

1

2

COUNCIL OF THE CITY OF PHILADELPHIA

3

PUBLIC HEARING

4

COMMITTEE ON LICENSES AND INSPECTIONS

5

- - - -

6

Room 400, City Hall
Philadelphia, Pennsylvania
Thursday, October 7, 2004
2:00 p.m.

7

8

- - - -

9

BILL 040432 - Ordinance amending Chapter
10-400 of the Philadelphia Code entitled
10 "Noise and Excessive Vibration" by amending
Section 10-404 entitled "Prohibited
11 Conduct"...

12 BILL 040698 - Ordinance amending Section
9-605 of the Philadelphia Code entitled
13 "Towing"...

14

PRESENT:

15

COUNCILMAN RICHARD MARIANO, Chair
16 COUNCILMAN FRANK DICICCO
COUNCILMAN JAMES KENNEY
17 COUNCILWOMAN JOAN KRAJEWSKI
COUNCILMAN FRANK RIZZO
18 COUNCILMAN JACK KELLY
COUNCILWOMAN BLONDELL REYNOLDS BROWN
19 COUNCILMAN DARRELL CLARKE
COUNCILMAN JUAN RAMOS

20

21

- - - -

22

23

24

25

V A R A L L O Incorporated
Litigation Support Services
Eleven Penn Center
1835 Market Street, Suite 600
Philadelphia, Pennsylvania 19103
215.561.2220 215.567.2670

1

2

I N D E X

3

BILL 040432 PAGE
FRANCIS HEALEY, Police Department.... 4

4

BILL 040698

5

WILLIAM GAMBLE, Procurement..... 65

OTIS HAIGLER, JR., L&I..... 66

6

ED ALFANO, Century Auto..... 77

JOHN DEVERGILLIS, Phila. Authorized

7

Towers and Salvors..... 79

JOE TRENT, Southwest Auto Assoc..... 81

8

RICHARD ANTANUCCI, Phila. Towing and

Transport..... 81

9

JACK LOGAN, Logan Towing..... 82

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 10/07/04 - LICENSES - BILL 040432

2 COUNCILMAN MARIANO: Let me open
3 this public meeting. The Committee Members
4 here are Councilwoman Krajewski and myself,
5 Councilman Mariano, Councilman Rizzo, and the
6 President appointed Councilman Kenney and
7 Councilman DiCicco for this hearing and
8 Councilman Kelly, so we have someone from
9 everywhere in the City.

10 The Clerk will read the title of
11 Bill 040432.

12 THE CLERK: Bill 040432, amending
13 Chapter 10-400 of the Philadelphia Code
14 entitled "Noise and Excessive Vibration" by
15 amending Section 10-404 entitled "Prohibited
16 Conduct" by providing for the issuance of
17 tickets in commercial districts for violation
18 of this chapter by reducing the decibel level
19 permitted in commercial districts and by make
20 certain technical changes, all under certain
21 terms and conditions.

22 COUNCILMAN MARIANO: The first panel
23 to testify is Francis Healey, Philadelphia
24 Police Department. Someone from the Health
25 Department can come up with him.

1 10/07/04 - LICENSES - BILL 040432

2 Is there someone from the Health
3 Department?

4 Mr. Healey, you go first. And say
5 your name for the record, identify yourself
6 and organization or group or affiliation.

7 MR. HEALEY: Good afternoon,
8 Councilman Mariano and other Members of the
9 Committee on Licenses and Inspections. My
10 name is Francis Healey, and I'm here to
11 represent Police Commissioner Johnson and the
12 Philadelphia Police Department.

13 First, Commissioner Johnson would
14 like for me to extend his gratitude for
15 allowing the Police Department to express its
16 opinion on this very important quality-of-life
17 legislation.

The Philadelphia Police Department has long identified that chronic and excessive noise undermines the quality of life in those neighborhoods so afflicted. Regrettably, in the past, the only agency charged with enforcing City noise ordinances was the Health Department, and this agency has been historically overburdened with the shear

1 10/07/04 - LICENSES - BILL 040432
2 volume of commercial noise complaints to truly
3 address the residential issues. Accordingly,
4 a void had existed in noise enforcement
5 throughout the City. While the Health
6 Department aggressively addressed commercial
7 noise, little if anything could be done to
8 abate the chronic residential complaints
9 received by the Police Department through the
10 911 system. This was the very reason why the
11 Police Department has recently begun to
12 enforce the noise ordinance in the residential
13 neighborhoods throughout the City.
14 Commissioner Johnson has made a commitment of
15 manpower and equipment to help combat this
16 problem.

17 Although the Police Department's
18 role in noise enforcement is primarily
19 residential in nature, we understand the
20 problems that exist towards the commercial
21 areas as well. Accordingly, the Police
22 Department would support any amendments
23 strengthening the existing noise ordinance or
24 the ease of enforcement against commercial
25 violators.

1 10/07/04 - LICENSES - BILL 040432

2 This would conclude the testimony on
3 behalf of the Police Department, and I'd be
4 available for any questions.

5 COUNCILMAN MARIANO: Any questions
6 from the Committee Members for Mr. Healey?

7 Councilwoman Krajewski first.

8 COUNCILWOMAN KRAJEWSKI: Good
9 afternoon.

10 MR. HEALEY: Good afternoon.

11 COUNCILWOMAN KRAJEWSKI: I'm
12 interested in how many police officers have
13 been trained on the use of the decibel meter
14 readers?

15 I understand there's only one
16 officer per district being trained? Any there
17 any plans to --

18 MR. HEALEY: Originally, the plan
19 was to train one officer per squad so there
20 would be a noise-trained officer in each squad
21 in each district around the clock. As of
22 today, I believe there's approximately over a
23 hundred police officers trained in the use of
24 the noise meters.

25 COUNCILWOMAN KRAJEWSKI: Now it's a

1 10/07/04 - LICENSES - BILL 040432

2 hundred?

3 MR. HEALEY: I believe it's

4 approximately a hundred officers --

5 COUNCILWOMAN KRAJEWSKI: And that's

6 one per squad?

7 MR. HEALEY: That's the method we're

8 trying to get to. Regrettably, some officers

9 get transferred or promoted so we're trying to

10 jockey around. What we want to do is have at

11 least one noise-trained officer available

12 should a chronic noise complaint comes into

13 the Police Department that even if there's not

14 one in the district that there will be one in

15 either a neighboring district that could

16 easily come over and write a citation if

17 necessary.

18 COUNCILWOMAN KRAJEWSKI: Can you

19 tell me how many violations have been issued

20 as a direct result of these meters?

21 MR. HEALEY: I checked about two and

22 a half weeks ago, and apparently, there's been

23 no citations written. But what I've been told

24 anecdotally is that the threat of the machines

25 themselves being on location has had a much

1 10/07/04 - LICENSES - BILL 040432

2 greater impact than what we actually
3 anticipated. People walking up to the door
4 now with the noise meters is apparently
5 abating a lot of the problems.

6 COUNCILWOMAN KRAJEWSKI: But there
7 have been any violations?

8 MR. HEALEY: Not to my knowledge, no
9 citations written as of yet.

10 COUNCILWOMAN KRAJEWSKI: Let me tell
11 you something. Right on my own street -- I
12 think that's one of the reasons I get deeply
13 involved in this -- the noise from the
14 motorcycle going up our street every night of
15 the week, it wakes people up. Then we have
16 someone in the back, directly in the back on
17 my side very, very sick, a very sick woman
18 there. On the other side, he guns his motor
19 somewhere anywhere between 6, 6:30 every
20 morning. It must be a junker; I don't know.
21 But it is unbelievable the noise that's made
22 there. I have reported it, but I don't know
23 what's happened to it.

24 MR. HEALEY: If you give me the
25 address, I'd be happy to have the captain in

1 10/07/04 - LICENSES - BILL 040432

2 that district look into it personally. It may
3 be more than just the noise, there's also
4 motor vehicle violations for having loud
5 engines and stuff like that. We may be able
6 to cite on other issues as well as noise.

7 COUNCILWOMAN KRAJEWSKI: And I get
8 calls to the office regarding dogs. When the
9 owner leaves for work in the morning somewhere
10 around 7:30 or so -- of course, it's winter
11 now, I guess the windows will be closed. But
12 that dog goes on and on and on and barks for
13 hours on end. What do they do about that? Do
14 they go around and warn them or what?

15 MR. HEALEY: The police officers,
16 they'll do the best they can. Historically we
17 haven't had a lot of options available to us.
18 What we have done in the past, we've contacted
19 Human Relations Commission to help settle the
20 situation because a lot of times those
21 situations grow into -- they escalate into
22 disturbance and violence actually results a
23 lot of times out of them.

24 What we do, the Human Relations
25 Commission is oftentimes brought in to mediate

1 10/07/04 - LICENSES - BILL 040432

2 the situation rather than making citations, at
3 the point we didn't have the opportunity to do
4 in the past.

5 At this point in time, if it's a
6 chronic noise complaint, according to the
7 directive I drafted, the officer would be able
8 to go out there with the noise meter and make
9 a violation.

10 COUNCILWOMAN KRAJEWSKI: Well, the
11 officers that are on duty, are they able to
12 enact it, I mean, give someone a citation?
13 Does it have to be someone that was trained,
14 or can it just be an officer that's on duty?

15 MR. HEALEY: It has to be someone
16 that's trained in the use of the meter.

17 COUNCILWOMAN KRAJEWSKI: If that
18 officer is not around, the noise goes on and
19 on and on with a motorcycle, say, without
20 mufflers, cars without mufflers?

21 MR. HEALEY: Well, that's not just a
22 noise violation, that's on the Motor Vehicle
23 Code violation as well. That would be a much
24 easier thing for us to handle from the Police
25 Department's perspective than actually having

1 10/07/04 - LICENSES - BILL 040432

2 to issue a noise code violation notice.

3 So what I'll do, if you give me the
4 address where that's at, I'll see what we can
5 do with the captain directly in the morning
6 via Motor Vehicle Code violations which, quite
7 frankly, is a more --

8 COUNCILWOMAN KRAJEWSKI: But if the
9 officer is riding around or walking a beat and
10 hears a motorcycle that's gunning and gunning,
11 it's very distracting, he can't give out a
12 citation?

13 MR. HEALEY: Not for noise, no. We
14 can't train 7,000 police officers on the noise
15 meters.

16 COUNCILWOMAN KRAJEWSKI: We got a
17 problem. We need more officers trained then
18 for it.

19 MR. HEALEY: We're working
20 aggressively to get more trained, but the
21 objective was -- the first step is for the
22 initial officer not to just ignore what's
23 going on but try to mediate it. And if that
24 doesn't work, the next step is for that
25 officer to contact the noise trained officer

1 10/07/04 - LICENSES - BILL 040432

2 to observe the noise and then issue the
3 citation.

4 COUNCILWOMAN KRAJEWSKI: I can sit
5 out on my patio and you cannot talk to your
6 neighbor with the same motorcycle that goes up
7 the street every night. It's unbelievable the
8 noise that he makes.

9 MR. HEALEY: I think we can address
10 the motorcycle issue apart from this, and I'd
11 be happy to get the address and the street and
12 I'll make sure --

13 COUNCILWOMAN KRAJEWSKI: I have no
14 clue where this guy lives. He lives
15 someplace -- I don't know. But no one knows
16 where he lives or who he is.

17 MR. HEALEY: If he comes up and down
18 the street every day, we'll find out.

19 COUNCILWOMAN KRAJEWSKI: Every
20 night, every night.

21 MR. HEALEY: I'll talk to you after
22 the hearing and I'd be happy to get the time
23 and the address. I'll make sure that we
24 address it.

25 COUNCILWOMAN KRAJEWSKI: Don't you

1 10/07/04 - LICENSES - BILL 040432

2 think we should have more officers other than
3 just one per squad?

4 MR. HEALEY: Quite frankly, I'd love
5 to have more machines as well. The machines
6 are almost \$3,000 a piece for each machine.
7 The way we acquired the machine was through
8 block grant money. I lobbied the federal
9 government for the money and put up the
10 reasons why.

11 COUNCILWOMAN KRAJEWSKI: You're
12 saying there has been no violations written
13 up?

14 MR. HEALEY: Not to my knowledge.

15 COUNCILWOMAN KRAJEWSKI: There is
16 something wrong; there is something basically
17 wrong.

18 MR. HEALEY: There's a two-step
19 process in training. One is, regrettably, you
20 need to learn how to use the machines and
21 write a proper citation so you can stand it up
22 in court. That's the one thing.

23 The second thing is officers
24 specifically have to be authorized to write
25 Code violation notices, which are different

1 10/07/04 - LICENSES - BILL 040432

2 than any notices that the average officer
3 writes. Usually only the operations room
4 supervisor or the sanitation trained officers
5 were the only ones authorized to issue Code
6 violation notices. We're expediting getting
7 more officers trained on how to write the
8 ticket.

9 How to write the ticket is quite
10 simple. You check the box and sign off. But
11 the way our procedure is set forth, we have to
12 have specific authorization. And we're doing
13 the best we can to move that along as quickly
14 as possible because, quite frankly, we deal
15 with issues in Manayunk as well as the
16 Northeast on this noise issue that I would
17 like to see more citations myself.

18 COUNCILWOMAN KRAJEWSKI: Because it
19 seems senseless. We introduce bills, we pass
20 bills, but if they're not going to be
21 enforced, I can't understand what the meaning
22 is.

23 I don't know if the other
24 Councilpeople who have the same problem with
25 the noise. I don't know anyone who has ever

1 10/07/04 - LICENSES - BILL 040432

2 been written up.

3 MR. HEALEY: I don't think anyone
4 has as of yet.

5 COUNCILWOMAN KRAJEWSKI: So what
6 good is the bill?

7 MR. HEALEY: We're in the process of
8 getting things up and running, and that's the
9 point.

10 COUNCILWOMAN KRAJEWSKI: Could you
11 send that over to this Committee, that there
12 have been no violations, you're saying, and
13 how many officers are being trained?

14 MR. HEALEY: Sure.

15 COUNCILWOMAN KRAJEWSKI: So we have
16 it on record. Send it to the Chair.

17 MR. HEALEY: I'll also forward over
18 the policy that I drafted on how the police
19 are to respond to noise specifically so you'll
20 know exactly the Police Department's
21 perspective on how we're dealing with the
22 issue. I'll give you that as well. That's
23 our directive on noise.

24 COUNCILWOMAN KRAJEWSKI: I think
25 you're familiar where I live.

1 10/07/04 - LICENSES - BILL 040432

2 MR. HEALEY: I grew up in your
3 neighborhood.

4 COUNCILWOMAN KRAJEWSKI: I know you
5 did, that's why I'm saying.

6 COUNCILMAN MARIANO: You don't own
7 any motorcycle, do you?

8 I want to say Councilwoman Brown has
9 joined us, a member of the Committee.

10 I have a question, and then we'll go
11 this way, Councilman Kenney, Councilman Rizzo.

12 In the East Police Division, I don't
13 know what was written. I really don't think
14 you do yet. I think there's two things.
15 First of all, explain to non-police personnel
16 what a squad is.

17 In plain English, that means in the
18 24th, for instance, there's one machine
19 assigned to the 24th.

20 Is it on the street 24 hours a day?

21 MR. HEALEY: It's available 24 hours
22 a day.

23 COUNCILMAN MARIANO: There's a squad
24 each eight hours?

25 MR. HEALEY: Let me explain that.

1 10/07/04 - LICENSES - BILL 040432

2 There's three squads per district. What they
3 do is around the clock, day work, 4 to 12 and
4 then last out.

5 COUNCILMAN MARIANO: So there should
6 be somebody that can operate this thing?

7 MR. HEALEY: Right. Our plan is to
8 have at least one person trained in each squad
9 so that way they can address a chronic noise
10 around the clock. We also planned it so if
11 that person is on vacation or he's off that
12 night that there's also people in other
13 districts that would be available.

14 In a chronic noise, the whole
15 problem is it's ongoing. So we might not be
16 able to write a ou citation tonight because
17 the officer is not available, but we'll get it
18 tomorrow night. That's kind of the plan.
19 It's not a hundred percent perfect yet. And I
20 would love to have as many people trained as
21 possible. It's just the cost.

22 COUNCILMAN MARIANO: Let me hold you
23 up right there. What I want to follow-up on
24 is in the 24th where I live, this sounds great
25 but I know that a policeman assigned to the

1 10/07/04 - LICENSES - BILL 040432
2 24th is not going to have any time to write
3 any noise complaints because he's just going
4 to be busy doing other more serious stuff.
5 Our point is -- and I'm sure the people that
6 wrote this bill, Councilman DiCicco,
7 Councilwoman Krajewski, this is great idea,
8 but the quality-of-life thing that drives
9 people away from this City is the stuff that
10 happens not just day in and day out, that
11 occasional stuff, the loud car radio. You can
12 do it here but, my son gets a ticket in
13 Wildwood five years ago. And obviously it's
14 because Wildwood is a smaller Police
15 Department and the police have less
16 more-violent things to worry about. But I
17 just don't see a time here ever under our
18 current financial however you want to look at
19 it that police in the 24th or anywhere in the
20 east or probably anywhere in the City with the
21 exception of maybe a couple small area time
22 they're going to have time to write -- even if
23 they're trained on it, are they really going
24 to time to write these kinds of tickets?

25 MR. HEALEY: It is our intention

1 10/07/04 - LICENSES - BILL 040432

2 because what happens is, quite frankly, under
3 the broken windows theory, little tiny things
4 that affect the neighborhood ultimately grow
5 into bigger and bigger things. People move
6 out. People don't care. Apathy sets in. So
7 the Police Department is very aware of this.
8 We know that those little things that we once
9 ignored 20 years ago because we thought our
10 job was law enforcement, crime fighting.

11 COUNCILMAN MARIANO: But on that, we
12 didn't ignore them 20 years ago because
13 Councilman Rizzo who is as old as dirt told me
14 that he got a ticket for having glass packs on
15 his car when he was 17, so that was before I
16 was born when he was 17. But that means 30
17 years ago they did that stuff.

18 MR. HEALEY: The objective is --

19 COUNCILMAN MARIANO: Why did they do
20 it then and not now? Because of the same
21 thing that I'm talking about?

22 MR. HEALEY: I believe the shear
23 volume. I think in the past -- I can only
24 speak to the Timoney era and since. Timoney
25 came in and identified the small issues as

1 10/07/04 - LICENSES - BILL 040432

2 being major problems in communities that we
3 need as a Police Department to address.

4 Commissioner Johnson is more
5 community oriented than any other police
6 officer I've ever met. So he also agrees with
7 this, that we need to address this. Our job
8 is not just to go out there and fight crime
9 and forget about everything else. And that's
10 why we actually made a commitment to the sound
11 meters. Now, is it a hundred percent perfect?
12 The answer is no, it's not. In the 24th
13 District when they've a hundred jobs sitting
14 in the hole, am I going to write noise
15 violations, I'm not going to lie to you, the
16 answer is probably going to be no. But we
17 need to address a way to better handle that
18 ourselves. We're not just going to sit here
19 and ignore it.

20 COUNCILWOMAN KRAJEWSKI: I just want
21 to interject. I'm sorry.

22 COUNCILMAN MARIANO: Go ahead,
23 Councilwoman Krajewski.

24 COUNCILWOMAN KRAJEWSKI: What
25 happens when a car radio is blasting? The

1 10/07/04 - LICENSES - BILL 040432

2 officer cannot issue that person a violation?

3 MR. HEALEY: It's a different
4 violation. There's a Code section in the
5 Philadelphia Code if you can hear a car radio
6 I believe it's more than 25 feet from the car,
7 the officer is authorized to write a citation.
8 So you don't need any technical equipment to
9 do that. All he's got to do is say, "I
10 observed the noise more than 25 feet."

11 COUNCILWOMAN KRAJEWSKI: I'm saying,
12 a police officer is parked, maybe he's in the
13 Wawa or whatever or just parked for a light
14 and a car is blasting. What would that
15 officer do?

16 MR. HEALEY: He can right a citation
17 not out of the 10-400 Code section, but
18 there's another Code section that he can write
19 the ticket for. And they routinely do
20 specifically on South Street. Officers up and
21 down South Street write those tickets almost
22 every Friday and Saturday night that I'm aware
23 of.

24 COUNCILWOMAN KRAJEWSKI: And what
25 type of ticket is that? Is it a citation or

1 10/07/04 - LICENSES - BILL 040432

2 what?

3 MR. HEALEY: It's a Code violation
4 notice. I don't know the section off the top
5 of my head.

6 COUNCILWOMAN KRAJEWSKI: Can they
7 ignore that citation, or what do they do with
8 it?

9 MR. HEALEY: It's just like a
10 parking ticket. If they ignore it, they're
11 going to have fines and penalties, and it's in
12 their name, it's in their car so ultimately I
13 believe the car can be booted. I'm not sure
14 of that but --

15 COUNCILWOMAN KRAJEWSKI: So it's
16 kind of like a warning?

17 MR. HEALEY: No, it's a ticket. I
18 believe it's a \$25 ticket, but I'm not sure of
19 the actual cost. I can get that to you. I'll
20 look it up. I just don't have the Code with
21 me.

22 COUNCILWOMAN KRAJEWSKI: I'd
23 appreciate that. Thank you

24 COUNCILMAN MARIANO: Councilman
25 Rizzo.

1 10/07/04 - LICENSES - BILL 040432

2 COUNCILMAN RIZZO: Sergeant, I think
3 we need to get on the same page here about the
4 barking doing. I believe the Health
5 Department's Air Management Division has a
6 process where they monitor air conditioners
7 that make excessive noise on rooftops, barking
8 dogs. So Air Management of the Health
9 Department -- you're from the Health
10 Department, right? And you'll be able to
11 speak about what you do in the Health
12 Department Air Management?

13 Sarge, you said something that
14 totally confuses me. In other jurisdictions
15 that use decibel level meters don't go up and
16 knock on the door. The police officer pulls
17 up outside of the property that's involved in
18 the disorderly complaint, takes the reading,
19 walks up to the door and gives the owner of
20 the property the violation.

21 You said that you go up and knock on
22 the door, show them you got the meter. I've
23 checked on a lot of different jurisdictions,
24 and they don't operate that way. They come up
25 to the front of the property, take the

1 10/07/04 - LICENSES - BILL 040432

2 reading; if the reading is in excess, they get
3 the violation.

4 MR. HEALEY: Councilman, that's not
5 exactly how I said it. What I said is our
6 first step, because we don't have meters
7 throughout the City, an officer will get a 911
8 call for loud music. He'll go there. Nine
9 times out of 10 we can abate by our mere
10 presence. "Turn the music down. Don't let me
11 have to come back." If I have to come back,
12 the officer says, "I was there. Send the
13 noise meter trained officer." That officer
14 will then go. We're knocking on the door and
15 telling them to turn it down again. He stands
16 out there and does exactly what you just said.

17 COUNCILMAN RIZZO: That's better.

18 Sarge, knowing how the 911 priority
19 system works, it sounds as though what
20 Councilwoman Krajewski just said, doesn't
21 appear to me to ever work because, first of
22 all, on a busy night if someone calls 911 and
23 complains about loud music, it might be two
24 hours before the police officer even gets
25 there. Then I can't imagine once the police

1 10/07/04 - LICENSES - BILL 040432

2 officer gets there to then try to get that one
3 officer in the squad to respond with the
4 decibel level meter to take the reading. It
5 sounds like another one of these problems that
6 our intentions are good, we've spent a lot of
7 taxpayers money. It's the same with the
8 vascar and the other things that we don't have
9 anymore working properly. To me, it just
10 doesn't sound -- again, with the knowledge
11 that I have of how our priority system works
12 at police radio that we will ever -- not have
13 one violation yet, I think it's proven the
14 point.

15 MR. HEALEY: I would agree. I was
16 actually taken aback there no citations
17 written myself as well. However, you've got
18 to understand, this program was chronic noise.
19 Just because I get one noise call complaint
20 over 911 does not make it a chronic complaint.
21 I can't handle the noise meter with what I
22 have for every noise job that comes out. So
23 I'm trying to get my captains focus in on the
24 chronic ones. What they can do is if I find
25 out at a certain location, 123 Main Street is

1 10/07/04 - LICENSES - BILL 040432

2 a chronic noise complaint, I don't need to
3 wait for a 911 call. I'm putting it on the
4 captain's responsibility to take the bull by
5 the horns and send your people out there in a
6 proactive measure. So you're going to have
7 four or five chronic -- every district has a
8 handful of chronic noise complaints. They
9 probably make up 80 percent of the 911 calls.
10 Now, it's up to the captains themselves to
11 identify those locations and use his noise
12 trained officers proactively. I can't tell
13 them how to police their district, but this is
14 a resource and their biggest complaints are
15 noise. So I would assume that these captains
16 will take the bull and handle it themselves.

17 COUNCILMAN RIZZO: What I do suggest
18 is that you talk to the Health Department
19 because there are a lot of services available
20 by Air Management to do some of the things.
21 The chronic barking dog like the Council Lady
22 described, I've got one in my neighborhood
23 that when they go to work the dog is in the
24 yard and the poor dog barks all day. And I
25 believe there's a standard, 30 minutes

1 10/07/04 - LICENSES - BILL 040432

2 continued barking, they can deal with that,
3 SPCA or Animal Control. But there are a lot
4 of overlapping here which I think if the
5 Police Department and Health Department got
6 together could be helpful in resolving some of
7 these issues.

8 MR. HEALEY: That was whole point of
9 us actually undertaking the residential side
10 of it. Because historically, Air Management
11 was pegged with the responsibility with both
12 commercial residential. And quite frankly,
13 they're overwhelmed. So we saw a void under
14 Commissioner Timoney to step in. And we took
15 that aggressively. It's not a hundred percent
16 perfect and I'm not going to say it is, but we
17 intend to evolve it as best we can.

18 COUNCILMAN RIZZO: Also like the
19 Council Lady said about these cars that come
20 up along side of you, I mean, they actually
21 make your car vibrate, some of the bass in
22 these vehicles, and you can hear them all
23 over. So what you're telling me is if a
24 police officer is on patrol, observes that
25 conduct, they don't need a decibel level

1 10/07/04 - LICENSES - BILL 040432

2 meter.

3 And I believe, Sarge, since I had
4 personal experience that a police officer can
5 write a motor vehicle violation for loud
6 exhaust systems that are not, let's say,
7 factory installed like a motorcycle, put
8 straight through pipes.

9 MR. HEALEY: Exactly. And we'd be
10 more than happy to do that.

11 THE CHAIRMAN: Now the reporters are
12 checking to see if you ever paid that ticket.

13 COUNCILMAN RIZZO: I paid it and I
14 also grounded for 30 days...

15 COUNCILMAN MARIANO: Councilman
16 DiCicco.

17 COUNCILMAN DICICCO: Thank you, Mr.
18 Chairman.

19 Good afternoon, Mr. Healey. You
20 mentioned that there are a hundred or so
21 officers that have been trained to date to
22 operate these sound meters, noise meters. How
23 many meters does the City of Philadelphia
24 have?

25 MR. HEALEY: Our original grant, I

1 10/07/04 - LICENSES - BILL 040432

2 obtained 20 meters and I believe we obtained 4
3 more from the Health Department, I believe; 24

4 COUNCILMAN DICICCO: Twenty-four?

5 MR. HEALEY: Yes, approximately 24.

6 COUNCILMAN DICICCO: How many police
7 districts are there in the City?

8 MR. HEALEY: Twenty-three uniformed
9 district.

10 COUNCILMAN DICICCO: So we have one
11 per district? There are no backups in the
12 event that one of them fails, I would assume?

13 MR. HEALEY: No.

14 COUNCILMAN DICICCO: Do we have any
15 plans to purchase additional, or is it
16 strictly a budgetary issue?

17 MR. HEALEY: It's strictly a
18 budgetary issue now. We're looking to
19 purchase more meters as well as train more
20 officers. Actually, the training of more
21 officers is probably more crucial to us at
22 this point than the more meters.

23 COUNCILMAN DICICCO: As to the
24 meters, how much do they cost approximately?

25 MR. HEALEY: The meters, I think,

1 10/07/04 - LICENSES - BILL 040432

2 are approximately 3,000 with the calibration
3 system.

4 COUNCILMAN DICICCO: Not to get off
5 this bill in particular which deals with the
6 situation of noise emanating from businesses
7 and houses, et cetera, but I want to go back
8 to what Councilwoman Krajewski was talking
9 about, the motorcycles.

10 Several years ago, I had hearings on
11 that very issue here. And for lots of
12 different reasons, I couldn't even get the
13 bill out of Committee at the time. It's
14 something I've been thinking about revisiting
15 in the future, in the not too distant future.

16 South Street, I believe there are a
17 number of tickets, a considerable number of
18 tickets that are written on a weekly basis for
19 the noise under the noise ordinance, being
20 able to hear music coming from a car within 25
21 feet. Are those tickets being issued as a
22 result of the noise meter, or is it basically
23 a judgment call on behalf of the police?

24 MR. HEALEY: That violation itself
25 doesn't use -- I don't believe that's under

1 10/07/04 - LICENSES - BILL 040432

2 the noise ordinance; I believe that's under
3 the Traffic Code. Whereas, if you can hear
4 the loud noise in excess of 25 feet, so the
5 officer uses the 25 feet judgment line. They
6 don't need a meter.

7 COUNCILMAN DICICCO: My question
8 then is, if we can do it under the Traffic
9 Code, what do we need to do as it relates to
10 motorcycles? I mean, it's very obvious that
11 the noise that they're emanating because they
12 did remove the baffle from the muffler system.
13 And I have nothing against people who drive
14 motorcycles. I have a scooter, it's a small
15 version of a motorcycle, but there are people
16 who have motorcycles --

17 COUNCILMAN MARIANO: It's still a
18 motorcycle, Councilman.

19 COUNCILMAN DICICCO: It's two
20 wheels, right.

21 There are motorcycles that are out
22 there today which are very quiet because the
23 owners of those motorcycles do not remove the
24 baffle from the muffler system. There are
25 those for whatever reason have this desire to

1 10/07/04 - LICENSES - BILL 040432

2 have this very loud vehicle. And I'm not
3 going to get into some of the testimony that
4 was presented several years ago, but could we
5 not just have a police officer -- I mean, it's
6 very obvious that the sound that is emanating
7 from that motorcycle is well beyond the
8 decibel level, it's well within the 25 feet.

9 I mean, I live at 11th and Federal,
10 and I can hear motorcycles coming from 9th and
11 Federal, generally when they're leaving Pat's
12 and Gino's Steaks, just ripping up the street.
13 Some of them decide to go south on 11th and
14 they're stopped at the corner of 11th and
15 Wharton revving up the engine. And you know
16 it's at the corner of 11th and Wharton. There
17 are two police districts there. And I just
18 think it's a cultural thing. And I'm not
19 discrediting the police in this City. I think
20 they do a magnificent job. But I think it's
21 kind of one of those things, well, it's going
22 to pass. The noise as Councilwoman says is
23 passing, but it's continual sometimes and it's
24 nerve racking, it sets off the alarms of cars.
25 It wakes people up. I mean, you can't --

1 10/07/04 - LICENSES - BILL 040432

2 Councilman Kenney, if I can use a term that he
3 uses, it's one of the instabilities of living
4 in the City. But I think it goes beyond the
5 instabilities. I think this is truly an issue
6 of public safety, quality of life, and really
7 public health. It is ear shattering.

8 And I know that there may be some
9 people in here who have motorcycles and
10 probably will be offended by this, but I just
11 don't understand it. If you lived out in the
12 country, maybe it works. But when you live in
13 the City where the houses are close, it's like
14 living in cavern. And that noise is beyond
15 what anyone should have to listen to. And
16 it's not infrequent, at least in my
17 neighborhood it isn't. Maybe it's because I
18 live close to South Street.

19 COUNCILMAN DICICCO: I'm laying a
20 little foundation out for whenever we get to
21 that hearing.

22 COUNCILWOMAN KRAJEWSKI: You can get
23 a ticket if you have a bad muffler on your
24 car.

25 COUNCILMAN DICICCO: Yes, you can

1 10/07/04 - LICENSES - BILL 040432

2 get one if you have a bad muffler on your car.
3 And I'm not going to revisit this. Maybe for
4 another day. But I just want to lay a little
5 foundation out now for whenever we get to that
6 other hearing.

7 COUNCILMAN MARIANO: Councilman, if
8 I may, on the more motorcycle thing, being one
9 of those motorcycle guys. I do have one and
10 it is one of the ones that has short pipes and
11 came like that. But here's the thing. I
12 didn't buy it for that reason. It happens to
13 be. But here's the reasoning that you'll
14 probably get from those bikers. I'm just
15 adding that, thought, this isn't a debate.

16 COUNCILMAN DICICCO: I think I know
17 what it is. I already heard it probably.

18 COUNCILMAN MARIANO: What most
19 bikers will say to you is "The reason my bike
20 is so loud" -- it's in their mind, they firmly
21 believe this; I'm not saying it's true -- "is
22 I want people to hear me coming in cars."

23 I'm not sticking up for it. When
24 you're on a bike, no matter if it's a scooter,
25 a motorcycle, it's still two wheels, people

1 10/07/04 - LICENSES - BILL 040432

2 are busy doing everything else, talking on the
3 phone, putting on make-up, eating, watching
4 DVDs, as you well know, and it's cultural --

5 COUNCILMAN DICICCO: Councilman,
6 I've heard that at the hearing. With all due
7 respect, I don't think that holds any water
8 because people who are bicycles don't make any
9 noise. I'm on a highway and I don't know
10 there's a motorcycle behind me or a car unless
11 they either flash the lights or honk the horn.
12 I think, no disrespect to you, I think that's
13 a poor excuse.

14 COUNCILMAN MARIANO: It is.

15 COUNCILMAN DICICCO: And if it was
16 an excuse, I don't need to hear you coming
17 three blocks away.

18 COUNCILMAN MARIANO: I agree with
19 you.

20 COUNCILWOMAN KRAJEWSKI: I had a
21 experience with a motorcycle just about two
22 months ago. We were riding up the Boulevard.
23 I was going up the Boulevard, and all of a
24 sudden a motorcycle is on the left of me and
25 went right and hit my rearview mirror trying

1 10/07/04 - LICENSES - BILL 040432

2 to go pass.

3 COUNCILMAN DICICCO: Did you hear
4 him coming?

5 COUNCILWOMAN KRAJEWSKI: I didn't
6 hear him coming.

7 COUNCILMAN MARIANO: That was the
8 excuse I said you would hear. I'm not giving
9 it.

10 COUNCILWOMAN KRAJEWSKI: I can
11 honestly say, it took me by surprise. He was
12 in the wrong. But these motorcycles that are
13 out there, with all due respect to you,
14 Councilman, I just think there's something
15 wrong with these people when they have to have
16 it loud and have to gun it draw attention.

17 COUNCILMAN DICICCO: I guess the
18 only way I can answer that, and I'll end with
19 this because we're going to get too far away
20 from the issue before us, is that there are a
21 number of people who own motorcycles and they
22 don't do anything to modify the muffler system
23 when they buy it and they have a hum to them,
24 they have a little bit of noise which is about
25 the best you can do. And why is it any less

1 10/07/04 - LICENSES - BILL 040432

2 safe for them than it would be for the other
3 person who decides that they have to pull the
4 baffle out? I mean, they're both driving a
5 two-wheel vehicle. One person decides to keep
6 it legal and the other person decides to make
7 it illegal, which it is. You know how they do
8 it, they pull the baffle out. Then when
9 they've got to get it inspected, they put it
10 back in. They take it to an inspection shop.
11 They get a sticker and they come back out and
12 remove it.

13 I think it's a cultural thing,
14 whatever you want to call it. But it doesn't
15 help us to keep people in this City. It's
16 just another one of those reasons that people
17 say, "I've had it."

18 COUNCILWOMAN KRAJEWSKI: I cannot
19 understand one per squad. I don't understand
20 why the police officer doesn't have the right
21 to stop these people. They don't need a
22 meter. It's before them. They see it.

23 MR. HEALEY: Ma'am, our officers do
24 stop loud motorcycles and issue citations.
25 That's under the Pennsylvania Motor Vehicle

1 10/07/04 - LICENSES - BILL 040432

2 Code. Those violations are written.

3 I think, quite frankly, from a
4 police officer's perspective, I'm not sure
5 what's legal and illegal. And I'm lawyer. I
6 don't know it is actually an illegal muffler.
7 I know our highway patrol routinely hammers
8 especially these bikers on these mufflers.

9 COUNCILWOMAN KRAJEWSKI: Didn't you
10 state that there have been no violations
11 given?

12 MR. HEALEY: No violations under the
13 noise ordinance.

14 COUNCILWOMAN KRAJEWSKI: I know, but
15 there's something wrong when there's no
16 violations have been written.

17 MR. HEALEY: Under the noise
18 ordinance going up to residences. I didn't
19 say there were no violations given for loud
20 mufflers or for loud music coming out of cars.

21 COUNCILWOMAN KRAJEWSKI: But you did
22 say you'll send that over to the Chair?

23 MR. HEALEY: Right. There's been no
24 tickets issued under 10-400 of the City Code
25 which is the noise ordinance. Tickets have

1 10/07/04 - LICENSES - BILL 040432

2 been written under the Traffic Code and the
3 like, but there's a difference.

4 COUNCILMAN MARIANO: Are you done,
5 Councilman?

6 Councilman Kenney.

7 COUNCILMAN KENNEY: Thank you, Mr.
8 Chairman.

9 Fran, I mean no disrespect or no
10 offense, because you're here representing the
11 Police Department and that's your job and this
12 is the testimony. We nitpick this thing to
13 death. We try to create a program that's so
14 absolutely legally perfect that we wind up
15 being ineffective.

16 What's the decibel level that you
17 can write a noise ordinance violation for a
18 home with loud music or Councilwoman
19 Krajewski's neighbor with the bike? What's
20 the level that triggers the fine?

21 MR. HEALEY: I don't know off the
22 top of my head.

23 COUNCILMAN KENNEY: Does anyone
24 know? What is the decibel level that triggers
25 the fine for a disorderly house that has music

1 10/07/04 - LICENSES - BILL 040432

2 blasting out of it.

3 UNIDENTIFIED SPEAKER: It is 3

4 decibels above background.

5 COUNCILMAN KENNEY: What's that?

6 UNIDENTIFIED SPEAKER: However, if

7 you look at Chapter 10-404, Paragraph 5, there

8 is also the requirement of audible at a

9 distance greater than 100 feet from the

10 property boundary. Now, that, you don't need

11 a meter for.

12 COUNCILMAN KENNEY: Why then don't

13 we just write the ticket? I understand we

14 want to get the guns, we want to spend the

15 \$3,000 a piece, we want to train the officers.

16 Why don't we just start writing the tickets?

17 You're not giving the ticket to F. Lee Bailey.

18 I'm sure some people are want to litigate that

19 ticket or that violation or are going to want

20 to go to court and have their day, but most of

21 the people who are doing this are going to pay

22 the fine or they're going to ignore the fine

23 and then we're going to be able to get them

24 another way. Even if they go to court to

25 challenge the fact that it only 2 decibels

1 10/07/04 - LICENSES - BILL 040432

2 higher than background as opposed to 3, it's
3 an inconvenience out of their day. They've
4 got to take off work and they've got to go to
5 court.

6 Start writing the tickets and you'll
7 stop half of the stuff. I understand wanting
8 to have a nice tight bill, we're in the law.
9 You're a lawyer and you want to make sure that
10 you follow that. If every captain in the
11 district told their people start writing the
12 tickets to the knuckle heads who are
13 constantly going back to those houses every
14 day and night, start writing the tickets now.
15 Give them a ticket every day, give them a
16 ticket every hour, and it will eventually
17 build up to the point where they will be so
18 inconvenienced or so financially hamstrung
19 that they will either modify their behavior or
20 move.

21 We do this -- as long as I've been
22 around here, every time we do a program, we
23 kind of analyze it to death. Isn't there a
24 disturbing the peace ordinance in the City of
25 Philadelphia? Isn't there an ordinance for

1 10/07/04 - LICENSES - BILL 040432

2 disturbing the peace, the general --

3 MR. HEALEY: Not to my knowledge.

4 Disorderly conduct.

5 COUNCILMAN KENNEY: Disorderly

6 conduct, you could write them up for that.

7 You could write them up for anything. And you

8 could probably craft a pretty credible case

9 against that. "I appeared on the scene. The

10 music was blasting. I could hear it three

11 blocks away." That's got to be 3 decibels

12 above background. And I'm going to write the

13 noise ordinance. Now, if you want to go

14 challenge that in Court, take the day off from

15 work and come challenge it because we'll be

16 waiting for you.

17 I mean, we tie our own hands behind

18 our back and then we wonder why we can't be

19 effective. I see no reason why each captain

20 in every district that has this problem tells

21 all their squad people in those sectors,

22 "Write the ticket every shift. If the music

23 is blasting every shift, write the ticket

24 every shift."

25 It won't be long before those fines

1 10/07/04 - LICENSES - BILL 040432
2 start to build up to a point where they start
3 to became effective. I just think we're
4 spinning our wheels trying to be as legal as
5 possible when I still think within the law we
6 can reasonably address the problem. Just my
7 opinion. Write the tickets. Start writing
8 them today and don't stop writing them until
9 they stop.

10 COUNCILWOMAN KRAJEWSKI: It makes
11 sense. If a police officer is parked waiting
12 for a light and they see and they hear this
13 loud, loud noise, you're telling me that they
14 won't write them up?

15 MR. HEALEY: No, ma'am, I've never
16 said that. I said that's under the Traffic
17 Code. The officers do write those tickets.

18 COUNCILWOMAN KRAJEWSKI: But I have
19 to agree with Councilman Kenney; he's
20 absolutely right, it makes sense. That's why
21 they don't enforce, I guess, I don't know.

22 COUNCILMAN MARIANO: See if you can
23 get to me and I'll distribute how many tickets
24 have been written on the any disturbance with
25 noise, okay?

1 10/07/04 - LICENSES - BILL 040432

2 Councilman Ramos, I don't know if I
3 announced he was here. He's here.

4 Councilman Kelly.

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

7 Officer, I just want to know, how
8 much are these citations?

9 MR. HEALEY: I believe they're \$25
10 citations. Off the top of my head, I'm not
11 sure.

12 COUNCILMAN KELLY: If the person
13 refuses to pay that, what's the next step?

14 MR. HEALEY: That would be an
15 administrative step with The Bureau of
16 Adjudication.

17 COUNCILMAN KELLY: If those people
18 ignore many of those citations, what happens
19 then?

20 In a case of a parking ticket, I
21 know they have the right to go out and boot a
22 car. But in this case with a motorcycle, for
23 instance or people just making loud noise on a
24 radio, what do they do?

25 How do they get those people in to

1 10/07/04 - LICENSES - BILL 040432

2 really pay attention to those citations to
3 begin with?

4 Are they just a mere piece of paper
5 that people just look the other and "Well, who
6 cares?" And they just turn their volume up
7 louder the next night?

8 I don't know. I don't see any
9 enforcement coming here. I don't know and I
10 think one of the reasons is because, number 1,
11 the fine is much too low. I think if you're
12 going to make an impact, I think what we have
13 to do is we have to make this really hurt
14 them. And you hurt them in the pocketbook,
15 but if you do that then you need the
16 enforcement to back it up. You have to bring
17 those people, whether it be in court or
18 whether it be adjudication, whether it be the
19 misdemeanor court, municipal court or
20 somewhere else that they're going to, as
21 Councilman Kenney has noted, they're going to
22 have to take a day off. They're going to have
23 to come down here. They're going to have to
24 pay for parking and everything else. So be
25 it.

1 10/07/04 - LICENSES - BILL 040432

2 I think you have to tell these
3 people and send them a message. I don't see
4 that happening here. I see it's a piece of
5 paper, they get it, they just ignore it, they
6 could careless. And if they get many of them,
7 who cares. No one's knocking on their doors
8 and they can't do anything to them.

9 I'm just throwing that out as
10 something that maybe this Committee could look
11 at see and to see if we can take some steps to
12 increase the cost and increase the fines to
13 make sure there's going to be a strict
14 enforcement to get these people to condone
15 better behavior than what they've been showing
16 in the past.

17 MR. HEALEY: I believe the fine
18 structure escalates within a certain period of
19 time if you have numerous violations. The
20 first violation, I believe, is 25. If you
21 have a second one within a certain period of
22 time, I believe it goes up and up.

23 I just have to caveat everything
24 else. We've just gotten, as the Police
25 Department, into enforcing this noise

1 10/07/04 - LICENSES - BILL 040432

2 ordinance. I mean, we're still trying to work
3 the bugs out between ourselves. So it's not
4 like we've been doing this for 10 years.

5 COUNCILMAN KELLY: I'm not blaming
6 the Police Department. I think the Police
7 Department can do the job, but I'm thinking of
8 the backing, this system that's going to back
9 them up, the system that's going to get these
10 people to really watch what they're doing and
11 to change their pattern of behavior. And I
12 don't see that here, I really don't. I don't
13 know if there's anyone here from the court
14 system or what, but I don't see anything being
15 done to really prevent this.

16 MR. HEALEY: I honestly believe once
17 the citations start to come out, it will have
18 an impact.

19 COUNCILWOMAN KRAJEWSKI: It really
20 should be publicized more about this noise
21 ordinance.

22 MR. HEALEY: Well, quite frankly,
23 we're still working the bugs out how to get
24 this thing off the ground and running. This
25 is relatively new to us. We weren't in the

1 10/07/04 - LICENSES - BILL 040432

2 business of noise meters or anything like
3 that. Yes, we're not off the ground a hundred
4 percent running.

5 COUNCILWOMAN KRAJEWSKI: Okay, I
6 think we're beating a dead horse here.

7 COUNCILMAN MARIANO: Thank you,
8 Councilwoman.

9 COUNCILWOMAN KRAJEWSKI: Thank you
10 very much.

11 THE CHAIRMAN: No other questions
12 for this witness, let's go to the Health
13 Department.

14 Say your name for the record.

15 MR. FAY: Good afternoon,
16 Councilpersons DiCicco and Krajewski and
17 Members of the Committee Licenses and
18 Inspections. I am Roger Fay, Engineering
19 Supervisor, Air Management Services,
20 Philadelphia Department of Public Health.
21 Thank you for the opportunity to present
22 testimony on a proposed ordinance amending
23 Chapter 10-400 of the Philadelphia entitled
24 "Noise and Excessive Vibration" by amending
25 Section 10-404 entitled "Prohibited Conduct."

1 10/07/04 - LICENSES - BILL 040432

2 In accordance, Chapter 10-400
3 Section 10-405 and 10-406, the Department of
4 Public Health has a responsibility for the
5 administration and enforcement of this chapter
6 and the regulations promulgated under it.
7 While the Departments of Health, Licenses and
8 Inspections and the Police Department share
9 the authority to issue tickets for violations
10 in residential districts.

11 The intent of Chapter 10-400 was
12 created to regulate various types of noise
13 sources, the individuals or industries that
14 generate them and address the corresponding
15 effects these noises have on the community.

16 The proposed amendments to Chapter
17 10-404, Paragraph 5 of the Code is a major
18 change from the industry specific regulatory
19 approach of the noise and excessive vibration
20 regulations to a blanket application of noise
21 generation to a 3 decibel limit above
22 background level beyond the property boundary
23 of such premises or automobile at a distance
24 100 feet from the property boundary of such
25 premises in both residential and commercial

1 10/07/04 - LICENSES - BILL 040432

2 districts. More significantly, the proposed
3 amendment changes the location at which sounds
4 are measured for compliance from the point of
5 complaint origin to beyond the property
6 boundary of a premises, with the exception of
7 amplified sound.

8 Implementation of the proposed
9 changes would have an immediate and radical
10 effect on the compliance status of numerous
11 commercial businesses that are currently in
12 compliance. Many commercial businesses, for
13 example, that have air conditioning or
14 refrigeration equipment will be significantly
15 impacted by this change to the Code even
16 though there may be little or no current
17 impact on residential communities.

18 To be more specific, the current
19 regulations has a limit of 15 decibels above
20 background level at the point of complaint
21 origin. But with this amendment, the limit
22 will be reduced to 3 decibels above background
23 and will be determined at the business'
24 property line. Please be advised that even
25 though it may appear to be only 12 decibel

1 10/07/04 - LICENSES - BILL 040432

2 reduction, every 3 decibel change is a
3 doubling of sound energy. As a result, a 12
4 decibel reduction is an 800 percent reduction
5 of the limit.

6 Another technical concern of the
7 proposed amendment is the use of the term
8 "background level" in Paragraph 5 of Chapter
9 10-404. That is part of the stated 3 DBA
10 limit beyond the property boundary of a
11 premises. The term "background level" is not
12 defined in Chapter 10-402 nor is it explained
13 how this level is to be measured in any part
14 of the Code.

15 Another area of significant impact
16 of the proposed amendments to the Code is that
17 they do not provide for nor address specific
18 noise exemptions that are listed in Section 4
19 of the noise and excessive vibration
20 regulations. The exemptions in this section
21 of the regulations include the unamplified
22 human voice, aircraft and airport operations
23 and railway locomotives and cars. These
24 exemptions may have a significant impact on
25 the compliance status of SEPTA and Amtrak

1 10/07/04 - LICENSES - BILL 040432

2 rights-of-way, the City's airports, and the
3 cheering heard at the property line of the
4 Palaestra or Lincoln Financial Field.

5 These amendments also do not provide
6 exemptions for construction projects of
7 critical importance for the City of
8 Philadelphia that require work beyond the
9 current hours listed. The construction of the
10 proposed high-rise One Pennsylvania Plaza
11 requires a 24-hour operation due to the
12 inherent design of the concrete core. And
13 emergency utility repair construction projects
14 also take place on a 24-hour basis. Should
15 PECO have to restore power or the water
16 department repair a main, under the proposed
17 amendment, the utilities could only perform
18 the related construction work during the
19 stated hours of 7 a.m. to 8:00 p.m.

20 From an implementation perspective,
21 one of the more significant effects of the
22 proposed amendment would be the need for
23 additional resources due to a more stringent
24 across-the-board compliance level of 3DB above
25 background level.

1 10/07/04 - LICENSES - BILL 040432

2 In summary, while the intent of
3 these proposed changes to the Code are
4 commendable, the Department of Public Health
5 respectfully recommend a more in depth
6 analysis and technical study on how the
7 desired outcomes can be achieved without
8 potentially place many non-disturbing
9 residences and businesses in an (all time) CK
10 status. An industry-specific regulation has
11 the advantage of addressing community and
12 business concerns in a more efficient manner
13 compared to across the board 3 DB above
14 background at the property line limit.

15 This concludes testimony for the
16 Department of Public Health. Thank you for
17 the opportunity to present testimony today. I
18 will now answer questions.

19 COUNCILMAN MARIANO: Do we have any
20 questions from the Committee for this witness.

21 Councilman DiCicco.

22 COUNCILMAN DICICCO: Thank you for
23 your testimony. You are obviously suggesting
24 that we hold this bill until further
25 discussion or recommendations come forward; is

1 10/07/04 - LICENSES - BILL 040432

2 that correct?

3 MR. FAY: That's correct.

4 COUNCILMAN DICICCO: Do you have
5 anything as of today to recommend to this
6 Committee? Or is this something you just need
7 a lot more -- how much more time do you think
8 you would need?

9 You talk about industry standards.
10 Can you explain what industry standards means?

11 I mean, are you talking strictly
12 about how we can remove or not penalize
13 certain types of activities which you
14 mentioned in your testimony, construction
15 work, and things of that nature and not fall
16 within that 3 decibels? I can understand that
17 from a technical standard. I just don't think
18 from practical standpoint that anybody's going
19 to write a citation up to a company or an
20 individual who's operating a crane on a
21 construction site. I just don't see that
22 happening. And I think we're tending to get a
23 little bit too technical about this. I'm
24 willing to at least hear what your
25 recommendations are, because we have to do

1 10/07/04 - LICENSES - BILL 040432
2 something about this noise. And I think you
3 know, as you said, you understand what the
4 intent was. But I don't want to just study
5 this thing to death either. There has to be
6 some conclusion to what we find. And
7 reasonable people would understand that when
8 you're jackhammering up the street because you
9 have a water main break that no one's going to
10 write a citation to the Philadelphia Water
11 Department or to a plumber because they were
12 jackhammering a hole in the street. I just
13 don't see that happening. And if it did. It
14 just wouldn't -- no pun intended -- hold any
15 water in a court. So I need something a
16 little more specific from you. And I'm only a
17 co-sponsor. Councilwoman Krajewski sponsored
18 the bill. I'd be willing to wait a couple
19 weeks for any recommendation. I need my
20 colleague to agree to that.

21 Councilwoman, they're asking for a
22 little bit because they think that some of the
23 language in here is too broad that it would
24 even create a situation where construction
25 work would actually fall within the 3 decibel,

1 10/07/04 - LICENSES - BILL 040432

2 25 feet or whatever threshold we have in this
3 bill. I don't think anybody's ever going to
4 write a citation, but I think I understand
5 where they're coming from and maybe we can
6 work this out and clean it up in a way that we
7 can exempt certain types of operations.

8 COUNCILWOMAN KRAJEWSKI: I'll be
9 glad to work with you, Councilman, together on
10 this. Absolutely.

11 COUNCILMAN DICICCO: Thank you.

12 COUNCILMAN MARIANO: Sounds like a
13 plan. We'll move on to the next bill. These
14 witnesses are dismissed.

15 You don't have anything else, do
16 you?

17 MR. FAY: I just wanted to comment
18 on the animals.

19 COUNCILMAN MARIANO: Go ahead.

20 MR. FAY: There is a limit Section 3
21 of the regulation --

22 COUNCILMAN MARIANO: Did I tell you
23 about the one next door to me that kept me
24 awake last night? It's a little dog.

25 MR. FAY: If it barks longer than 15

1 10/07/04 - LICENSES - BILL 040432

2 minutes in any one hour, that's a violation

3 COUNCILMAN MARIANO: Can I call you
4 at home at night? Can you give me your cell
5 phone?

6 MR. FAY: If I'm on standby that
7 night, you're more than welcome to call the
8 dispatcher.

9 COUNCILMAN MARIANO: He only wants
10 one thing, he wants to come back in the house.
11 I know what he wants. They put him out and he
12 barks until they bring him back in. But with
13 the nice weather, the window's open.

14 MR. FAY: There is a section of the
15 Health Department that does handle barking
16 dogs, the Animal Control Unit. They handle
17 those complaints and there is a regulation
18 governing those.

19 COUNCILMAN MARIANO: And they come
20 out that exact hour we call, right? Even if
21 you're not Councilman, they'll come right out
22 with their meter and talk to the dog?

23 MR. FAY: Well, you'll have to talk
24 to the Animal Control Unit for that.

25 COUNCILMAN MARIANO: Try getting

1 10/07/04 - LICENSES - BILL 040432

2 them out. You can't get them at night. And I
3 love the animal control people. They try. My
4 son got his dog there, but you can't get
5 anybody after 5 o'clock at night if you don't
6 know who to call, just City Hall operator. I
7 usually say I'm Councilman Rizzo and then they
8 get on it.

9 COUNCILMAN RIZZO: Mr. Chairman, can
10 I follow-up seriously on that.

11 Most of these -- correct me if I'm
12 wrong. Most of these dog barking issues
13 aren't just one night, they're repetitive,
14 they're like every night of the week? And I
15 think that when you report it, you might
16 report it on a Monday and if they get there
17 Friday they'll find that same little dog
18 barking away. But if I lived next door to
19 Mariano, I would bark too.

20 (Laughter.)

21 COUNCILMAN MARIANO: If you lived
22 next door to Rick Mariano, the prices of the
23 houses would go up higher than they ever --

24 Thank you.

25 Anything else?

1 10/07/04 - LICENSES - BILL 040432

2 MR. FAY: One additional thing
3 Chairman Mayor. With regard to the way Code
4 is currently written in residential areas, the
5 police officers don't need an actual sound
6 meter if you take the other portion of
7 Paragraph 5 which is "Audible at a distance
8 that's greater than a hundred feet." That's
9 something we could consider as well for
10 enforcement.

11 COUNCILMAN MARIANO: Thank you.

12 MR. HEALEY: I have one question.

13 If the Police Department responds to
14 the barking dog, obviously at 3:00 in the
15 morning, we make the report --

16 COUNCILMAN MARIANO: Not in my
17 neighborhood you're not coming 3:00 in the
18 morning.

19 MR. HEALEY: If the dog is barking
20 eight hours, we'll get there eventually.

21 COUNCILWOMAN KRAJEWSKI: Well, in
22 the case that I mentioned to you earlier, the
23 person goes out to work in the morning, say,
24 around 7:30.

25 MR. HEALEY: My question is to the

1 10/07/04 - LICENSES - BILL 040432

2 Health Department. If we did our 48 and
3 indicate the dog did bark for an excess of 15
4 minutes in an hour, would you be able to issue
5 a citation based on our report.

6 MR. FAY: I believe so. But that's,
7 again, handled by the Animal Control Unit, and
8 they would be the people to contact.

9 COUNCILMAN MARIANO: Councilman
10 Kenney has a question.

11 COUNCILMAN KENNEY: Fran, just think
12 how effective it would be if the dog is
13 barking 3:00 in the morning and the owner came
14 down that next morning and there was a ticket
15 in the mailbox as opposed to your report to
16 that agency. Or if the person leaves and goes
17 to work and the dog barks all day, when they
18 came home at night and they open their front
19 door and there's a ticket sitting in the
20 hallway, don't you think they'll say, "Wait a
21 minute, I've got to do something about this
22 dog, I've got to get rid of this dog, I've got
23 to do something with it"?

24 You think that that person's going
25 to take the time to take that ticket and say,

1 10/07/04 - LICENSES - BILL 040432

2 "I'm going to litigate this because they
3 didn't point that gun at my house and check
4 the decibel level." No. They're going to
5 say, "I don't want to get a ticket." People
6 don't like getting tickets. They hate getting
7 tickets. It drives them crazy. Either
8 they'll pay it to get it off their books or
9 they will do something to change it. And I
10 think that's more effective than --

11 MR. HEALEY: Councilman, you're
12 preaching to the choir. I'd love that. Our
13 officers don't issue Code violation notices.

14 COUNCILMAN KENNEY: What is the
15 ticket they issue for the decibel violation on
16 the gun, the trained guy or woman who uses the
17 gun?

18 MR. HEALEY: That would be a Code
19 violation notice.

20 COUNCILMAN KENNEY: And they issue
21 that?

22 MR. HEALEY: Yes, they're trained.
23 The average officer doesn't issue Code
24 violation notices. We issue traffic
25 citations --

1 10/07/04 - LICENSES - BILL 040432

2 COUNCILMAN KENNEY: What does that
3 guy with the decibel gun issue?

4 MR. HEALEY: That would be a Code
5 violation and they're trained to do that.

6 COUNCILMAN KENNEY: What will you be
7 trained on, to fill out a different form?
8 They fill out a 48 or they fill out ticket or
9 they fill out --

10 MR. HEALEY: The violation here is a
11 regulation, if I'm not correct. Our police
12 officers don't know what regulation it is.

13 COUNCILMAN KENNEY: Well, they're
14 not dumb. We can tell them.

15 MR. HEALEY: They're not dumb, but
16 it's also not in the Code. I have to find the
17 Health Department's regulations.

18 COUNCILMAN KENNEY: My point is,
19 what is the difference between filling out 48,
20 filling out a traffic ticket, or filling out a
21 Code enforcement? It's different boxes.

22 MR. HEALEY: I'm with you. I also
23 have to go through my bureaucratic hurdles
24 which I don't have the authority to tell you I
25 can do right now.

1 10/07/04 - LICENSES - BILL 040432

2 COUNCILMAN KENNEY: But in the
3 meantime, what happens is they go back to the
4 same house time after time after time,
5 responding to the same complaints. The
6 neighbors aren't getting any satisfaction.
7 The tension rises because the guy can't sleep
8 because the dog's barking all day.

9 And I just think issuing that fine,
10 that citation, is going to have a direct
11 effect on that person's attitude and behavior.
12 And if not, those fines will just build up to
13 a point where they have negative effect on
14 their credit rating, a negative effect when
15 they want to get a credit card or buy a car.

16 MR. HEALEY: Councilman, I'm doing
17 the best I can.

18 COUNCILMAN KENNEY: I apologize. I
19 don't mean to be exasperated with ou, but it's
20 tough because these things are common sense
21 issues that we can address in a common sense
22 way without all this stuff.

23 COUNCILWOMAN KRAJEWSKI: When you
24 have a fireman or policeman or anyone that
25 works all night and they come home they have

1 10/07/04 - LICENSES - BILL 040432

2 to go to bed and they have this dog right
3 across from the driveway that's constantly
4 barking and barking because the owner left for
5 work -- I mean, it's right in back of me, in
6 fact. I mean, people are constantly
7 complaining about it.

8 MR. HEALEY: Councilwoman, I worked
9 nine years on the last out --

10 COUNCILWOMAN KRAJEWSKI: As
11 Councilman Kenney has stated, give them a
12 incident report or whatever. It makes sense.

13 But anyway, I don't want to beat a
14 dead horse.

15 COUNCILMAN MARIANO: The horse is
16 out the barn, Councilwoman.

17 COUNCILMAN RIZZO: They just
18 authorized the School District police to write
19 parking tickets. I think do something similar
20 to that.

21 COUNCILMAN MARIANO: Councilman, I
22 think Officer Healey hears us. He has to go
23 back and talk to his boss. And hopefully
24 before we do this again, we have an answer.

25 That will be it for the bill. We're

1 10/07/04 - LICENSES - BILL 040698

2 going to move to the next bill. These
3 witnesses are dismissed.

4 MR. HEALEY: Thank you, sir.

5 COUNCILMAN MARIANO: John, will read
6 the title of the next bill, 040698.

7 THE CLERK: Bill 040698, amending
8 Section 9-605 of the Philadelphia Code
9 entitled "Towing" by providing that no license
10 to engage in the business of towing vehicles
11 shall be issued to a towing company whose
12 business is located in any political
13 subdivision or state that will not as a matter
14 of practice or policy enter into contracts or
15 towing services with any Philadelphia-based
16 towing company, all under certain terms and
17 conditions.

18 COUNCILMAN MARIANO: Thank you.

19 The first panel will be William
20 Gamble, Procurement Department and Otis
21 Haigler from L&I if they're present.

22 COMMISSIONER GAMBLE: Thank you, Mr.
23 Chairman. My name is William Gamble,
24 Procurement Commissioner. At this time, sir,
25 I do not have written testimony. I'm here to

1 10/07/04 - LICENSES - BILL 040698

2 support L&I because they're the ones who are
3 actually responsible for this ordinance.

4 COUNCILMAN MARIANO: Okay. So we'll
5 let Otis do all the talking.

6 Mr. Haigler.

7 MR. HAIGLER: Good day, Councilman
8 Mariano and Members of the Committee. I am
9 Otis Haigler, Jr., Director of Legislative
10 Affairs for the Department of Licenses and
11 Inspections. I had submitted testimony to the
12 be given today on the record and I have
13 written testimony prepared. But I was given
14 information this morning from the Law
15 Department, and I believe I've distributed
16 copies to you, that raise certain legal
17 issues.

18 COUNCILMAN MARIANO: Those pesky
19 lawyers got involved and they're going to
20 knock down the good Councilman's bill, right,
21 is that what you're saying?

22 MR. HAIGLER: That's correct, sir.
23 I really would need the advice of their
24 counsel to really proceed further with this
25 testimony. Just suffice it to say that the

1 10/07/04 - LICENSES - BILL 040698

2 Department offers no opinion on the practice
3 of the contracts themselves and we offer no
4 opinion on subdivisions giving contracts to
5 towers. The only thing we would do is we
6 would enforce the requirements of the law if
7 the Council were to pass it.

8 COUNCILMAN MARIANO: You won't
9 enforce anything we pass if the Law Department
10 doesn't deem is illegal, right?

11 MR. HAIGLER: And the Mayor would
12 sign it into law, if it's not considered
13 otherwise.

14 COUNCILMAN MARIANO: I think I get
15 it.

16 Councilman Kenney, you have a
17 statement?

18 COUNCILMAN KENNEY: Yes. I just
19 want to give you a little background for the
20 Committee and for the record.

21 Back in 1995 as a result of
22 complaints relative to wreck chasing and some
23 of the other problems that were going on that
24 were very, very well publicized, we came up
25 with a licensing ordinance that the tow

1 10/07/04 - LICENSES - BILL 040698
2 industry in Philadelphia agreed to, providing
3 for certain levels of equipment, certain
4 sizes, annual inspections, certain safety
5 equipment. There was a whole litany of things
6 that we worked out with the towing industry
7 that I think in the end has made the towing
8 industry in Philadelphia better than it was
9 back before9.

10 One of the provisions in of that
11 bill said that if outside towing companies
12 from outside the City wanted to do business in
13 the city, they certainly were welcome and we
14 would license those trucks as long as they met
15 those standards. But as is commonplace in the
16 suburbs, many suburban townships and
17 municipalities preclude, refuse to allow
18 Philadelphia tow trucks to operate in their
19 jurisdictions. They originally would not
20 license them and they would actually chase
21 them out of the community or out of the area
22 if in fact they were not a local tower. So we
23 passed a provision saying that if we had this
24 similar -- if the township or municipality had
25 this trade restriction, so to speak, on our

1 10/07/04 - LICENSES - BILL 040698

2 people that they could not get a license here
3 in Philadelphia, and that was put into effect.

4 Some of townships and municipalities
5 got around that by saying that they would in
6 fact license our tow trucks in their area but
7 they wouldn't contract with them. So if there
8 was a contract in the municipality or
9 township, its contract required that the
10 contractor be a local towing company, which in
11 effect still precluded our people from getting
12 any contracts in the suburbs. That's why
13 we're back here with this.

14 Plymouth Township and Conshohocken
15 are two areas for example that will license a
16 tow truck from Philadelphia but will not allow
17 a contract to be entered into with a towing
18 company from Philadelphia. And similar what
19 we have a situation here in Philadelphia where
20 we have a tow company that just entered into,
21 as you know, Commissioner, a one-year contract
22 with three one-year options who comes from --
23 that company comes from an area that prohibits
24 our people from doing business in that
25 township, but we gave them a contract anyway.

1 10/07/04 - LICENSES - BILL 040698

2 So what we want to do is try to close that
3 loophole on the contracting side so that
4 people -- we're looking for fair trade. We
5 don't want to be exclusionists. We don't want
6 to be people who don't want to deal with the
7 suburbs. But it's hard enough to stay in
8 business in Philadelphia as it is with the tax
9 structure and all the other fees and issues
10 you have to deal with. It's hard enough to
11 stay in business Philadelphia with the
12 insurance rates the way they are. There's no
13 reason in the world we should be giving
14 contracts to suburban companies that keep our
15 people or prohibit our people from doing
16 business in their township. And that's what
17 this is all about.

18 As a result of that, there's a
19 couple questions I'd like to ask the
20 Procurement Department as a result of the
21 letting of this contract to JaneWay to do City
22 towing.

23 Last year in 2003, the voters of the
24 City of Philadelphia approved a Charter change
25 amendment which would give preference to

1 10/07/04 - LICENSES - BILL 040698

2 Philadelphia firms in contracting. Was that
3 preference considered when it came to this
4 particular contract?

5 COMMISSIONER GAMBLE: Councilman
6 Kenney, that preference really didn't go into
7 effect -- we didn't start enforcing it until
8 July 1st of this year.

9 COUNCILMAN KENNEY: But we passed
10 it.

11 COMMISSIONER GAMBLE: It was passed
12 but we didn't put it into effect until July
13 1st.

14 COUNCILMAN KENNEY: Is there a
15 reason for that? What was the contract with
16 JaneWay given?

17 COMMISSIONER GAMBLE: For point of
18 classification, that contract is not for four
19 years; it's a one-year contract with no
20 options to renew.

21 COUNCILMAN KENNEY: There's no
22 option?

23 COMMISSIONER GAMBLE: No.

24 COUNCILMAN KENNEY: Well, that's
25 good. I'm glad to hear that because it was

1 10/07/04 - LICENSES - BILL 040698

2 our understanding, as is many contracts with
3 City government, it's a way to get around us.

4 COMMISSIONER GAMBLE: It's one-year
5 contract, Councilman.

6 COUNCILMAN KENNEY: Well, that's
7 good to know.

8 COMMISSIONER GAMBLE: But in order
9 for us to put the LBE Program into effect, it
10 took us some time getting the Law Department
11 to give us some guidance, so as of July 1, the
12 LBE Program is in effect. But this contract
13 at the time it was out was not a part of the
14 LBE Program.

15 COUNCILMAN KENNEY: And why did not
16 the City Government or the Procurement
17 Department follow the spirit of the 1995
18 legislation to determined whether or not this
19 company and where it's located prohibits our
20 people from doing business there?

21 COMMISSIONER GAMBLE: Well,
22 Councilman, first of all, we don't issue the
23 license, Procurement doesn't. So we have no
24 way of knowing if a company or a jurisdiction
25 is not allowing our bidders to bid or not. So

1 10/07/04 - LICENSES - BILL 040698

2 we have no way of knowing that unless L&I
3 tells us so.

4 COUNCILMAN KENNEY: Did you ask
5 them?

6 COMMISSIONER GAMBLE: Well, they
7 have a license. I was not aware that there
8 was a loophole until recently that cities were
9 not allowing us to get the bid even though we
10 may be the low bidder but preventing us from
11 doing it because we were the City of
12 Philadelphia.

13 COUNCILMAN KENNEY: I'm happy it's a
14 one-year contract with no extensions. That
15 will be helpful on the next go-around.

16 Again, I want the record to be clear
17 that we have nothing against JaneWay, we have
18 nothing against Plymouth Township, we have
19 nothing against Conshohocken. I would love
20 for our people to be able to do legitimate
21 business in those areas, but until and unless
22 they allow us in reality to do it, we need to
23 plug this hole to put some pressure on them
24 out there to lighten up and allow us free
25 trade.

1 10/07/04 - LICENSES - BILL 040698

2 Thank you.

3 COUNCILMAN MARIANO: Anybody else
4 have any questions for this panel?

5 COUNCILMAN KENNEY: I'm a little
6 unclear on the position of L&I. In concept
7 you agree with it, but you're waiting for the
8 Law Department to say it's okay?

9 MR. HAIGLER: Well, Councilman, we
10 have no opinion on the contract issue at all.

11 COUNCILMAN KENNEY: As far as the
12 language of the bill, in concept --

13 MR. HAIGLER: If concept if Council
14 were to pass the bill and the Mayor were to
15 sign it into law, we would enforce the
16 provisions. But we had certain requirements
17 that we were going to ask for. In particular,
18 we were going to put the burden on the towing
19 company to provide documentation to the
20 department. We don't have the resources to go
21 out and investigate and find out whether or
22 not another political subdivision has a policy
23 or restriction on towing contracts. So in
24 that respect, we would have required that if
25 there was a complaint being lodged that the

1 10/07/04 - LICENSES - BILL 040698
2 contractor would have to provide us with
3 evidence and proof as to what the complaint
4 was and what the issue was, and we would take
5 that under consideration before we would act
6 on a particular license.

7 COUNCILMAN KENNEY: That's generally
8 how we enforce anyway. We enforce probably
9 more on complaint than we do on proactive, and
10 I understand the limitations of the
11 Department.

12 MR. HAIGLER: But we would take it
13 one step further. We would also require
14 documentation of that, because, again, we're
15 asked to deny a license or to revoke a license
16 and, like I side, we don't have the resources
17 to go out into other subdivision or
18 municipalities to check every ordinance that
19 some other subdivision may have.

20 COUNCILMAN KENNEY: We would not
21 expect you to do that. But as far as your
22 position unofficially, considering the Law
23 Department opposition -- the Law Department's
24 opposition, to me, is suspect. Basically
25 their position is federal law trumps this.

1 10/07/04 - LICENSES - BILL 040698

2 MR. HAIGLER: I'm not an attorney so
3 I can't really speak on that.

4 COUNCILMAN KENNEY: Neither am I. I
5 find the Law Department more times than I
6 would like to finding excuses for us not to do
7 something and then they do help us. We'll
8 work with them. Again, if we pass this and
9 the Mayor signs it, if someone wants to
10 challenge this under federal law, that's their
11 business to do, but it will be on their dime
12 and their time. I believe we should protect
13 our businesses here.

14 Commissioner, is there some way we
15 can get a commitment today that on the next
16 go-around on the contract the Philadelphia
17 preference will be taken into consideration?

18 COMMISSIONER GAMBLE: Well,
19 Councilman, all contracts now as July 1 has
20 the LBE 5 percent preference, on all of them.

21 COUNCILMAN KENNEY: So on this one
22 we'll do the same?

23 COMMISSIONER GAMBLE: Yes.

24 COUNCILMAN KENNEY: All right.

25 Thank you.

1 10/07/04 - LICENSES - BILL 040698

2 COUNCILMAN MARIANO: Anyone else
3 have any question for these witnesses?

4 (No response.)

5 COUNCILMAN MARIANO: Seeing none,
6 the next panel will be Jack Logan, Richard
7 Antanucci, Ed Alfano, and Joe Trent.

8 COUNCILMAN KENNEY: I think if you
9 listen to their testimony, and I know you
10 will, they will flush out some of the problems
11 that they've been dealing with in actually
12 staying in City. And as we know, it's
13 difficult as it is to stay in the City without
14 these other types of restrictions being put on
15 them.

16 COUNCILMAN MARIANO: Thank you,
17 Councilman.

18 State your name for the record

19 MR. ALFANO: Members of Council,
20 Council Chairman. My name is Ed Alfano and I
21 am the owner of Century Motors, a business
22 based in Philadelphia for 30 years. I am a
23 member and a spokesman for the Philadelphia
24 Authorized Towers and Salvors Association.
25 We're the association responsible for the

1 10/07/04 - LICENSES - BILL 040698
2 40,000 car initiated CK for the City of
3 Philadelphia. I help coordinate that effort
4 with the City of Philadelphia with the
5 Managing Director Joe Martz and the Police
6 Department. I also started the abandoned
7 vehicle program in 1984. I'm the first salver
8 for the City of Philadelphia, and I continue
9 to do the same job. In 1999, I was co-author
10 -- I helped to author the recover stolen
11 program for the City of Philadelphia, which in
12 the first year brought back a million dollars
13 in revenue to the City. In the year 2000,
14 with the President Judge Fred Perry from
15 traffic court, I was fortunate to run the
16 truck enforcement program, responsible for
17 moving over 2600 trucks.

18 In 1995 when Councilman Kenney
19 proposed Ordinance 9-605 and Council approved
20 it, I thought it would be a change in the way
21 some of the things and contracts were awarded
22 for our industry. But it's now 2004, going on
23 2005, and I'm sad to say nothing has changed.
24 The Procurement Department either knowingly or
25 unknowingly really has violated the spirit of

1 10/07/04 - LICENSES - BILL 040698

2 the law that was adopted, 9.605.

3 I adamantly support an amendment to
4 is that ordinance because this is the only way
5 that Philadelphia-based businesses will have a
6 fair and equal playing field. Reciprocity was
7 a part of the original ordinance drafted by
8 Councilman Kenney and approved by Council, but
9 it was never adhered to.

10 Thank you.

11 COUNCILMAN MARIANO: Thank you, Mr.
12 Alfano.

13 MR. DEVERGILLIS CK: Mr. Chairman,
14 my name is John DeVergillis CK. I represent
15 the Philadelphia Authorized Towers and
16 Salvers. And my clients have asked me to come
17 here and support this ordinance amending 9-605
18 of the Code.

19 Despite Councilman Kenney's best
20 efforts in 1995, Section 9-605 was apparently
21 not sufficient for the City. Certain
22 companies located outside of Philadelphia were
23 able to take advantage of 9-605 in its current
24 form. For example, Councilman Kenney has
25 reference a number of contracts, many of which

1 10/07/04 - LICENSES - BILL 040698

2 I have for the Committee in Plymouth Township
3 which allow companies to operate in Plymouth
4 Township only if they are based in that area.
5 Each of the contracts lets towing and requires
6 the practice and policy that requires a place
7 of business in that particular township.

8 The policy of 9-605 originally
9 should have been sufficient preclude these
10 companies in participating in Philadelphia.
11 But what we've apparently seen is that the
12 Committee must level the playing field for
13 Philadelphia companies. It's just talking
14 about fundamental fairness. There's a
15 perception among by clients and it appears
16 clear that it's not only Procurement but
17 apparently, as Councilman Kenney has
18 suggested, even the Law Department of the City
19 is just not being fair with Philadelphia
20 companies. And it strikes me that Procurement
21 and the Law Department should be supporting
22 the spirit of 9-605 and its amendment today.
23 We, of course, are supporting that particular
24 amendment as it is to help the Philadelphia
25 businesses to level the playing field with

1 10/07/04 - LICENSES - BILL 040698

2 their suburban counterparts.

3 Thank you.

4 COUNCILMAN MARIANO: Thank you.

5 MR. TRENT: Good afternoon. My name
6 is Joseph Trent. I'm the President of the
7 Southwest Auto Association. I represent 58
8 businesses in Philadelphia, with each business
9 employing four to five employees. I am in
10 strong support of the amendment to ordinance
11 9-605 because its's only fair to our members
12 have the same opportunity to bid work outside
13 our municipality when others can bid work in
14 Philadelphia because without reciprocity we
15 are at a total disadvantage. My members and
16 business have suffered a tremendous loss
17 because this original ordinance was never
18 enforced.

19 I thank all the members for the
20 opportunity to come forward and express our
21 concerns. Thank you.

22 COUNCILMAN MARIANO: Thank you.

23 MR. ANTANUCCI: My name is Richard
24 Antanucci. I'm here from Philadelphia Towing
25 and Transport.

1 10/07/04 - LICENSES - BILL 040698

2 I had been on certain contracts that
3 directly are related to this and I'm also here
4 to support the amendment to this bill to keep
5 the work within the City of Philadelphia. If
6 there are companies here that can handle the
7 work, I think they should get the work, given
8 a chance. There's been many things that, you
9 know, change of equipment last minute, made it
10 almost impossible to compete. So I'm here to
11 support the amendment of the bill.

12 COUNCILMAN MARIANO: Thank you.

13 Anyone else?

14 MR. LOGAN: Thank you, Councilman.

15 I'm Jack Logan, Jack Logan's Towing. I've
16 been a tow operator in Philadelphia since
17 1970. I'm here to give my support to this
18 bill because I feel the same way that these
19 do. The contracts should be awarded to people
20 sitting within the City. And basically, we're
21 part of your tax base and we want to keep the
22 money here.

23 Thank you very much.

24 COUNCILMAN MARIANO: I don't think
25 you'll get any argument out of this Committee.

1 10/07/04 - LICENSES - BILL 040698

2 Councilwoman Brown has a question.

3 COUNCILWOMAN BROWN: Good afternoon,
4 gentlemen. I was not here in 1995, but I
5 think this is another example where Councilman
6 Kenney has looked at a quality-of-life issue
7 and then chose to deal with the inequity in
8 it.

9 Enlighten me and tell me from your
10 perspective why you believe the ordinance has
11 not been adhered to? Simply due to lack of
12 enforcement with counties outside of
13 Philadelphia or what?

14 MR. DEVERGILLIS: Councilwoman, if I
15 may. I think that 9-605 in its present state
16 if it was enforced properly by Licenses and
17 Inspections and Procurement, particularly as
18 it relates to the spirit of that ordinance and
19 that portion of the Code, that it should have
20 been enforced. That if they took the
21 opportunity to enforce the spirit of that
22 particular ordinance that we wouldn't be here
23 today. Unfortunately, that's not the case.
24 Procurement has and, from what I hear today,
25 apparently the Law Department too are taking

1 10/07/04 - LICENSES - BILL 040698

2 the opportunities not to help Philadelphia
3 businesses, not to level the playing field for
4 the Philadelphia businesses. And that's
5 unfortunate.

6 I think that Councilman Kenney's
7 amendment to the bill clears up that one
8 slight loophole as to practice and procedures,
9 the contracts that I have that Plymouth
10 Township has issued for the last several years
11 all talk about --not about the ordinance but
12 about the practice. So it's not an ordinance
13 that precludes it but it's their practice.
14 And that's the unfortunate aspect of the
15 previous bill. They got around that out in
16 Plymouth Township.

17 But it's my thought that if
18 Procurement and law wanted to support the
19 spirit of 9-605 as it currently exists, that
20 we would not have a problem with suburban
21 companies coming here where there's no
22 reciprocity.

23 COUNCILWOMAN BROWN: So you're
24 confident that the new language will clearly
25 secure the loophole? Is that your sense,

1 10/07/04 - LICENSES - BILL 040698

2 gentlemen?

3 MR. DEVERGILLIS: It certainly is.

4 COUNCILWOMAN BROWN: And one final
5 question. The role of Procurement and/or L&I
6 in this is what, to issue the fines?

7 Help me out.

8 MR. ALFANO: Well, actually you
9 heard the Procurement Commissioner just
10 testify that he has no resources to
11 investigate. He just testified something
12 similar to that. You heard the same thing I
13 did. So who does? So if someone comes there
14 and applies for a contract and there's no
15 investigative measures, who determines whether
16 you're eligible or not? That's a big void.

17 COUNCILMAN MARIANO: The only thing
18 we got going is the No. 2 guy on the list is
19 one of you guys and you, for lack of better
20 words, bring that to our attention.

21 MR. ALFANO: Somebody else would
22 have to bring it to their attention. But,
23 Councilman Mariano, so many of these things
24 slip through the cracks. And here's a typical
25 example. The Procurement Commissioner just

1 10/07/04 - LICENSES - BILL 040698
2 testified that they have no investigative
3 means to find out whether these things exist.
4 Here we have contracts that went on since
5 2000, since the year 2000. It's 2004. When
6 are you going to find out?

7 COUNCILMAN MARIANO: Would you be
8 okay with what he said today, the Procurement
9 Commissioner?

10 MR. ALFANO: In reference to?

11 COUNCILMAN MARIANO: He basically
12 said that since they passed this new thing
13 where they check everything out on July 1st
14 they'll start doing this contract that we're
15 here about which is the one that --

16 MR. ALFANO: Well I heard him say --

17 COUNCILMAN MARIANO: They probably
18 won't get automatically renewed, if I
19 understood him right.

20 MR. ALFANO: Well, I heard him say
21 to Councilman Kenny that the contract was a
22 one-year contract. And the contract that I
23 looked at says it's a one-year with three
24 additional one-year renewals.

25 COUNCILMAN KENNEY: Mr. Chairman,

1 10/07/04 - LICENSES - BILL 040698

2 that they originally did one year and
3 three-year extensions but they decided they're
4 not going to use that option now.

5 Again, what I think this bill does
6 is that not only is it L&I's responsibility to
7 license but Procurement which does the bulk of
8 the contracting for City, if not all of it,
9 won't be able to contract unless they do some
10 investigation or ask the question.

11 Again, a lot of it, as we find,
12 comes from complaint. The complaint is made,
13 the investigation is done, they say, "Wait a
14 minute, we can't sign this contract." But
15 even as they knew the contract was being
16 signed with this suburban company, even if
17 they came to us this is the case and
18 investigate it, there's no prohibition on the
19 contracting with them. So this would now have
20 an additional hurdle for people to try to get
21 around.

22 Not to interrupt Councilman Kelly on
23 his questioning, just so we can get a general
24 flavor. Of all your companies and
25 associations that are located in Philadelphia,

1 10/07/04 - LICENSES - BILL 040698

2 can you give me a ballpark figure on the
3 number of employees?

4 MR. ALFANO: Well, just Joe's
5 association, he just said it was 58 companies
6 with approximately 5 employees each.
7 Philadelphia Towers and Salvors are I'd say 17
8 with a lot more employees. And the other
9 people that are in the industry that aren't
10 members of our association. I'd say they're
11 definitely in the hundreds, Councilman,
12 definitely in the hundreds

13 COUNCILMAN KENNEY: Thank you,
14 Councilman.

15 COUNCILMAN MARIANO: Councilwoman,
16 and then Councilman Kelly.

17 COUNCILWOMAN BROWN: My final
18 comment on that is there's a sentiment amongst
19 members of this legislative body, I being one
20 of them, that first priority and consideration
21 should always go to Philadelphia-based
22 companies, employees, period. To be told that
23 we can't find because we can't find, it's
24 totally unacceptable. It's unacceptable. So
25 my vote will reflect my position on this

1 10/07/04 - LICENSES - BILL 040698

2 issue.

3 COUNCILMAN MARIANO: Councilman

4 Kelly.

5 COUNCILMAN KELLY: Gentlemen, I

6 think you have a legitimate grievance. And I

7 admire Councilman Kenney for trying to level

8 the playing field here. And that's what this

9 is. I'm tired of seeing Philadelphia

10 businesses, and I think Councilwoman just

11 mentioned that, that we always seem to get the

12 short end of stick. I think this is something

13 we can do. I know that -- and I'm just hoping

14 that Procurement people or Director or

15 Commissioner doesn't wait until the Law

16 Department comes along to make a decision. I

17 think they have to act and they have to act as

18 soon as a grievance is reported and to try to

19 correct this. I just don't want to see this

20 thing drag on and on and on as is usual the

21 case sometimes with the Law Department. They

22 try to get too technical and they wait and

23 they look at federal guidelines, they look at

24 everything in the world to try to prevent us

25 from doing what we should be doing, and that

1 10/07/04 - LICENSES - BILL 040698

2 is giving the business people here a real
3 opportunity to actually have contracts outside
4 the City as well as within. And I think
5 that's prerogative. And again, I commend you
6 for coming in here and letting us know about
7 this. And again, I commend Councilman Kenney
8 for doing the right thing here.

9 Thank you.

10 COUNCILMAN KENNEY: Mr. Chairman,
11 just one. First of all I want to thank you
12 for giving me the latitude you've given me
13 today in this bill and the last bill actually.
14 And this may sound more like a Republican
15 statement, and I mean that with all due
16 respect to both my colleagues, but I am not
17 for trade restrictions. I want to make it
18 clear I am not for restricting trade in any
19 way when it comes to this. But if trade
20 restrictions are imposed on us, we need to
21 retaliate to keep it fair.

22 I would like our people in the City
23 of Philadelphia to be able to go anywhere, the
24 towing industry especially, anywhere in the
25 region to bid for work because I think that's

1 10/07/04 - LICENSES - BILL 040698

2 what capitalism is all about. But when people
3 start putting on arbitrary restrictions on us,
4 we need to do something to make it fair. And
5 I appreciate all your consideration and
6 questions.

7 COUNCILMAN MARIANO: Very good,
8 Councilman.

9 Anymore questions for these
10 witnesses?

11 COUNCILWOMAN BROWN: My comment is
12 to Councilman Jim Kenney's comment is that
13 your sentiments are shared by all of us. The
14 issue is not to restrict free trade; the issue
15 is equity and fairness in the process across
16 the board.

17 MR. DEVERGILLIS: And, hopefully,
18 that all the departments of the City would
19 support this bill once it's amended. That's
20 going to be an important element important.

21 COUNCILMAN MARIANO: That probably
22 would make too much sense. We can only ask
23 for a little bit at a time here.

24 Again, let me echo what Councilwoman
25 Brown said, you have a true champion here.

1 10/07/04 - LICENSES - BILL 040698

2 Since '95 he's been banging away for you.

3 It's good that he has the staying power to
4 stay with this because this is definitely an
5 issue.

6 This has nothing to do with towing,
7 but one of my first experiences as Councilman
8 was someone brought somebody to me that was
9 selling something to Fleet Management and this
10 guy was in my district and he needed to be
11 able to sell stuff to the City. And he sold
12 the same thing that somebody from Jersey sold.
13 Now, being new and naive, I thought, well, he
14 should be able to at least get a step up on
15 the list because he's a Philly -- not totally.
16 If somebody has a cheaper price, but he should
17 get something. And I found out through
18 numerous hours of phone calls that it just
19 doesn't work that way. It's been hard in the
20 two terms that I've been here to try to change
21 that around. This might be a step --
22 hopefully everybody's listen to this and
23 hopefully the press covers this where it gets
24 in the paper. I see one reporter over there.
25 If we destroying somebody, there'd be 10

1 10/07/04 - LICENSES - BILL 040698

2 reporters here, but because we're trying to
3 help you, we get -- he's a good a reporter, I
4 guess.

5 We thank you. And just keep up the
6 good work and stay with Councilman Kenney. He
7 seems to be truly in your corner. I know he
8 does that out of the goodness of his heart
9 because it's just something that we have to
10 survive, you guys have got to survive. These
11 people are eating your lunches, if I can use
12 that phrase, and it's not fair you don't get a
13 chance to at least bid on their contracts. It
14 doesn't seem right. Thank you.

15 MR. DEVERGILLIS: Thank you very
16 much.

17 COUNCILMAN MARIANO: Any more
18 witnesses?

19 That closes the public hearing.

20 - - - -

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COUNCIL OF THE CITY OF PHILADELPHIA
PUBLIC MEETING
COMMITTEE ON LICENSES AND INSPECTIONS

- - - -

Thursday, October 7, 2004

- - - -

Public meeting conducted by the
Committee on Licenses and Inspections, held in
Room 400, City Hall, Philadelphia,
Pennsylvania, on the above date, to consider
action on the following:

BILLS. 040432, 040698.

PRESENT:

COUNCILMAN RICHARD MARIANO, Chair
COUNCILMAN FRANK DICICCO
COUNCILMAN JAMES KENNEY
COUNCILWOMAN JOAN KRAJEWSKI
COUNCILMAN FRANK RIZZO
COUNCILMAN JACK KELLY
COUNCILWOMAN BLONDELL REYNOLDS BROWN
COUNCILMAN DARRELL CLARKE
COUNCILMAN JUAN RAMOS

1 10/7/04 - LICENSES - PUBLIC MEETING

2 COUNCILMAN MARIANO: We will now
3 enter into the public meeting.

4 Councilman DiCicco's bill we're
5 going to hold, so 040432 we're going to hold
6 that in Committee.

7 The Chair recognizes Councilman
8 Kenney for a motion on Bill 040698.

9 COUNCILMAN KENNEY: Thank you, Mr.
10 Chair. I move that Bill No 040698 be reported
11 out of this Committee favorably, and a request
12 will be made for a Rules suspension to allow
13 for first reading at our next Council Session.

14 (Duly seconded.)

15 COUNCILMAN MARIANO: There has been
16 a second.

17 All those in favor?

18 (Aye.)

19 COUNCILMAN MARIANO: All those
20 opposed?

21 (No response.)

22 COUNCILMAN MARIANO: Seeing none,
23 Bill 040698 will be reported out of Committee
24 with a favorable recommendation, and also
25 we're going to suspend the Rules so it can be

1 10/7/04 - LICENSES - PUBLIC MEETING

2 read at the next Council meeting.

3 This concludes the public meeting of
4 Licenses and Inspections. Thank you very
5 much.

6 (Council adjourned at 2:40 p.m.)

7 - - - -

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

I HEREBY CERTIFY that the foregoing
proceedings of the Council of the City of
Philadelphia of Thursday, October 7, 2004,
were reported fully and accurately by me, and
that this is a correct transcript of the same.

RE: COMMITTEE ON LICENSES AND INSPECTIONS

Lisa C. Bradley, RPR