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COUNCIL OF THE CITY OF PHILADELPHIA

3

COMMITTEE ON RULES

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Room 400, City Hall
Philadelphia, Pennsylvania
Thursday, June 8, 2006
9:15 a.m.

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PRESENT:

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COUNCIL PRESIDENT ANNA C. VERNA

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COUNCILMAN DARRELL L. CLARKE

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COUNCILMAN JAMES F. KENNEY

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COUNCILWOMAN DONNA REED MILLER

14

COUNCILMAN BRIAN J. O'NEILL

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COUNCILWOMAN BLONDELL REYNOLDS BROWN

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COUNCILMAN FRANK DiCICCO

17

COUNCILMAN W. WILSON GOODE, JR.

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BILL 060347 - An ordinance approving the
thirty-fifth amendment for the redevelopment
proposal of the Model Cities Urban Renewal
Area, being the area beginning at the
northwest corner of Front Street and Spring
Garden Street...

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V A R A L L O Incorporated

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Litigation Support Services

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Eleven Penn Center

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1835 Market Street, Suite 600

Philadelphia, Pennsylvania 19103

215.561.2220 215.567.2670

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COUNCIL PRESIDENT VERNA: Good morning, everyone. May I have your attention, please.

This is a public hearing on the Committee of Rules.

I would ask Mr. McPherson to please read the title of Bill No. 060347.

MR. MCPHERSON: An ordinance approving the thirty-fifth amendment for the redevelopment proposal of the Model Cities Urban Renewal Area, being the area beginning at the northwest corner of Front Street, Spring Garden Street, including the twenty-seventh amendment to the urban renewal plan and the twenty-fifth amendment to the relocation plan, which provides, inter alia, for the additional land acquisition of 14 properties for residential and related uses; the additional land acquisition of approximately 66 properties for institutional and related uses; the additional land acquisition of one property for commercial and related uses;

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2 the provision of certain relocation
3 services, as required by the law, and
4 declaring that condemnation is not
5 imminent with respect to the Project.

6 COUNCIL PRESIDENT VERNA: Thank
7 you very much.

8 Are you waiting to testify,
9 sir?

10 MR. EINHORN: Yes.

11 COUNCIL PRESIDENT VERNA:
12 Please approach the witness table,
13 identify yourself.

14 MR. EINHORN: Madam President
15 and members of the Rules Committee, Edgar
16 Einhorn. I'm an attorney and I'm
17 representing Dr. and Mrs. Daskal.
18 Dr. Daskal was here last week and
19 testified, but, unfortunately, because of
20 business at Einstein where he's the head
21 of pathology, he could not come.

22 Madam President, I sent you a
23 letter. I sent a copy of a letter to
24 Councilman DiCicco, with a copy to you,
25 and essentially at the end of the last

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2 meeting, it was my understanding that
3 there was going to be an attempt for the
4 Redevelopment Authority to come up with a
5 solution to this problem that was
6 acceptable to everybody involved.
7 Unfortunately, I've been advised that
8 their solution is exactly what it was
9 last week. They will give us a letter of
10 protection, period.

11 I've suggested that if they
12 give us a letter of protection, let them
13 also give a letter to Council that when
14 Council reconvenes in the fall, they will
15 have an ordinance introduced to remove
16 these 14 properties from this bill.

17 I don't understand why they
18 would object to that. If they say
19 they're not going to condemn the
20 property, why won't they agree to remove
21 them from this bill with a new bill when
22 Council convenes in the fall?

23 The alternative --

24 COUNCIL PRESIDENT VERNA: I'm
25 listening.

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2 MR. EINHORN: It seems to me
3 there's two other alternatives. One
4 alternative is, as Councilman Nutter said
5 last week, let's amend the bill. Now
6 there's a question whether the validity
7 of the amendment would be upheld or not.
8 My feeling is if you amended the bill and
9 Mr. Blatstein, who is going to be the
10 beneficiary of this condemnation, feels
11 that bill is invalid, let him go to court
12 and attack it. If he attacks it and
13 wins, the whole bill is out, not just --
14 it's not going to restore his provision.
15 The whole bill is out.

16 The third alternative, and this
17 is what we do not want to do, is
18 litigation. And if there's litigation,
19 Temple University is going to wait more
20 than three months to be able to get their
21 parcel.

22 As I stated to you in the
23 letter to Councilman DiCicco, the New
24 London case, the Kelo case, took four
25 years until the U.S. Supreme Court

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2 finally made a decision in it. I don't
3 want to hold up Councilman Clarke's
4 condemnation portion for Temple. I want
5 Temple to go ahead, but if the
6 Redevelopment Authority says they don't
7 want these properties, let them agree to
8 give us a letter that they will put an
9 ordinance in in the fall removing the
10 properties from this bill. What's the
11 harm?

12 COUNCIL PRESIDENT VERNA: Can
13 we have somebody from the Redevelopment
14 Authority up at the witness table,
15 please?

16 MR. KOONCE: Hi. I'm Michael
17 Koonce, Deputy Executive Director for
18 Real Estate Services at the Redevelopment
19 Authority.

20 COUNCIL PRESIDENT VERNA: And
21 may I ask that -- I believe the attorney
22 from the Redevelopment Authority is also
23 present.

24 MR. KOONCE: No. General
25 counsel is not present.

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2 COUNCIL PRESIDENT VERNA: All
3 right. You've heard the testimony of the
4 witness.

5 MR. KOONCE: Yes, I have.

6 COUNCIL PRESIDENT VERNA: Can
7 you comment on that, please?

8 MR. KOONCE: It's our position
9 that a letter to each of the potential
10 condemnees basically asserting that we
11 will not condemn -- and, in fact, our
12 Board actually met last Wednesday to --
13 or yesterday to reaffirm that the
14 Redevelopment Authority will not use this
15 bill to acquire any of those properties
16 for that development. We've sent out
17 certified letters to that effect.

18 COUNCIL PRESIDENT VERNA: Yes,
19 and we do have a copy of that and it is
20 being circulated now to all of the
21 members of the Committee.

22 Mr. Einhorn, do you have a copy
23 of it?

24 MR. EINHORN: No, I do not,
25 Madam Chairman.

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2 COUNCIL PRESIDENT VERNA: We'll
3 certainly be happy to give you a copy.

4 MR. EINHORN: I've just been
5 given a copy.

6 COUNCIL PRESIDENT VERNA: Okay.

7 MR. EINHORN: My position,
8 though, if they've given this letter, why
9 can't we get a letter that they will put
10 an ordinance in to remove these
11 properties? What is the harm of removing
12 the properties?

13 Our problem is, we were told
14 time sensitivity means this bill must go
15 through. The true people who are
16 affected by time sensitivity are these
17 developers. Every day interest rates are
18 going up. The economy is slowing.
19 Housing demand is slowing down, and
20 they're going to have to wait and hope
21 that they may be able to find some lender
22 who is willing to take a risk that these
23 properties won't be condemned.

24 Madam President, this is the
25 worst case of pay for politics,

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2 pay-for-play.

3 I heard Councilwoman Blackwell
4 yesterday when she talked about the
5 Housing Trust. All you had to do was
6 substitute this ordinance for what her
7 comments were.

8 Is City Council to be just a
9 rubber stamp to what the Redevelopment
10 Authority wants? They didn't even have
11 the courtesy to go into Councilman
12 DiCicco and say, We would like these 14
13 properties. Instead, they lumped it into
14 Councilman Clarke's bill without letting
15 anybody know. Let them remove them if
16 they're not going to condemn them.

17 COUNCIL PRESIDENT VERNA:

18 Mr. Koonce, can you explain I think again
19 why we cannot delete these properties
20 from the bill so that everybody clearly,
21 clearly understands the reason.

22 MR. KOONCE: According to our
23 legal opinion that was received from our
24 general counsel, we cannot delete the
25 properties from the bill. First of all,

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2 we can't amend the bill and still make it
3 through this spring or this summer. We'd
4 have to start all over again to run it
5 through, which would take us until next
6 year.

7 Secondly, to delete properties
8 from the bill, that's also not -- you
9 can't do that. We can't amend the bill.
10 It would have to go back to the
11 Redevelopment Authority Board for
12 approval and through City Planning
13 Commission getting their approval before
14 we could bring an amended bill back
15 before this Committee.

16 COUNCIL PRESIDENT VERNA: And
17 Mr. KOONCE, can you tell us how many
18 times in the past have properties been
19 authorized and never taken?

20 MR. KOONCE: I can't tell you
21 exactly, but I can tell you --

22 COUNCIL PRESIDENT VERNA: But
23 it happens frequently.

24 MR. KOONCE: It's happened
25 frequently in the last two or three

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2 years, yes.

3 COUNCIL PRESIDENT VERNA: And I
4 know it's happened in my district, and
5 financing, as I understand it, was never
6 a problem.

7 MR. KOONCE: Correct.

8 COUNCIL PRESIDENT VERNA:
9 Councilman DiCicco, I see you have your
10 light on. Did you want to be recognized?

11 COUNCILMAN DiCICCO: No, Madam
12 President, not at this time.

13 COUNCIL PRESIDENT VERNA: Okay.

14 MR. EINHORN: Do I understand
15 from the Redevelopment Authority they're
16 saying that they can't introduce a new
17 bill that would rescind this bill and
18 just cover the Temple properties in the
19 fall? I don't understand why it would
20 take eight months in the next year to do
21 that. They testified themselves that the
22 Redevelopment Authority in April approved
23 a condemnation of these properties. From
24 April until June, two months. Now how do
25 we jump from two months to next year?

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2 COUNCIL PRESIDENT VERNA:

3 Mr. Koonce.

4 MR. KOONCE: My intent wasn't
5 to say that it took eight months to get a
6 bill through Council. My intent was that
7 since Council is going on recess, we lose
8 the summer. We would --

9 MR. EINHORN: Three months.

10 MR. KOONCE: We would have to
11 begin over. And also, if I can continue
12 uninterrupted, my intent was that it
13 wouldn't just be getting the bill through
14 Council, but it would be getting the bill
15 signed and getting the ability to acquire
16 the properties. That is what would take
17 another eight months.

18 COUNCIL PRESIDENT VERNA: Very
19 well.

20 Mr. Schwartz, I see that you've
21 been on the edge of your seat ready to
22 testify.

23 MR. SCHWARTZ: Yes. May it
24 please the Committee, I'm here on behalf
25 of Jared Langman, who is the owner of 950

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2 North 2nd Street, one of the infamous 13
3 properties that's mentioned here today.

4 I did want to tell the
5 Committee that his property is not
6 blighted. In fact, he has his own
7 development plan that's been approved.
8 He has permits from Zoning to proceed
9 with this development, and, therefore, it
10 is definitely not blighted, as we all
11 understand that word.

12 Secondly, as I've sat here and
13 listened, I've heard of the obvious flaws
14 in this bill. I don't understand why it
15 cannot be amended right here in
16 Committee. The problem is not with
17 Council. The problem is evidently with
18 the Redevelopment Authority. If they had
19 a Board meeting yesterday, they could
20 also have considered amending the bill as
21 of yesterday at that Board meeting.

22 I ask at the very minimum that
23 this matter be put off for the final
24 week, the final session of Council, to
25 then be able to go forward, if necessary,

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2 and suspend the rules of Council to give
3 me a chance and to give my compatriot to
4 my right here, Edgar, a chance to see if
5 there's some way to amicably settle this
6 with I think the real party in interest
7 here, which is not Temple.

8 The bill is obviously flawed,
9 and no one wants to start a lawsuit. No
10 one wants to appeal this bill, because
11 everyone loses when that happens, as I'm
12 sure the Chairman understands. And this
13 thing has been pushed through so quickly.
14 I mean, it's only been weeks since my
15 client was notified that his property was
16 going to be taken. I mean, Councilman
17 DiCicco didn't even know until last week
18 that these properties in his district
19 were going to be taken.

20 So I ask that we have the time
21 to try and seek an amicable resolution of
22 this, because it's still doable next
23 Thursday.

24 MR. EINHORN: Madam President,
25 I think the real reason why the

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2 Redevelopment Authority is pushing this
3 bill is, plain and simple, they do not
4 want to come under the new act that goes
5 in effect in September, and that new act
6 specifically says, "Eminent domain for
7 private business, prohibited.

8 Prohibition: Except as set forth in
9 Section B, the exercise by any condemnor
10 of the power of eminent domain to take
11 private property in order to use it for
12 private commercial enterprise is
13 prohibited."

14 They don't want this bill to
15 come in effect because they did know they
16 can't condemn these properties for
17 Blatstein. Plain and simple, this is for
18 Bart Blatstein's benefit and nobody
19 else's, and if he isn't a commercial
20 developer, I don't know who is. And if
21 you want to look at blighted properties,
22 Committee, go down and look at some of
23 his properties. He has structural
24 steel --

25 (Applause.)

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2 MR. EINHORN: He has structural
3 steel that for two and a half years has
4 been sitting abandoned. And he has the
5 audacity to ask the Redevelopment
6 Authority to condemn Mr. Langman's
7 property that's going to have a \$4
8 million development on it and my client's
9 property, who has been a developer that's
10 invested \$5 million in Northern
11 Liberties. Pay-to-play, that's his
12 nickname.

13 MR. KOONCE: I'd like to
14 correct one statement that I believe is
15 in error, and that is the fact that we
16 will not be able to do this this fall.
17 We would in fact be able to do this this
18 fall. If you read the bill in its
19 entirety, it doesn't apply to
20 redevelopment areas that have already
21 been created. This one has been created
22 since 19 -- has been in effect since
23 1969.

24 COUNCIL PRESIDENT VERNA: Thank
25 you.

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2 The Chair recognizes
3 Councilwoman Brown.

4 COUNCILWOMAN BROWN: Thank you,
5 Madam President.

6 To the RDA representative,
7 knowing the urgency and complexity of
8 this particular issue, help us understand
9 why this was not put on RDA's agenda
10 Board meeting list when we had a Rules
11 Committee hearing, I think, less than a
12 week ago wherein we discussed in
13 full-blown detail the sensitivity, the
14 time issues.

15 MR. KOONCE: Let's play it out.
16 Let's say it had been put on -- let's say
17 that very afternoon if we had held a
18 Board meeting, it still would have had to
19 have gone to Planning Commission, which
20 meets once a month. After Planning
21 Commission approval, it then would have
22 had to have been advertised for three
23 consecutive weeks. Then ten days after
24 the last ad, it would have -- you would
25 have then been able to have had a

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2 hearing. That probably puts us in July
3 or August.

4 MR. EINHORN: Litigation is
5 going to put us four years until we get
6 it decided. July or August. Do you want
7 two months or do you want four years?
8 That's what it comes down to if there's
9 litigation. And we don't want to hold up
10 Temple. And in all honesty, Temple's
11 representative testified their time
12 sensitivity is, two months' delay is
13 going to hamper their recruiting
14 researchers for a building that's going
15 to take two and a half years to build.
16 Now, you tell me what person is going to
17 sign a contract with Temple to do
18 research for them in two and a half
19 years.

20 COUNCIL PRESIDENT VERNA: Thank
21 you.

22 The Chair -- I'm sorry.
23 Councilwoman, are you finished?

24 COUNCILWOMAN BROWN: Yes.

25 COUNCIL PRESIDENT VERNA: The

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2 Chair recognizes Councilman Goode.

3 COUNCILMAN GOODE: Thank you,
4 Madam President.

5 My question actually is for
6 Mr. Koonce from the Redevelopment
7 Authority, but he's walking away.

8 COUNCIL PRESIDENT VERNA: Oh,
9 okay.

10 Mr. Koonce?

11 Do you have a question of the
12 attorneys, Councilwoman?

13 COUNCILWOMAN MILLER: Well, I
14 just have a question. Where did
15 Mr. Koonce go?

16 I just wanted to go back to the
17 letter of protection just for clarity
18 purposes for myself. You said in your
19 district, Council President, that you
20 have used similar situations, a letter of
21 protection to help developers --

22 COUNCIL PRESIDENT VERNA: Very
23 definitely.

24 COUNCILWOMAN MILLER: Right.
25 And there has not been an adverse effect,

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2 correct?

3 COUNCIL PRESIDENT Verna: As
4 far as I am aware of, I've never had any
5 one of my constituents indicating that
6 they could not get funding as a result of
7 that.

8 COUNCILWOMAN MILLER: Thank
9 you, Madam President.

10 COUNCIL PRESIDENT Verna:
11 Councilman Goode.

12 COUNCILMAN GOODE: Thank you,
13 Madam President.

14 Mr. Koonce, can you explain
15 again to the Committee and to Council why
16 the bill can't be amended today?

17 MR. KOONCE: I assume the bill
18 could be amended. We don't believe that
19 it would --

20 COUNCIL PRESIDENT Verna: Would
21 be legal.

22 MR. KOONCE: -- would be legal
23 to amend an ordinance.

24 COUNCILMAN GOODE: Why would it
25 not be legal?

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2 MR. KOONCE: Because the
3 Redevelopment Authority's Board hasn't
4 approved it and also because City
5 Planning hasn't approved it.

6 COUNCILMAN GOODE: The
7 Redevelopment Authority's Board took
8 action yesterday and the City Planning
9 action I think is irrelevant, because
10 what's the purpose of City Planning
11 action?

12 MR. KOONCE: The urban renewal
13 law makes City Planning relevant.

14 COUNCILMAN GOODE: It's
15 relevant before an ordinance is
16 introduced. I'm not sure it's relevant
17 in terms of amending an ordinance.

18 MR. KOONCE: I'm not an
19 attorney.

20 COUNCILMAN GOODE: Well, you
21 should bring an attorney here then,
22 because I think you're wrong. I think
23 you're talking more about process and
24 your process than what's actually legal.
25 I think it's probably legal to amend this

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2 ordinance based upon the Redevelopment
3 Authority's Board action yesterday. The
4 purpose of City Planning's action in
5 crafting an ordinance is to make sure
6 that they are approving a redevelopment
7 plan and the plan is a sound
8 redevelopment plan and that the projects
9 can move forward in a way that makes
10 sense. That's the sole purpose of what
11 the City Planning Commission does, and to
12 certify blight for redevelopers.

13 So the parts of this project
14 that need to move forward have already
15 been certified by City Planning
16 Commission. The parts of the project
17 that remove properties by the
18 Redevelopment Authority basically were
19 acted upon by the Redevelopment Authority
20 Board yesterday. I think it's probably
21 perfectly legal to amend the bill today.
22 And it is very reasonable why your
23 general counsel shouldn't be here to say
24 why it isn't.

25 MR. EINHORN: RDA has

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2 stonewalled this thing all along. Why
3 isn't the Chairman of the Redevelopment
4 Authority here to answer the questions
5 why they did not submit to their Board
6 the request to file a bill in the fall to
7 remove this?

8 COUNCILMAN DiCICCO: Point of
9 order, Madam President.

10 COUNCIL PRESIDENT VERNA:
11 Excuse me, Mr. Einhorn.

12 COUNCILMAN DiCICCO: Point of
13 order, Madam President.

14 COUNCIL PRESIDENT VERNA: The
15 Chair recognizes Councilman DiCicco for a
16 point of order.

17 COUNCILMAN DiCICCO: Thank you,
18 Madam President. I believe Councilman
19 Clarke has an announcement to make that
20 will finally put this issue to rest.

21 Thank you.

22 COUNCIL PRESIDENT VERNA: I
23 would be very happy to recognize
24 Councilman Clarke.

25 COUNCILMAN CLARKE: Thank you,

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2 Madam President.

3 Madam President, we have had
4 side-bar conversations with Temple
5 University and the Redevelopment
6 Authority about the Homeownership Zone
7 issue, because there are three projects
8 that are in my Councilmanic District that
9 are part of this bill. One is Temple to
10 build a new institution. The other is a
11 Homeownership Zone. We are attempting to
12 authorize the condemnation of individuals
13 who have agreed and want to move so they
14 can move into the new houses that are
15 being built.

16 It was our understanding
17 earlier that the only way that they could
18 move, they must get the compensation that
19 comes as a result of the condemnation.
20 We're going to try to figure out a way to
21 hopefully compensate that individual in
22 another way in the interim so they can
23 move to the new houses.

24 The other project, which was
25 27th and Girard, at the earlier hearing

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2 we've already indicated to both the
3 developer and to this Committee that we
4 were not going to proceed with the final
5 condemnation. We are trying to arrange a
6 meeting to talk about the ultimate
7 resolution of that site.

8 So as a result of that, I will
9 agree to hold the bill and I would like
10 to ask Mr. Koonce if they can as soon as
11 possible get Board approval for a newly
12 configured bill that deletes properties
13 in Councilman DiCicco's district and get
14 Board approval as soon as possible so we
15 can move these other properties as soon
16 as possible.

17 MR. KOONCE: Agreed.

18 (Applause.)

19 COUNCILMAN DiCICCO: Thank you.

20 MR. EINHORN: Councilman
21 Clarke, on behalf of my client, let me
22 express my thanks to you for severing the
23 Gordian Knot.

24 COUNCILMAN CLARKE: You're
25 welcome.

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2 MR. SCHWARTZ: Ditto. Thank
3 you.

4 COUNCIL PRESIDENT Verna: Thank
5 you.

6 This will conclude our
7 public -- yes, sir.

8 MR. REISMAN: My name is Daniel
9 Reisman. I represent the owner of the
10 property at 27th and Girard. We
11 appreciate the fact that the bill is
12 going to be withheld. We are going to
13 request -- and we know that Councilman
14 Clarke has graciously agreed to meet with
15 us regarding the 27th and Girard
16 property. We would request that that
17 property also not be included in the
18 Board when the RDA considers that
19 resolution.

20 COUNCILMAN CLARKE: Thank you
21 for your request.

22 COUNCIL PRESIDENT Verna: Yes,
23 sir. Please identify yourself. Are you
24 together?

25 UNIDENTIFIED SPEAKER: I

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2 believe counsel said it all.

3 COUNCIL PRESIDENT VERNA: Very
4 well.

5 Do we have anyone else that
6 would like to make a very brief
7 statement?

8 (No response.)

9 COUNCIL PRESIDENT VERNA:
10 Seeing no one, this bill will be held
11 until it has been resolved and at the
12 call of the Chair.

13 Thank you all very much.

14 (Applause.)

15 (Committee on Rules adjourned
16 at 9:35 a.m.)

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CERTIFICATE

I HEREBY CERTIFY that the
proceedings, evidence and objections are
contained fully and accurately in the
stenographic notes taken by me upon the
foregoing matter on June 8, 2006, and that
this is a true and correct transcript of same.

MICHELE L. MURPHY
RPR-Notary Public

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