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COUNCIL OF THE CITY OF PHILADELPHIA

3

COMMITTEE ON RULES

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Room 400, City Hall
Philadelphia, Pennsylvania
Tuesday, February 23, 2010
10:10 a.m.

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PRESENT:

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COUNCIL PRESIDENT ANNA C. VERNA

COUNCILMAN FRANK DiCICCO

11

COUNCILMAN W. WILSON GOODE, JR.

COUNCILMAN WILLIAM GREENLEE

12

COUNCILMAN JACK KELLY

COUNCILMAN JAMES F. KENNEY

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COUNCILWOMAN DONNA REED MILLER

COUNCILWOMAN BLONDELL REYNOLDS BROWN

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BILL 100003 - An ordinance to amend the
Philadelphia Zoning Maps by changing the
zoning designations of certain areas of land
located within an area bounded by Marsden
Street, Friendship Street...

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BILL 100014 - An ordinance amending Section
14-1638, entitled "Central Delaware Riverfront
Overlay District"...

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20

BILL 100062 - An ordinance to amend the
Philadelphia Zoning Maps by changing the
zoning designations of certain areas of land
located within an area bounded by 59th Street,
Lancaster Avenue...

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COUNCIL PRESIDENT Verna: Good

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morning, everyone. This is the public

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hearing of the Committee on Rules. I

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would like the record to reflect that we

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do have a quorum. To my extreme left is

7

Councilman Goode. Next to him is

8

Councilman Greenlee. To my extreme right

9

is Councilwoman Miller, Councilman

10

DiCicco and Councilman Kenney.

11

I would ask Mr. McPherson to

12

please read the title of Bill No. 100003.

13

MR. McPHERSON: An ordinance to

14

amend the Philadelphia Zoning Maps by

15

changing the zoning designations of

16

certain areas of land located within an

17

area bounded by Marsden Street,

18

Friendship Street, Keystone Street and

19

Tyson Avenue.

20

(Witness approached witness

21

table.)

22

COUNCIL PRESIDENT Verna: Good

23

morning. Kindly identify yourself for

24

the record and proceed with your

25

testimony.

1 2/23/10 - RULES - BILL 100014, etc.

2 MR. KRAMER: Good morning,
3 Council President Verna and members of
4 the Rules Committee. I am William
5 Kramer, Division Director of the
6 Development Division of the Philadelphia
7 City Planning Commission. I am here to
8 testify on Bill No. 100003, which was
9 introduced by Councilmember Krajewski
10 January 28th, 2010.

11 Bill No. 100003 is a rezoning
12 bill for an area bounded by Marsden
13 Street, Friendship Street, Keystone
14 Street and Tyson Avenue. The purpose of
15 the bill is to rezone commercial
16 properties along Princeton Avenue from an
17 existing zoning designation of "C-1"
18 Commercial to a designation of "C-2"
19 Commercial in order to preserve and
20 promote Princeton Avenue as a commercial
21 corridor. The community has expressed
22 concern that the existing "C-1"
23 Commercial designation would allow for a
24 property to be converted to a residential
25 use as a matter of right which would be

1 2/23/10 - RULES - BILL 100014, etc.
2 detrimental to the well-being of the
3 Princeton Avenue commercial corridor.
4 This bill is consistent with the
5 provisions of Bills 080789 and 080790
6 concerning the same situation in the
7 Mayfair and Wissinoming neighborhoods.
8 Both prior bills were signed into law
9 December 23rd, 2008.

10 At its meeting of February
11 16th, 2010, the Philadelphia City
12 Planning Commission considered Bill No.
13 100003 and recommended that it be
14 approved.

15 That is the conclusion of my
16 testimony. I would be happy to answer
17 any questions of the Committee at this
18 time.

19 COUNCIL PRESIDENT VERNA: Are
20 there any questions from members of the
21 Committee?

22 (No response.)

23 COUNCIL PRESIDENT VERNA: Thank
24 you, Mr. Kramer.

25 Mr. McPherson, kindly read the

1 2/23/10 - RULES - BILL 100014, etc.

2 title of Bill No. 100014.

3 MR. McPHERSON: An ordinance
4 amending Section 14-1638, entitled
5 "Central Delaware Riverfront Overlay
6 District," by establishing no height
7 limit and by making technical changes,
8 all under certain terms and conditions.

9 COUNCIL PRESIDENT Verna:
10 Mr. Kramer.

11 MR. KRAMER: Good morning,
12 Council President Verna and members of
13 the Rules Committee. I am William
14 Kramer, Division Director of the
15 Development Division of the Philadelphia
16 City Planning Commission. I am here
17 today to testify on Bill No. 100014,
18 which was introduced by Councilmember
19 DiCicco January 28th, 2010.

20 Bill No. 100014 amends Section
21 14-1638 of the Philadelphia Zoning Code,
22 entitled "Central Delaware Riverfront
23 Overlay District." The primary purpose
24 of the bill is to extend the time allowed
25 for the City Planning Commission to adopt

1 2/23/10 - RULES - BILL 100014, etc.
2 regulations regarding the approval of
3 plans of development as required by this
4 section of the Code. At its meeting of
5 January 19th, 2010, the Planning
6 Commission did consider adopting such
7 regulations. However, owing to the
8 comments and concerns raised by many, the
9 item was tabled at that time in order to
10 allow an opportunity for any interested
11 parties to raise their concerns and
12 comments. Bill No. 100014 will extend
13 the time for the adoption of those
14 regulations by 60 days.

15 The provisions of the Central
16 Delaware Riverfront Overlay encompass an
17 area bounded by Allegheny Avenue, the
18 Delaware River, Oregon Avenue and
19 Interstate 95. The Old City Overlay
20 District boundaries overlap these
21 boundaries for an area bounded by Wood
22 Street, Spring Garden Street, Christopher
23 Columbus Boulevard and Interstate 95. In
24 this area, a height restriction of 65
25 feet would apply and Bill No. 100014

1 2/23/10 - RULES - BILL 100014, etc.
2 proposes to remove that height
3 restriction. The removal of this height
4 restriction serves to provide consistency
5 throughout the Central Delaware
6 Riverfront Overlay area. The height of
7 buildings in the Central Delaware
8 Riverfront Overlay would be restricted by
9 the provisions of the underlying zoning
10 designations for properties in this area.

11 Additionally, Bill No. 100014
12 makes a technical amendment to the
13 Central Delaware Overlay by removing some
14 redundant language in this section of the
15 Code.

16 As originally drafted, the bill
17 had the unintended consequence of
18 removing all height restrictions in the
19 Central Delaware area. This would have
20 included certain properties that were
21 zoned residentially, as well as those
22 with a zoning designation of "C-2"
23 Commercial. Since in the industrial
24 districts and the higher commercial
25 districts height is not specifically

1 2/23/10 - RULES - BILL 100014, etc.
2 restricted but rather controlled by other
3 means, such as limits on bulk or floor
4 area ratio, the removal of specific
5 height limits on the residential
6 districts in the "C-2" Commercial
7 district would be problematic. The staff
8 of the Philadelphia City Planning
9 Commission has worked with the office of
10 Councilman DiCicco and the Law Department
11 to correct that concern. I respectfully
12 have submitted an amendment to Bill
13 100014 for your consideration.

14 At its meeting of February
15 16th, 2010, the Philadelphia City
16 Planning Commission considered Bill No.
17 100014 and recommended that it be
18 approved as amended.

19 That is the conclusion of my
20 testimony. I'd be happy to answer any
21 questions of the Committee.

22 COUNCIL PRESIDENT VERNA: Thank
23 you.

24 Mr. Kramer, the only technical
25 change that I see in the bill is that it

1 2/23/10 - RULES - BILL 100014, etc.
2 deletes from Section 14-1638(7)(b)
3 language proving that if the property
4 owner does not dedicate the waterfront
5 setback to the City or its agent, the
6 property owner shall be responsible for
7 maintaining the waterfront setback open
8 to the public, constructing a
9 recreational trail and maintaining the
10 recreational trail.

11 If this language is removed,
12 who is responsible for constructing and
13 maintaining the trail if the land is not
14 dedicated to the City? Can we assume
15 that it will be the responsibility of the
16 property owner?

17 MR. KRAMER: The assumption, as
18 has been explained to me by the Law
19 Department, is that responsibility would
20 become basically the City's. It is a
21 function where the property owner may
22 assume that responsibility in the event
23 that they're not dedicating the property
24 to the City. So in the event that
25 they're not dedicating it to the City,

1 2/23/10 - RULES - BILL 100014, etc.
2 they are required to put in that trail
3 and subsequently maintain it, and that's
4 why this language was considered
5 redundant by the Law Department.

6 COUNCIL PRESIDENT VERNA: Are
7 you comfortable with this language --

8 MR. KRAMER: Yes, ma'am.

9 COUNCIL PRESIDENT VERNA: --
10 which I assume is based on our practice
11 of making actual zoning designations for
12 a particular parcel of ground by special
13 ordinances and not by Code amendments?

14 MR. KRAMER: Yes, ma'am, I am
15 comfortable with the language. We are
16 still obviously working out the details
17 with regard to the plan of development,
18 regulations and procedures. Mr. Weixler
19 and I are scheduling a meeting for later
20 this week to get community concerns, and
21 I also have input from the development
22 community that is incoming as sometime
23 later this week as well. They'd all have
24 to be processed and then presented to the
25 Commission.

1 2/23/10 - RULES - BILL 100014, etc.

2 COUNCIL PRESIDENT VERNA: Thank
3 you.

4 The Chair recognizes Councilman
5 Kenney.

6 COUNCILMAN KENNEY: Thank you,
7 Madam Chair.

8 In general -- and I'm trying to
9 get my brain around this whole Central
10 Waterfront development concept, because
11 we've been talking about it in many forms
12 for years. This applies to private
13 property?

14 MR. KRAMER: This applies to
15 any property.

16 COUNCILMAN KENNEY: Any
17 property. I'm just going to play devil's
18 advocate for a moment. I'm a property
19 owner in the Central Waterfront District.
20 It's an industrial property, maybe
21 conducting some business on it at the
22 present. Are you condemning that
23 particular setback?

24 MR. KRAMER: No, we're not.
25 This would not apply until someone came

1 2/23/10 - RULES - BILL 100014, etc.

2 in with a development proposal

3 to reutilize the property.

4 COUNCILMAN KENNEY: So if I'm a
5 warehouse owner, it stays?

6 MR. KRAMER: It stays.

7 COUNCILMAN KENNEY: But then is
8 there any discussion with the owner of
9 the property to try to integrate it into
10 the overall plan of the trail? Because
11 you're going to have -- if you have
12 publicly owned land, there's no problem,
13 we can do whatever we want with it. If
14 you have a plan of development, a
15 developer wants to come in and do
16 something and asks for permission, then
17 we can enforce that, but what do you do
18 with the parcels that are privately
19 owned, are operating and that they don't
20 want the trail?

21 COUNCILMAN DiCICCO: Maybe I
22 can answer that. Those kinds of
23 discussions have been going on for a
24 while, since pretty much the civic vision
25 for the Central Delaware Waterfront was

1 2/23/10 - RULES - BILL 100014, etc.
2 rolled out. There are a number of
3 entities who are existing today, Sheet
4 Metal Workers Union Hall, the Home Depot
5 site, stuff like that, where discussions
6 have taken place between the Central
7 Delaware Waterfront advocacy groups, Paul
8 Levy creating the bike trail, the City
9 and others. There are those who may
10 agree to allow for that use and there are
11 those who may not. We can't force them
12 to.

13 This primarily deals with,
14 going forward, with new development as we
15 see the Central Delaware Waterfront
16 vision hopefully rolling out over the
17 next decade or two for new development,
18 which we anticipate hopefully will be a
19 mixed use of residential, commercial,
20 high rise development, and in that case,
21 then they would become part of the
22 recreational trail, their properties
23 could become part of the recreational
24 trail either by their choice or by
25 advocating the property to the City and

1 2/23/10 - RULES - BILL 100014, etc.

2 then the City would be responsible.

3 COUNCILMAN KENNEY: And I
4 assume that also includes the discussions
5 relative to the movement of kind of
6 industrial uses perhaps further south
7 into areas that are more industrial in
8 toto as opposed to some of the stuff we
9 have going on now where it's industrial,
10 commercial, but it's kind of in a
11 residential --

12 COUNCILMAN DiCICCO: That's the
13 intent, and I think that the only way
14 that will happen, because there's not
15 enough government money to do that
16 relocation, is the incentive for the
17 current property owner and businesses to
18 want to relocate because their property
19 is more valuable if it were used, as an
20 example, as a 40, 50-story high rise
21 residential unit or a commercial high
22 rise tower or something like that.

23 COUNCILMAN KENNEY: Okay.

24 Thank you.

25 COUNCILMAN DiCICCO: Is that

1 2/23/10 - RULES - BILL 100014, etc.

2 pretty accurate?

3 MR. KRAMER: That is correct,
4 yes, sir.

5 COUNCIL PRESIDENT VERNA: The
6 Chair recognizes Councilwoman Miller.

7 COUNCILWOMAN MILLER: Thank
8 you, Madam Chair.

9 Good morning, Mr. Kramer. Can
10 you kind of describe what a recreational
11 trail actually is? It's just walking or
12 grass, open space?

13 MR. KRAMER: As delineated in
14 this particular section of the Code, it's
15 requiring a waterfront setback of 50
16 foot, part of which -- and we're still
17 negotiating the exact dimensions thereof.
18 It's, at a minimum, like 20 foot wide
19 that will be a combination
20 pedestrian/bicycle pathway, the design of
21 which is still to be done. We're going
22 to at this point a minimum clearance of
23 eight foot so that you can go up and down
24 the trail. Some of the provisions are
25 making sure it's wide enough and high

1 2/23/10 - RULES - BILL 100014, etc.
2 enough in the event you needed an
3 emergency vehicle to get there, that it
4 be able to do that. But primarily the
5 intent is to provide both the naturalist
6 landscaping setting with a
7 pedestrian/bicycle pathway through it, in
8 its simplest terms.

9 COUNCILWOMAN MILLER: All
10 right. Thank you.

11 Thank you, Madam Chair.

12 COUNCIL PRESIDENT VERNA: Thank
13 you.

14 Are there any other questions
15 of Mr. Kramer from members of the
16 Committee?

17 (No response.)

18 COUNCIL PRESIDENT VERNA: I
19 would like the record to reflect that
20 Councilman Kelly has joined the
21 Committee.

22 Do we have anyone else to
23 testify on this bill?

24 Please approach the witness
25 table.

1 2/23/10 - RULES - BILL 100014, etc.

2 (Witness approached witness
3 table.)

4 COUNCIL PRESIDENT Verna: Good
5 morning. Welcome. Kindly identify
6 yourself for the record.

7 MR. WEIXLER: Good morning,
8 Madam Chairwoman and members of the
9 Committee. My name is Steven Weixler and
10 I am Chairman of the Central Delaware
11 Advocacy Group. The primary mission of
12 our coalition of 20 riverfront civic
13 associations and other stakeholder
14 organizations is to advocate for the
15 civic vision for the Central Delaware.
16 This is the primary set of principles for
17 a new riverfront master plan. It is also
18 our vital interest to monitor changes in
19 the current zoning environment and to
20 protect the quality of land use in the
21 interim.

22 For that reason, the Advocacy
23 Group appears here today to respectfully
24 convey its gratitude to Councilman
25 DiCicco for originating and sustaining a

1 2/23/10 - RULES - BILL 100014, etc.
2 rational planning process for
3 Philadelphia's riverfront. Through his
4 leadership, the resource that is the
5 Delaware shoreline will have a new and
6 vital role in Philadelphia's future as a
7 great city.

8 We are also here to share with
9 the Councilman and with members of the
10 Committee some concerns that are apparent
11 to us in the proposed amendments to the
12 Central Delaware Riverfront Overlay
13 ordinance. The Central Delaware Advocacy
14 Group regrets that the short time between
15 introduction of the bill and this hearing
16 has prevented us from consulting with the
17 Councilman in our normal process, but we
18 ask you and Councilman DiCicco to
19 continue in the spirit of the working
20 partnership we have forged in the process
21 of civic engagement with thousands of
22 Philadelphians over more than three
23 years.

24 In the matter of technical
25 changes to the language describing the

1 2/23/10 - RULES - BILL 100014, etc.
2 recreational trail, we fully understand
3 that there are complex issues surrounding
4 the creation of any transforming urban
5 amenity. As one who participated with
6 members of the property ownership and
7 development community in negotiations for
8 the original interim overlay ordinance, I
9 can appreciate the range of concerns
10 remaining to be addressed. The Central
11 Delaware Advocacy Group fully expects a
12 fair and equitable solution to be reached
13 in the creation of this trail as the
14 master plan is detailed. However, we
15 wish to be on record that safe, open and
16 usable access to Philadelphia's
17 sustaining river is a central part of the
18 civic vision created by Philadelphians
19 and their families. It is a core feature
20 of the urban planning being put to work
21 to create new livable, exciting and
22 productive neighborhoods. Many other
23 cities have seen the benefit not only in
24 livability and desirability, but in
25 productivity and property value this

1 2/23/10 - RULES - BILL 100014, etc.

2 feature produces.

3 A second feature of the bill
4 which has received thorough examination
5 and consideration is the matter of the
6 height regulation. Many members of the
7 Central Delaware Advocacy Group are
8 themselves involved in representing their
9 own civic associations in zoning and
10 planning matters. We have conducted a
11 survey of the existing zoning in the
12 overlay area, along with the accompanying
13 height control. We are aware that the
14 original overlay ordinance specifically
15 does not alter any existing zoning
16 restrictions in language or intent. We
17 are also aware that it is necessary that
18 height controls which have since become
19 effective in certain parts of the overlay
20 area must be removed. In preservation of
21 the original intent of the ordinance as
22 an interim until the results of the
23 Delaware River Waterfront Corporation's
24 Master Plan can be enacted, we have the
25 following recommendation:

1 2/23/10 - RULES - BILL 100014, etc.

2 In Section 12, Height
3 Regulation, the language be amended to
4 read, quote, "Except for parcels of land
5 zoned Residential, 'C-2' Commercial or
6 'CED,' no height regulations shall apply
7 to any parcel within the boundaries of
8 this district, including but not limited
9 to the provisions of Section 14-1610."

10 We are confident that any
11 argument for ambiguity in conflicting
12 provisions of any of the included zoning
13 classes could be averted with this
14 change.

15 Finally, the Central Delaware
16 Advocacy Group thanks Councilman DiCicco
17 for inclusion of an extension in the
18 statutory limit for the Philadelphia City
19 Planning Commission to promulgate
20 guidelines for review of plans of
21 development. This review process should
22 be fair, open and consistent and it is a
23 central part of progressive planning and
24 good government championed by the Nutter
25 Administration. We are meeting with

1 2/23/10 - RULES - BILL 100014, etc.
2 Executive Director Greenberger and
3 members of his staff to participate in
4 the process of formulating new guidelines
5 with the aid of this additional time.

6 I respectfully thank you for
7 your time and consideration.

8 COUNCIL PRESIDENT VERNA: Thank
9 you, sir.

10 The Chair recognizes Councilman
11 DiCicco.

12 COUNCILMAN DiCICCO: Thank you,
13 Madam Chair.

14 Mr. Kramer, the recommendation
15 on the CED being amended into this bill,
16 I'm not sure if we could even do that.
17 Mr. Weixler had sent me an e-mail a
18 couple days ago. We've been going back
19 and forth on a number of issues for over
20 a week now. Because doesn't the CED
21 supersede any regulations that we could
22 or would be able to -- would like to
23 impose?

24 I mean, I think what's going on
25 here is, Steve, I think we're talking

1 2/23/10 - RULES - BILL 100014, etc.
2 about basically possibly having a garage,
3 parking garage, that would be higher than
4 was originally proposed. Having the CED
5 language would cover that.

6 MR. WEIXLER: If I might
7 comment, Mr. Councilman, as you might
8 expect, the CDAG, as acronyms go, we do
9 have a number of people that are quite
10 savvy in zoning matters and attorneys and
11 also -- although CDAG has not been and
12 will not be active in any particular
13 position regarding casinos specifically,
14 however, out of an abundance of caution,
15 given the casino advocates' record in
16 courts in interpreting regulations and
17 laws, I feel that we have legal advice
18 that casinos could conceivably
19 successfully argue that the removal of
20 height restriction within the overlay
21 district would effectively say that City
22 Council is reaching into all underlying
23 zoning categories in the overlay district
24 and removing specific height
25 restrictions, which they might make the

1 2/23/10 - RULES - BILL 100014, etc.
2 argument that their 300-foot height
3 restriction is included. And so for that
4 reason, the recommendation was made that
5 since "C-2" Commercial and the various
6 Residential categories are virtually the
7 only other zoning classifications in the
8 overlay that include hard height limits,
9 eight feet instead of in terms of
10 limiting height through FAR, that it
11 would be legally prudent to include the
12 CED district in the exemption to the
13 unlimited removal of height restriction.

14 COUNCILMAN DiCICCO:

15 Mr. Kramer, could you --

16 MR. KRAMER: This is the first
17 I'm considering it. I spoke with the
18 gentleman before this meeting started.
19 There's a lot of complexity with the CED
20 regulations, and the SugarHouse site has
21 already been approved as a master plan.
22 The garage that they talk about is not
23 zoned CED. It's actually zoned "G-2."
24 It's adjacent to and, therefore, would
25 come under the "G-2" classification

1 2/23/10 - RULES - BILL 100014, etc.
2 requirements for the particular height.

3 Adding in a restriction or
4 adding this in as removing it from the
5 height restrictions, I don't think it
6 would -- for the reasons the gentleman
7 stated are fine. I don't have a real
8 problem with us doing that, but I don't
9 know off the top of my head what that
10 would do to the state requirements. As
11 with any height restriction, you can
12 always come into our due process means to
13 apply for to have a building that is
14 higher than that if that's what you want
15 to do. So there are due process means in
16 place to accommodate a higher building.
17 So it would just -- it's more a function
18 of process than saying, no, you can't.
19 So adding it in as a provision in this
20 amendment would not necessarily bog
21 the --

22 COUNCILMAN DiCICCO: Accomplish
23 what they're trying to accomplish, right?

24 MR. KRAMER: I would think so.

25 COUNCILMAN DiCICCO: That's my

1 2/23/10 - RULES - BILL 100014, etc.
2 take on it too, but I appreciate -- we
3 all know the concern. I just don't know
4 if this mechanism or this tool is going
5 to get us those types of protections.

6 MR. WEIXLER: That is just the
7 consensus of my executive committee and
8 members of the Board out of an abundance
9 of caution. It's not that the Central
10 Delaware Advocacy Group is opposed to,
11 with proper oversight and plans of
12 development, tall buildings or density
13 along the waterfront. This particular
14 request is not made in response to any
15 particular parking garage or any project
16 that has currently been proposed. It is
17 felt that it is good protection in the
18 interim zoning overlay ordinance to allow
19 the master planning process the breathing
20 room from that potential to go forward
21 and make a rational plan around what
22 plans of development have been forwarded
23 to date.

24 COUNCILMAN DiCICCO: Thank you.

25 MR. WEIXLER: I thank the

1 2/23/10 - RULES - BILL 100014, etc.

2 Council for your attention.

3 COUNCILMAN DiCICCO: Thank you
4 for your time, Steve, and thank your
5 committee as well. I appreciate it.

6 Thank you.

7 COUNCIL PRESIDENT VERNA: Are
8 there any other questions from members of
9 the Committee?

10 (No response.)

11 COUNCIL PRESIDENT VERNA:
12 Seeing none, I would like the record to
13 reflect that Councilwoman Brown has also
14 joined the Committee.

15 Please approach the table, sir,
16 identify yourself for the record and
17 proceed with your testimony.

18 (Witness approached witness
19 table.)

20 MR. HOFFMAN: Thank you very
21 much. Good morning. My name is Dan
22 Hoffman. I'm a resident of East Mt. Airy
23 and I'm a housing and economic
24 development consultant. Although my work
25 is generally not Philadelphia focused, I

1 2/23/10 - RULES - BILL 100014, etc.
2 do occasionally undertake projects in the
3 City. Two projects may be recalled by
4 some of you. One, I was briefly a
5 consultant to you, the City Council, when
6 some of you thought that a real plan for
7 the Street Administration's Neighborhood
8 Transformation Initiative was needed. At
9 that time, my principal recommendation
10 was to focus on parcels near City subway
11 lines, the strategy now in vogue in many
12 other cities as they respond to growing
13 energy and environmental concerns.

14 Later, I created the
15 Home-Buy-Now Employer-Assisted Housing
16 Program for NTI. That effort
17 demonstrated that City employers could be
18 engaged in a constructive conversation
19 regarding community development and
20 affordable housing.

21 Today, my work continues to
22 focus on facilitating employer-assisted
23 housing programs, the field I invented,
24 and the use of business improvement
25 districts and other special improvement

1 2/23/10 - RULES - BILL 100014, etc.
2 assessment districts as a way of
3 achieving various community development
4 goals. My interest in special assessment
5 districts goes back to my drafting of New
6 Jersey's first tax-increment finance
7 statute in 1984 and then drafting much of
8 Pennsylvania's neighborhood improvement
9 district law in 2000, which resulted in
10 the establishment of a number of BIDs in
11 Philadelphia and elsewhere across the
12 state.

13 With that as introduction, I
14 come here today to express my concerns
15 about the current bill before you and
16 urge the Council not advance this
17 legislation in its present form. While
18 these amendments to the Central Delaware
19 River Overlay District report to support
20 things that we all care about, improving
21 access to the Delaware River waterfront
22 and supporting better development
23 planning, in reality this bill does
24 neither.

25 First in regards to the

1 2/23/10 - RULES - BILL 100014, etc.
2 waterfront trail portion of the bill.
3 The process for building this trail under
4 the proposed legislation would, A,
5 encourage and facilitate piecemeal
6 development as developers seek to build
7 on various parcels adjacent to the
8 waterfront on their own schedules, and,
9 B, undermine the goal of developing a
10 high-quality park by leaving developers
11 to litigate what constitutes a trail
12 design that is, quote, "consistent with
13 the civic vision," unquote, plan as they
14 try to build or pay for the building of
15 their portion of the trail as
16 inexpensively as possible.

17 Developers should not be in the
18 trail design and building business, nor
19 should they control what portions of the
20 trail get built and when. Conversely,
21 developers should not solely be
22 responsible for building this amenity,
23 for although they are a principal
24 beneficiary of it, they are not the only
25 beneficiary.

1 2/23/10 - RULES - BILL 100014, etc.

2 While I view this legislation
3 as problematic, it does raise the very
4 important question of who should pay for
5 the development and maintenance of this
6 new public access. One clear answer is
7 that there's no City budget in the
8 foreseeable future that will be able to
9 support the added burden of developing
10 and maintaining this new parkland. Even
11 getting, quote, "free land," unquote, as
12 this legislation anticipates, is not the
13 same as the City being able to afford the
14 construction and maintenance costs of the
15 proposed trail.

16 Absent a dedicated revenue
17 source, this legislation is simply a vote
18 for other budget cuts and/or tax
19 increases in order to pay for at least
20 the maintenance portion of the park and I
21 would contend the development as well,
22 since developer contributions in this
23 bill are offset by costs passed on to
24 end-users and the City and further
25 diminished by the tax breaks that

1 2/23/10 - RULES - BILL 100014, etc.
2 end-users receive under present City
3 development policy. Moreover, there's no
4 relationship between the value of the
5 land given to the City, the cost of the
6 improvements and the value of those
7 improvements to nearby property owners.
8 City taxpayers and residents deserve
9 better.

10 To provide an alternative
11 answer to the question of who should pay,
12 I would first recommend the City begin by
13 acknowledging the extensive body of
14 planning research regarding the economic
15 value of urban parks. One element of
16 this research demonstrates that there is
17 significant, measurable economic benefit
18 that accrues to the properties that are
19 located proximate to parks. As proposed,
20 this legislation would give all of us new
21 value that results from the development
22 of the proposed trail to the developers
23 and owners of the nearby properties for
24 free. In the alternative, the City could
25 end expensive and unnecessary development

1 2/23/10 - RULES - BILL 100014, etc.
2 subsidies it currently offers and deny
3 the subsidies proposed in this
4 legislation and do so in two ways.

5 First, the City could convert
6 the Overlay District and perhaps other
7 adjacent areas into a tax-increment
8 finance district and dedicate some of the
9 new revenues generated by new development
10 to the construction of the proposed
11 trail. This would provide the City, the
12 TIF district or some other entity with a
13 revenue stream that could be used to
14 build the trail in an orderly way that
15 ensures a common, unified, high-quality
16 design in which various sections of the
17 trail work together rather than
18 duplicating or clashing with each other
19 as developers try to meet their
20 obligations as cheaply as possible. A
21 TIF district would enable the principal
22 economic beneficiaries of this project to
23 directly share in the cost of its
24 development.

25 Implicit in this suggestion is

1 2/23/10 - RULES - BILL 100014, etc.
2 the need to repeal the ten-year property
3 tax abatement presently awarded to new
4 construction, at least within the Overlay
5 District, as this policy yields no
6 immediate tax increment. In areas such
7 as this where there is purported to be
8 strong development interest, it is
9 appropriate to move from a policy of
10 long-term tax subsidy to one where
11 developers and property owners are
12 required to pay taxes, albeit in a way
13 that directly supports and benefits their
14 investment. This is still a far better
15 deal than simply being a taxpayer, while
16 at the same time ending the needless
17 subsidy of rich investors by economically
18 stressed property owners throughout the
19 City.

20 Second, the maintenance of the
21 waterfront trail should be supported by a
22 neighborhood improvement district overlay
23 that includes all taxable property,
24 including residences. The NID should
25 probably not be required to cover all

1 2/23/10 - RULES - BILL 100014, etc.
2 maintenance costs. After all, others
3 outside the district will use the park,
4 but those within the district can be
5 expected to be primary users of the park,
6 and these property owners will gain from
7 the increased property values that result
8 from this development. It is only right
9 that those who most benefit share in the
10 cost of maintaining this facility.

11 Finally, in regards to this
12 proposed -- this portion of the proposed
13 legislation, I would urge you to create
14 at least two overlays as quickly as
15 possible. If you really believe that
16 this area is poised for redevelopment,
17 then it is best to establish the baseline
18 values within the TIF district sooner
19 than later so as to capture the maximum
20 amount of tax increment.

21 Similarly, maintaining the
22 trail will be expensive, so one might as
23 well begin the process of creating a
24 BID-backed endowment. Moreover, the
25 experience of the successful High Line

1 2/23/10 - RULES - BILL 100014, etc.

2 Park in New York tells us that building a
3 park which in this case is expected to
4 spur more than \$900 million in new real
5 estate development and then asking those
6 who benefit most for it to pay for it
7 after the fact is difficult. People
8 don't like to pay for what they already
9 receive for free, and efforts to impose a
10 district there have been actively
11 opposed. We can learn by this experience
12 by putting sound, appropriate financing
13 in place before construction begins and
14 get the public used to getting something
15 for -- before the public gets used to
16 getting something for nothing.

17 The second part of the proposed
18 legislation is to repeal all height
19 restrictions on the development within
20 the Overlay District. While I do believe
21 that some restrictions are appropriate,
22 my principal objection is the waiving of
23 all height restrictions is simply another
24 giveaway to developers while shifting
25 development costs onto taxpayers. Good

1 2/23/10 - RULES - BILL 100014, etc.
2 zoning practice should establish the
3 maximum height allowance and then give
4 developers the opportunity to seek
5 additional height through a transparent
6 process in which the developers provide
7 additional public benefit in return for
8 extra height. Other cities routinely do
9 this in return for additional public
10 safety equipment that may be needed to
11 accommodate extra tall buildings, funding
12 for affordable housing, support for open
13 space, and improvements to
14 infrastructure, including street and mass
15 transit improvements, to ensure that the
16 greater densities being permitted do not
17 overwhelm impacted neighborhoods.

18 In some places, in addition to
19 having to offset public costs, developers
20 are also required to purchase air rights
21 or other development rights so that the
22 total amount of development within the
23 planning area does not overwhelm the
24 city-scape and infrastructure. Without
25 these quid pro quos, one has simply

1 2/23/10 - RULES - BILL 100014, etc.
2 created a system for enriching developers
3 and transferring inevitable costs onto
4 taxpayers.

5 However, beyond this
6 legislation being a giveaway to
7 developers, there's another problem. The
8 other day I was looking at some data
9 related to Battery Park City in New York.
10 Although a mixed-use complex, 12,000
11 people live there. More than that live
12 on Lake Shore Drive in Central Chicago.
13 Tens of thousands live in the waterfront
14 high rise buildings in Miami. The
15 Central Delaware could accommodate
16 another 50,000 people. Whether this is
17 actually achievable in a city that has
18 bled population for half a century, it's
19 a question that deserves serious
20 consideration.

21 One would think the City's
22 current economic development strategy
23 makes attracting such a large number of
24 market-rate residents an unlikely
25 outcome, but the ordinance being

1 2/23/10 - RULES - BILL 100014, etc.
2 discussed is predicated upon this idea of
3 being possible.

4 If we believe that such growth
5 is achievable, then the less discussed
6 question is in need of a real answer;
7 that is, what does the impact of focusing
8 all this development on the waterfront
9 have on other nearby City neighborhoods,
10 such as Old City, Northern Liberties,
11 neighborhoods adjacent to the Reading
12 Viaduct, the areas adjacent to Fairmount
13 Park, Strawberry Mansion and Mantua. All
14 these neighborhoods are badly
15 underpopulated. Even in the most
16 gentrified of these neighborhoods, there
17 are vacant and redevelopment parcels that
18 could accommodate thousands of new
19 residents. Neither this Council, the
20 Administration or those busy waterfront
21 designers have answered this question.
22 Even if one could get an additional
23 50,000 people to live on the waterfront,
24 would it be a good thing for the City,
25 particularly if the cost of that

1 2/23/10 - RULES - BILL 100014, etc.

2 development was to suck all the upscale
3 demand out of these other neighborhoods
4 for another generation.

5 In recent times, relatively few
6 Philadelphians have lived on the
7 waterfront. There is no need to create a
8 large new neighborhood on the Central
9 Delaware backed and driven by
10 unaffordable tax subsidies and developer
11 giveaways. There's no need to create a
12 new neighborhood and perhaps a new
13 transit infrastructure to support it
14 while the existing transit infrastructure
15 in other neighborhoods remains
16 underinvested in and underutilized. If
17 you really believe that Philadelphia is
18 about to attract 50,000 new market-rate
19 residents, don't segregate them on the
20 waterfront. Encourage them to invest in
21 other neighborhoods that desperately need
22 their disposable incomes and where their
23 investment can support those who have
24 already taken a chance on Philadelphia.

25 In short, the waterfront park

1 2/23/10 - RULES - BILL 100014, etc.
2 properly funded, maybe, lots of new tax
3 subsidized development to compete against
4 neighborhoods already at a competitive
5 disadvantage when seeking new investment,
6 definitely a wrong idea. I urge Council
7 to consider all the impacts of the
8 proposed waterfront development and not
9 take any action on the current proposed
10 legislation.

11 Thank you.

12 COUNCIL PRESIDENT Verna: Thank
13 you very much.

14 Are there questions from
15 members of the Committee?

16 (No response.)

17 COUNCIL PRESIDENT Verna:
18 Seeing none, thank you.

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

21 I see that our old friend Craig
22 Schelter is here. Welcome home.

23 (Witness approached witness
24 table.)

25 COUNCIL PRESIDENT Verna: I

1 2/23/10 - RULES - BILL 100014, etc.

2 think a lot of snow has been falling. It
3 looks great.

4 MR. SCHELTER: My apologies.

5 I'm a little bit stuffed up this morning.

6 Members of the Committee, my
7 name is Craig Schelter. I'm here
8 representing the Development Workshop,
9 Inc. This is the non-profit that was
10 started approximately two and a half
11 years ago by Michael Sklaroff and myself
12 to make recommendations to the City as
13 they were going forward on changes to the
14 Zoning Code, and we particularly got
15 involved in the Central Waterfront.

16 I'm sorry I don't have written
17 testimony to submit today, but this was a
18 last-minute decision that we made to come
19 here today and to recommend in favor of
20 the bill that is before you, Bill 100014.
21 We believe that that bill does two
22 important things that we had questioned
23 earlier on about the planning that was
24 going forward on the Central Waterfront.
25 One was whether it was appropriate or not

1 2/23/10 - RULES - BILL 100014, etc.
2 to put essentially historic controls on a
3 portion of the Central Waterfront, as was
4 done with the Old City overlay, and,
5 secondly, removing some of the language
6 about the obligations of owners if they
7 were going to have public use across
8 their property without any compensation.
9 So we think that Council has been wise in
10 moving in this direction while the master
11 plan is going on.

12 The second thing is is that we
13 have wanted to be proactive and positive
14 in the master planning effort. We have
15 applauded the Delaware River Waterfront
16 Corporation for the selection of
17 consultants that they have chosen in this
18 effort, and I have been actively
19 participating on the working group down
20 there to provide a developer input and
21 have met with the consultants. And I
22 would point out that the consultants that
23 were picked in this case, particularly
24 Alex Cooper, who is the lead consultant,
25 is the person who did Battery Park City

1 2/23/10 - RULES - BILL 100014, etc.
2 in New York, and for me, the thing that
3 sealed his approach to reality on the
4 master planning was, he talked about
5 Battery Park City, which everybody has
6 said they wanted, and he said there were
7 really only two differences -- or three
8 differences between New York and
9 Philadelphia in this regard. One is that
10 in New York, the public owned the entire
11 site. On the Central Waterfront, the
12 public only owns about ten percent of the
13 site in question.

14 Secondly, they were provided
15 with about \$380 million from the State of
16 New York Urban Development Corporation
17 for Public Improvements, and to date,
18 neither the city nor the state has been
19 able to afford dollars for this kind of
20 level of improvement.

21 And, finally, he said that he's
22 been at it for 40 years and they've
23 managed to do 1.4 miles of the Hudson
24 River waterfront, and we're talking about
25 seven miles of the waterfront. So that

1 2/23/10 - RULES - BILL 100014, etc.

2 his recommendation, early recommendation,
3 to the DRC Board was that you need to
4 focus on priorities, that you're talking
5 about a long, long time process.

6 We also have been eager on
7 behalf of the developers on our committee
8 to get the standards from the Planning
9 Commission, so that we have some sense of
10 how they will be guided going forward,
11 and the fact that these were not
12 forthcoming within the first six months,
13 I think that the amendment, which
14 Mr. Kramer just provided me with a copy
15 this morning, makes sense, and we would
16 encourage the Planning Commission and
17 offer their help in the crafting of these
18 standards so that we can give a clear
19 message to the development community.

20 Thank you very much, and I'd be
21 happy to answer any questions.

22 COUNCIL PRESIDENT VERNA: Thank
23 you very much.

24 Any questions from members of
25 the Committee?

1 2/23/10 - RULES - BILL 100014, etc.

2 (No response.)

3 COUNCIL PRESIDENT Verna: Thank
4 you again.

5 MR. Schelter: Thank you. Good
6 to see you.

7 COUNCIL PRESIDENT Verna: Do we
8 have anyone else to testify on this bill?

9 (No response.)

10 COUNCIL PRESIDENT Verna:
11 Seeing no one, I would like to announce
12 that Bill No. 100062 is being held at the
13 request of the sponsor.

14 This will conclude our public
15 hearing. We will now go into our public
16 meeting.

17 The Chair recognizes Councilman
18 Kenney regarding Bill No. 100003.

19 COUNCILMAN KENNEY: Thank you,
20 Madam President. I move that Bill No.
21 100003 be reported out of this committee
22 with a favorable recommendation and a
23 request made for rules suspension to
24 allow first reading at our next Council
25 session.

1 2/23/10 - RULES - BILL 100014, etc.

2 (Duly seconded.)

3 COUNCIL PRESIDENT Verna: It
4 has been moved and properly seconded that
5 Bill No. 100003 be reported out of
6 committee with a favorable
7 recommendation; further, that the rules
8 of Council be suspended in order to
9 permit first reading at our next session
10 of Council.

11 All in favor will say aye.

12 (Aye.)

13 COUNCIL PRESIDENT Verna: Those
14 opposed?

15 (No response.)

16 COUNCIL PRESIDENT Verna: The
17 ayes have it and the motion carries.

18 The Chair recognizes Councilman
19 DiCicco regarding Bill No. 100014.

20 COUNCILMAN DiCICCO: Thank you,
21 Madam Chair. I move that Bill No. 100014
22 be reported out of this committee with a
23 favorable recommendation and that the
24 rules of Council be suspended so as to
25 permit first reading at our next session.

1 2/23/10 - RULES - BILL 100014, etc.

2 Oh, I'm sorry.

3 Thank you, Madam Chair, again.

4 I move that the amendment to Bill No.

5 100014 be approved.

6 (Duly seconded.)

7 COUNCIL PRESIDENT VERNA: It

8 has been moved and seconded that the

9 amendment be adopted.

10 All in favor will say aye.

11 (Aye.)

12 COUNCIL PRESIDENT VERNA: Those

13 opposed?

14 (No response.)

15 COUNCIL PRESIDENT VERNA: The

16 ayes have it and the motion carries.

17 Councilman DiCicco.

18 COUNCILMAN DiCICCO: Thank you,

19 Madam Chair. I move that Bill No.

20 100014, as amended, be reported out of

21 this committee with a favorable

22 recommendation and that the rules of

23 Council be suspended so as to permit

24 first reading at our next regular session

25 of City Council.

1 2/23/10 - RULES - BILL 100014, etc.

2 (Duly seconded.)

3 COUNCIL PRESIDENT Verna: It
4 has been moved and seconded that Bill No.
5 100014 be reported out of committee with
6 a favorable recommendation, as amended;
7 further, that the rules of Council be
8 suspended so as to permit first reading
9 at our next session of Council.

10 All in favor will say aye.

11 (Aye.)

12 COUNCIL PRESIDENT Verna: Those
13 opposed?

14 (No response.)

15 COUNCIL PRESIDENT Verna: The
16 ayes have it and the motion carries.

17 This concludes our public
18 meeting. Thank you very much.

19 (Committee on Rules concluded
20 at 10:50 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 February 23, 2010, and
that this is a true and correct transcript of
same.

MICHELE L. MURPHY
RPR-Notary Public

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