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COUNCIL OF THE CITY OF PHILADELPHIA

3

COMMITTEE ON LAW AND GOVERNMENT

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Room 400, City Hall
Philadelphia, Pennsylvania
Monday, October 16, 2006
2:00 p.m.

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PRESENT:

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COUNCILMAN JAMES F. KENNEY

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COUNCILMAN W. WILSON GOODE, JR.

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COUNCILMAN JACK KELLY

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COUNCILMAN FRANK RIZZO

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BILL 060617 - An Ordinance providing for the
submission to the qualified electors of the
City of Philadelphia of the proposal set forth
in a Resolution approved by Council proposing
amendment of the Philadelphia Home Rule
Charter to repeal the "resign to run"
provision...

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RESOLUTION 060638 - Resolution proposing an
amendment to the Philadelphia Home Rule
Charter to repeal the "resign to run"
provision...

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COUNCILMAN KENNEY: Good

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afternoon, ladies and gentlemen. The

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Committee on Law and Government has a

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quorum, with Councilmembers Wilson Goode,

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Jr. and Frank Rizzo.

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We will now take testimony on

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both an ordinance and resolution to

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suggest a change to the Philadelphia City

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Charter, which now requires elected

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officials to resign to run for another

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office. Let me read the bill first.

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060617 is an ordinance

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providing for the submission to the

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qualified electors of the City of

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Philadelphia of the proposal set forth in

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a Resolution approved by Council

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proposing amendment of the Philadelphia

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Home Rule Charter to repeal the "resign

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to run" provision, so that, effective

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January 1, 2008, City officers and

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employees may become candidates for

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nomination or election to public office

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without first resigning from their City

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office or employment; fixing the date of

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2 a special election for such purpose;
3 prescribing the form of a ballot question
4 to be voted on; and authorizing the
5 appropriate officers to publish notice
6 and to make arrangements for the special
7 election.

8 The accompanying resolution,
9 060638, is what's required in order to
10 get a provision on the ballot.

11 There will be a projected
12 amendment to this bill. We had heard
13 some discussion from the Administration
14 relative to the fact that it, as written,
15 would include every City employee, which
16 was not our desire. We wanted this to
17 affect public officials, elected
18 officials only, and we will be offering
19 an amendment to such a case.

20 Currently, the Philadelphia
21 City Code requires officials to resign
22 from their existing office prior to
23 running for a different one. While the
24 intentions behind this requirement were
25 more certainly decent, today it merely

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2 puts that official and their constituents
3 at a disadvantage. As an elected
4 official, the decision to pursue another
5 office is no doubt difficult. One must
6 weigh their aspirations against leaving
7 their constituents short of
8 representation and taking a financial
9 risk while campaigning for the office
10 they're pursuing.

11 By eliminating the "resign to
12 run" provision, an elected official who
13 decides to run for another office would
14 no longer face these difficult realities.
15 Rather, they could continue to carry out
16 their term and represent their
17 constituents while vocalizing and
18 publicly campaigning for a different
19 office.

20 It is important to note that
21 this type of requirement does not exist
22 on the state or federal level. This is
23 significant because the inconsistency
24 allows Pennsylvania officials to run for
25 another state or Philadelphia office

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2 without resigning, while Philadelphia
3 officials are required by law to resign
4 if doing the same. And the same is true
5 at the federal level.

6 Therefore, I believe it is time
7 to amend our Charter so that we do not
8 have to lose talented and intelligent
9 elected officials simply because they
10 decide to seek another office.

11 Mr. Stalberg from the Committee
12 of Seventy has requested the opportunity
13 to testify.

14 Please identify yourself for
15 the record.

16 MR. STALBERG: Good afternoon.
17 I'm Zach Stalberg, President of the
18 Committee of Seventy, a non-partisan,
19 non-profit group fighting for better
20 government in the City. Thanks to
21 Chairman Kenney and the Committee on Law
22 and Government for allowing me the
23 opportunity to testify.

24 The Committee of Seventy helped
25 draft the original document, the City

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2 Charter, 55 years ago. We believe in
3 maintaining the integrity of the Charter,
4 but also realize that occasionally it is
5 necessary to amend it in order to provide
6 better government.

7 The Committee of Seventy
8 strongly supports the amendment that
9 would eliminate the requirement of an
10 elected official, any elected official,
11 to resign from their current office
12 before running for another office. We
13 also support the clarification which
14 would make it certain that this bill did
15 not affect appointed employees of the
16 City of Philadelphia.

17 The authors of the original
18 "resign to run" provision feared that by
19 allowing current officials to run for
20 office, some might have the tendency to
21 use their current position to unduly
22 influence employees under their
23 supervision or to neglect official duties
24 in the interest of their candidacy. That
25 Charter was overwhelmingly driven by

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2 years and years of patronage control and
3 so they were very interested in writing
4 into it provisions which would have the
5 effect of limiting the downside
6 possibilities.

7 While this attitude was
8 consistent with the era's rigid approach
9 to government, the ill-effects of "resign
10 to run" became clear early on as Mayor
11 Richardson Dilworth was forced to resign
12 his post in 1962 to run for Governor. At
13 that point, the mid-century municipal
14 reform effort essentially ceased.

15 Today, "resign to run" rules
16 are rare. Neither New York nor
17 Pittsburgh's Charter requires current
18 City officeholders to resign before
19 running for a higher office, nor is
20 "resign to run" in place in either the
21 federal or Pennsylvania governments.

22 There are many benefits to
23 elimination of "resign to run." First,
24 the elimination of this requirement will
25 result in more candidates entering the

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2 field. By requiring current
3 officeholders to resign before running,
4 many qualified competitors are
5 effectively locked out of a particular
6 race. While one of those foreclosed
7 potential candidates may have a strong
8 chance of winning higher office, he or
9 she may not be willing to take the
10 professional risk or the financial burden
11 of becoming unemployed for a term of
12 months or years while running for another
13 office. Logic dictates that the quality
14 of service of elected officeholders will
15 increase as the voters have more options.

16 A second benefit is that the
17 City will not prematurely lose the
18 services of high-quality officeholders
19 who plan to run for another office.
20 Currently, elected officials choosing to
21 run for another office must give up their
22 post prematurely, sometimes at a great
23 loss to the City. Again, "resign to run"
24 restricts high-quality officeholders by
25 forcing them to make a practically

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2 unnecessary choice, often to the
3 detriment of Philadelphia citizens.

4 Furthermore, if the "resign to
5 run" rule were eliminated, District
6 Councilmembers would not have to leave an
7 entire district unrepresented between the
8 time of his or her resignation and the
9 later refilling of the seat.

10 A third benefit is that
11 Philadelphia has the potential to be
12 better represented in Harrisburg and
13 Washington by allowing local
14 officeholders to run for state and
15 national office.

16 As mentioned earlier,
17 Pittsburgh and other Pennsylvania cities
18 without "resign to run" have an advantage
19 over Philadelphia, and at its best, local
20 officeholders can look to state and
21 federal local level representation of the
22 city or region without first losing their
23 seat. In other words, some of
24 Philadelphia's best officeholders who may
25 represent our best interest very well in

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2 Harrisburg or Washington would be
3 foreclosed from those candidacies because
4 of the "resign to run" rule.

5 Similarly, because state and
6 federal officeholders do not have this
7 requirement, its elimination will place
8 local candidates on a level playing field
9 with state and federal officeholders
10 seeking office in Philadelphia.

11 In sum, the elimination of the
12 "resign to run" requirement will allow
13 more dedicated Philadelphians to run for
14 public office and enable all
15 Philadelphians to have real choices at
16 the polls. We hope this Committee will
17 support the end of this archaic rule.

18 COUNCILMAN KENNEY: Thank you
19 very much for your testimony.

20 It's important for the record
21 to be clear that this provision, if voted
22 out of Committee and out of Council and
23 voted on in November by the voters, would
24 not take place or go into effect until
25 2008. So there's no impact on this

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2 upcoming mayoral election. So any
3 speculation to that is contrary to the
4 intentions of the bill.

5 Any questions for Mr. Stalberg?

6 (No response.)

7 COUNCILMAN KENNEY: Seeing
8 none, we thank you for your attendance
9 and your testimony.

10 MR. STALBERG: Thank you very
11 much.

12 COUNCILMAN KENNEY: Ms. Jones,
13 would you like to offer testimony.

14 Good afternoon. Please
15 identify yourself.

16 MS. JONES: Good afternoon.
17 I'm Loree Jones, Secretary of External
18 Affairs for Mayor John Street.

19 COUNCILMAN KENNEY: Please
20 proceed.

21 MS. JONES: I'm here to offer
22 testimony regarding Bill 060617 and
23 Resolution 060638, which, if implemented
24 through change to the Home Rule Charter,
25 would enable City officers and employees

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2 to become candidates for nomination or
3 election to any public office at the
4 local, state or federal level without
5 first resigning from their office or
6 employment.

7 The Administration does not
8 support the proposed change to the Home
9 Rule Charter as offered. Allowing any
10 and all City officials and employees to
11 run for any and all political offices
12 would introduce politics into the
13 day-to-day operation of government to an
14 unacceptable degree. The citizens of
15 Philadelphia deserve the full-time and
16 focused service of City employees. Any
17 move to eliminate the "resign to run"
18 requirement should be limited to the
19 Mayor and members of City Council. And I
20 do note the change that Councilman Kenney
21 introduced a few moments ago.

22 Thank you, and I'd be happy to
23 answer any questions.

24 COUNCILMAN KENNEY: Councilman
25 Goode, please.

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2 COUNCILMAN GOODE: Good

3 afternoon, Ms. Jones. How are you?

4 MS. JONES: Good. And you?

5 COUNCILMAN GOODE: I understand
6 the distinction that you're making
7 between elected officials and employees
8 with regard to it upsetting the normal
9 course of business. Do you not think
10 that that's covered by the independent
11 Board of Ethics and by the Office of
12 Inspector General?

13 MS. JONES: Our position is
14 that it wouldn't necessarily be covered
15 by that and that you'd be introducing
16 politics into the day-to-day operations
17 of the City. I'm not sure that the
18 citizens of Philadelphia would be well
19 served by potentially 20,000 employees
20 who have the responsibility of providing
21 service in the Water Department and
22 providing service in the Fire Department,
23 fixing the streets, picking up trash,
24 serving as DHS workers, with them
25 simultaneously seeking elected office.

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2 COUNCILMAN GOODE: But any
3 infractions or lapse of judgment on their
4 part because of their political ambition,
5 wouldn't that be covered by a combination
6 of their supervisors, management and
7 Inspector General and an independent
8 Board of Ethics?

9 MS. JONES: You raise a good
10 point. I think that any of that could be
11 referred to them, but our sense is that
12 you could eliminate that all together by
13 requiring -- and I appreciate that the
14 Councilman has actually introduced a
15 change to that already saying that he
16 would not have it apply to all City
17 employees but solely for elected
18 officials, but I think it would present a
19 significant challenge and a significant
20 barrier if every City employee in all
21 positions would be able to simultaneously
22 work for the City and also run for
23 office.

24 COUNCILMAN GOODE: And, in
25 fact, I co-sponsored this legislation and

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2 still support it, but before I knew this
3 amendment. And I will still support it,
4 but would not have supported it had we
5 not had an independent Board of Ethics,
6 would not have supported it if I didn't
7 believe we have a strong person in the
8 position of Inspector General, and as
9 long as there are ethics guidelines in
10 place, I don't understand why employees
11 cannot exercise their right to run.

12 I think along with elected
13 officials bringing experience and better
14 candidacies because of their government
15 experience, that in addition to that,
16 they are employees with decades of
17 experience that have watched Mayor and
18 Councilmembers come and go and bring a
19 wealth of experience that would still be
20 worthy of being elected to office.

21 MS. JONES: I definitely agree,
22 having worked with many of the employees
23 at the City of Philadelphia, that they do
24 have the integrity and that they have the
25 experience to serve as elected officials,

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2 and I definitely would encourage those
3 people who have served in this government
4 to do so. It would just be our position
5 that it would be a cleaner process and
6 would be less likely to have politics
7 interfere with the daily operations of
8 the City if those individuals made that
9 choice and then resigned from their
10 positions and ran separately.

11 COUNCILMAN GOODE: Thank you.

12 COUNCILMAN KENNEY: Councilman
13 Rizzo.

14 COUNCILMAN RIZZO: If presently
15 an employee of the City government wanted
16 to run for an office, isn't there a
17 provision for leave of absence? Wouldn't
18 that be satisfactory, if a person took a
19 leave of absence without pay or used
20 their vacation time, et cetera, that may
21 have accumulated? Would that satisfy
22 you?

23 MS. JONES: That would
24 certainly come closer to it, and it is
25 true that people have -- public employees

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2 at the present have an opportunity to
3 leave to even work on a political
4 campaign. It's obviously something
5 that's not encouraged. And I think that
6 there is the letter of the law and
7 there's also the spirit of the law, and I
8 think that what the citizens have come to
9 expect of City employees is that they
10 completely step down from office.

11 I appreciate that. We may be
12 technically allowed to use a leave of
13 absence, and that's something that's open
14 to people. I think what we'd like to do
15 is to ensure that we're separating that
16 out as much as possible.

17 COUNCILMAN RIZZIO: Thank you.

18 COUNCILMAN KENNEY: Thank you
19 very much.

20 Any other questions?

21 (No response.)

22 COUNCILMAN KENNEY: Hearing
23 none, any other witnesses on this bill?

24 (No response.)

25 MS. JONES: Thank you.

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2 COUNCILMAN KENNEY: Thank you
3 very much.

4 What I want to do for the
5 record now in the public hearing is to
6 read the amendment which will be proposed
7 in the public meeting. This is an
8 amendment to amend Section 2 of the bill
9 as follows: "Section 2. There shall be
10 placed on the ballot the following
11 question to be answered 'yes' or 'no' by
12 the qualified electors participating in
13 the election: Shall the Philadelphia
14 Home Rule Charter be amended" -- and
15 we're taking out "to repeal the 'resign
16 to run' provision" -- "so that effective
17 January 1, 2008, City" -- and we're
18 removing "officers and employees" and
19 inserting "elected officials" -- "may
20 become candidates for nomination or
21 election to any" -- and we're adding the
22 word "any" -- "public office without
23 first resigning from their City
24 office" -- and we're eliminating the
25 words "or employment."

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2 So the amendment shall read,

3 "Shall the Philadelphia Home Rule Charter
4 be amended so that, effective January 1,
5 2008, City elected officials may become
6 candidates for nomination or election to
7 any public office without first resigning
8 from their City office."

9 If there's no other discussion
10 relative to the public hearing, I would
11 like to move into the public meeting.

12 This convenes the public
13 meeting of the Law and Government
14 Committee. The Chair recognizes
15 Councilmember Rizzo for a motion to
16 approve the amendment, which was read
17 into the record during the hearing.

18 COUNCILMAN RIZZO: I move that
19 the proposed amendment to Bill No. 060617
20 be adopted.

21 (Duly seconded.)

22 COUNCILMAN KENNEY: Moved and
23 seconded.

24 All in favor?

25 (Aye.)

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2 COUNCILMAN KENNEY: Any
3 opposed?

4 COUNCILMAN GOODE: Nay.

5 COUNCILMAN KENNEY: Councilman
6 Goode for the record is opposed to the
7 amendment.

8 Now I will ask Councilman Goode
9 to make a motion on the amended bill.

10 COUNCILMAN GOODE: Thank you,
11 Mr. Chairman. I move that Bill No.
12 060617 as amended be reported out of
13 Committee with a favorable
14 recommendation, that the rules of Council
15 be suspended so as to permit first
16 reading at our next Council session.

17 (Duly seconded.)

18 COUNCILMAN KENNEY: Moved and
19 seconded.

20 All in favor?

21 (Aye.)

22 COUNCILMAN KENNEY: There are
23 none opposed. Bill No. 060617 as amended
24 is reported out of this Committee
25 favorably and a request made for rules

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2 suspension to allow first reading at our
3 next Council session.

4 Thank you very much for your
5 attendance. Thank you.

6 Hold on. Councilman Goode just
7 slowed me down, for a good reason. I'd
8 like to just reconvene the public meeting
9 again to ask for a motion on Resolution
10 060638. Well, first I'd like to ask for
11 the amendment that will apply to the
12 Resolution 060638 to be moved.

13 COUNCILMAN RIZZO: I move
14 060638 to move the amendment.

15 COUNCILMAN KENNEY: Thank you.
16 Is there a second?

17 (Duly seconded.)

18 COUNCILMAN KENNEY: It's been
19 moved and seconded.

20 All in favor?

21 (Aye.)

22 COUNCILMAN KENNEY: Any
23 opposed?

24 (No response.)

25 COUNCILMAN KENNEY: It's

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2 unanimous on the resolution.

3 The Chair now recognizes

4 Councilman Goode for a motion on

5 Resolution 060638 as amended.

6 COUNCILMAN GOODE: Thank you,

7 Mr. Chairman. I move that Resolution No.

8 060638 be reported out of Committee with

9 a favorable recommendation.

10 (Duly seconded.)

11 COUNCILMAN KENNEY: Moved and

12 seconded.

13 All in favor?

14 (Aye.)

15 COUNCILMAN KENNEY: That will

16 conclude the business of the Law and

17 Government Committee. Thank you for your

18 attendance.

19 (Committee of Law and

20 Government adjourned at 2:20 p.m.)

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CERTIFICATE

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I HEREBY CERTIFY that the

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proceedings, evidence and objections are

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contained fully and accurately in the

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stenographic notes taken by me upon the

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foregoing matter on October 16, 2006, and that

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this is a true and correct transcript of same.

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MICHELE L. MURPHY

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RPR-Notary Public

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