caused by the project on
17 neighboring property owners. So we allow
18 up to a one-foot increase in the flood
19 height because of development.

20 So we do allow development in
21 the floodplain, but there has to be a
22 limit on how much you can increase flood
23 heights. So in some of the areas in the
24 City, we show a floodway identified on
25 the Flood Insurance Rate Map. Some of

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2 the streams are smaller and less
3 development. We don't develop the
4 floodway in advance. So part of the
5 development process, the developer, if
6 they want to encroach into this flood
7 hazard area, would have to hire an
8 engineer to do a study to show where that
9 floodway line is or how much of an
10 increase they're causing and that the
11 increase is less than one foot.

12 So it's really a method to
13 limit flood increases on the neighboring
14 property. It's -- not only is the
15 developer's project safe from flooding,
16 which is part of the ordinance, but that
17 increase caused by the developer on other
18 people across the stream, upstream is
19 limited to a one-foot increase.

20 So it's a mathematical exercise
21 using the flood data that's part of the
22 Flood Map and the Flood Study.

23 COUNCILMAN GREEN: I still -- I
24 mean, the first question is, what is the
25 impact of this language -- does this

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2 provision of the City Code, if we adopt
3 it as is or remove the expiration date,
4 does this require -- what does it require
5 a developer to do on a stream that
6 currently has no floodway identified in
7 an AE zone in order to get a permit over
8 the counter from the City of
9 Philadelphia?

10 MR. FRENGS: First, the
11 developer might want to look at building
12 his project outside of the floodplain.
13 If that cannot be done or they choose to
14 build into the floodplain in this area,
15 then they should hire an engineer
16 familiar with what we call hydrology and
17 hydraulics to do the study.

18 COUNCILMAN GREEN: Is this city
19 law or federal law?

20 MR. FRENGS: The federal law
21 limits the increase in flood heights to
22 one foot. So there's two ways to do
23 that. Do the floodway ahead of time,
24 which we've done on the larger streams in
25 the more populated areas, and that

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2 develops that setback line on the map.

3 So you can fill up to that line and then

4 stop the filling. If you want to fill

5 more, then you have to do one of these

6 studies to show the impact.

7 In the area where we don't do

8 the floodway in advance, you don't have

9 that first step, and so we're asking then

10 the developer to then generate the first

11 step to show what the increase is. And

12 the alternatives there are to make

13 channel improvements, do things in that

14 development project that will reduce

15 flood heights to set off the increase

16 that they're causing because of their

17 development in the floodplain.

18 So sometimes if you're building

19 a bridge across the stream, you could be

20 causing much more in advance to the

21 one-foot rise and then who is getting

22 flooded as a result of that.

23 COUNCILMAN GREEN: I

24 understand.

25 MR. FRENGS: So the object is

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2 to require the developer to do the steps
3 to show what increased flooding they're
4 causing on the neighbors, and by having
5 this study in their back pocket, so to
6 speak, when homeowners or business folks
7 might complain about this developer
8 causing an increase of their flooding, by
9 doing the study in advance, they can say,
10 Well, look, this was developed by the
11 City -- for the City. It was accepted by
12 the City, and our increase in flood
13 heights was only half a foot or there was
14 no rise.

15 So it's almost like a way to
16 show that the developer is being
17 cognizant of what their development in
18 the floodplain is doing, and then they're
19 either offsetting that increase or
20 showing the City what the increase
21 actually is and who is being adversely
22 affected by the development.

23 COUNCILMAN GREEN: So I assume
24 from the City's perspective that if we
25 were to pass the hydrology map with a

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2 50-foot setback or a -- whatever we end
3 up coming to do, is this necessary? I
4 mean, in other words, where are we
5 going -- if we can't build within 25 feet
6 of any single water -- within 50 feet of
7 any single water source in the City, how
8 does this relate to that, which is coming
9 up shortly before Council?

10 MS. GLADSTEIN: First of all,
11 the proposed legislation around
12 waterfront setbacks does not prevent all
13 development within the first 50 feet of
14 that waterway. It permits certain
15 development, and there's already existing
16 development in those areas. So we would
17 be permitting some development, and we
18 would still need this information.

19 Second of all, I don't pretend
20 to know the Flood Insurance Rate Map, but
21 I can tell you it's not an even 50-foot
22 setback. It's the way the water travels.
23 And so that there's not -- you cannot
24 take that 50-foot buffer and make an
25 assumption that that 50-foot buffered

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2 area is the same as the floodplain, and
3 certainly you cannot assume that it's the
4 same as the floodway in any of these
5 areas.

6 COUNCILMAN GREEN: I'm just
7 concerned about the discretion in
8 Paragraph 1 and 2 that appears to be
9 there, and I'm not sure I understand how
10 that will impact development, but it's
11 something I guess we can come back to in
12 the future if it appears to be a problem.

13 MR. FRENGS: Can I address the
14 50-foot setback? As I understand the
15 50-foot setback, that is a state law
16 under DEP. No?

17 COUNCILMAN GREENLEE: I don't
18 think so.

19 MR. FRENGS: That's been maybe
20 adopted also by the City.

21 Is that correct or not?

22 MS. GLADSTEIN: It's a little
23 bit different, because it's a state
24 requirement for certain high-value
25 streams, and we're looking at another

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2 policy with regard to the setbacks.

3 I would say, Councilman, with
4 regard to your concern about the
5 uncertainty, this is an effort to gain
6 more certainty in an area where I don't
7 think the City or the State or the
8 federal government has all the resources
9 to currently map every floodway. And so
10 it's an effort to identify information
11 that we can, in the case of development,
12 then put into the public sector and make
13 that information available to others to
14 help inform our work going forward.

15 If we had all the resources in
16 the world to map every floodway, I agree
17 with you, we'd be in a better situation,
18 but this is an effort at least to be
19 clear to somebody who does want to
20 develop in a floodplain as to what the
21 procedure is. This requirement would
22 have existed before. It's not a new
23 requirement, but what we did was to make
24 it clearer actually upon the suggestion
25 of your staff as to what the process was.

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2 COUNCILMAN GREEN: So to be
3 clear, there's one person in the City
4 with responsibility for deciding what the
5 other acceptable sources are, and that
6 person is?

7 MS. GLADSTEIN: The
8 Commissioner of the Department of
9 Licenses and Inspections as the City's
10 Floodplain Administrator.

11 COUNCILMAN GREEN: Thank you.

12 COUNCILMAN GREENLEE: Thank
13 you.

14 First, let me have the record
15 reflect that Councilmembers Tasco, Bass,
16 and O'Brien, members of the Committee,
17 are also present, and the Chair
18 recognizes Councilwoman Tasco.

19 COUNCILWOMAN TASCO: Good
20 morning. I know very little about
21 floodplains, but have you -- I may not
22 have heard you clearly, but have we
23 identified the floodplains in the
24 Philadelphia area? Have they been
25 identified?

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2 MS. GLADSTEIN: They are
3 identified, and there are maps. And this
4 has been a process that's been ongoing
5 for several decades in the City of
6 Philadelphia. Because there was new
7 model language that FEMA has been
8 promoting, we took the opportunity when
9 we created the new Zoning Code to try to
10 adopt as much of that language as we
11 could, but this identification of
12 floodplains, working with developers who
13 are developing the floodplain, has been
14 kind of a course of business with the
15 Planning Commission, Department of
16 Licenses and Inspections for a long time.

17 COUNCILWOMAN TASC0: So this is
18 to help developers who want to build in
19 floodplains?

20 MS. GLADSTEIN: It's
21 actually -- this whole system is designed
22 to ensure that a homeowner who is or a
23 property owner, business owner who is
24 located in a floodplain is able to gain
25 flood insurance through the National

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2 Flood Insurance Protection Program. And
3 so the City needs to have these checks
4 and balances in place so that we can
5 participate in that insurance program.

6 COUNCILWOMAN TASC0: Now, I'm
7 going to an area that is not my district
8 but that I have an interest in, and that
9 is the area out in Eastwick where those
10 families are constantly flooded. At
11 times when the rain is so severe, they
12 get flooded. Do they qualify for flood
13 insurance?

14 MR. FRENGS: Yes.

15 COUNCILWOMAN TASC0: So they
16 can get flood insurance, right?

17 MS. GLADSTEIN: Right, as long
18 as we remove the sunset provision that's
19 currently in the Zoning Code. One of our
20 concerns about the timeliness of this is
21 that there's a sunset provision currently
22 in the Zoning Code that says these
23 provisions or these changes would go away
24 after October 31st. So we're trying to
25 remove that sunset so we can remain in

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2 the program and homeowners such as those
3 in Eastwick would qualify for the
4 insurance.

5 COUNCILWOMAN TASC0: Are they
6 aware that they qualify for flood
7 insurance?

8 MS. GLADSTEIN: I personally
9 have not been in contact with those
10 homeowners, but I believe other City
11 agencies have.

12 COUNCILWOMAN TASC0: So this
13 would give them some protection just in
14 case a developer we had a hearing on some
15 time ago would want to build in that area
16 additional homes?

17 MS. GLADSTEIN: Correct. I
18 mean, again, that's why the City has the
19 checks and balances, to make sure that
20 new development does not create a greater
21 impact that would cause more flooding.

22 COUNCILWOMAN TASC0: Okay.
23 Thank you.

24 COUNCILMAN GREENLEE: Thank
25 you.

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2 Any other questions?

3 First, Councilwoman Reynolds
4 Brown.

5 COUNCILWOMAN BROWN: Good
6 morning. It's great news to hear that
7 this will include the families in
8 Eastwick who have had horror stories to
9 report because of flooding out there.

10 What measures will then be
11 undertaken to ensure or raise the
12 awareness of the provisions of this bill
13 and how insurance will help safeguard
14 some of those families out there? What
15 are some of the protocols that -- and I
16 don't know the Zoning Board would have a
17 responsibility in this, but what
18 protocols are in place to ensure that
19 families are aware of this benefit?

20 MS. GLADSTEIN: Again, I don't
21 want to overstate my -- I have not been
22 involved in conversations with the
23 families in Eastwick. I understand,
24 though, that a number of City agencies
25 have either been in conversation or

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2 planning to be in conversation, including
3 L&I, Planning Commission, and Water
4 Department.

5 COUNCILWOMAN TASC0: Is that
6 lately?

7 MS. GLADSTEIN: I believe so.
8 I don't know -- I think more in terms of
9 Planning, discussions with the residents.
10 And if Council would like, I'd be happy
11 to get more information on that.

12 COUNCILMAN GREENLEE: I was
13 going to say, maybe if you could forward
14 to us what conversations have happened,
15 if there are meetings planned, that kind
16 of thing.

17 MS. GLADSTEIN: I'd be happy to
18 do that.

19 COUNCILMAN GREENLEE: Thank
20 you.

21 MS. GLADSTEIN: Rather than
22 speak out of uncertainty here.

23 COUNCILMAN GREENLEE: We know
24 you know a lot. That's why we ask you
25 all this stuff.

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2 MS. GLADSTEIN: Thank you.

3 COUNCILMAN GREENLEE:

4 Councilman Green.

5 COUNCILMAN GREEN: Thank you.

6 Is it Mr. Fields?

7 MR. FRENGS: Frengs,

8 F-R-E-N-G-S.

9 COUNCILMAN GREEN: Just very
10 quickly, I'm not sure I have any
11 objection to this language, "other
12 acceptable sources," at all. I was
13 interested in clarifying it or being more
14 specific to define what that meant. And
15 if we ended up passing the bill out of
16 Committee in early November, I assume
17 FEMA would not eliminate the ability of
18 Philadelphians to get flood insurance if
19 that was the case?

20 MR. FRENGS: Are you suggesting
21 you want to change that language now?

22 COUNCILMAN GREEN: I don't know
23 the answer to that question. I mean, I
24 just want to check with some third
25 parties.

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2 MR. FRENGS: The language as it
3 exists in this proposed ordinance is
4 pretty standard language that most
5 communities adopt. For example, the
6 Corps of Engineers, other state agencies
7 do floodplain studies from time to time.
8 So sometimes those are available to use
9 for development purposes, and for
10 whatever reason, we didn't put them on
11 the flood maps. So those are some other
12 sources that could be available. More
13 likely, though, it's going to be a
14 developer who wants to fill in a big part
15 of the floodplain for their project and
16 the way the language reads is, the City
17 will say, Okay, before we move forward
18 with a permit and approving the permit,
19 what is the impact of your fill in the
20 floodplain on neighboring property
21 owners. And that's what these
22 engineering studies do, is they show that
23 impact. And if the City wanted FEMA to
24 review it, we do have a process in place
25 called a Letter of Map Revision that

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2 developers submit to us all the time at a
3 national level to determine what that
4 impact is on the floodplain, and we will
5 actually review that data and change the
6 map if it is good data that we concur
7 with.

8 So there's a process in place
9 for the City to review it and then for
10 FEMA to review it as well if that's
11 submitted to us at that time. So it is
12 some checks and balances, and in the long
13 run, while it might cost the developer
14 more money in hiring engineers and doing
15 these studies, it does document what the
16 impact is on the neighboring homeowners
17 or business owners.

18 COUNCILMAN GREEN: So, for
19 example, one of the things that would be
20 important to me is that if a developer
21 has taken their maps and engineering
22 studies to FEMA and FEMA then agrees with
23 what the engineers are saying, that that
24 be acceptable to the City whether or not
25 the City -- it has been made part of -- a

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2 floodway has been defined yet if someone
3 comes to you for advice. And in theory,
4 someone could come to you, get that
5 approval, yes, it will be less than a
6 foot or whatever, and the City under the
7 definitions here may not have to accept
8 that result. And so all I'm trying to do
9 is just to create clear and non-ambiguous
10 standards with somebody in charge.
11 That's my goal.

12 MR. FRENGS: And to be clear,
13 we don't review any of this data unless
14 the community or in this case the City of
15 Philadelphia sends it to us. So they
16 have to sign off, either the Chief
17 Executive Officer or the Floodplain
18 Administrator. There's an actual form in
19 this Letter of Map Revision application.
20 They have to sign off and say, Well, the
21 City, we agree with this project, we
22 reviewed the data, we think it's good
23 data; FEMA, we want you to review it
24 before we actually issue the permit.

25 So that's a process that exists

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2 that happens daily at the national level.
3 We receive all of these engineering
4 calculations with signoff from the
5 community, and then we review it and
6 determine whether in fact it meets
7 federal standards and whether we can draw
8 the new floodway on the map or revise an
9 existing floodway. This is normal
10 procedure for developers that want to
11 create these encroachments into the
12 floodplain.

13 COUNCILMAN GREEN: So I'm
14 not -- yes. I understand that, and I'm
15 not interested in changing the language
16 related to federal, state or other
17 acceptable sources. What I may be
18 interested in doing is clearly defining a
19 process within the City where it's
20 extraordinarily clear if it's not a
21 floodway defined by FEMA or the Corps of
22 Engineers or some other responsible body
23 what the process is for someone to get
24 approval from the City or sort of
25 require -- we could require that the City

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2 submit plans to FEMA for approval as a
3 legislative body. So that's what I'm
4 interested in --

5 MR. FRENGS: Okay.

6 COUNCILMAN GREEN: --
7 understanding, our clear, predictable
8 process at the City level.

9 MR. FRENGS: And we concur with
10 that. We would love that to happen.
11 Often that's handled more in an
12 administrative level, some kind of
13 written procedure, but it's not handled
14 as wording in a zoning code, for example.

15 MS. GLADSTEIN: And I was going
16 to just add that that's certainly
17 something that we can look at either
18 probably more likely L&I regulations or
19 Planning Commission regulations to set
20 that out clearly for the public and for
21 Council.

22 COUNCILMAN GREEN: Okay. Thank
23 you very much.

24 COUNCILWOMAN TASC0: But we
25 would not have to hold up this bill,

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2 because we can always amend it or

3 whatever you want to do?

4 MS. GLADSTEIN: You'll have
5 additional opportunities when the Zoning
6 Code will be in front of Council. Thank
7 you, Councilwoman. I just wanted to make
8 sure Council is clear, this had been
9 raised in June. FEMA has been sending
10 notice to the City that unless the sunset
11 provision is removed and these provisions
12 are in place on November 1st, we will be
13 cancelled from this program.

14 So I would urge the Committee
15 to understand what the concerns are. The
16 questions are to move this out of
17 Committee, and then we can look at
18 regulations or other ways in which to
19 satisfy what I think are legitimate
20 concerns here.

21 COUNCILMAN GREENLEE: Thank
22 you. Thank you.

23 Any other questions or
24 comments?

25 (No response.)

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2 COUNCILMAN GREENLEE: Seeing
3 none, thank you both very much.

4 Is there anyone else here to
5 testify on this bill, on the floodplain
6 bill?

7 (No response.)

8 COUNCILMAN GREENLEE: Seeing
9 none, that concludes our testimony on
10 this bill.

11 Ms. Marconi, will you please
12 read the title of the other bill before
13 us today.

14 THE CLERK: Bill No. 120397, an
15 ordinance continuing the Port Richmond
16 Industrial Development Enterprise
17 Neighborhood Improvement District beyond
18 its termination date in the area bounded
19 generally by the north side of Allegheny
20 Avenue, west side of Memphis Street
21 between Allegheny Avenue and East
22 Westmoreland Street, south side of East
23 Westmoreland Street, properties facing
24 west along the east side of Tulip Street,
25 the north side of Venango Street, and the

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2 west side of Amber Street, continuing
3 Port Richmond Industrial Development
4 Enterprise Incorporated, a Pennsylvania
5 non-profit corporation, as the
6 Neighborhood Improvement District
7 Management Association for the District;
8 approving a final plan for the District,
9 including a list of proposed improvements
10 and their estimated cost, and providing
11 for assessment fees to be levied on
12 property owners within the District;
13 authorizing the Director of Commerce, on
14 behalf of the City, to execute an
15 agreement with Port Richmond Industrial
16 Development Enterprise, Incorporated
17 relating to the District; and authorizing
18 Port Richmond Industrial Development
19 Enterprise, Incorporated to assess
20 property owners within the District a
21 special property assessment fee to be
22 used in accordance with the approved
23 final plan; all in accordance with the
24 provisions of the Community and Economic
25 Improvement Act, and under certain terms

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2 and conditions.

3 COUNCILMAN GREENLEE: Thank
4 you. And please let the record reflect
5 Councilman Kenney, the Vice Chair of the
6 Committee, is also present.

7 Ms. Marconi, why don't you call
8 the first witness we have.

9 THE CLERK: Paul Luff.

10 COUNCILMAN GREENLEE: And while
11 Mr. Luff is coming up, just again so
12 everyone understands, under state law,
13 this is the second hearing that we have
14 on this bill, and if we complete -- if we
15 report this out today with any
16 amendments, there is still a 45-day
17 period where people can protest the
18 issuance or the renewal of this BID.

19 (Witness approached witness
20 table.)

21 COUNCILMAN GREENLEE: Mr. Luff,
22 please identify yourself for the record
23 and proceed.

24 MR. LUFF: Good morning. My
25 name is Paul Luff. I'm the Vice

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2 President of Development for Active
3 Radiator. We're at 3675 Amber Street,
4 have been there for 25 years.

5 Good morning, Mr. Chairman and
6 members of the Committee. My name --
7 we've been here before. I spoke back in
8 May with regard to the reauthorization.
9 I'm currently the Secretary/Treasurer of
10 the PRIDE organization and have been
11 involved with it since back in 2002
12 shortly after its inception.

13 The PRIDE group has done an
14 awful lot over the last ten years. We
15 were able to secure a significant amount
16 of money over those years. We were able
17 to improve the neighborhood significantly
18 with those grant dollars, and the PRIDE
19 owners were able to get low-cost funding
20 for projects to secure their properties
21 as well as to improve the neighborhood
22 that allowed truckers and industrial
23 people to handle the area.

24 During that time, we had the
25 benefit of the organization with the

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2 hospital organization. They came and
3 participated in like-kind during those
4 years with facilities and services, with
5 personnel to help us as part of the
6 original NID authorization.

7 The current things going
8 forward, we already received a grant for
9 a stormwater remediation for the area
10 that without the PRIDE organization as an
11 organization, these 58 companies that
12 represent 1,300 employees, without that,
13 we would not individually undertake these
14 kinds of stormwater remediations. It's
15 just not practical. In some cases, our
16 buildings are totally landlocked and we
17 have no place to put the water, and so we
18 physically couldn't do that. Some people
19 have undertaken those projects. Rather
20 expensive, but what we were able to do as
21 a PRIDE organization was to get a grant
22 with the water company to do an
23 engineering study on a stormwater
24 remediation for the area so that the
25 owners could benefit as a group. We're

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2 currently working with that.

3 In addition to that, through
4 the state that is being managed by
5 Commerce, we've gotten additional funding
6 through a grant for camera
7 implementation. And we already have
8 three cameras that go directly to the
9 24th District that catch people in the
10 act. That helps. That helps the
11 neighborhood. We got additional funding
12 for those cameras that will be a positive
13 influence for the neighborhood.

14 Our company has spent well over
15 \$70,000 so far as a taxable entity over
16 the last ten years. We plan to keep
17 going.

18 What we did as a PRIDE Board
19 after our May meeting with you, we met
20 with the now private hospital
21 organization and discussed the issue of
22 taxation for the PRIDE organization as it
23 relates specifically to the hospital.
24 The hospital now because it's private is
25 now a taxable entity within PRIDE and

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2 would be the largest contributing member.
3 What we did -- and it is as amended in
4 Bill 120397 to you -- was, the Board
5 voted and it is before you now to put an
6 individual owner's cap of \$12,500 per
7 annum for the maximum for each tax owner
8 within the district. By doing that, that
9 reduced our annual budget from \$70,000 to
10 \$59,000 and reduced some of one of the
11 two key areas for the group, security and
12 cleanliness. Those are the two things
13 that time and time again the organization
14 has been told when we've done surveys
15 with the owners, when we've done surveys
16 with the people in the area, improve the
17 security, improve the cleanliness.

18 You can call 3-1-1, you can
19 call 9-1-1, and you get some kind of
20 reaction, and you do get some help from
21 the City. We're helping ourselves.

22 We do clean our own streets
23 around our buildings. We do have some of
24 our own security. Some of the other
25 people do have their own security, but

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2 this augments the entire 91 acres. This
3 makes this a safer place. This makes
4 people grow.

5 COUNCILMAN GREENLEE: Just so
6 I'm clear from what you say, you said
7 that reducing that budget would reduce
8 what you're able to do in those two
9 areas? I'm sorry.

10 MR. LUFF: Would be reducing
11 some of the security, only because we
12 have a limited budget. We'll only be
13 able to do some of that. We'd like to do
14 more, but the practical aspects of it are
15 that we worked with the organization to
16 try to reduce the amount to a practical
17 level for each of the organization
18 members. So we have a 10 percent for
19 everybody, with the maximum cap of
20 \$12,500 per tax owner.

21 COUNCILMAN GREENLEE: Okay.
22 Could you tell me -- we had a little
23 discussion beforehand, and I know they're
24 going to testify, the hospital. What do
25 they pay now; do you know?

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2 MR. LUFF: There's a 20 percent
3 cap on each of the properties now, and so
4 it would be cut in half.

5 COUNCILMAN GREENLEE: So what
6 do they pay now, the hospital; do you
7 know?

8 MR. LUFF: I think they were
9 billed -- I think it was only \$11,000
10 this year.

11 COUNCILMAN GREENLEE: Well,
12 they'll be up here. I was just wondering
13 if you knew that.

14 I'm sorry. Was there anything
15 else?

16 MR. LUFF: That's fine. We use
17 Impact Services, which is a non-profit
18 organization, to do the cleaning, and
19 they also are now doing some of that
20 security work. We're evaluating whether
21 or not to continue with them next year.
22 They take care of the Kensington
23 corridor. They take care of the Aramingo
24 corridor, and they've now joined us in
25 the center of that this year.

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2 I'll entertain any questions if
3 you have them.

4 COUNCILMAN GREENLEE: Thank
5 you.

6 Any questions for Mr. Luff?
7 (No response.)

8 COUNCILMAN GREENLEE: Seeing
9 none, thank you. And if you could -- I'm
10 sure you will anyway, but if you could
11 stay in case there's any other questions,
12 you can come back up. Thank you very
13 much.

14 THE CLERK: Kris Delfino.
15 (Witness approached witness
16 table.)

17 COUNCILMAN GREENLEE: Good
18 morning.

19 MS. DELFINO: Good morning.

20 COUNCILMAN GREENLEE: Please
21 identify yourself for the record and
22 proceed.

23 MS. DELFINO: My name is Kris
24 Delfino. I work for Stonehenge Advisors,
25 which is a third-party management

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2 company, and we work for the owner for
3 the City Center at Northeast Hospital on
4 2301 East Allegheny Avenue.

5 While I am fairly new to the
6 facility, I was here at the first hearing
7 and opposed the PRIDE tax. I'm very
8 happy that the PRIDE Board has decided to
9 put a cap in place or help us put a cap
10 in place.

11 As being the largest parcel
12 owner in the district, if it was 20
13 percent of our taxes, which Paul is well
14 aware of how much we would pay, it would
15 be about \$50,000 into the kitty more or
16 less, and with the 10 percent, it would
17 be about 25,000.

18 We don't benefit from the PRIDE
19 district in any way, shape or form. We
20 have our own services that we provide for
21 all of our parcels. I have about 30 tax
22 parcels. So for us, it's a very large
23 tax.

24 The hospital facility is a very
25 large facility. We provide our own

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2 security. We have our own security
3 cameras. The cameras that are in place
4 by PRIDE do not benefit us in any way,
5 and I'm sure there are several other
6 owners that feel the same way. And we do
7 our own cleaning services. We have all
8 of our own services in place.

9 I have a \$2.5 million budget
10 just for my facility to provide all of
11 those services, and while I understand
12 that part of that is for the community,
13 I'm not sure that the community is
14 benefiting by having three cameras in
15 areas that are somewhat towards other
16 property owners as opposed to being
17 towards everyone in the district.

18 So I do not feel that
19 continuing the PRIDE tax, even after the
20 cap, would be a complete benefit to
21 everyone in the area, and we are opposed
22 in that respect. So we ask that you take
23 a look at why those dollars are so
24 important to PRIDE and how they are
25 benefiting us.

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2 This was supposed to be an
3 industrial development group, and I don't
4 see that. They improved a lot on the
5 corner of Tulip and Westmoreland, that
6 it's just a park now where dogs go to the
7 bathroom. And so you spent \$30,000 of
8 our hard-earned money to clean out a lot
9 that is not being used properly, and I
10 don't want any of the taxpayers' money
11 going towards any future projects like
12 that in any regard. We pay enough real
13 estate taxes, we pay U&O taxes. It's
14 hard to bring businesses into the
15 district when you have another tax on top
16 of that that is not benefiting them in
17 any way. Our taxes are supposed to
18 provide services for us, and they do not.

19 So I definitely would say that
20 we are opposed to that, and we have other
21 business owners that feel the same way.
22 And while I appreciate everyone's point
23 of view and opinions and appreciate you
24 hearing my side, we are still opposed.

25 So thank you. And I'm not sure

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2 if Andy. Andy is another business owner
3 in our district, and he may want to say
4 something.

5 COUNCILMAN GREENLEE: Okay. He
6 can certainly approach, but let me ask
7 you, because you mentioned that you would
8 be paying 25,000. Are you aware of this
9 amendment that is being proposed?

10 MS. DELFINO: Yes, the cap.

11 COUNCILMAN GREENLEE: And it
12 would say 12,500.

13 MS. DELFINO: Correct. We
14 would still have the lion's share of the
15 tax. We are --

16 COUNCILMAN GREENLEE: But you
17 would pay no more than 12,500.

18 MS. DELFINO: I understand
19 that, yes. Yes. Thank you.

20 COUNCILMAN GREENLEE: And what
21 did you pay last time?

22 MS. DELFINO: It was \$50,000.

23 COUNCILMAN GREENLEE: You paid
24 50? Okay. Okay. I know some other
25 members have questions.

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2 Councilman Kenney.

3 COUNCILMAN KENNEY: Again, I'm
4 not a District Councilperson, so I don't
5 represent that district, but I'm pretty
6 familiar with the district in former
7 lives.

8 How long ago did the
9 hospital -- did you guys purchase the
10 facility?

11 MS. DELFINO: The current owner
12 purchased the property in December of
13 2010.

14 COUNCILMAN KENNEY: And you're
15 representing whom?

16 MS. DELFINO: I represent the
17 owner of the property.

18 COUNCILMAN KENNEY: And the
19 owner is?

20 MS. DELFINO: It's a private
21 owner.

22 COUNCILMAN KENNEY: I'm saying,
23 who are they?

24 MS. DELFINO: It's a company.
25 It's called Haskell Acquisitions.

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2 COUNCILMAN KENNEY: And what is
3 the activity of the property?

4 MS. DELFINO: We are less than
5 50 percent occupied right now. What
6 we're doing is, we're converting it -- it
7 was the old Northeast Hospital, as
8 everyone knows, and now we're bringing
9 in -- Temple is our main tenant there and
10 still has many of their services there.
11 We're bringing in other medical services
12 and doctors to provide services to the
13 community. So we're trying to get other
14 services in there.

15 COUNCILMAN KENNEY: And this is
16 just more a subjective statement and not
17 an objective statement, and I think
18 there's a balance somewhere on the needs,
19 the perceived needs, of the residential
20 community and safety and security and
21 lighting and the perceived needs of the
22 business community. But your testimony
23 would lead me to believe that you're
24 creating this island of, we do this
25 ourselves, we do this ourselves, we do

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2 this ourselves. And although that may be
3 your business model, I don't know where
4 your patients are coming from. I assume
5 they're coming from the same community
6 that you are seemingly in this testimony
7 isolating yourself from.

8 I'm not saying your argument,
9 the \$50,000, is too much or \$12,000 is
10 too much. That's all an objective
11 discussion that will be worked out, I
12 assume, with the District Councilperson
13 in some way or another, but I sense that
14 this -- we have our own security, our own
15 cleaning, we don't benefit in any way,
16 shape or form from this legislation,
17 we're an island in Port Richmond, and I
18 don't think you want to be an island in
19 Port Richmond. I assume, like most
20 hospitals that I've had experience with,
21 you want to be an integral part of the
22 community, both from a customer
23 standpoint and a patient standpoint, but
24 also from -- I mean, I look at Methodist
25 in South Philly, I look at some of the

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2 other hospitals around the City that are
3 heavily involved in their community, and
4 I'm not saying there's a dollar number
5 that makes that credible. All I'm saying
6 is that to me, it seems that this
7 isolation testimony is not in the
8 long-term business interest of this
9 medical facility. That's just my
10 experience. So that's my editorial
11 comment.

12 Thank you.

13 MS. DELFINO: You're entitled
14 to your opinion. We're very much part of
15 the community.

16 COUNCILMAN KENNEY: Thank you.
17 I appreciate that.

18 MS. DELFINO: We do sponsor
19 events at our facility for the community,
20 and we want to be an integral part of the
21 community.

22 COUNCILMAN KENNEY: I'm
23 responding --

24 MS. DELFINO: But we just would
25 like to benefit from the services that

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2 we're paying for.

3 COUNCILMAN KENNEY: Well, I
4 think part of -- and I don't want to get
5 into a debate, but I am commenting on
6 your testimony at this point. This is
7 the only thing we're discussing now. But
8 I do believe that your business model I
9 assume benefits from the fact that you
10 chose to be in this neighborhood, and the
11 demographic and the age cohort and the
12 illness issues and all those things will
13 ultimately inure to the benefit of the
14 facility and it will be a mutually
15 beneficial experience, I hope. Just from
16 your testimony, it seems that there was a
17 different attitude; that's all.

18 Thank you.

19 MS. DELFINO: Thank you.

20 COUNCILMAN GREENLEE: Thank
21 you, Councilman.

22 Councilman Goode.

23 COUNCILMAN GOODE: Thank you,
24 Mr. Chairman.

25 Good morning. I'll try to keep

1 10/2/12 - RULES - BILLS 120645 & 120397
2 this as simple as possible. Under the
3 proposed amendment, what portion of the
4 budget would you be paying?

5 MS. DELFINO: That I can't
6 answer. I'm not the Treasurer. That
7 would be Paul's answer.

8 COUNCILMAN GOODE: But it's not
9 the majority portion. It's the largest
10 chunk, but not the majority portion; is
11 that correct?

12 MS. DELFINO: I would assume it
13 would be, considering we're paying the
14 largest amount into the budget.

15 COUNCILMAN GOODE: But it's not
16 a majority of the budget.

17 MS. DELFINO: It sounds like it
18 is, yes.

19 COUNCILMAN GOODE: But you're
20 not sure?

21 MS. DELFINO: I don't have that
22 information. It's never been provided to
23 me.

24 COUNCILMAN GREENLEE: Mr. Luff,
25 maybe you could --

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2 MS. DELFINO: Mr. Luff could
3 probably --

4 COUNCILMAN GREENLEE: Maybe
5 could you come back up, and if you have
6 any figures, comment on the Councilman's
7 question, please. And the issue is
8 majority, which means more than 50
9 percent.

10 MR. LUFF: Twenty-one percent.

11 COUNCILMAN GREENLEE: Speak
12 into the microphone, please.

13 MR. LUFF: Twenty-one percent.

14 COUNCILMAN GREENLEE:
15 Twenty-one percent the hospital pays of
16 the total?

17 MR. LUFF: Of the new proposed
18 budget.

19 COUNCILMAN GREENLEE: That
20 would be under the 12,500 cap?

21 MR. LUFF: Yes, sir.

22 COUNCILMAN GOODE: So in your
23 estimation, should 79 percent of the
24 people who are funding the rest of it be
25 able to determine what gets spent?

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2 MS. DELFINO: Should they be
3 able to?

4 COUNCILMAN GOODE: Yes.

5 MS. DELFINO: We all should
6 have a say in how the money is spent.

7 COUNCILMAN GOODE: But if 79
8 percent of the money is not coming from
9 the institution, your institution should
10 not be able to decide how the money is
11 spent by itself; is that correct?

12 MS. DELFINO: We don't. That's
13 correct.

14 COUNCILMAN GOODE: So how do
15 you think this decision should be made in
16 the end?

17 MS. DELFINO: I think that in
18 the end, that the tax should be abated
19 and that no one should have to pay the
20 tax, because they're already paying for
21 those services separately. I mean, even
22 Paul as a business owner is paying
23 separate for services.

24 COUNCILMAN GOODE: But what do
25 you understand the process to be?

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2 MS. DELFINO: I'm sorry?

3 COUNCILMAN GOODE: What do you
4 understand the process to be?

5 MS. DELFINO: Which process?

6 COUNCILMAN GOODE: The process
7 by which this is established. My
8 understanding of the process is that if a
9 majority of the people in that area want
10 this, then it should happen.

11 MS. DELFINO: Correct. I
12 understand that.

13 COUNCILMAN GOODE: Then what
14 are you suggesting otherwise?

15 MS. DELFINO: I am suggesting
16 that the people who don't want to pay the
17 tax oppose the bill, and if there's
18 enough representation -- I think it's 51
19 percent have to be opposed to it -- then
20 the bill will go away.

21 COUNCILMAN GOODE: So if a
22 majority of the people want it and put up
23 79 percent of the money --

24 MS. DELFINO: Then we will pay
25 our 21 percent and be part of the group

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2 and hope that we get the services that
3 we're being told we're going to get.

4 COUNCILMAN GOODE: Thank you
5 for your testimony.

6 MS. DELFINO: Thank you.

7 COUNCILMAN GREENLEE: Could I
8 just ask from one thing you said to the
9 Councilman's question. Would it be fair
10 to say you're just kind of
11 philosophically opposed to this process?
12 Because you said, Well, you should be
13 getting services anyway. So is that a
14 fair statement?

15 MS. DELFINO: No. I see every
16 day what happens in the district. I'm
17 very aware. And so visually I don't see
18 things happening, and when I ask for
19 the -- I have to actually ask for them to
20 happen. So I see what goes on. I'm very
21 involved in what happens in the area. So
22 I see that on a daily basis.

23 COUNCILMAN GREENLEE: So --

24 MS. DELFINO: So it's a
25 reality. It's not a philosophy. It's a

1 10/2/12 - RULES - BILLS 120645 & 120397
2 reality.

3 COUNCILMAN GREENLEE: But you
4 said people should be getting -- I think
5 you said people should be getting the
6 service because they pay taxes.

7 MS. DELFINO: Mm-hmm.

8 COUNCILMAN GREENLEE: Which
9 would lead me to believe you just kind of
10 don't believe in the concept of a NID.

11 MS. DELFINO: Technically, no.
12 Technically, I don't believe in the
13 concept, and I'm not alone in my
14 feelings.

15 COUNCILMAN GREENLEE: No. I
16 understand. I just want to be clear.

17 MS. DELFINO: Sure. I
18 understand.

19 COUNCILMAN GREENLEE: So then
20 in a sense, the figure really doesn't --
21 what you're paying --

22 MS. DELFINO: It's not
23 necessarily the dollar amount. It's what
24 you're getting for your dollar, which
25 isn't -- it doesn't equal out in the long

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2 run.

3 COUNCILMAN GREENLEE: Okay.

4 All right.

5 Any other questions?

6 (No response.)

7 COUNCILMAN GREENLEE: Seeing

8 none, thank you.

9 Sir, I think you wanted to --

10 ANDY: I think she did a good
11 job.

12 COUNCILMAN GREENLEE: That was
13 it? All right.

14 Is there anyone else here to
15 testify on this bill?

16 (No response.)

17 COUNCILMAN GREENLEE: Seeing
18 none, that concludes our hearing and we
19 will go into the public meeting.

20 The Chair recognizes Councilman
21 Goode regarding Bill No. 120645.

22 COUNCILMAN GOODE: Thank you,
23 Mr. Chairman. I move that Bill No.
24 120645 be reported out of the Committee
25 with a favorable recommendation, that the

1 10/2/12 - RULES - BILLS 120645 & 120397
2 rules of Council be suspended so as to
3 permit first reading at our next Council
4 session.

5 (Duly seconded.)

6 COUNCILMAN GREENLEE: It's been
7 moved and seconded.

8 All in favor?

9 (Aye.)

10 COUNCILMAN GREENLEE: Opposed?
11 (No response.)

12 COUNCILMAN GREENLEE: Hearing
13 none, Bill No. 120645 is reported out of
14 Committee with a favorable recommendation
15 with a rules suspension.

16 The Chair recognizes Councilman
17 Goode for an amendment on Bill 120397.

18 COUNCILMAN GOODE: Thank you,
19 Mr. Chairman. I move that the amendment
20 to Bill No. 120397 be approved.

21 (Duly seconded.)

22 COUNCILMAN GREENLEE: It's been
23 moved and seconded.

24 All in favor?

25 (Aye.)

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2 COUNCILMAN GREENLEE: Opposed?

3 (No response.)

4 COUNCILMAN GREENLEE: Hearing

5 none, the amendment is approved.

6 Once again, Councilman Goode.

7 COUNCILMAN GOODE: Thank you,

8 Mr. Chairman. I move that Bill No.

9 120397, as amended, be reported out of

10 this Committee with a favorable

11 recommendation, that the rules of Council

12 be suspended so as to permit first

13 reading at our next Council session.

14 (Duly seconded.)

15 COUNCILMAN GREENLEE: It's been

16 moved and seconded.

17 All in favor?

18 (Aye.)

19 COUNCILMAN GREENLEE: Opposed?

20 (No response.)

21 COUNCILMAN GREENLEE: Hearing

22 none, Bill No. 120397, as amended, is

23 reported out of this Committee favorably

24 with a rules suspension.

25 And, again, just for the

1 10/2/12 - RULES - BILLS 120645 & 120397
2 record -- and I'm looking at Ms. Leonard.
3 I hope I have this right -- there will be
4 letters sent out to all involved parties,
5 and once that letter is received or from
6 the date of that letter, there are 45
7 days to file protests. So that's being
8 clear.

9 Being no other business before
10 this Committee, the Committee on Rules is
11 adjourned.

12 Thank you all for your
13 participation.

14 (Committee on Rules concluded
15 at 11:05 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 October 2, 2012, and that
this is a true and correct transcript of same.

MICHELE L. MURPHY
RPR-Notary Public

(The foregoing certification of this
transcript does not apply to any reproduction
of the same by any means, unless under the
direct control and/or supervision of the
certifying reporter.)

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