

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON RULES

Room 400, City Hall
Philadelphia, Pennsylvania
Wednesday, October 31, 2012
10:25 a.m.

PRESENT:

COUNCILMAN WILLIAM K. GREENLEE, CHAIR
COUNCILWOMAN CINDY BASS
COUNCILWOMAN JANNIE BLACKWELL
COUNCILMAN W. WILSON GOODE, JR.
COUNCILMAN BOBBY HENON
COUNCILMAN CURTIS JONES, JR.
COUNCILMAN JAMES KENNEY
COUNCILWOMAN BLONDELL REYNOLDS BROWN
COUNCILMAN MARK SQUILLA
COUNCILWOMAN MARIAN B. TASCO

BILLS 120654, 120656, 120774, and 120781

- - -

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2

COUNCILMAN GREENLEE: Good

3

morning, everyone. Thank you. I'm sorry

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we're getting started a little late, but

5

we still have a lot of material coming

6

in, as we were not here the last two

7

days. And I hope everybody here has

8

survived whatever she was, Hurricane,

9

Tropical Storm Sandy, and their

10

properties are doing okay.

11

This is the Committee on Rules.

12

We have a quorum with Councilman Kenney,

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the Vice-Chair of the Committee;

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Councilman Goode; Councilwoman Reynolds

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Brown. I saw Councilwoman Bass, and

16

Councilman Jones, the Majority Leader, is

17

a member of all committees, and myself,

18

Bill Greenlee, who is the Chair.

19

Ms. Marconi, will you please

20

read the title of the first bill before

21

us today.

22

THE CLERK: Bill No. 120774, an

23

ordinance amending Title 14 of The

24

Philadelphia Code, entitled "Zoning and

25

Planning," by revising and clarifying

1 10/31/12 - RULES - BILLS 120654, ETC.
2 certain provisions and making technical
3 changes; and amending various other
4 Titles to make conforming changes; all
5 under certain terms and conditions.

6 COUNCILMAN GREENLEE: Thank
7 you. Could you call the first two
8 witnesses that we have, please.

9 THE CLERK: Eva Gladstein and
10 Alan Greenberger.

11 COUNCILMAN GREENLEE: Thank
12 you.

13 And if I could just say to
14 everyone here, we have a long list, not
15 necessarily for this bill, but for the
16 total number of bills we have. We have
17 four bills here today. So for those of
18 you -- and I think most of you are here
19 for Bill 120654, which is the stream
20 buffer. That will be the fourth bill
21 we're taking. So relax a little bit. It
22 will be a little bit long before we get
23 to you guys, but we're asking all
24 witnesses, please, to try to be as brief
25 as possible. If you have written

1 10/31/12 - RULES - BILLS 120654, ETC.

2 testimony, we may have it already, and
3 that way, if you could just summarize
4 your statements, we'd appreciate it.

5 (Witnesses approached witness
6 table.)

7 COUNCILMAN GREENLEE: Thank you
8 all for being here. Mr. Greenberger,
9 Ms. Gladstein, please identify yourself
10 for the record and proceed.

11 DEPUTY MAYOR GREENBERGER: Good
12 morning. My name is Alan Greenberger.
13 I'm Deputy Mayor for Economic
14 Development, and I also have the honor of
15 chairing the Zoning Code Commission for
16 several years. Thank you for this
17 hearing. With me is Eva Gladstein, the
18 Deputy Executive Director of the City
19 Planning Commission and former Executive
20 Director of the Zoning Code Commission.
21 And I know you have a very long agenda
22 this morning, so my testimony please
23 confirm you have.

24 COUNCILMAN GREENLEE: Yes.

25 DEPUTY MAYOR GREENBERGER: So

1 10/31/12 - RULES - BILLS 120654, ETC.

2 I'm just going to abbreviate and go right
3 down to the meat of it.

4 COUNCILMAN GREENLEE: Great.

5 Thank you.

6 DEPUTY MAYOR GREENBERGER:

7 Obviously, as you know, the Zoning Code
8 was a four-year effort, a lot of public
9 meetings. I won't go through all the
10 details of that.

11 Let me go right to the bill,
12 which is 120774 consists of a number of
13 proposed amendments to the new Zoning
14 Code, the vast majority of which are
15 technical and non-substantive in nature.
16 Since the new Zoning Code was enacted in
17 December 2011, the Law Department, L&I,
18 and Planning Commission each conducted a
19 detailed review of the provisions to
20 ensure clarity and consistency. In
21 addition, as members of the development
22 and design communities and
23 neighborhood-based organizations began to
24 review the new Zoning Code, we received
25 additional comments from these

1 10/31/12 - RULES - BILLS 120654, ETC.
2 stakeholders on similar issues of clarity
3 and consistency.

4 An ordinance almost identical
5 in content, which was Bill 120431, was
6 introduced last May, but City Council
7 felt that it did not have adequate time
8 to review all the contents. No action
9 was taken on the original contents of
10 that bill, with the exception of changing
11 standards for the City's floodplain
12 protections, and that, of course, is
13 related to FEMA and the ability to get
14 floodplain insurance, a fairly critical
15 matter, as we know.

16 This fall, the City Planning
17 Commission convened a Zoning Advisory
18 Group to review the intended contents of
19 the technical amendments in more detail.
20 This advisory group consisted of
21 representatives of City Council, City
22 agencies, and former members of the
23 Zoning Code Commission. On September
24 14th, 2012, we briefed City Council on
25 the intended contents of the technical

1 10/31/12 - RULES - BILLS 120654, ETC.
2 amendments. Through these briefings, we
3 identified issues that caused concern and
4 either modified or deleted them. Thus,
5 Bill No. 120774, which was finalized and
6 developed after these conversations, has
7 had the benefit of significant review by
8 members of Council and stakeholders. And
9 in her testimony, Eva will provide
10 additional details on its contents.

11 Before closing, I'd like to
12 briefly share with Council other steps
13 that the Administration has taken to
14 ensure a smooth transition to the new
15 Zoning Code. In March, under the
16 auspices of the Citizens Planning
17 Institute, we began a series of Zoning
18 Code training programs with City
19 officials and members of the public.
20 Many Council staff members have attended
21 this training. We also conducted six
22 training sessions over the summer aimed
23 specifically at community-based
24 organizations, and to date, over 500
25 individuals have been trained through the

1 10/31/12 - RULES - BILLS 120654, ETC.
2 Citizens Planning Institute.

3 We're also making significant
4 progress on Philadelphia 2035 District
5 Plans, three of which have been completed
6 and two of which are in process out of
7 the 18 that have been identified in the
8 plan. Each completed plan, which
9 incorporates extensive public comment,
10 makes a series of recommendations to
11 adjust the zoning map to reflect current
12 land use or to advance goals articulated
13 in the plan. Our staff has drafted
14 ordinances and shared them with District
15 Councilmembers to begin the process of
16 updating our Zoning Codes so that they're
17 able to encourage positive development.

18 On the administrative side, the
19 City Planning Commission and the Zoning
20 Board of Adjustment have adopted revised
21 regulations to address new processes.
22 The Department of Licenses and Inspection
23 has reconstituted its Zoning Technical
24 Committee, which the Law Department --
25 which the Law Department and Planning

1 10/31/12 - RULES - BILLS 120654, ETC.
2 Commission. They are meeting regularly
3 to monitor the impacts of the new Zoning
4 Code so that we're ready to provide a
5 thorough report and recommendations to
6 Council on the one-year anniversary of
7 the effective date of the new code, which
8 is required in the new code.

9 That will conclude my remarks.
10 Thank you for the opportunity, and I'll
11 turn this over to Eva, unless you have
12 any questions.

13 COUNCILMAN GREENLEE: Ms.
14 Gladstein, you give your remarks and then
15 if we have questions, we'll ask them.

16 MS. GLADSTEIN: Thank you.
17 Good morning. My name is Eva Gladstein.
18 I'm Deputy Executive Director of the City
19 Planning Commission and former Executive
20 Director of the Zoning Code Commission.
21 Thanks for the opportunity to be here
22 today. I'll also try to slightly
23 condense my remarks, just given how many
24 people are here today.

25 As Alan said, Bill No. 120774

1 10/31/12 - RULES - BILLS 120654, ETC.

2 proposes a number of technical amendments
3 to the code. There are dozens of changes
4 that are correcting typographical errors,
5 making graphics clearer, making sure that
6 definitions are consistent. However,
7 there are some changes that will have
8 impact, and we've previously reviewed
9 these with Council and with other
10 stakeholders, but I'm going to review
11 them during this hearing as well.

12 With regard to the section on
13 definitions, we've revised the definition
14 of "subdivision" to include subdivision
15 into two or more lots. That is to make
16 it consistent with current practices.

17 Within our common procedures
18 section, we're removing the provision for
19 code interpretations, and this was
20 spurred because there were questions both
21 by Licenses and Inspections and some
22 members of Council about how the code
23 interpretations would work, and we
24 thought it was best simply to remove them
25 from the code.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 We're clarifying the language
3 for "special exceptions," making it
4 consistent with the language for
5 "variances" in that the Zoning Board
6 would require to put the basis for its
7 decisions in writing. That was simply an
8 oversight when we drafted the code.
9 We've all assumed all along that they
10 have to document their decisions for
11 special exceptions.

12 With the passage of this
13 legislation, zoning applicants would be
14 required to provide notice to the
15 District Councilperson as well as to
16 registered community organizations for
17 projects that require Zoning Board
18 approval or Civic Design Review.

19 And the appeal process with
20 regard to prerequisite approvals, such as
21 by the Streets Department or the Planning
22 Commission prior to an actual permit
23 being granted, those appeal rights are
24 also clarified.

25 When we get to special

1 10/31/12 - RULES - BILLS 120654, ETC.

2 procedures within the Zoning Code, we're

3 clarifying the difference between minor

4 and major amendments to master plans.

5 The new code has information about minor

6 amendments, but we realized it was not as

7 clear as it needed to be. So the minor

8 amendment section would limit a minor

9 amendment to no more than a 5,000 square

10 foot addition. The trigger for Civic

11 Design Review process for master plans

12 would be the introduction of the

13 ordinance in City Council. There was no

14 trigger for that process in the new

15 Zoning Code. And additionally, we're

16 clarifying that non-conformity provisions

17 for signs related both to accessory and

18 non-accessory signs.

19 The bill would also add a new

20 overlay area, North Central Philadelphia,

21 which is consistent with the provision of

22 Ordinance 110681 that was approved by

23 Council in December. It was approved

24 after the new Zoning Code and that's why

25 we didn't pick it up beforehand.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 The bill also makes changes in
3 the use category and dimensional standard
4 sections. We're including a definition
5 and standards for "bed and breakfast"
6 establishments. They are not permitted
7 any place on the zoning map right now.
8 It would be up to Council to introduce an
9 ordinance to actually permit them, but we
10 thought should a Councilperson choose to
11 do that, it would be good to have a
12 common definition instead of standards
13 for bed and breakfast uses.

14 We're clarifying that if you
15 want to build a different building type
16 than is permitted in the zoning district,
17 this would require a use variance. For
18 example, if you wanted to build an
19 attached home in a district that only
20 permits detached homes, the way the code
21 reads now it's not clear if it's a use
22 variance or a dimensional variance.

23 We're also permitting roof
24 decks in commercial areas for residential
25 uses within commercial areas, and that

1 10/31/12 - RULES - BILLS 120654, ETC.
2 would have to comply with the roof deck
3 standards.

4 In the dimensional tables,
5 we've set the default setback to zero in
6 row home neighborhoods instead of eight
7 feet, because that's the more typical
8 scenario that you see.

9 And in addition, we have
10 visitability requirements in the Zoning
11 Code if you're doing a residential
12 subdivision of 50 or more units. We're
13 clarifying that most of those conditions
14 will have to be met when a building
15 permit is pulled, not a zoning permit,
16 because most of the design work would not
17 have been done at the zoning permit
18 stage.

19 Lastly, the parking
20 requirements are modified so that the
21 required parking in CMX-3, 4, and 5,
22 which are the densest commercial
23 districts, can be offsite, but must be
24 within 1,000 feet of the entrance of
25 the -- and the parking has to be a

1 10/31/12 - RULES - BILLS 120654, ETC.

2 permitted use on the site. And we've
3 changed the minimum depth of certain
4 parking spaces from 22 feet to 18 feet.

5 Subsequent to the introduction
6 of the bill, we became aware of the need
7 for several additional changes that we're
8 offering as an amendment today. And I
9 apologize, it's one piece of paper we
10 were not able to get here this morning.
11 So we will get it to you before the end
12 of the hearing.

13 The first change would clarify
14 standards for wireless antennas. When
15 the new code went into effect, L&I
16 started to receive a number of permit
17 requests and realized that there was not
18 enough clarity about wireless antennas,
19 rooftop-mounted wireless antennas. And
20 also we realized when working on the City
21 Hydrology Map ordinance that the use
22 that's in the Zoning Code for marinas was
23 not placed on the use tables. So our
24 amendment that we'll offer up as soon as
25 we can get the piece of paper over

1 10/31/12 - RULES - BILLS 120654, ETC.
2 here -- my apologies again.

3 COUNCILMAN GREENLEE: There's
4 lots of pieces of paper to start from.

5 MS. GLADSTEIN: Right. And I
6 thought that piece of paper was flying
7 around here, but I don't see it. So
8 we'll get that piece of paper to you, but
9 that puts the marina use on our use
10 table.

11 So with that, I'm concluding my
12 testimony. Again, I'm available for
13 questions.

14 COUNCILMAN GREENLEE: Thank
15 you.

16 First, please let the record
17 reflect that Councilwoman Tasco and
18 Councilman Henon, members of the
19 Committee, are present.

20 I know to both of you there's
21 going to be two other amendments that I
22 think are coming in through
23 Councilmembers. I don't think either of
24 them are here yet, Councilwoman
25 Blackwell's and Councilman O'Neill. I

1 10/31/12 - RULES - BILLS 120654, ETC.

2 know you've had conversation with them.

3 What I'd like to do is keep the
4 record open on this bill. We have a
5 couple other witnesses anyway, but keep
6 the record open on this bill, and then
7 maybe when those amendments are ready,
8 they could speak, the two Councilmembers
9 or their representatives could speak on
10 those amendments, and maybe you could
11 too. I think I'd rather wait until we
12 have it in front of us before we start
13 talking about it.

14 MS. GLADSTEIN: Just for your
15 information, it looks like we have two
16 amendments. I believe both are from
17 Councilman O'Neill in front of us, one
18 having to do with minor amendments to the
19 Zoning Code and the other having to do
20 with permitted uses in industrial
21 districts, and then I believe
22 Councilwoman Blackwell's amendments are
23 not yet ready.

24 COUNCILMAN GREENLEE: No, I
25 don't think they are.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 They just came in? All right.

3 But, again, I think

4 Councilwoman Blackwell would like to
5 speak on those, so I'm going to keep that
6 open.

7 As far as Councilman O'Neill's
8 amendments, there's so much paper flying
9 around. I understand we have Councilman
10 O'Neill's amendments.

11 MS. GLADSTEIN: Yes.

12 COUNCILMAN GREENLEE: Eva, if I
13 could just ask, what is the
14 Administration's position on that?

15 MS. GLADSTEIN: Well, there are
16 two amendments.

17 COUNCILMAN GREENLEE: Right.

18 MS. GLADSTEIN: The first -- I
19 think the simplest one is that we were
20 trying to decide how to limit minor
21 amendments to master plan districts, and
22 there are a number of ways to measure
23 those minor amendments now, but we
24 realized we did not have a limit on the
25 gross floor area. We were proposing

1 10/31/12 - RULES - BILLS 120654, ETC.
2 5,000 square feet. I believe this
3 amendment would reduce it to 2,500 square
4 feet.

5 COUNCILMAN GREENLEE:
6 Twenty-five hundred, yeah.

7 MS. GLADSTEIN: I can repeat
8 what we said when we discussed this in
9 Council briefing. We think this -- I
10 don't think this -- I think this is
11 acceptable. I would want Council to be
12 aware that you might end up catching some
13 very, very minor amendments that would
14 then be interpreted as major amendments,
15 such as adding a stair tower or --

16 DEPUTY MAYOR GREENBERGER: It's
17 a pure judgment call about what
18 constitutes a minor versus a major. You
19 may see bills that you wouldn't otherwise
20 want to see, but I don't think -- it's
21 not doing any big harm.

22 COUNCILMAN GREENLEE: It's not
23 doing any real harm. And I guess if it
24 turns out that it does add a whole lot
25 more, that can always be changed.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 DEPUTY MAYOR GREENBERGER: If
3 it turns out particularly in these master
4 plan districts, institutional development
5 districts and so on, that people are
6 doing very minor additions and feel that
7 they have to go through an extended
8 process for it, we'll all hear about it.

9 COUNCILMAN GREENLEE: Right.

10 DEPUTY MAYOR GREENBERGER: We
11 can make a decision at that point whether
12 we've gone too far.

13 COUNCILMAN GREENLEE: Right.
14 Okay.

15 Does anybody have any questions
16 on that issue at all?

17 (No response.)

18 COUNCILMAN GREENLEE: Thank
19 you.

20 And on the other one?

21 MS. GLADSTEIN: On the other
22 one, we've had some discussion on the
23 other one. The other one changes certain
24 uses from being permitted to being
25 prohibited in certain industrial

1 10/31/12 - RULES - BILLS 120654, ETC.
2 districts. And so it would make
3 educational facilities prohibited in
4 light industrial and medium industrial
5 districts, so a use variance would have
6 to be sought in those areas. And it
7 would make religious assembly a
8 prohibited use in light industrial. So,
9 again, you would need a use variance.

10 These were all permitted uses
11 in the code as it exists today. Again, I
12 think that the discussion we've had about
13 this has related to industrial parks
14 versus light industrial and medium
15 industrial that are not in industrial
16 parks in the City, and in the industrial
17 parks that tend to have management by
18 PIDC, they have used deed restrictions
19 and other means to limit certain uses,
20 and I think in Councilman O'Neill's
21 district, he does have the majority of
22 those parks.

23 There's a lot of other land
24 zoned light and medium industrial where a
25 charter school or a church may not be the

1 10/31/12 - RULES - BILLS 120654, ETC.
2 end of the world in that community's
3 mind, only because it's reusing an old
4 industrial building and those are more
5 mixed kinds of community.

6 So we had suggested some other
7 ways to address this, being either if
8 not -- if deed restrictions are not
9 working, perhaps making it a special
10 exception or perhaps even creating a
11 district for those industrial parks,
12 those managed industrial parks where you
13 would want greater controls.

14 COUNCILMAN GREENLEE: Okay. I
15 guess, though, in some ways this is
16 similar to the first issue we talked
17 about. I mean, if this is put in and
18 it's found that it's become too tedious
19 to get some of these uses, it can always
20 be changed again too, right?

21 DEPUTY MAYOR GREENBERGER: It
22 is not going to be an onslaught of cases.
23 They'll be here and there, as they have
24 been typically.

25 COUNCILMAN GREENLEE: Yeah.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 DEPUTY MAYOR GREENBERGER: So,
3 again, you can measure it against
4 whatever pushback you get from
5 applicants. I mean, things certainly
6 exist in industrial areas right now.

7 COUNCILMAN GREENLEE: It just,
8 off the top, strikes me if you're talking
9 about industrial areas, that what the
10 amendment is talking about taking out
11 seems to make sense, just off the surface
12 to me. But, I mean, I understand what
13 Ms. Gladstein is saying, but maybe that's
14 why in those cases if it turns out not to
15 be a problem, then they'll get approved
16 through the Zoning Board process.

17 MS. GLADSTEIN: Right. I mean,
18 I was encouraging when we talked about
19 this months ago to go with the special
20 exception process, because there are
21 certain kinds of schools that might be
22 appropriate in an industrial park, if
23 it's a commercial driver's school or
24 vo-tech that have the different kinds of
25 needs, and I think PIDC has accepted one

1 10/31/12 - RULES - BILLS 120654, ETC.
2 or more of those kinds of schools in
3 their industrial parks. This would push
4 it to a variance. And just as a
5 reminder, the standards to get a use
6 variance in the new code are very strict.

7 COUNCILMAN GREENLEE: Sure. I
8 got you.

9 Are there any other questions
10 on this?

11 (No response.)

12 COUNCILMAN GREENLEE: All
13 right. Seeing none, Ms. Gladstein --
14 Mr. Greenberger, I know you said you had
15 to leave at some point, but --

16 DEPUTY MAYOR GREENBERGER: I'm
17 okay for the moment.

18 COUNCILMAN GREENLEE: Wait a
19 minute. Councilwoman Blackwell is here
20 now.

21 Councilwoman, do you want to
22 speak on your amendments? But before you
23 do, first do we have them yet?

24 I want it noted for the record
25 that Ms. Marconi is more than earning her

1 10/31/12 - RULES - BILLS 120654, ETC.
2 money on this because she is putting
3 together this at the last minute and then
4 some.

5 COUNCILWOMAN BLACKWELL: Thank
6 you, Mr. Chairman. We submit amendments
7 to this legislation. As many of you
8 know, we were due to have a hearing on
9 Monday, and it was pretty much say no to
10 RCO. And people had a lot of concerns.
11 We tried to address them in the
12 ordinance, and pretty much I think we've
13 agreed with all but one point with -- and
14 Eva Gladstein and Marty Cabry, my zoning
15 person, worked all through the weekend to
16 try to come up with issues and we both
17 tried to compromise. I think we agreed
18 on all but one area that we left in, and
19 the area of disagreement was if there are
20 two RCOs, our opinion is that the
21 District Councilperson should make the
22 decision, because some community
23 organizations have boundaries that
24 overlap, but you can't make them both
25 meet and agree. That's why their

1 10/31/12 - RULES - BILLS 120654, ETC.
2 boundaries overlap, because they don't
3 agree one with the other.

4 So we thought the District
5 Councilperson should make that decision.
6 And that's still in here, and that was
7 their only disagreement. Short of that,
8 everything else I do believe we've agreed
9 to, and we think this will make the
10 legislation stronger.

11 Thank you, Mr. Chairman.

12 COUNCILMAN GREENLEE: Thank
13 you, Councilwoman.

14 Do you have any comment at all?

15 MS. GLADSTEIN: I'd like to.

16 COUNCILMAN GREENLEE: Go ahead.

17 MS. GLADSTEIN: I'm assuming
18 that the last version that Chris from
19 your staff gave me is what we have in
20 front of us.

21 And, again, I did speak with
22 the Councilwoman's staff during the
23 weekend, and we were able to resolve a
24 lot of differences and concerns. So I
25 appreciate that.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 I just want to point out
3 several other differences that this
4 amendment would create. Some deal with
5 the Zoning Code and some deal with the
6 regulations that the Planning Commission
7 promulgated to further clarify the
8 process for registering community
9 organizations.

10 COUNCILMAN GREENLEE: Can I
11 interrupt you just one second just so I'm
12 clear. The Councilwoman stated that
13 really there was just one still
14 difference. Are you agreeing with that?
15 Or just so --

16 MS. GLADSTEIN: I'm agreeing
17 that that's a difference and that there
18 may be two other points that we have a
19 concern about.

20 COUNCILMAN GREENLEE: Okay.
21 All right. Go ahead.

22 MS. GLADSTEIN: Sorry.

23 COUNCILWOMAN BLACKWELL: I
24 didn't know that.

25 COUNCILMAN GREENLEE: No.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 That's all right. That's all right.

3 MS. GLADSTEIN: One is that the
4 Planning Commission regulations say that
5 organizations, registered community
6 organizations, must have some form of
7 written rules. They don't have to be
8 bylaws. They don't need to be
9 incorporated, but there needs to be a set
10 of written rules. This amendment just
11 says may. So it's not a requirement.
12 It's just permissive. And we thought
13 that registered community organizations
14 should have put in writing how they're
15 going to operate in some way so there's
16 not misunderstanding among the members of
17 the group about when the elections are,
18 when they meet, you know, how they take
19 attendance, whatever that is, and some
20 kind of -- and we've accepted very
21 informal written rules, but we have
22 required written rules. This would take
23 away that requirement. So that's one
24 difference.

25 The other difference which --

1 10/31/12 - RULES - BILLS 120654, ETC.

2 COUNCILWOMAN BLACKWELL: Excuse

3 me. I'll let you finish the comment.

4 Because we're fine for community

5 organizations having -- registered

6 community organizations, but not that you

7 have to list every bylaw, every meeting,

8 every officer, every -- because some

9 groups aren't sophisticated enough to

10 start out like that especially. If you

11 want to be a community organization

12 because you want to represent your

13 community, you shouldn't have to need an

14 accountant or lawyer to set up all the

15 rules and have to report all of that.

16 We're just saying that if you

17 want to be a community organization, you

18 should be allowed to do so. If you tell

19 them when you meet, you give them

20 generally what your vision is, you can

21 work out the rest, but not have all of

22 this other stuff in the beginning that

23 would hurt people who are interested but

24 who don't have the sophistication to be

25 the kind of way that this law initially

1 10/31/12 - RULES - BILLS 120654, ETC.
2 required.

3 But I'll wait until you finish,
4 Ms. Gladstein, and then I'll respond to
5 that.

6 MS. GLADSTEIN: And then the
7 other two items that I think are
8 important for not just you but members of
9 the audience are new notice provisions
10 that add on to the already significant
11 amount of notice provisions in the Zoning
12 Code. But this would require the zoning
13 applicant, who has to give notice to the
14 District Councilperson and the RCO within
15 seven days of being told by L&I that the
16 property requires a Zoning Board hearing
17 or Civic Design Review, this would
18 require that applicant to notify all
19 occupants, business owners and operators
20 located within one square block of the
21 address of the application. So that is a
22 new notice requirement that -- so in
23 addition to notifying the Councilperson
24 and the RCO, there would also have to be
25 some kind of notice to everybody in a

1 10/31/12 - RULES - BILLS 120654, ETC.
2 certain area within seven days and to
3 make -- and then I apologize; to make a
4 good-faith effort to provide written
5 notice within that seven-day period.

6 And then for the registered
7 community organization itself, which
8 already is required to publicize their
9 meetings and is already required to make
10 their meetings open to the general
11 public, not just their membership,
12 there's now a notice requirement for
13 those also to provide written notice to
14 all occupants, business owners and
15 operators, and organizations within one
16 square block of the application.

17 And then I think -- I don't
18 want to weigh in on -- the Councilwoman
19 already addressed the other area of
20 difference about whether or not the
21 District Councilperson should decide if
22 there are one or multiple meetings during
23 the 45-day period if there are multiple
24 RCOs in a district.

25 COUNCILMAN GREENLEE: Okay.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 Councilwoman, you want to respond?

3 COUNCILWOMAN BLACKWELL: Thank
4 you. Yes. And we're happy to have them
5 say this another way if they want, but we
6 believe if a senior lives next door to a
7 new development and says, I'm 80 years
8 old, I don't want to be in any
9 organization, I don't want to serve, that
10 doesn't mean they shouldn't know that
11 somebody is building something next door.

12 Our notice requirements -- and
13 they can restate it if they have a better
14 way to state it. I have no preference.
15 All I'm saying is that if you live near a
16 development and you're not in any
17 community organization, you're not in any
18 RCO, you should be notified and you
19 should have standing.

20 That is our goal, to make sure
21 that all groups, all individuals living
22 within a boundary where somebody wants to
23 develop or there were some land use
24 issues, that they're notified.

25 So that's the long and short of

1 10/31/12 - RULES - BILLS 120654, ETC.
2 it. If the Administration has another
3 way to state it, I don't care. If they
4 think they can state it better or
5 differently, it doesn't matter, but we
6 want to be fair to all the people who
7 represent us to make sure that everybody
8 within the area is notified.

9 COUNCILMAN GREENLEE: Okay. I
10 appreciate that.

11 I know Councilman Jones wants
12 to ask a question. Just if I could say,
13 you heard what the Councilwoman said
14 about wording. We don't actually adopt
15 the amendment until the meeting, which
16 unfortunately might still be a little bit
17 off. So if there's some way you could
18 have a conversation, try to work this
19 out. I can tell you just by the shaking
20 of heads when the Councilwoman was
21 speaking, I think the Committee kind of
22 agrees with her position. So if there's
23 a way to work out the wording a little
24 bit.

25 Before Councilman Jones,

1 10/31/12 - RULES - BILLS 120654, ETC.

2 Councilman Kenney.

3 COUNCILMAN KENNEY: I just want
4 to add an issue. I totally agree with
5 Councilwoman Blackwell when she talks
6 about people who maybe don't have access
7 to organized groups but still have an
8 opinion and have a stake. I find that
9 throughout the City there are established
10 organized groups that have been around
11 forever. We know who they are. We go to
12 their meetings. They have established
13 bylaws, meetings. They're there.

14 It seems on other issues where
15 something controversial pops up, that we
16 wind up with three or four groups in one
17 neighborhood claiming to be the
18 representative group of the neighborhood.
19 So how do we weed through that? I know
20 you can cure Councilwoman Blackwell's
21 issue, but if it's a casino or a ball
22 park or a large retail development or
23 something that's very massive and
24 complicated, you wind up with the
25 existing community group and then three

1 10/31/12 - RULES - BILLS 120654, ETC.
2 other splinter groups who splinter off
3 because they had a disagreement with the
4 main group, or you have someone who is
5 actually maybe involved with the
6 developer who establishes a group that's
7 in favor of the development because
8 they've been asked to do that.

9 I mean, how do -- I think from
10 our experience, we know who those
11 legitimate groups are, and then when you
12 have a casino issue or a ball park issue,
13 we know who they aren't.

14 How do we -- and not that all
15 of them shouldn't have a say, but I don't
16 think a group that pops up two weeks
17 after a development announced should get
18 more weight than a group that's been
19 established for 35, 40 years that's been
20 dealing with the neighborhood issues all
21 along. How do you differentiate the two
22 of them?

23 DEPUTY MAYOR GREENBERGER: Not
24 easy.

25 COUNCILMAN KENNEY: Or three or

1 10/31/12 - RULES - BILLS 120654, ETC.

2 four of them or five of them?

3 DEPUTY MAYOR GREENBERGER:

4 Let's just go back and say before August
5 22nd of this year, notice was an orange
6 placard on a site for a fixed amount of
7 time. That time has been extended for
8 the notification, and notification to the
9 registered community groups has been
10 added. So the notification now in the
11 new Zoning Code is quite a bit more
12 extensive than it was before.

13 But obviously there's a balance
14 that I think you're noting here, and the
15 balance is simply this: We've been, I
16 think, pretty liberal about the
17 registration of community groups. We
18 have tried purposely to be so, so as not
19 to shut people out. That means they will
20 get notice. So the notice is going to
21 spread significantly, particularly into
22 communities where there are multiple
23 groups, and these tend to be the ones,
24 like you said, that might be startups or
25 relative startups or just a fractured

1 10/31/12 - RULES - BILLS 120654, ETC.
2 community where there are multiple groups
3 that exist anyway.

4 That notification is fine with
5 us. I mean, we think that obligating a
6 developer to do that is fine. Our
7 expectation -- there's an obligation that
8 comes with being registered, and, that
9 is, to notify others, including the
10 people around the site as well as the
11 membership of those groups. That's
12 significantly more than existed before
13 August 22nd.

14 Obviously the concern that we
15 have is the balance between that and the
16 idea that a development project could
17 break down into a set of arguments about
18 whether a particular individual got a
19 notification or not.

20 I went around and gave
21 notification.

22 I never got it.

23 That's something we're very
24 concerned about. And likewise, the use
25 of the single meeting that somebody has

1 10/31/12 - RULES - BILLS 120654, ETC.
2 to host, some registered community group
3 has to host, was done specifically to
4 force there to be a host, which is open
5 to the public, anybody in the public, not
6 simply the memberships, and to avoid the
7 possibility that somehow within this
8 45-day period multiple meetings that
9 would have to take place take place in a
10 pretty compressed period of time.

11 So our sense of the balance was
12 extended notification, absolutely, but
13 single community group meeting open to
14 the public and no limitation whatsoever
15 on the ability of any individual to
16 testify at any public meeting, our own
17 regulatory meetings as well as the ones
18 hosted by a registered community
19 organization. We think that's the best
20 we can do to extend notice.

21 COUNCILMAN KENNEY: Is that
22 standing? Is that what's considered
23 standing? See, I guess the issue of --

24 DEPUTY MAYOR GREENBERGER: It's
25 a little bit different.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 COUNCILMAN KENNEY: -- who has
3 standing for me is part of the problem.

4 DEPUTY MAYOR GREENBERGER: I'm
5 out of my boundaries to start talking
6 about the legal definitions of
7 "standing," but my understanding is that
8 standing is a legal definition involving
9 future actions. Our policy has been and
10 continues to be anybody can say what they
11 want at a public hearing, and we don't
12 limit it to, well, you're not a near
13 neighbor or --

14 COUNCILMAN KENNEY: Or you're
15 not a neighbor at all.

16 DEPUTY MAYOR GREENBERGER: Or
17 you're not a neighbor at all.

18 COUNCILMAN KENNEY: You don't
19 live in the City.

20 DEPUTY MAYOR GREENBERGER: I
21 can tell you --

22 COUNCILMAN KENNEY: But does
23 everyone have standing? Everyone can
24 have a say, but standing is a different
25 level of --

1 10/31/12 - RULES - BILLS 120654, ETC.

2 MS. GLADSTEIN: There's a
3 recent -- again, I'm not an attorney, but
4 having to become familiar with this --

5 COUNCILMAN KENNEY: You're
6 almost an attorney. You might as well
7 be.

8 DEPUTY MAYOR GREENBERGER:
9 Practicing without a license, if that's
10 what you mean, yeah.

11 MS. GLADSTEIN: I don't know if
12 I wish that were the case or not.

13 But there was a fairly recent
14 court case decision which said you had to
15 be -- and I forget if the term was
16 affected or whatever or an interested
17 party, which is standing to appeal the
18 ZBA. But in terms of the ZBA, attending
19 a ZBA hearing or a Civic Design Review
20 committee meeting or Planning Commission
21 or this hearing, you don't need to have
22 standing. The standing --

23 COUNCILMAN KENNEY: Is an
24 appeal issue.

25 MS. GLADSTEIN: -- language is

1 10/31/12 - RULES - BILLS 120654, ETC.
2 about appeal.

3 DEPUTY MAYOR GREENBERGER: It's
4 about legal maneuvers afterwards.

5 COUNCILMAN KENNEY: Thank you.

6 COUNCILMAN GREENLEE:
7 Councilman Jones wanted to ask a
8 question.

9 Go ahead, Councilman Jones.

10 COUNCILMAN JONES: Councilman
11 Kenney and Councilwoman Blackwell put the
12 concerns well, and I want to echo two of
13 them.

14 One, as we see various
15 neighborhoods' properties changing in
16 value, desirability, potential
17 development, we need to be very conscious
18 of this. This issue for existing
19 residents that are in poor neighborhoods
20 that are not as sophisticated need to be
21 able to have input about the future
22 growth and development of a neighborhood,
23 A. So if a developer potentially can
24 come in and provide the technical
25 assistance through legal means to

1 10/31/12 - RULES - BILLS 120654, ETC.
2 establish an organization, that should
3 not supersede someone who has been there
4 generations and put up with the bad
5 times.

6 So we have to somehow safeguard
7 that kind of input. If I understood your
8 comments, that is an issue we face in the
9 4th Councilmanic District from time to
10 time.

11 The second issue for me is
12 geography. And I don't know how to deal
13 with this, Mr. Chairman. That if you
14 live next door to a development,
15 somehow -- I really value your opinion a
16 bit more than someone who lives across
17 town from a development, even though
18 everybody is impacted, but some more
19 greatly than others. And so the
20 geography of where you live has to matter
21 somehow to people that are making the
22 decision on the ZBA, and I don't know how
23 to incorporate that feeling or whether it
24 is addressed at all.

25 MS. GLADSTEIN: We were very

1 10/31/12 - RULES - BILLS 120654, ETC.

2 conscious of that and did try to address
3 in the regulations, and perhaps not to
4 the satisfaction of this group. We're
5 requiring when the RCO documents the
6 meeting, that it include a copy of its
7 agenda so we know that it told everybody
8 who is coming what was on the agenda, and
9 also a copy of its sign-in sheet, because
10 the Zoning Board very typically will look
11 to see if near neighbors attended the
12 meeting, will ask about near neighbors.
13 And one of the things I suggested with
14 the Councilwoman's staff this morning is
15 perhaps to add to that documentation
16 documentation of the outreach to the near
17 neighbors.

18 But the whole reason to have
19 the sign-in sheet from the meeting was so
20 that the Zoning Board or the Civic Design
21 Review committee, whoever would be
22 looking at it, would see who was actually
23 there and see that they were not from New
24 York City or Brooklyn, but they were
25 there -- they were from the same block.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 And, again, that's something that the
3 Zoning Board I think is already conscious
4 of, and we could strengthen our
5 regulations to be more specific about it,
6 but that's why they have to show the
7 sign-in sheet for that reason.

8 COUNCILMAN JONES: I understand
9 that originally a lot of the
10 predictability issues you wanted to
11 address with this, but clearly people who
12 have boots on the ground that deal with
13 district issues every day need to kind of
14 be able to separate the Solomon-style
15 issues of various community groups.

16 The other thing that you need
17 to brace yourself with is, as
18 Philadelphia becomes a place to be, you
19 need to -- those maps of CBO's areas need
20 to be codified so that we're not guessing
21 that in 1800s when Billy Penn, or whoever
22 it was, granted this neighborhood
23 designation, didn't recognize that in the
24 '50s someone else came along and started
25 claiming it as well.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 So we need to -- I want to rely
3 a lot more on neighborhood mapping for
4 CBOs and RCOs so that we can kind of say,
5 well, you're expanding your territory
6 over here, historically you've been over
7 there. So that gives us a rule and guide
8 by which to work with community groups
9 on. So those are things that I'm
10 concerned about.

11 COUNCILMAN GREENLEE: All
12 right.

13 MS. GLADSTEIN: We do by virtue
14 of some recommendations from
15 Councilmembers, the Zoning Code says that
16 the boundaries of the RCO have to be
17 consistent with what's in their bylaws.
18 And then we in our regulation said if
19 you're going to change your bylaws, it
20 needs to be through a public process and
21 through notice.

22 So when groups registered, we
23 had a look at -- this was one of the
24 reasons why we required written rules,
25 because we had to see if there was

1 10/31/12 - RULES - BILLS 120654, ETC.
2 something describing their boundaries.
3 And for most groups, there was, and it
4 was from their bylaws or some other
5 document, but if there are no written
6 rules, it's one of the problems we come
7 up with, that the boundaries can keep
8 expanding or a new pop-up group can come
9 up that's made by the developer or that's
10 opposed to the general group.

11 This was a very difficult
12 balance to try to achieve, and certainly
13 it's not perfect, but I just want you to
14 be aware of what we considered when we
15 did this and why we did it the way we
16 did.

17 COUNCILMAN GREENLEE: And we're
18 certainly aware of all the time you put
19 into this. I was at some community
20 meetings where you spoke, and I think all
21 Councilmembers were. So we're not sort
22 of minimizing all the work you've put in,
23 but as you, I think, can hear from the
24 Councilmembers' comments, they still have
25 some concern similar to what Councilwoman

1 10/31/12 - RULES - BILLS 120654, ETC.

2 Blackwell said.

3 Councilwoman Tasco, you had a
4 question?

5 COUNCILWOMAN TASCO: Yeah.

6 I've always had concern about how to
7 apply the RCOs citywide. There are
8 neighborhoods in Philadelphia that have
9 organized community groups that are
10 operational continuously. If I look at
11 my district, I don't have a lot of
12 community organizations. So if
13 there's -- and I don't have a whole lot
14 of development either, but if there's a
15 project that has to go before the Zoning
16 Board, in some neighborhoods people have
17 to organize immediately. So they
18 wouldn't have the documentation that you
19 need. They wouldn't be a registered
20 community organization, because they
21 don't have registered community
22 organizations.

23 So with Councilwoman Blackwell,
24 I don't want these new regulations to
25 shut out the voices of the neighborhoods

1 10/31/12 - RULES - BILLS 120654, ETC.
2 that are not -- everybody is not uniform.
3 You have downtown development. You have
4 all these organizations. I don't have a
5 lot of organizations in the 9th District.
6 So that's why I asked the wards to become
7 RCOs, because that's where most people
8 take their issues if there is a problem
9 or they form a little group to protest
10 something.

11 But I am concerned that it
12 sounds good here and we put it on paper,
13 but what's the actual practice when they
14 have to -- when they're faced with an
15 issue and they come downtown, well,
16 you're an organized group and do you have
17 your bylaws and do you have your meeting
18 date. Well, no, because we're not an
19 organization. We're an organization for
20 this purpose. Are they going to be given
21 the voice that they should have relative
22 to the issue before them? Because when
23 that's over, they go back to doing their
24 business. And that's my concern.

25 DEPUTY MAYOR GREENBERGER: I

1 10/31/12 - RULES - BILLS 120654, ETC.

2 think those are perfectly reasonable

3 concerns, and I just want to reemphasize

4 from that that this is not designed to --

5 the fear, let's get to what's the fear.

6 The fear is that an individual or a group

7 of people who get together who have

8 concerns about a particular project and,

9 as you said, Councilwoman, then disband

10 after the project or go back to their

11 regular lives, the fear is that they will

12 have no voice in any of the regulatory

13 committees that might oversee a project,

14 a Zoning Board, if it's a pure variance,

15 or Civic Design Review, if it is a

16 particularly large project. And that's

17 not in the RCO law. The RCO law is or

18 the RCO regulation is there strictly to

19 provide additional notice and a means of

20 hosting a required public meeting.

21 You'll be as District Councilwoman, you

22 would be notified as well about the

23 project. And I think that if there are

24 no RCOs at all, then we would have to

25 work with your office to construct a

1 10/31/12 - RULES - BILLS 120654, ETC.
2 public meeting to make sure that the
3 requirements, particularly for Civic
4 Design Review, which are these larger
5 projects, happen.

6 But in any case, in any case at
7 all, the voice of any individual has --
8 and I apologize for using this word
9 because it does have this legal
10 meaning -- has standing. We allow
11 anybody to testify. And regardless of
12 whether the law addresses it exactly or
13 not, certainly every regulatory entity
14 that I've been involved with takes that
15 testimony and takes near neighbors to a
16 situation very seriously. Why wouldn't
17 you? And you would too obviously.

18 So the means to have that
19 discussion exists and will continue to
20 exist. Nothing about the RCO changes
21 that.

22 COUNCILWOMAN TASC0: Then could
23 there be a challenge by the applicant on
24 the standing of the group to protest
25 based on the regulations that we are

1 10/31/12 - RULES - BILLS 120654, ETC.
2 going to put in place, and then do you
3 end up in court determining whether that
4 person or group has standing because they
5 haven't met the requirements of
6 establishing the RCO?

7 MS. GLADSTEIN: We went to
8 special pains to be very clear about the
9 ability of a wide variety of people to be
10 present and to offer testimony at the
11 Zoning Board, because we had similar
12 concerns. And so it says an individual,
13 a family member, a translator, we sat
14 through and just tried to list anybody
15 who might want to be at the ZBA and have
16 a voice, and we've listed them in the
17 code, not just in the regulations, in the
18 code as having access. If people want to
19 come and they haven't been registered as
20 an RCO, it doesn't matter whether or not
21 they're registered as an RCO, because as
22 an individual, they have the ability to
23 go to the ZBA or go to Civic Design
24 Review -- those are both public forums --
25 and to speak.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 So the RCO process is one where
3 you would have had to go and register
4 with the Planning Commission beforehand,
5 and if it's a group that doesn't see a
6 lot of development and they're not
7 normally organized, we wouldn't expect
8 them to become an RCO. We would expect
9 you to work with them as the District
10 Councilperson, have the meeting and go to
11 the hearing, and we wouldn't have any
12 requirement for them to be an RCO.

13 DEPUTY MAYOR GREENBERGER: From
14 my perspective at least, however long I'm
15 in this job, I've told agencies already
16 and I'll tell them again, it is
17 absolutely unacceptable to deny testimony
18 by any individual. That was before
19 August 22nd. After August 22nd, I'll add
20 it is unacceptable to deny testimony to
21 any individual simply because they're not
22 part of a registered community
23 organization. It is unacceptable.

24 COUNCILMAN GREENLEE: If I
25 could -- and I think Councilwoman

1 10/31/12 - RULES - BILLS 120654, ETC.

2 Blackwell wanted to say something, but
3 not to cut anybody off, because we do
4 have a long list of witnesses on the
5 various bills. If I could suggest,
6 Councilwoman, if your staff could maybe
7 talk to someone from the Administration
8 staff.

9 Again, I'll repeat what I said.
10 I think you can tell by the questions,
11 we're kind of in agreement with
12 Councilwoman Blackwell. If there's some
13 way to make the language acceptable to
14 everybody, but, Councilwoman, I think
15 we're pretty much on the same side as
16 you.

17 COUNCILWOMAN BLACKWELL: Thank
18 you. We're happy to do that. You know,
19 Councilwoman Tasco said some groups who
20 meet ad hoc for that purpose. You have
21 on the opposite end some groups who meet
22 every week. They may not be
23 sophisticated groups, but what, are they
24 supposed to submit every week whatever
25 their agenda is to the City?

1 10/31/12 - RULES - BILLS 120654, ETC.

2 And, finally, let me say -- and
3 I'll agree. I'm always happy to talk
4 about it as long as we don't pass
5 anything before we -- as long as -- thank
6 you to the Chair --

7 COUNCILMAN GREENLEE: What I'm
8 suggesting is, because, again, since we
9 have a pretty long hearing, if there's a
10 way to work out the wording before we get
11 to the meeting, because that's where we
12 would pass the amendment, at the meeting.
13 If we can't, I think I'm safe to say
14 we're probably going to go with your
15 language.

16 COUNCILWOMAN BLACKWELL: All
17 right. And let me finally say about this
18 that the issues that arise about who
19 should have standing and who shouldn't,
20 many of you have seen in the paper the
21 issue for me at 40th and Pine Streets.
22 Spruce Hill is for it. The University of
23 Pennsylvania is for it. A small little
24 group, Woodland Terrace, is against it,
25 but they're the closest to the project.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 So this does not solve those
3 hard community issues. It's still coming
4 back to my table, everybody asking me to
5 side with them and meet with them. This
6 doesn't solve that. I'm not saying it
7 should, but I'm saying they can't imply
8 that it will solve it, because we still
9 have the hard community issues.

10 COUNCILMAN GREENLEE: I got
11 you.

12 MS. GLADSTEIN: I just want to
13 make sure that you're aware that our
14 amendments are now available, the ones
15 from the Administration with regard to
16 wireless antenna and marinas.

17 COUNCILMAN GREENLEE: I was
18 just going to get to that, if there's no
19 other questions on that. And, again, if
20 you can work this out. If not, I think
21 you see what we're going to do at the
22 meeting.

23 If you want to talk about the
24 wireless, you might as well add something
25 else. What the heck. Go ahead.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 MS. GLADSTEIN: No. I already
3 testified about it. I just want to say
4 it's now available for Councilmembers to
5 have a copy.

6 COUNCILMAN GREENLEE: Fine. If
7 there's any questions for that?

8 (No response.)

9 COUNCILMAN GREENLEE: Seeing
10 none, any other questions for
11 Ms. Gladstein and Mr. Greenberger at this
12 moment?

13 (No response.)

14 COUNCILMAN GREENLEE: I know,
15 Ms. Gladstein, you'll be staying, and I
16 don't know how long you can stay, Mr.
17 Greenberger.

18 DEPUTY MAYOR GREENBERGER: I'm
19 going to stay for a while.

20 COUNCILMAN GREENLEE: We have
21 two other witnesses on the list for this
22 bill, at least according to my list.

23 Noelle, you want to call the
24 names?

25 Thank you both for your

1 10/31/12 - RULES - BILLS 120654, ETC.

2 testimony.

3 THE CLERK: Anne Fadullon from
4 the Building Industry Association, Ryan
5 Lohbauer, and Rich Lombardo.

6 COUNCILMAN GREENLEE: And this
7 is all on the clean-up or the technical
8 amendments, right? You're not going to
9 speak about anything else.

10 (Witnesses approached witness
11 table.)

12 COUNCILMAN GREENLEE: If you
13 can identify yourself for the record.
14 And I'll probably keep repeating this.
15 Please try to be as brief as possible so
16 we can get through this. Thank you.

17 COUNCILMAN KENNEY: Please
18 identify yourself for the record and
19 proceed.

20 MS. FADULLON: My name is Anne
21 Fadullon and I am the Vice-President of
22 the Building Industry Association.

23 COUNCILMAN KENNEY: Please.
24 Are you together?

25 MR. LOHBAUER: My name is Ryan

1 10/31/12 - RULES - BILLS 120654, ETC.

2 Lohbauer. I'm here as a private citizen.

3 COUNCILMAN KENNEY: Let's take
4 the Building Industry testimony and move
5 down the road.

6 MS. FADULLON: So, like I said,
7 I'm the Vice-President of the Building
8 Industry Association, and we represent
9 the region's residential home builders,
10 residential contractors and suppliers.
11 We'd like to thank the members of the
12 Rules Committee for allowing us to speak
13 today on the two bills on today's agenda.
14 Specifically, we're going to talk about
15 Bills No. 120656 and 120774.

16 On behalf of the BIA, I
17 reiterate our support for the new Zoning
18 Code adopted by Council last year at the
19 recommendation of the Zoning Code
20 Commission. As many of you know, almost
21 a decade ago the BIA issued a report
22 calling for modernization of
23 Philadelphia's Zoning Code, and the BIA
24 helped make that idea a reality by
25 working with Council to draft the Charter

1 10/31/12 - RULES - BILLS 120654, ETC.
2 change amendments that created the Zoning
3 Code Commission, on which several of our
4 members sat, putting in thousands of
5 hours of work on the final product. We
6 are proud of our part initiating, working
7 on, and pushing for this critical reform.
8 That said, the BIA understands that our
9 Zoning Code is an imperfect and flexible
10 document that will need constant
11 attention to ensure that it says
12 relevant.

13 Regarding Bill No. 120656 --
14 COUNCILMAN KENNEY: Excuse me.
15 Just let me interrupt for a second so the
16 record is not jumbled. We're now taking
17 testimony on 120774.

18 MS. FADULLON: I'll do that
19 one.

20 COUNCILMAN KENNEY: You may
21 have to come back on 656, but I don't
22 want 656 testimony in 774's testimony.

23 MS. FADULLON: No problem. No
24 problem.

25 So on Bill 120774, it makes a

1 10/31/12 - RULES - BILLS 120654, ETC.
2 number of technical substantive changes
3 to the code, and the BIA supports the
4 vast majority of these amendments, but we
5 agree with the Developers Workshop that
6 some of the amendments are problematic.
7 I'm going to recite the sections that we
8 think are problematic, but I'm going to
9 defer to Rich Lombardo, who is from the
10 Developers Workshop, to go into the
11 specifics.

12 So the specific sections that
13 we believe are problematic are Section
14 14-202, which make changes to the rule of
15 measurement of open area; Section
16 14-203(328), which changes the definition
17 of a subdivision; Section 14-203(370),
18 which changes the definition of a side
19 yard; and, lastly, Section 14-803 Vehicle
20 Standards, which makes changes to
21 accessory parking. And as Councilman
22 Kenney noted, we do have some comments on
23 Bill 120656, but we'll hold those until
24 that time.

25 COUNCILMAN KENNEY: Great.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 Mr. Lombardo, identify yourself
3 and elucidate on the particular sections
4 you have a problem with.

5 MR. LOMBARDO: Good morning.
6 Richard Lombardo from Ballard Spahr.
7 Today I'm channeling Craig Schelter,
8 Executive Director of the Developers
9 Workshop --

10 COUNCILMAN KENNEY: That's
11 frightening.

12 MR. LOMBARDO: -- who is stuck
13 in an airport someplace trying to --

14 COUNCILMAN KENNEY: I'm sorry,
15 but that's a frightening thought that
16 you're channeling Craig. Just kidding.

17 MR. LOMBARDO: I'm the former
18 Planning Director -- not as much of a
19 lighting rod as Craig hopefully -- here
20 to speak to the Developers Workshop. My
21 comments are actually the result of a
22 subcommittee of the workshop, architects,
23 attorneys, who deal with the code, and
24 they're minor. They're all things we
25 mentioned back in June and we thought

1 10/31/12 - RULES - BILLS 120654, ETC.
2 were put to rest when Council passed the
3 ordinance back in June.

4 The first of these is -- I'll
5 be very brief -- Section 14-202, rules
6 and measurement --

7 COUNCILMAN GREENLEE:
8 Mr. Lombardo, could you speak a little
9 bit more in the mic.

10 MR. LOMBARDO: 14-202, rules
11 and measurement for open area. We
12 recommend that this change not be
13 included in the changes. Any part of a
14 lot that you own as required for whatever
15 reason to be open, whether it's an
16 easement to another owner to get across
17 your property, whether it's an easement
18 for underground utility or an overhead
19 utility, we believe that should continue
20 to be part -- if you own it and you have
21 to maintain it open by nature of an
22 easement, it should count as part of your
23 open area and not be excluded from your
24 open area.

25 The second amendment, the

1 10/31/12 - RULES - BILLS 120654, ETC.
2 definition of "subdivision," we testified
3 again to this back in June. A
4 subdivision of a lot into two lots, you
5 have a big enough property, both
6 properties have street frontage. We
7 believe that the Zoning Code should
8 address this. If it meets all the zoning
9 requirements, side yard, setback, rear
10 yard, you should be able to do it without
11 having to go through the subdivision
12 process. So we recommend that should not
13 be changed from a subdivision of three or
14 more lots down to two or more lots. It
15 should be left at three or more lots.
16 And that's been the subdivision
17 regulations since they were first adopted
18 back in the '50s.

19 The next recommendation is
20 change to the definition of "yard,"
21 specifically side yard. This is a
22 real -- this is very technical and minor.
23 If you have a side yard that's already
24 required to be a setback, in districts
25 where the setback may be 25 or 35 feet,

1 10/31/12 - RULES - BILLS 120654, ETC.
2 the code should recognize the fact that
3 you're now going to have a very large
4 side yard and whatever your normally
5 required side yard is. We are just
6 recommending consideration for the idea
7 this may have -- should probably maybe
8 future legislation should consider
9 allowing the owner to reduce the side of
10 the second side yard some percentage to
11 reflect the fact that they've had to
12 create a larger side yard on the other
13 side of the building.

14 And the last one is Section
15 14-803 Vehicle Standards, and that's
16 increasing the requirement that a parking
17 space or parking spaces be served by a
18 minimum of a 36-foot driveway. This is
19 an increase from what was originally in
20 the code. We also would point out that I
21 don't think this was ever discussed
22 through the Zoning Code Committee
23 process.

24 Thirty-six foot for a driveway
25 is actually two feet wider than a city

1 10/31/12 - RULES - BILLS 120654, ETC.
2 street. So you're saying that a private
3 driveway has to have a 34-foot cartway,
4 where the -- 36-foot cartway, where the
5 City code requires a street only have a
6 34-foot cartway. We think this is
7 excessive and it puts that in the idea
8 that people cannot manage a common
9 driveway behind their homes unless it's a
10 very large common driveway. And we would
11 recommend, again, that this not be
12 changed and that the code be left the way
13 it is.

14 COUNCILMAN GREENLEE: If I
15 could just interject this to both of you.
16 During this time, has this been raised
17 with the Administration, these concerns,
18 with the Zoning Code Commission?

19 MR. LOMBARDO: These are extra
20 Zoning Code Commission. We participated
21 in the Zoning Code.

22 COUNCILMAN GREENLEE: But these
23 issues you're raising now.

24 MR. LOMBARDO: We've raised
25 them -- when they were a topic to be

1 10/31/12 - RULES - BILLS 120654, ETC.
2 discussed, we raised them with the Zoning
3 Code Commission. We've raised them with
4 City Council. We've raised the issue of
5 subdivision with City Council last spring
6 where we were considering amendments to
7 the Zoning Code, and we thought it should
8 be left unchanged. It was left
9 unchanged.

10 MS. FADULLON: I think the key
11 thing is that these are amendments. So
12 we're fine with what the code says now
13 and so --

14 COUNCILMAN GREENLEE: Speak in
15 the microphone. I didn't hear you.

16 MS. FADULLON: I'm sorry; that
17 these are amendments. So for these
18 particular sections, we're fine with what
19 the code says now, and that's what we
20 have talked to the Administration about
21 and through the Zoning Code Commission
22 process. Now they're talking about
23 potentially making changes to these
24 sections, and we have issues with the
25 changes, not the code as it was written

1 10/31/12 - RULES - BILLS 120654, ETC.

2 and adopted, not the code that was
3 presented by the Zoning Code Commission.

4 COUNCILMAN GREENLEE: So these,
5 what you're opposing, if I'm
6 understanding this, are changes that are
7 being proposed today; is that right?

8 MS. FADULLON: Yes.

9 MR. LOMBARDO: They're changes
10 to the new code.

11 MS. FADULLON: Changes to the
12 new code, amendments to the new code, in
13 the clean-up bill.

14 COUNCILMAN GREENLEE:
15 Councilman Kenney.

16 COUNCILMAN KENNEY: The
17 clean-up amendments have been around for
18 how long? These are the clean-up
19 amendments to the Zoning Code change,
20 correct?

21 COUNCILMAN GREENLEE: Yes.

22 COUNCILMAN KENNEY: So they
23 were clean-ups.

24 MS. FADULLON: This isn't --

25 COUNCILMAN KENNEY: How long

1 10/31/12 - RULES - BILLS 120654, ETC.

2 have they been circulated?

3 MS. FADULLON: I guess -- I
4 know there was some introduced in June,
5 and I have to say this testimony isn't
6 that different than what we gave in June
7 and that we've been --

8 COUNCILMAN GREENLEE: In the
9 interim, have you met with the
10 Administration? Have you had any more
11 conversation about this?

12 See, the whole idea of delaying
13 it -- and I was like one of the ones that
14 was adamant that I thought there needed
15 to be more discussion. The hearing, as
16 you said, was in June. We're now
17 October. It's four months later, and
18 what I was hoping was that a lot of this
19 would get worked out and you just
20 wouldn't be -- no offense, but you or
21 others would not be coming with the same
22 testimony that you did four months ago.

23 So have you had more discussion
24 with the Administration on this? If you
25 have and you just can't reach a

1 10/31/12 - RULES - BILLS 120654, ETC.

2 consensus, that's fine.

3 MR. LOMBARDO: We have not.

4 COUNCILMAN GREENLEE: See,

5 Rich, that was the whole idea behind

6 this. To come here now and say --

7 MR. LOMBARDO: There's 57 pages

8 of the amendment.

9 COUNCILMAN GREENLEE: I

10 understand, and that's why we delayed it

11 for four months.

12 MR. LOMBARDO: And we thought
13 these were resolved. Some of these were
14 resolved back in June when we did testify
15 and Council passed the amended ordinance
16 without including these things. Now
17 they're back -- and to our surprise,
18 they're back again. And all we're
19 testifying to is exactly what our
20 committee that reviewed this back in June
21 and again reviewed it two weeks ago -- we
22 got a meeting together to review it and
23 comment on it. We're saying all 57 pages
24 of changes boils down to these four
25 things that we thought were resolved in

1 10/31/12 - RULES - BILLS 120654, ETC.
2 the beginning of the summer; that's all.

3 COUNCILMAN GREENLEE:

4 Councilman Goode.

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

7 Are you testifying against the
8 bill?

9 MR. LOMBARDO: No.

10 COUNCILMAN GOODE: Are your
11 recommendations formalized in terms of
12 amendments to the bill?

13 MR. LOMBARDO: Yes. I have
14 them.

15 COUNCILMAN GOODE: So you have
16 formal amendments to the bill?

17 MR. LOMBARDO: Yes.

18 COUNCILMAN GOODE: Thank you.
19 Can we have copies of those?

20 MR. LOMBARDO: Sure.

21 COUNCILMAN GOODE: Thank you.

22 COUNCILMAN GREENLEE: That
23 would help.

24 Any other questions -- were you
25 finished? I'm sorry.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 MR. LOMBARDO: Yeah. I'm
3 finished.

4 COUNCILMAN GREEN: Councilwoman
5 Reynolds Brown.

6 COUNCILWOMAN BROWN: The
7 amendments that you have, you've had
8 conversation with the Administration
9 and --

10 MR. LOMBARDO: No, we have not.
11 In the timeframe that this was presented,
12 we only had time to get our membership
13 together and put together this in writing
14 and for the members to consider it. And
15 then as late as just last week before the
16 hurricane, we put it together to come
17 testify today. No, we have not.

18 COUNCILMAN GREENLEE: When you
19 say --

20 MR. LOMBARDO: We have
21 discussed it in various times over, some
22 of these, various times through the whole
23 Zoning Code Commission process. I mean,
24 the issue of definition of "subdivision"
25 has been an issue all along, and we

1 10/31/12 - RULES - BILLS 120654, ETC.
2 thought even with the Zoning Code
3 Commission had been settled on three lots
4 being a subdivision. This is a change to
5 that that comes up late in the game.

6 COUNCILMAN GREENLEE: If you
7 could submit the amendments and they'll
8 be considered, I guess, is the best way
9 to say it.

10 Councilman, you had another
11 question?

12 COUNCILMAN KENNEY: This is not
13 related to this bill, but it's related to
14 the bill we're going to hear last. Are
15 you going to be testifying relative to
16 the buffer bill?

17 MR. LOMBARDO: Yes.

18 COUNCILMAN KENNEY: Anyone else
19 from the Development Workshop going to be
20 here?

21 MR. LOMBARDO: I don't believe
22 so. I don't know. If any individual
23 members are affected by it, I don't know
24 if they're going to be here.

25 COUNCILMAN KENNEY: I'm saying

1 10/31/12 - RULES - BILLS 120654, ETC.

2 usually when we're having this discussion
3 relative to buffers, we got a whole crew,
4 and today it's just you?

5 MR. LOMBARDO: Today it's just
6 me.

7 COUNCILMAN KENNEY: Craig is
8 here, the Sklaroffs are here, the world
9 is here. Is it just you today?

10 MR. LOMBARDO: I guess there's
11 a reason I'm here, but, again, when I get
12 to my testimony then --

13 COUNCILMAN KENNEY: I don't
14 want your testimony. I just want to know
15 if you're the only person that's going to
16 be representing the Development Workshop
17 today on the buffers.

18 MR. LOMBARDO: I think I am.
19 I'm not aware of anybody else being here.

20 COUNCILMAN KENNEY: On the
21 buffers. Okay.

22 MR. LOMBARDO: I've had
23 individual members call me.

24 COUNCILMAN KENNEY: No. I just
25 want to know of the big five or so,

1 10/31/12 - RULES - BILLS 120654, ETC.

2 you're the ones here.

3 MR. LOMBARDO: I'm the one

4 that's here.

5 COUNCILMAN KENNEY: I just want

6 to make sure. Thank you.

7 COUNCILMAN GREENLEE: You still

8 had further --

9 MR. LOMBARDO: No. I'm

10 finished.

11 COUNCILMAN GREENLEE: All

12 right.

13 Mr. Lohbauer, please identify

14 yourself if you have anything else --

15 MR. LOHBAUER: I'm actually

16 here to speak about 120656.

17 COUNCILMAN GREENLEE: I'm

18 sorry. You got on the wrong list here.

19 You're going to have to wait just a

20 little bit longer.

21 MR. LOHBAUER: That's fine.

22 COUNCILMAN GREENLEE: If we

23 could just call what I understand are the

24 last two witnesses for this bill, the

25 zoning amendment, zoning clean-up bill as

1 10/31/12 - RULES - BILLS 120654, ETC.

2 we're calling it.

3 THE CLERK: Kiki Bolender,

4 Mitch Wolfson.

5 COUNCILMAN GREENLEE: Say those

6 names again, please, one more time.

7 THE CLERK: Kiki Bolender,

8 Mitch Wolfson.

9 (Witnesses approached witness
10 table.)

11 COUNCILMAN GREENLEE: Now,

12 you're speaking on the zoning amendments,

13 right?

14 MS. BOLENDER: This is on the
15 registered community organization section
16 of the amendment.

17 COUNCILMAN GREENLEE: Okay. Go
18 ahead. Please.

19 MS. BOLENDER: Councilwoman
20 Blackwell --

21 COUNCILMAN GREENLEE: You got
22 to speak into the microphone, please.
23 Identify yourself first and then, please,
24 whatever you'd like to say.

25 MS. BOLENDER: Good morning.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 My name is Kiki Bolender. I'm here today
3 as the past Co-Chair of the American
4 Institute of Architects Urban Design
5 Review, and in that role, I was part of a
6 partnership that produced a project for
7 the benefit of the Zoning Code Commission
8 called "Common Ground: Developers, the
9 Public, and the Zoning Code." We brought
10 together almost 200 people to talk about
11 just the sorts of things you've been
12 talking about here this morning, and I
13 just wanted to say briefly a couple of
14 things about the proposed amendments.

15 First, to Councilman Kenney's
16 very excellent point about standing.
17 It's something we talked about a lot in
18 the groups, and we talked about the fact
19 that the courts of the Commonwealth now
20 don't allow standing to certain
21 individuals. The feeling of the groups
22 was that this made the organized civic
23 voice even more important than ever. And
24 so the legal concept of standing is one
25 thing; the idea of getting citizens

1 10/31/12 - RULES - BILLS 120654, ETC.

2 together to have their voices heard is
3 another. So out of our almost 200 civic
4 leaders, we had representatives of 82
5 different groups. We had representatives
6 of, I think, 52 different development
7 entities, developers, lawyers and all.
8 We found some things in common. And I
9 agree with Councilwoman Tasco, that some
10 of these things seem insolvable when you
11 think of near neighbors and the rest of
12 the community. But I just wanted to
13 offer a couple of things. And what I'm
14 doing right now is trying to channel all
15 of these people that we heard from.

16 Standing was the one thing I
17 wanted to mention and how much more
18 important it makes this organizational
19 effort for the civic groups, and that
20 being part of the reason for this attempt
21 at creating the registered civic
22 associations.

23 The issue of the near
24 neighbors, I think all of you who have
25 been involved in zoning know there really

1 10/31/12 - RULES - BILLS 120654, ETC.
2 are three groups, and they're not always
3 on the same page. They're the near
4 neighbors, there's the people who are
5 across the street and next door, then
6 there's the neighborhood, the bigger
7 neighborhood, and then there's the whole
8 city. And their interests are sometimes
9 going to conflict.

10 So I think there was one
11 passage that troubled me in the amendment
12 about saying that a registered civic
13 group could be -- a registered civic
14 organization could be as small as one
15 block. That's pretty much a near
16 neighbor. And what we heard from all of
17 these civic leaders were, let's try to
18 find a way to bring those people in.
19 Let's try to find a way to have those
20 very difficult discussions within a group
21 rather than having an aggrieved
22 individual appeal at the last minute and
23 potentially derail the process.

24 It's very, very difficult
25 stuff, but honestly, to sit with those

1 10/31/12 - RULES - BILLS 120654, ETC.
2 leaders of 82 civic groups from all over
3 the City, you kind of had a feeling it
4 was possible. You had a feeling that
5 some of these differences could be
6 overcome.

7 The third thing -- the
8 standing, the near neighbors. The third
9 thing -- and I did submit testimony. I
10 apologize. I was a little confused
11 because this was rescheduled from Monday.

12 The third thing is about
13 notification. I feel that based on what
14 we heard, the written notification to
15 near neighbors could be wrongly used, as
16 you were saying, and that it's unduly
17 burdensome both on the applicant and on
18 the civic group. And as someone who is
19 way overinvolved in civic affairs,
20 volunteer hours are limited, and I think
21 it could be misused, and I think that the
22 written notification should be dropped.
23 Notification generally was a very, very
24 important thing to everyone we heard
25 from, and I think that the code has gone

1 10/31/12 - RULES - BILLS 120654, ETC.

2 a long ways to improve that situation.

3 Thank you.

4 COUNCILMAN GREENLEE: Thank

5 you.

6 Before we have any -- let the

7 other gentleman go.

8 Please identify yourself for

9 the record and proceed.

10 MR. WOLFSON: I am Mitch

11 Wolfson. I'm here to testify on Bill No.

12 120656.

13 COUNCILMAN GREENLEE: Sir, I'm

14 going to have to cut you off. We're not

15 ready for that yet. We're not ready for

16 that bill yet.

17 MR. WOLFSON: All right.

18 COUNCILMAN GREENLEE: All

19 right?

20 Councilwoman Tasco had a

21 question.

22 COUNCILWOMAN TASCO: No, I

23 don't have a question. I just have a

24 statement to say thank you for your

25 testimony. One of the wonderful things

1 10/31/12 - RULES - BILLS 120654, ETC.
2 about being a legislative body, you can
3 pass a piece of legislation. If it
4 doesn't work, you can always come back
5 and amend it. That's the beauty of being
6 here. Once we hear the complaints and
7 see if it's working or not working, then
8 we can come back and set it right.

9 MS. BOLENDER: And I think this
10 is an amazing invention, and I think over
11 the next year, we'll see if it works or
12 not and I hope revisit it a year from
13 now. So thank you very much.

14 COUNCILMAN GREENLEE: Thank
15 you.

16 Any other questions or
17 comments?

18 (No response.)

19 COUNCILMAN GREENLEE: Is there
20 anyone else here to testify on this bill,
21 this bill?

22 (No response.)

23 COUNCILMAN GREENLEE: Seeing
24 none, Ms. Marconi, if we could go to the
25 next -- I'm going to keep the record open

1 10/31/12 - RULES - BILLS 120654, ETC.
2 on this, because I believe Councilman
3 O'Neill had another amendment that's not
4 ready yet. So we're going to keep the
5 record open on 120774. But now we're
6 going to move to the next bill.

7 THE CLERK: Bill No. 120781, an
8 ordinance amending Title 14 of The
9 Philadelphia Code, entitled "Zoning and
10 Planning," by amending Section 14-603,
11 entitled "Use-Specific Standards," by
12 revising requirements relating to family
13 day care, under certain terms and
14 conditions.

15 Eva Gladstein.

16 (Witness approached witness
17 table.)

18 COUNCILMAN GREENLEE: Ms.
19 Gladstein, please identify yourself.

20 MS. GLADSTEIN: Good morning.
21 For the record again, my name is Eva
22 Gladstein, Deputy Executive Director of
23 the City Planning Commission.

24 Hopefully this bill will be a
25 little bit easier.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 COUNCILMAN GREENLEE: I sure
3 hope so.

4 MS. GLADSTEIN: Bill No. 120781
5 amends the Zoning Code relating to family
6 day care. It's permitting family day
7 care to exceed the limit of six children
8 and have up to -- family-based day care
9 to exceed the limit of six children and
10 have up to 12 children if approved by a
11 special exception by the Zoning Board of
12 Adjustment. This currently requires a
13 variance. So it would move from a
14 variance to a special exception. The
15 amendment exempts Area 1 and Area 2,
16 which are currently consistent with
17 Council District 6 and Council District
18 10.

19 Additionally, the bill
20 clarifies that family day care is only
21 permitted in a single- or two-family
22 residence and must be operated by the
23 owner or resident tenant authorized by
24 the owner. We actually have a little bit
25 of duplication and those latter two

1 10/31/12 - RULES - BILLS 120654, ETC.
2 amendments are also contained in the
3 previous bill, 120774, in exactly the
4 same manner.

5 The Philadelphia City Planning
6 Commission considered Bill No. 120781 at
7 their meeting of October 16th and
8 recommended that it be approved.

9 And I guess I will add that
10 Councilwoman Blondell Reynolds Brown also
11 had a briefing for members of Council
12 where there was discussion about this
13 last week.

14 COUNCILMAN GREENLEE: Yes. I
15 would say this was -- I thank
16 Councilwoman Reynolds Brown for that,
17 because I think it made everything a lot
18 clearer to the members. As you can see,
19 it doesn't appear to be a lot of
20 controversy on this one.

21 Any questions for Ms. Gladstein
22 on this bill?

23 (No response.)

24 COUNCILMAN GREENLEE: Seeing
25 none, Ms. Marconi, you want to call the

1 10/31/12 - RULES - BILLS 120654, ETC.
2 other -- whoever else is on the list
3 here.

4 THE CLERK: Rasheedah Phillips
5 from Community Legal Services and Marion
6 Brown from One Stop Shop.

7 (Witnesses approached witness
8 table.)

9 COUNCILMAN GREENLEE: Let me
10 ask, is there anyone else here to speak
11 on this bill, the day care bill?

12 (No response.)

13 COUNCILMAN GREENLEE: No?
14 Okay. Good. You'll be our two
15 witnesses.

16 Ms. Phillips, please identify
17 yourself for the record and proceed.

18 MS. PHILLIPS: Good morning.
19 My name is Rasheedah Phillips. I'm an
20 attorney at Community Legal Services in
21 the Community Economic Development Unit.
22 I will attempt to keep my comments as
23 brief as possible.

24 The proposed amendment before
25 you today is aimed at resolving an

1 10/31/12 - RULES - BILLS 120654, ETC.
2 inconsistency in the new code as it
3 applies to childcare provided in a
4 residence. In previous draft versions of
5 the new code, group day care, which is
6 when a childcare provider cares for seven
7 to 12 children at any given time, was
8 originally defined as day care providing
9 care for up to 12 adults or for seven to
10 12 children who are not related to the
11 day care provider. In cleaning up the
12 code and ensuring that parts of it did
13 not conflict with other aspects of The
14 Philadelphia Code, the definition for
15 "group day care" was later changed in the
16 final draft to emphasize that group day
17 care is provided in a facility that is
18 not the day care provider's primary
19 residence. This change in definition had
20 the unintended consequence of eliminating
21 group day care as a special exception use
22 in a residence, subjecting some childcare
23 providers to the stricter variance
24 process while most other forms of day
25 care not permitted by right are deemed

1 10/31/12 - RULES - BILLS 120654, ETC.

2 special exception uses. We are here
3 today to recommend that City Council pass
4 the ordinance which would allow zoning
5 use permits for the provision of day care
6 for up to 12 children in residentially
7 zoned properties to be made contingent
8 upon meeting the standards and procedures
9 for special exception approval as set
10 forth in Section 14-303(7) of the new
11 code.

12 In the new code, you may note
13 that most forms of day care in
14 residential districts are allowed by
15 special exception approval or as an
16 accessory use, keeping with the Zoning
17 Code Commission's intent of a more fair,
18 user-friendly, and efficient zoning
19 process that cuts back on variances.
20 Under the new code use-specific
21 standards, group day care is allowed by
22 special exception approval in all RSA,
23 RTA and RM districts as long as the
24 property is not the day care provider's
25 primary residence. In effect, a

1 10/31/12 - RULES - BILLS 120654, ETC.
2 childcare provider can use the special
3 exception process to provide group day
4 care in a residentially zoned property
5 that she has rented or purchased, but she
6 cannot live in. So a similarly situated
7 provided who wants to provide group day
8 care in her place of residence, however,
9 would be unfairly subjected to the
10 separate and much stricter variance
11 process or would otherwise need to move
12 out of her residence to trigger the
13 special exception process. This seems
14 contrary to the purpose of the special
15 exception provision. We believe that the
16 provider who actually lives in a property
17 will be better situated to address issues
18 with his or her neighbors and will be
19 more committed to ensuring that the
20 community is not negatively impacted by
21 the group day care.

22 Similarly, the near neighbors
23 or the closest neighborhood association
24 is best situated to comment upon whether
25 group childcare is appropriate for a

1 10/31/12 - RULES - BILLS 120654, ETC.
2 particular block as opposed to an
3 inflexible standard imposed by the code
4 which does not take into account the
5 particular character or needs of the
6 neighborhood.

7 The special exception provision
8 in the new code is fully efficient and
9 appropriate for use under the
10 circumstances of a provider wishing to
11 provide residential group day care in his
12 or her own residence. It provides
13 adequate safeguards and many
14 opportunities for community members to
15 give input on special exception uses
16 coming into their neighborhood. And we
17 believe that the burden-shifting standard
18 will not impose a hardship on community
19 members.

20 Evidence satisfying the burden
21 of proof typically involves demonstrating
22 that the community is in support of the
23 application, and the Zoning Board weighs
24 petitions from neighbors and letters of
25 support from Councilmembers and the local

1 10/31/12 - RULES - BILLS 120654, ETC.

2 community organization very heavily
3 against all other evidence.

4 In addition, excluding
5 residential group day care in the new
6 code would not only make the Zoning Code
7 inconsistent with other regulations that
8 explicitly provide for residential group
9 day care, but would also make the process
10 confusing and difficult to administer.
11 Philadelphia building code regulations as
12 well as other relevant City codes have
13 specific provisions that cover
14 residential group day care for up to 12
15 children. Residential group day care,
16 like all other forms of day care, is also
17 strictly regulated by state agencies.

18 So, in summary, passing this
19 ordinance will allow the new code to take
20 one step further in cutting back on
21 unnecessary appeals to the ZBA that are
22 expensive and time-consuming and will cut
23 back on time and resources necessary to
24 interpret, administer, and enforce the
25 code. This ordinance also recognizes

1 10/31/12 - RULES - BILLS 120654, ETC.
2 that residential day care for up to 12
3 children is an important communal use
4 that provides community residents with
5 access to quality childcare in their
6 neighborhoods. Zoning codes across the
7 country have long allowed schools and
8 recreation centers in neighborhoods,
9 believing that children should be cared
10 for and educated in community, not
11 commercial surroundings.

12 We strongly urge City Council
13 to resolve this inconsistency in the new
14 code so that childcare programs can
15 continue to thrive and fulfill their
16 important communal function of providing
17 safe spaces for children to learn and
18 play while their parents go to work and
19 school.

20 Thank you.

21 COUNCILMAN GREENLEE: Thank
22 you.

23 Ms. Brown.

24 MS. BROWN: Thank you. I'm
25 here on behalf of the Southeast

1 10/31/12 - RULES - BILLS 120654, ETC.
2 Pennsylvania Early Childhood Coalition,
3 which is a group of providers and
4 advocates throughout the Southeast
5 region, many from Philadelphia, and also
6 on behalf of the Neighborhood Inter-Faith
7 Movement, which sponsors my work, One
8 Stop Shop for Child Care Licensing
9 Information in Philadelphia.

10 Understanding your wanting us
11 to be brief --

12 COUNCILMAN GREENLEE: Please.

13 MS. BROWN: -- I didn't even
14 print out a whole thing to read. I gave
15 you -- I think you have this one sheet
16 summary of some of the many regulations
17 that a provider needs to meet if she gets
18 the approval from the Zoning Board
19 special exception to proceed with group
20 day care. I'll just point out a couple
21 of them.

22 One is that she would then have
23 to install a hardwired smoke detector
24 system throughout her home, which is an
25 investment of several hundred or several

1 10/31/12 - RULES - BILLS 120654, ETC.

2 thousand dollars, depending on the
3 building.

4 A second is that in terms of
5 the state regulations, she would have to
6 have 40 square feet per child. The state
7 comes in and measures to the inch. So
8 that even if the Zoning Board were to
9 approve her for up to 12 children, if the
10 state measured that she only had enough
11 square footage for ten children, for
12 instance, she would be held to the most
13 stringent number.

14 And I think I'll stop there.
15 If anybody would like -- because with
16 Councilwoman Brown, we did a briefing. I
17 have a copy of the state regulations
18 here. It's only 70 pages, but I don't
19 want to take your time on that.

20 COUNCILMAN GREENLEE: Since we
21 already got a hundred pages in front of
22 us of different things. But, no, we're
23 fine. Thank you very much.

24 Any questions?

25 Councilwoman Reynolds Brown.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 COUNCILWOMAN BROWN: Thank you
3 for working with my office and for being
4 at the briefing last week to help us
5 ensure that Councilmembers are clear
6 about what we're attempting to do. But
7 thanks for your contributions.

8 MS. PHILLIPS: Thank you.

9 MS. BROWN: Thank you.

10 COUNCILMAN GREENLEE: Thank you
11 both.

12 Being no other witnesses on
13 this bill, Ms. Marconi, please call the
14 next bill.

15 THE CLERK: Bill No. 120656, an
16 ordinance amending Title 14 of The
17 Philadelphia Code, entitled "Zoning and
18 Planning," by revising lot area and
19 parking requirements in certain
20 districts, and making technical changes,
21 all under certain terms and conditions.

22 Eva Gladstein.

23 (Witness approached witness
24 table.)

25 COUNCILMAN GREENLEE: Do you

1 10/31/12 - RULES - BILLS 120654, ETC.
2 ever get tired of this place, Ms.
3 Gladstein? I know, you won't comment on
4 that. I don't blame you.

5 MS. GLADSTEIN: I won't. I
6 won't comment that I'm running. I
7 shouldn't with my bad ankle. I'm going
8 to take it easy.

9 This is 656?

10 COUNCILMAN GREENLEE: Yes.

11 MS. GLADSTEIN: Thank you.
12 Good morning. My name is Eva Gladstein,
13 Deputy Executive Director of the City
14 Planning Commission, and I'm here to
15 testify on Bill No. 120656 introduced
16 into City Council on September 13th,
17 2012.

18 Bill No. 120656 will change the
19 density and parking requirements for
20 certain multi-family and commercial
21 mixed-use districts commonly found
22 throughout the City.

23 With regard to density, the
24 bill will change the lot size
25 requirements and thus the density for

1 10/31/12 - RULES - BILLS 120654, ETC.
2 multi-family dwellings in the RM-1,
3 CMX-1, and CMX-2 districts. The existing
4 requirement is that a minimum of 360
5 square feet is required per unit for the
6 first 1,440 square feet of lot area and
7 480 square feet per unit thereafter.
8 This would result in four dwelling units
9 on a typical 1,440 square foot lot,
10 generally considered the standard row
11 house lot.

12 This bill will change the
13 calculation for these districts so that
14 480 square feet is required per unit
15 regardless of the size of the lot. This
16 would limit these districts to three
17 units on a standard 1,440 square foot
18 lot. So it would be going from four
19 units down to three units.

20 The bill also adds a parking
21 ratio of three spaces per ten dwelling
22 units in the RM-1, CMX-2, and CMX-2.5
23 districts. Currently there's no parking
24 requirement in these districts. The old
25 Zoning Code did have a one-for-one

1 10/31/12 - RULES - BILLS 120654, ETC.
2 parking ratio.

3 In the RM-1 district, the
4 parking requirement will begin when there
5 are three or more dwelling units. In
6 addition, there would be parking
7 requirements for visitor accommodations,
8 meaning hotels, three spaces per ten
9 units.

10 Limiting the number of dwelling
11 units in certain districts is supportable
12 given that the three-story row home is a
13 dominant dwelling model. The changes
14 would permit one unit per floor rather
15 than four units in the three-story
16 structure, which could lead to basement
17 apartments or very small apartments.

18 However, the bill as proposed
19 would result in a significant number of
20 referrals to the Zoning Board of
21 Adjustment because the code requires a
22 special exception to provide parking on
23 lots that are less than 20 feet wide,
24 that are not served by a rear street,
25 shared driveway or alley. This was

1 10/31/12 - RULES - BILLS 120654, ETC.
2 designed to prevent front-loaded
3 off-street parking that removes on-street
4 spaces from the neighborhood.

5 Therefore, the Planning
6 Commission is offering an amendment that
7 would exempt the first three residential
8 units instead of the first two units from
9 the calculation of required spaces.

10 The City Planning Commission at
11 its meeting of September 16th, 2012
12 recommended that Bill No. 120656 be
13 approved as amended in this manner.

14 We also understand there may be
15 another amendment offered to this bill.
16 We haven't seen it yet today. Has
17 Council seen it?

18 COUNCILMAN GREENLEE: Yes. I
19 believe we're talking about with the
20 parking controls, particularly for North
21 Central Philadelphia, right?

22 MS. GLADSTEIN: Yes. Exactly.

23 COUNCILMAN GREENLEE: We have
24 that one. Do we have yours?

25 MS. GLADSTEIN: I believe you

1 10/31/12 - RULES - BILLS 120654, ETC.

2 have it, and if not, I can make it
3 available.

4 COUNCILMAN GREENLEE: I don't
5 think we have it.

6 MS. GLADSTEIN: You don't have
7 it? I have one copy of it.

8 COUNCILMAN GREENLEE: If I
9 could ask a question, Ms. Gladstein. On
10 your amendment, have you had
11 conversations with -- I know it was
12 introduced by Councilman O'Neill, but I
13 know Councilperson Clarke has an interest
14 in this. Has there been discussion?

15 MS. GLADSTEIN: I have to check
16 with a member of my staff. I believe --
17 yes, it has been.

18 COUNCILMAN GREENLEE: Was there
19 an agreement on that?

20 MS. GLADSTEIN: Yes. I see a
21 head shake on that.

22 COUNCILMAN GREENLEE: Oh, there
23 was? Okay.

24 MS. GLADSTEIN: With regard to
25 our amendment.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 COUNCILMAN GREENLEE: Your
3 amendment. Now, on the amendment, to the
4 best of your knowledge -- and we'll have
5 to obviously check this out -- the
6 sponsors of the bill are okay with your
7 amendment, right?

8 MS. GLADSTEIN: Right, which
9 again just brings the parking requirement
10 at four units instead of three units.

11 And then I wanted to respond to
12 the other amendment, if you'd like me to
13 do that.

14 COUNCILMAN GREENLEE: Yes,
15 please.

16 MS. GLADSTEIN: We understand
17 another amendment is being offered today
18 that would increase the parking
19 requirement to a ratio of one parking
20 space for every two units in the area
21 generally bounded by 9th Street, Lehigh
22 Avenue, 20th Street, and Girard Avenue.
23 This is designed to limit units primarily
24 used for student housing, although any
25 type of unit would be affected. Although

1 10/31/12 - RULES - BILLS 120654, ETC.

2 we have not yet reviewed this

3 amendment -- the Planning Commission did

4 not review this amendment, so did not

5 take a position on the amendment. The

6 Planning Commission staff believes it's

7 best to limit this even higher parking

8 ratio to a specific geographic area that

9 has particular issues, such as those

10 related to student housing. We prefer it

11 be done in this manner than citywide.

12 COUNCILMAN GREENLEE: So, in

13 other words, you're okay with this

14 amendment?

15 MS. GLADSTEIN: The Planning

16 Commission staff is okay with that, yes.

17 COUNCILMAN GREENLEE: Terrific.

18 Any questions with

19 Ms. Gladstein?

20 (No response.)

21 COUNCILMAN GREENLEE: Okay.

22 Seeing none, so we're basically on board

23 with both amendments.

24 MS. GLADSTEIN: From the

25 Administration's point of view, yes.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 COUNCILMAN GREENLEE: Okay.

3 Fine.

4 Ms. Marconi, you want to call
5 the other.

6 THE CLERK: Anne Fadullon,
7 Peter Crawford, Rich DeMarco.

8 (Witnesses approached witness
9 table.)

10 COUNCILMAN GREENLEE: Sir, you
11 want to identify yourself for the record
12 and proceed.

13 MR. CRAWFORD: Yes. Peter
14 Crawford. I'm a private developer. And
15 Rich DeMarco told me that he's on his
16 way.

17 COUNCILMAN GREENLEE: Okay. Go
18 ahead, please. No. Go ahead. You were
19 up there first. You go.

20 MR. CRAWFORD: Yes. Bill No.
21 120656 is a direct attack on the Zoning
22 Reform Commission and all the reforms
23 that it worked four years to implement.
24 With a few strokes of the pen, the bill
25 turns back the clock to the bad old days

1 10/31/12 - RULES - BILLS 120654, ETC.
2 of an antiquated and dysfunctional Zoning
3 Code.

4 The bill deals with two zoning
5 classifications, RM-1 and CMX-2. These
6 classifications cover vast areas of the
7 City. RM-1 is a multi-family zone
8 covering approximately 17 percent of all
9 residentially zoned land in the City. It
10 includes such diverse areas as Logan,
11 Nicetown, Brewerytown, Spring Garden,
12 Mantua, Cobbs Creek, Queen Village, parts
13 of Rittenhouse Square, Frankford, and
14 parts of Kensington. CMX-2 is a
15 residential/commercial mixed-use zone
16 which covers about 35 percent of the
17 commercially zoned land in the City.
18 Generally speaking, the RM-1
19 classification is the successor to R-9
20 and R-10 under the old code.

21 The Zoning Reform Commission
22 made several observations about these
23 zones.

24 First, it noted that many of
25 the City's redevelopment areas were zoned

1 10/31/12 - RULES - BILLS 120654, ETC.
2 R-9 and R-10. They are areas with high
3 rates of vacancy, abandonment, and
4 blight. The City's redevelopment plans
5 recognized the need to redevelop these
6 areas.

7 Second, it noted that the
8 existing Zoning Code created unnecessary
9 obstacles to the redevelopment of these
10 zones. These obstacles were due to the
11 mismatch between the Zoning Code
12 requirements and the actual area of
13 building lots. For example, as Eva
14 Gladstein pointed out earlier, a
15 so-called standard lot is 1,440 square
16 feet. The reality, however, is that lot
17 does not exist or exists very rarely in
18 the City. By that standard, 86 percent
19 of the lots in the old R-10 zone would be
20 considered non-conforming, and 60 percent
21 of the lots in the R-9 zone would be the
22 same. Indeed, the average lot area in
23 R-10 is only 706 square feet.

24 So I cannot agree with Eva
25 Gladstein's assessment that this change

1 10/31/12 - RULES - BILLS 120654, ETC.
2 would allow four units on a typical sized
3 lot, because a typical sized lot is
4 closer to 700 square feet than it is to
5 1,440 square feet.

6 The Zoning Commission commented
7 if the City truly wants to redevelop
8 these blighted areas, it needs to tailor
9 the zoning regulations to fit the
10 existing conditions.

11 The new Zoning Code, which took
12 effect in August 2012, imposed a
13 reasonable limitation of 360 square feet
14 of lot area per unit in RM-1 and CMX-2.
15 This restriction means that the
16 construction of a two-unit building
17 requires 720 square feet of lot area, a
18 three-unit building requires 1,080 square
19 feet. Even these restrictions are
20 somewhat questionable, because as I
21 noted, the median lot area is only 706
22 square feet, but nevertheless, it's not
23 unduly burdensome.

24 Bill No. 120656 would increase
25 the required lot area to 480 square feet

1 10/31/12 - RULES - BILLS 120654, ETC.
2 per unit. This new standard is out of
3 step with the actual size of buildings
4 and lots in these districts. As I said,
5 the median lot size in R-10 is only 706
6 square feet. Thus, even though RM-1 is
7 one of our few multi-family zones in the
8 City, it would be impossible to obtain a
9 multi-family permit on an average sized
10 lot.

11 In order to convert an average
12 building to multi-family use, an appeal
13 would be required to the Zoning Board of
14 Adjustment. The Zoning Reform Commission
15 noted that the ZBA heard a total of
16 12,609 cases between 2000 and 2007.
17 Forty percent of all zoning permit
18 requests during that period resulted in a
19 hearing before the ZBA. The Commission
20 was aware of no other U.S. city that
21 relies so heavily on its zoning board in
22 the administration of its zoning laws.

23 Requiring that 40 percent of
24 all development be reviewed by the Zoning
25 Board of Adjustment does not make sense,

1 10/31/12 - RULES - BILLS 120654, ETC.
2 the Commission said. It adds time, cost,
3 and uncertainty to the development
4 process.

5 To reduce the workload of the
6 ZBA, the Commission recommended that
7 zoning district regulations be updated
8 and made more flexible to take into
9 account actual lot sizes rather than some
10 abstract ideal lot size like the 1,440
11 square feet we see in the code.

12 The Zoning Commission also
13 recommended changes to the off-street
14 parking requirements. The vast majority
15 of our lots in RM-1 and CMX-2 pre-date
16 the automobile. The typical lot is
17 narrow, shallow, and ill-instituted to
18 accommodate parking. The City's parking
19 requirements should not create needless
20 barriers to the redevelopment of the lots
21 in these two zones.

22 In recognition of these
23 realities, the new Zoning Code adopted by
24 City Council eliminated any off-street
25 parking requirements for multi-family

1 10/31/12 - RULES - BILLS 120654, ETC.
2 buildings in RM-1 and CMX-2 zones. And I
3 do understand that there's now been an
4 amendment proffered which would eliminate
5 the parking requirement beyond below four
6 units. But the original version of Bill
7 120656 took a step backward by imposing
8 needless parking requirements that the
9 new Zoning Code had gotten rid of.

10 COUNCILMAN GREENLEE: Let me
11 ask you, you mention the Administration's
12 amendments that Ms. Gladstein just talked
13 about. You're in favor of those?

14 MR. CRAWFORD: I have not seen
15 the amendments. I am in favor of the
16 amendment -- I would say that I'm in
17 favor of the amendment that eliminates
18 the parking requirement for three-unit
19 buildings. However, I have not seen the
20 North Central Philadelphia overlay, and I
21 don't see any justification for treating
22 one part of the RM-1 zone differently
23 from another part.

24 COUNCILMAN GREENLEE: Well, I
25 don't want to speak for Council President

1 10/31/12 - RULES - BILLS 120654, ETC.

2 Clarke, but I think the answer is the
3 reason they're being treated differently
4 is they're different. You know, they
5 have a tremendous amount of parking
6 issues in that area that was brought up
7 by the community. I mean, I don't live
8 right there, but I live reasonably close
9 and I've heard from many people -- I've
10 been to community meetings in that area.
11 Not as many as Council President Clarke
12 obviously, and parking and particularly
13 coming out of the tremendous increase in
14 students in that area -- and in many
15 ways, that's a good thing, but one thing
16 that a lot of students brought was cars
17 and parking issues. So I think this is
18 the way, as Ms. Gladstein said, when
19 there's a particular problem in a
20 particular area, they're trying to fix
21 that, and this is, I think if you're
22 familiar with the area, a pretty
23 documented problem.

24 MR. CRAWFORD: I'm fairly
25 familiar with the area and I go there

1 10/31/12 - RULES - BILLS 120654, ETC.
2 every day, and in my view, what's really
3 solved -- this is not a solution to the
4 residential parking problem. What's
5 really solved the problem is permit
6 parking on selected streets. You can go
7 to any street that has a permit parking
8 sign and there will be spaces throughout
9 the day. And I think what's driving the
10 parking crunch is not so much people who
11 are living and sleeping in the area
12 overnight, but people who are commuting
13 to the area for work or school and
14 parking there between the hours of 10:00
15 and 3:00, our general working hours.

16 COUNCILMAN GREENLEE: Okay. I
17 understand your opinion, but that's not
18 what we hear from the residents, but
19 okay. Is that --

20 MR. CRAWFORD: Yes. That's my
21 testimony.

22 COUNCILMAN GREENLEE:
23 Ms. Faddulon, if you could identify
24 yourself for the record again and please
25 proceed.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 MS. FADULLON: I'm Anne
3 Fadullon, Vice-President of the Building
4 Industry Association. And I want to
5 apologize because I didn't realize that
6 the RCOs fell under Bill 120774. So if I
7 could comment on that for like 30
8 seconds. I will not be commenting on
9 stream buffers, if that's any help.

10 COUNCILMAN GREENLEE: That
11 lessens the list from 57 to 56, I think,
12 but go ahead.

13 MS. FADULLON: So in reference
14 to the RCOs, I think that the feeling of
15 the Building Industry Association is, we
16 want the community process to be as open
17 and inclusive as possible. However, the
18 piece of the amendment that talks about
19 maybe having several separate meetings
20 with different RCOs within the 45-day
21 period, I think that's a little bit
22 problematic for our membership. Again,
23 we're hoping that the meeting will be as
24 inclusive and representative as possible
25 rather than sort of having to meet with

1 10/31/12 - RULES - BILLS 120654, ETC.
2 different factions about different issues
3 at different times, and that may be a
4 little difficult to administer.

5 So I'd just like some thought
6 given to that, because there are some
7 areas of the City that also have several
8 neighborhood associations, and that could
9 mean really a huge number of meetings
10 within a 45-day period. So there is just
11 some additional consideration for that.
12 And, of course, as usual, we'd be open to
13 any dialogue or negotiation,
14 communication around that issue.

15 With that, regarding Bill No.
16 120656, which reduces density and
17 increases parking requirements in certain
18 zoning districts, we do have some
19 concerns with this legislation as it was
20 originally drafted. I've just been
21 handed the amendment, so I'll do my best
22 to kind of modify testimony based on
23 that.

24 We felt that the original
25 amendments in the bill that modified the

1 10/31/12 - RULES - BILLS 120654, ETC.
2 parking requirements were excessive and
3 did not fit in with the type of urban
4 development envisioned in those zoning
5 classifications and potentially could
6 hinder development, which is something
7 that we know that the City desperately
8 needs.

9 However, looking at the
10 administrative amendments that would
11 require zero parking for the first three
12 units and then potentially some parking
13 after that, I think that's something that
14 we could probably discuss, because we do
15 understand the issue with -- if it's a
16 four or five-unit building in certain
17 areas of the City, that does create some
18 parking issues. So I think that's
19 something that we'd be open to, but need
20 to take a closer look at it.

21 In reference to the density
22 requirements, again, I don't think we'd
23 support either the original language or
24 the amended language. However, what we
25 would like to offer is that a minimum of

1 10/31/12 - RULES - BILLS 120654, ETC.
2 360 square feet of lot would be required
3 for the first three units, and then
4 subsequent units after that would require
5 a 480 square foot lot. This would allow
6 three units on a 1,080 square foot lot,
7 but not necessarily four units on a 1,440
8 square foot lot, unless, of course, you
9 got a variance. We think this is a
10 compromise that the home builders could
11 live with, and we support the intent of
12 that legislation, and we ask
13 consideration be given to the compromise
14 language.

15 COUNCILMAN GREENLEE: Do we
16 have a copy of that, what you're calling
17 compromise language?

18 MS. FADULLON: Sure. As
19 always, we build in every single
20 neighborhood of the City and so we're
21 always interested in -- open to the
22 ongoing dialogue that we have with City
23 Council, and we really appreciate it.

24 COUNCILMAN GREENLEE: Do we
25 have what you're referring to?

1 10/31/12 - RULES - BILLS 120654, ETC.

2 MS. FADULLON: Sure.

3 COUNCILMAN GREENLEE: We have
4 it now?

5 MS. FADULLON: Oh, I don't
6 think you have it, but you can certainly
7 have copies.

8 COUNCILMAN GREENLEE: We just
9 need -- whatever you're talking about, we
10 need to be able to look at it.

11 It's in the testimony? All
12 right. We have it, then. Thank you.

13 Any questions?

14 (No response.)

15 COUNCILMAN GREENLEE: Seeing
16 none --

17 MR. CRAWFORD: Excuse me. I
18 have copies of my testimony.

19 COUNCILMAN GREENLEE: All
20 right. We'll make those part of the
21 record.

22 THE CLERK: Is Rich DeMarco
23 here?

24 COUNCILMAN GREENLEE: No. I
25 don't think he came.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 THE CLERK: So we have Nick
3 Pizzola, Ryan Lohbauer, Mitch Wolfson.

4 (Witnesses approached witness
5 table.)

6 COUNCILMAN GREENLEE: If you
7 all want to come up, please. And, again,
8 I'll repeat, if you have written
9 testimony, please just don't sit there
10 and read it. You can have that submitted
11 for the record, if it's not already. If
12 you could just summarize your statements,
13 we'd greatly appreciate it.

14 So whoever would like to --
15 sir, please identify yourself for the
16 record.

17 MR. PIZZOLA: Thank you for
18 allowing me to testify this morning
19 before the Rules Committee. My name is
20 Nick Pizzola. I'm a small developer
21 that's active in various sections of the
22 City. Presently I have a project in Port
23 Richmond, and I am opposed to the
24 changing of the density per dwelling unit
25 from 360 square feet to 480 square feet.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 It will directly affect my business
3 negatively and also will negatively
4 affect the community I plan to work in,
5 which is Port Richmond.

6 Here is why: In Port Richmond,
7 the average lot size is small, averaging
8 15 by 65 feet. Many lots are even
9 smaller. I presently have four lots
10 under agreement that I plan to settle on
11 in the next 60 days. I purchased them
12 precisely because I'd be able to build
13 duplexes and triplexes on them by right.
14 If this amendment is passed, I would be
15 unable to build by right and would need
16 approval by the Zoning Board of
17 Adjustment to build. At best, it will
18 delay the project, increase costs while
19 reducing the revenue, and at worst, my
20 project may not be approved.

21 Here is a minimum what will be
22 lost if this density amendment is
23 approved: There are not many affordable
24 units in Port Richmond. My project will
25 be forced to be downsized. And what I'm

1 10/31/12 - RULES - BILLS 120654, ETC.
2 planning to put there are two-bedroom --
3 brand new two-bedroom apartments that
4 will rent at \$750 per month. There's a
5 need for that in the community. If I
6 can't build those, those opportunities
7 will go by the wayside.

8 If I can't get the ZBA approval
9 to build, the City will lose wage taxes
10 and licensing fees that this project
11 generates, as well as real estate taxes
12 it will provide in the future.

13 This amendment of density not
14 only deprives the City of revenues in
15 this particular instance; it sends a
16 message to business people that the City
17 is a difficult place to do business, and
18 that reputation benefits no one.

19 Thank you.

20 COUNCILMAN GREENLEE: Thank
21 you. We'll hear from all three and then
22 we'll have questions.

23 Sir, identify yourself again.

24 MR. WOLFSON: My name is Mitch
25 Wolfson. I am a real estate -- a small

1 10/31/12 - RULES - BILLS 120654, ETC.
2 real estate investor and a landlord in
3 Philadelphia.

4 Many of my friends say don't
5 invest in Philadelphia because of the
6 regulations, et cetera. I used to have a
7 full head of hair and look much younger
8 before I invested in Philadelphia.

9 A dear friend of mine once
10 said -- I think it was Thomas
11 Jefferson -- that government governs best
12 that governs least.

13 Four years of work by a very
14 distinguished panel resulted in a
15 comprehensive revised Zoning Code. No
16 longer do owners and developers have to
17 go to many zoning variance hearings. The
18 cost of these hearings and the time spent
19 by Council and staff have been sharply
20 reduced. Everyone knows the rules. Now
21 this bill will gut the zoning ordinance.
22 The time to change the bill was when the
23 bill was being passed and not now.

24 By passing this bill, many
25 zoning changes will now have to go before

1 10/31/12 - RULES - BILLS 120654, ETC.
2 the zoning hearing, and a lot will depend
3 on other factors and not the merits of
4 the application.

5 I, therefore, urge that Council
6 do the right thing and defeat this bill.
7 And I thank you for the opportunity to
8 speak.

9 COUNCILMAN GREENLEE: Thank
10 you.

11 Sir, please identify yourself
12 again and proceed.

13 MR. LOHBAUER: Sure. My name
14 is Ryan Lohbauer. I'm an architect. I
15 have a background in urban studies and
16 real estate development.

17 I'm here to speak against the
18 bill, because primarily it will not work
19 as intended. Aside from all of the
20 excellent concerns you've heard today
21 about how it's going to impact
22 developments already in the pipeline,
23 parking minimums don't work, because what
24 they do is effectively subsidize parking
25 for people coming in outside of the

1 10/31/12 - RULES - BILLS 120654, ETC.
2 neighborhood at the expense of everybody
3 who lives in the neighborhood and doesn't
4 drive. What it does is, it makes parking
5 spaces at curbside very cheap, which
6 allows people to get something for free
7 when they should actually be paying land
8 rents for it.

9 That's the big reason that in
10 general this is not going to work as
11 intended. It is not going to alleviate
12 congestion. Something like a residential
13 permit is actually much more effective at
14 doing that, because you're actually
15 paying a fee and proving your residency
16 for the privilege of parking in these
17 neighborhoods.

18 So I think that's one reason
19 especially to oppose this, and more
20 specifically, this is going to create a
21 big problem, I think we've heard, with
22 regard to the special exception approval
23 process. Most of the lots that are small
24 scale in the RM-1 and the CMX-2
25 districts, they're very difficult to

1 10/31/12 - RULES - BILLS 120654, ETC.

2 develop because they do not have these
3 rear alley drives that are required
4 qualitatively for parking. So what will
5 happen is, most developments there's not
6 going to be a way to -- most multi-family
7 development would not have a clear
8 as-of-right path for development. They
9 will need either a variance for their
10 parking requirements or a special
11 exception.

12 And I think another reason to
13 really oppose this bill is that who this
14 is going to affect most are the
15 small-scale developers. This is not
16 going to hurt large-scale projects that
17 can absorb the cost of this increased
18 parking and absorb the loss of this extra
19 unit at the small scale. This is really
20 going to hurt the small-scale developers,
21 which is what we really need at this
22 time. A lot of the areas we're talking
23 about, there are missing pieces like in
24 the middle of mid blocks and they need
25 small-scale in-fill development.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 So I think this bill, just in
3 short, it's not going to work as you
4 intend it to work and it's going to make
5 the type of development that we need in
6 the City extremely difficult, much more
7 difficult than it should be.

8 Thanks.

9 COUNCILMAN GREENLEE:

10 Ms. Lohbauer, if I could just ask you, in
11 the beginning, just so I'm clear, you had
12 said that something -- you said if it's
13 on the street, people should pay for it.
14 Is that basically your position?

15 MR. LOHBAUER: Yeah. When you
16 make parking free, it's never free.
17 Somebody has to pay for it. And who pays
18 for it are developers up front, but
19 essentially everyone pays for it in the
20 form of increased housing costs. Like
21 it's not free to just park your car and
22 leave it out on the street all day.

23 COUNCILMAN GREENLEE: What do
24 you mean it's not free?

25 MR. LOHBAUER: Well, somebody

1 10/31/12 - RULES - BILLS 120654, ETC.

2 has to --

3 COUNCILMAN GREENLEE: If you
4 park your car and there's no cost to
5 parking, that sounds free to me.

6 MR. LOHBAUER: There is no free
7 lunch, like somebody has to pay for that.
8 If you're leaving your car there, what's
9 happening is, City Council is now
10 requiring developers to provide parking
11 on their lots. That's the cost. You're
12 saying if we want to have free parking on
13 the streets, we're going to make
14 developers build parking on their lots.
15 Who is going to pay for that?

16 COUNCILMAN GREENLEE: So your
17 position is, all parking on the street
18 should cost something?

19 MR. LOHBAUER: When there are
20 congestion problems in these
21 neighborhoods, those are the result of
22 too much demand because it's free. If
23 you want to reduce the demand in these
24 neighborhoods, essentially like open up
25 parking spots, people should have to pay

1 10/31/12 - RULES - BILLS 120654, ETC.
2 for them. And that's exactly what they
3 do in residential permitted districts.
4 They have to pay \$35 a year for a parking
5 permit.

6 COUNCILMAN GREENLEE: I think
7 there would be a lot of communities that
8 disagree with you on that.

9 MR. LOHBAUER: Sure there would
10 be, but I'm telling you, they're not
11 going to be happy because this is not
12 going to solve their congestion problem.

13 COUNCILMAN GREENLEE: All
14 right.

15 Any other questions or
16 comments?

17 COUNCILWOMAN TASC0: Well, if
18 you build, you're going to provide
19 parking for free. It increases the
20 congestion if you build and increases the
21 number of people in the community. Then
22 you need to have the parking space for
23 them to park.

24 MR. LOHBAUER: You --

25 COUNCILWOMAN TASC0: So you're

1 10/31/12 - RULES - BILLS 120654, ETC.
2 increasing the population in the
3 community, so, therefore, you need
4 parking for the new people coming in.
5 Otherwise, you are penalizing the people
6 who have lived there and have a parking
7 space.

8 MR. LOHBAUER: But they're not
9 paying anything for those parking spaces
10 right now, and it's a common good.

11 COUNCILMAN GREENLEE: I think
12 we disagree with you, sir, but okay.

13 MR. LOHBAUER: I'll provide --

14 COUNCILMAN GREENLEE: I think
15 that's really stretching it.

16 MR. LOHBAUER: I have written
17 testimony. Like this is a fairly
18 accepted idea in planning circles. It's
19 just nothing is ever free, and if you
20 think that free parking on the street is
21 something that we want to preserve it,
22 you're going to impose costs on people
23 elsewhere. You're going to make housing
24 more expensive, because developers are
25 going to have to create room on their

1 10/31/12 - RULES - BILLS 120654, ETC.
2 tiny lots for these spaces. I mean,
3 that's a cost. Who is paying that?
4 These things are expensive.

5 COUNCILMAN GREENLEE: I have to
6 tell you, I think if we sat here and
7 proposed that all parking should be paid
8 for on the streets, come 2015 none of us
9 would be here.

10 MR. LOHBAUER: I understand why
11 this is happening. I understand
12 politically why.

13 COUNCILMAN GREENLEE: Well,
14 it's not just political. I disagree with
15 you anyway, but I have to tell you, it
16 ain't going to happen, you know, to be
17 quite frank.

18 COUNCILWOMAN TASC0: Maybe we
19 should limit the number of cars people
20 have. Then that would solve the problem.

21 MR. LOHBAUER: No. I think
22 people should pay for the parking they
23 have. If there's a congestion problem,
24 they should pay for it.

25 COUNCILWOMAN TASC0: Well, in

1 10/31/12 - RULES - BILLS 120654, ETC.

2 most areas where there's a congestion
3 problem, people do pay for permit
4 parking.

5 MR. LOHBAUER: And that works
6 pretty well. The other way you make
7 people pay for it when you have
8 congestion -- somebody pays for it
9 eventually. Everybody driving around
10 cruising the streets looking for parking
11 spots at night, spending like half an
12 hour, 20 minutes, that's money, that's
13 time. I mean, nothing is ever free. So
14 the idea that we can provide free parking
15 to residents in high-density districts --
16 this is a higher density district. I'm
17 not even talking about the lower density
18 ones. That's a different issue.

19 COUNCILMAN GREENLEE: And
20 not --

21 COUNCILWOMAN TASC0: Well, we
22 have the same problem in my neighborhood.
23 It's not as highly density as downtown.
24 Because families have two and three cars
25 now, we have created parking problems

1 10/31/12 - RULES - BILLS 120654, ETC.
2 where you can't get a parking space in
3 front of your house or on your block,
4 because people are increasingly buying
5 more cars. So, I mean, that's -- and I'm
6 not sure paying for it is going to change
7 that.

8 MR. LOHBAUER: Well, paying for
9 it, you'd have people -- I see a lot of
10 cars out there. People never move them.
11 If you made people actually pay for this,
12 they might start thinking, maybe I
13 shouldn't have a car in a high-density
14 city.

15 I see people -- I go to Society
16 Hill. You guys seen those Chryslers that
17 are sitting around? Like somebody is
18 storing like three or four exactly the
19 same Chrysler, and they never move. The
20 problem is, people are treating it like a
21 free resource, and when you have that
22 happen, that's when you get the
23 congestion.

24 COUNCILWOMAN TASC0: Well, they
25 do pay taxes.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 COUNCILMAN GREENLEE: Exactly.

3 MR. LOHBAUER: Well, sure, but
4 like, you know, they're not paying the
5 direct cost, is what I'm saying.

6 COUNCILMAN GREENLEE: I don't
7 want to elongate it. Just for the
8 record -- and I know Mr. DeMarco is here,
9 so we'll have him come up -- my area of
10 Fairmount has permit parking, and if you
11 get home at 11 o'clock at night, you
12 drive around for 30, 40 minutes trying to
13 find parking. So permit parking is not
14 the total answer.

15 COUNCILWOMAN TASCO: It's not
16 the answer.

17 COUNCILMAN GREENLEE: But I'll
18 leave it be.

19 Mr. DeMarco.

20 Thank you all for being here.

21 (Witness approached witness
22 table.)

23 COUNCILMAN GREENLEE: Please
24 identify yourself for the record. You
25 know how this works.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 MR. DeMARCO: Thank you so
3 much. It looks like my cheek is coming
4 back. I was at the dentist. The right
5 side of my face is numb. But I think you
6 can understand me, so that's good.

7 Councilman, thank you so much.
8 Thank you for hearing from me today. I
9 have written testimony, but what I did
10 was, I rushed right over from the dentist
11 right to here, so I don't have it with
12 me.

13 COUNCILMAN GREENLEE: We'll
14 make that part of the record. If you
15 could just summarize, because we are --

16 MR. DeMARCO: That's what I'm
17 going to do. I'm just going to highlight
18 it.

19 COUNCILMAN GREENLEE: Thank
20 you.

21 MR. DeMARCO: On the Bill
22 120656 is the most important bill that
23 I'm here on, although I obviously support
24 whatever the Zoning Code Commission is
25 doing and obviously support all that

1 10/31/12 - RULES - BILLS 120654, ETC.

2 also.

3 The bill alters a very key
4 provision in the new Zoning Code, as you
5 all know. I worked on it with a bunch of
6 other people in this room. The new code
7 strikes a very delicate balance -- the
8 intention was to strike a very delicate
9 balance between pro development
10 provisions and community protections.
11 There's many community protections in the
12 new code, but as a trade-off to that,
13 there's also some pro development
14 provisions, and one of the key provisions
15 is one that this bill seeks to alter,
16 which really interferes with the only
17 real districts within the City that allow
18 multi-family.

19 Apartments are in demand. The
20 rental market is surging. These
21 properties -- and what I'm speaking in
22 particular, the classifications are R-10,
23 which now has become RM-1. It's a very
24 common multi-family residential zoning
25 classification in the City of

1 10/31/12 - RULES - BILLS 120654, ETC.
2 Philadelphia.

3 There was specific attention
4 paid to this district to allow it to
5 really actually function as a
6 multi-family district without the cases
7 having to go to the Zoning Board. This
8 Council knows full well, this Council
9 was -- by the way, thank you for having
10 zoning reform in this city and passing
11 it. Thank you so much. It was such a
12 huge thing. I'm telling you, it's going
13 to be great for you as the City moves
14 forward.

15 These particular provisions,
16 the provision that this bill alters,
17 really attack one of the key provisions
18 in allowing the multi-family districts to
19 function as multi-family districts
20 without cases having to go to the Zoning
21 Board. This body knows we have too many
22 cases going to the Board. It results in
23 uneven development, unpredictable
24 development. It was a huge problem.
25 We've tried to fix it. And so that's a

1 10/31/12 - RULES - BILLS 120654, ETC.
2 concern.

3 Now, this body should remember
4 that we have a one-year review that was
5 written in the legislation. We've only
6 had the code in effect for just over two
7 months. It's not enough of a sample
8 period to really evaluate whether these
9 provisions are functioning the way they
10 should. I would tell you that they are.
11 I happen to know that because this
12 provision has come up. I've dealt with
13 this provision, this new provision,
14 already that this bill seeks to alter.
15 It should stay at least for a year so we
16 can properly evaluate it.

17 So that would be my first
18 suggestion, that you allow the one-year
19 evaluation period to take its course. If
20 this Council feels something needs to be
21 done, obviously this Council has
22 jurisdiction over the Zoning Code, and
23 you'll do what you think what needs to be
24 done. But after just a two-month sample,
25 I urge you not to react so quickly to

1 10/31/12 - RULES - BILLS 120654, ETC.

2 some of these very delicate provisions
3 which provide this delicate balance.

4 In the alternative -- and you
5 have my testimony. Thank you. I'll make
6 sure everybody gets it. But in the
7 alternative, the Planning Commission,
8 I've been told, has suggested some very
9 reasonable amendments, which I would
10 fully support. I mean, it does --
11 obviously I'd rather it be left alone,
12 but in the alternative, the Planning
13 Commission's suggestions really do
14 mitigate that and I think strike a good
15 balance on addressing the concerns of the
16 sponsor of the legislation. It would
17 significantly protect, I think, from
18 smaller properties becoming like a quad
19 or four units.

20 COUNCILMAN GREENLEE: Let me
21 interrupt you a second because I know you
22 just got here. We discussed those
23 amendments, and my understanding is that
24 the sponsors of the bill and the Planning
25 Commission and the Administration are all

1 10/31/12 - RULES - BILLS 120654, ETC.
2 on board with those.

3 MR. DeMARCO: Well, that's
4 good.

5 COUNCILMAN GREENLEE: Am I
6 right, Ms. Gladstein?

7 MS. GLADSTEIN: The amendments
8 the Planning Commission proposed.

9 COUNCILMAN GREENLEE: The
10 amendments the Planning Commission
11 proposed.

12 MS. GLADSTEIN: The parking
13 amendment, yes.

14 COUNCILMAN GREENLEE: Yes. The
15 answer was yes, right?

16 MS. GLADSTEIN: We offered an
17 amendment on parking, yes.

18 MR. DeMARCO: Well, the square
19 footage too, though?

20 MS. GLADSTEIN: We did not
21 offer that amendment. The BIA did, and
22 we did not comment on that. We're happy
23 to --

24 MR. DeMARCO: Well, the parking
25 amendment is important. There's another

1 10/31/12 - RULES - BILLS 120654, ETC.
2 amendment that was in play suggested by
3 the BIA.

4 COUNCILMAN GREENLEE: No. I
5 wasn't referring to that. I was
6 referring to --

7 MR. DeMARCO: I think that
8 would really help to mitigate. I hope
9 you'll consider that.

10 COUNCILMAN GREENLEE: Well,
11 that may be more problematic, but go
12 ahead.

13 MR. DeMARCO: Obviously I
14 oppose the bill as it's written, but if
15 the Council is going -- the Committee is
16 going to take the recommendation of the
17 Planning Commission, obviously that's an
18 important step. So I'll just ask you
19 just to consider my testimony, and I
20 appreciate you giving me the time and
21 taking me late.

22 COUNCILMAN GREENLEE: And I
23 hope your teeth feel better there.

24 MR. DeMARCO: Good to see you
25 all.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 COUNCILMAN GREENLEE: Same

3 here.

4 Anyone else on this bill?

5 (No response.)

6 COUNCILMAN GREENLEE: Seeing

7 none, now we go to the big one.

8 Ms. Marconi, please read the title of the

9 next bill on the docket.

10 THE CLERK: 120654, an
11 ordinance amending Title 14 of The
12 Philadelphia Code, entitled "Zoning and
13 Planning," by revising certain provisions
14 and definitions, and making technical
15 changes, all relating to stream buffers,
16 waterfront setbacks, and certain overlay
17 districts; and further approving a Water
18 Department Hydrology Map designating
19 watercourses, subject to waterfront
20 setback requirements; all under certain
21 terms and conditions.

22 Eva Gladstein and Christopher
23 Crockett.

24 (Witnesses approached witness
25 table.)

1 10/31/12 - RULES - BILLS 120654, ETC.

2 COUNCILMAN GREENLEE: Well, I
3 said good morning the other times. Now
4 it's good afternoon, Ms. Gladstein.

5 MS. GLADSTEIN: Good afternoon.
6 We're to that magic moment.

7 COUNCILMAN GREENLEE: Please
8 proceed.

9 MS. GLADSTEIN: Good afternoon.
10 My name is Eva Gladstein, Deputy
11 Executive Director of the City Planning
12 Commission. Thank you for the
13 opportunity to testify today.

14 I'm going to condense my
15 testimony in light of the time and the
16 number of people here. I want to recount
17 a little bit of history behind this bill.

18 This summer a working group
19 convened by Councilman Green's office,
20 including representatives of District
21 Council offices, development and
22 environmental organizations, met several
23 times. Based upon the work of that
24 group, this bill was drafted by City
25 Council's technical staff. It includes

1 10/31/12 - RULES - BILLS 120654, ETC.
2 adoption of the City's Hydrology Map,
3 which is created by the Philadelphia
4 Water Department. It clarifies that
5 recyclable materials are included in
6 wholesale, distribution, and storage
7 uses. It establishes a 50-foot setback
8 from all watercourses designated for
9 protection on the Hydrology Map. It
10 prohibits within the setback permanent or
11 temporary structures, except for docks,
12 piers, and structures accessory to public
13 parks and open space; outdoor storage;
14 roads and driveways, parking lots, any
15 other directly connected impervious
16 surface. It permits portions of the lot
17 within the setback to count towards
18 required open space, plantings within the
19 setback to count towards minimum
20 landscape requirements, and stormwater
21 management functions approved by the
22 Water Department to be located within the
23 setback. And then it adds special
24 controls for the Delaware and Schuylkill
25 River to permit dock or port-related

1 10/31/12 - RULES - BILLS 120654, ETC.

2 activities; private marina and boat
3 storage; pipelines and conveyors;
4 airport-related facilities; utilities;
5 wholesale, distribution, and storage
6 uses; and City-owned facilities in the
7 setback, if they are permitted by
8 underlying zoning and compatible with
9 existing adjacent uses. Where the
10 Planning Commission review indicates
11 these provisions apply and the uses
12 should be permitted, there's a
13 requirement that the Commission notify
14 Council, and Council would have 45 days
15 to override that determination.

16 The City Planning Commission
17 considered this bill at its October 16th
18 meeting. It recommended approval of Bill
19 No. 120654 with an amendment that the
20 45-day review be clarified to read 45
21 days when Council is in session. We're
22 not offering up an amendment today,
23 because we understand that there's
24 another set of amendments to be offered,
25 I believe, by Councilman Green and Henon

1 10/31/12 - RULES - BILLS 120654, ETC.
2 or by Councilman Henon, who is here
3 today, that would remove that provision
4 and for Commission and Council review.
5 So we felt we did not need to amend it.

6 So we have participated in
7 several meetings to review with Council
8 staff the set of proposed amendments to
9 be offered today, and we appreciated the
10 opportunity to work cooperatively. We've
11 made a lot of progress in resolving a
12 number of differences. We were able to
13 share these amendments with
14 representatives of the working group last
15 week, as of Friday afternoon, and they
16 were encouraged to offer comments as
17 well.

18 I'm listing what my
19 understanding of the amendments to be,
20 and I won't read that. We'll see as the
21 amendments are read whether or not
22 they're consistent with my understanding.

23 While many of the items were
24 resolved through compromise, we believe
25 that two changes could be imposed as

1 10/31/12 - RULES - BILLS 120654, ETC.
2 recommended by some of the stakeholders.
3 We'd prefer to maintain the existing
4 limits on the expansion of non-conforming
5 properties within the 50-foot setback.
6 Additionally, given that the Commission
7 review for additional permitted uses have
8 been deleted, we believe these uses
9 within the setbacks on the rivers should
10 be subject to special exception review.

11 Special exception review will
12 provide a clear process for the
13 applicants, the Commission, Council, and
14 community members to review the potential
15 impact of such uses with the Zoning
16 Board.

17 I'm also offering an amendment
18 today upon the advice of the Law
19 Department. We had to redo our maps.

20 COUNCILMAN GREENLEE: I'm
21 sorry. We're trying to do five different
22 things at the same time.

23 MS. GLADSTEIN: I know, but I
24 want to make sure you're aware that we
25 did the Hydrology Maps just to change the

1 10/31/12 - RULES - BILLS 120654, ETC.
2 key so the title and the key are
3 consistent with the text of the bill. We
4 will forward this electronically to
5 Council so that the Appendix A, which are
6 these Hydrology Maps, will reflect that
7 change. And I do have a hard copy of the
8 maps if you want us to hand it up, but,
9 again, the only thing that's changed is
10 the key where it now says "watercourses
11 designated for protection" instead of
12 "waterways." So that's the only change.

13 COUNCILMAN GREENLEE: That's
14 really the only change? I think we're
15 okay with that.

16 MS. GLADSTEIN: Again, we've
17 had the opportunity to review the other
18 amendments. I don't know if they've
19 undergone any other changes today, but in
20 general, we were in agreement with the
21 other amendments, although we thought two
22 of the provisions could be strengthened
23 somewhat.

24 COUNCILMAN GREENLEE: At some
25 point Councilman Henon is going to talk

1 10/31/12 - RULES - BILLS 120654, ETC.
2 about the amendments that he's going to
3 introduce, but Deputy Commissioner
4 Crockett, why don't you speak first,
5 please.

6 DEPUTY COMMISSIONER CROCKETT:
7 Good afternoon, Councilman Greenlee and
8 members of the Committee on Rules. I'm
9 Christopher Crockett, Deputy Commissioner
10 for Planning and Environmental Services
11 appearing to you today to testify on
12 behalf of Bill No. 120654 related to
13 stream buffer setbacks.

14 As the City agency charged with
15 restoration and protection of our
16 waterways, the Philadelphia Water
17 Department strongly supports the
18 preservation and practical creation of
19 stream and riverside buffers at the most
20 basic requirement in the realization of
21 healthy streams.

22 Historically, the City has
23 known the importance of buffers for water
24 quality protection, dating back to the
25 1850s when the land that now is named

1 10/31/12 - RULES - BILLS 120654, ETC.

2 Fairmount Park was purchased to safeguard
3 the City's water supply from
4 contamination. Though the water
5 treatment works well, nothing can replace
6 nature in terms of its effectiveness and
7 practicality to address water
8 contamination. That is why our source
9 water protection program ranks riparian
10 buffer and forest protection as the best
11 management practice to stop -- as the top
12 water quality to protect water quality
13 for today's citizens and future
14 generations.

15 We would like to take this
16 opportunity to explain how buffers help
17 protect our drinking water supply,
18 nurture critical aquatic life and
19 habitat, and protect properties from
20 erosion and flooding.

21 The functions of stream buffers
22 in Philadelphia include the following:
23 One, to safeguard our drinking water
24 supply by improving water quality.
25 Buffers are proven to filter pollutants

1 10/31/12 - RULES - BILLS 120654, ETC.

2 out of runoff. The larger the buffer,
3 the more effective it is at filtering
4 harmful elements out of our water.

5 Numerous technical documents, including
6 those by the Army Corps of Engineers and
7 the Pennsylvania Stormwater Best
8 Management Practices Manual, recommend
9 buffers from 60 to 100 feet for the
10 purposes of protecting water quality.

11 Two, to supply significant
12 habitat and protection to aquatic life.
13 According to the Chesapeake Bay Riparian
14 Handbook, most experts agree that 50 to
15 100 feet of natural riparian buffer is
16 adequate to protect water quality and
17 improve stream conditions for aquatic
18 life.

19 Three, to protect properties
20 along streams and their tributaries from
21 flooding and erosion. Riparian buffers
22 help to slow floodwaters and provide
23 space for flood water to spread
24 laterally, helping to slow, store, and
25 gradually release flood waters downstream

1 10/31/12 - RULES - BILLS 120654, ETC.
2 to mitigate flooding. Healthy buffers
3 also protect properties along streams and
4 their tributaries from flooding and
5 erosion.

6 Four, to provide a
7 cost-effective means to meet our federal
8 and state obligations under the Clean
9 Water Act. It is our obligation to
10 improve even the most impaired waterways.
11 As natural systems that do not need to be
12 constructed, stream buffers provide the
13 most cost-effective means for the City to
14 meets its federal and state obligations
15 to ensure our waterways meet fishable and
16 swimmable criteria over the next two
17 decades.

18 The importance of buffers is
19 recognized by federal, state, and local
20 organizations with considerable science
21 behind their value. PWD prepared a
22 benchmarking study that is available
23 today to City Council and was supplied
24 during the working group that compares
25 stream buffer requirements in cities of

1 10/31/12 - RULES - BILLS 120654, ETC.
2 similar size. While two of the 12 cities
3 that were examined, Detroit and St.
4 Louis, do not have stream buffer
5 requirements, the remainder cities, ten
6 other cities, have buffer requirements
7 ranging from 25 to 200 feet. In many
8 cases, certain development was allowed
9 within the buffer either by right or by
10 conditional approval through further
11 review by a particular authority. Other
12 experts, including state and federal
13 organizations, recommend 50 to 100 foot
14 buffers for best protection. In general,
15 the scientific literature shows that the
16 smaller the stream, the more fragile it
17 is and the larger the buffer needed to
18 adequately protect it.

19 In conclusion, PWD sees the
20 importance of buffers through their past
21 value, current protection, and future
22 opportunities. The fact that much of the
23 City's streams are degraded is not an
24 excuse to abandon them. It is actually a
25 significant liability and obligation to

1 10/31/12 - RULES - BILLS 120654, ETC.
2 repair them in the eyes of our citizens
3 and our regulators. Looking to the
4 future, these buffer areas will become
5 increasingly important in addressing the
6 predicted challenges and needs that
7 climate change and sea level represent.
8 Given this future uncertainty, it is
9 prudent to keep people and property
10 protected as flooding will become more
11 frequent and severe. Considering all of
12 these factors, we strongly urge City
13 Council to consider adopting stream
14 buffer setbacks for all waters in
15 Philadelphia. We look forward to
16 continued partnership with the City
17 Council and towards improvement of our
18 stream buffers as a valuable tool in
19 protecting our waters and streams.

20 At this time, I'm happy to
21 answer your questions.

22 COUNCILMAN GREENLEE: Thank
23 you.

24 Ms. Gladstein, you want to add
25 something else?

1 10/31/12 - RULES - BILLS 120654, ETC.

2 (Applause.)

3 MS. GLADSTEIN: As Councilman

4 Jones entered the room, there was one
5 clarification I wanted to provide. There
6 had been some confusion during the last
7 few weeks about Venice Island and
8 Manayunk, and I wanted to clarify that
9 Venice Island is part of the Manayunk
10 overlay. It's a special control, Chapter
11 14-500 of the Zoning Code. It has its
12 own setbacks from the canal, from the
13 river, and from the railroad
14 right-of-way. The way the new Zoning
15 Code is structured, any overlay will rule
16 over a citywide standard. So those
17 standards that are in existence for those
18 for Manayunk would remain in place and
19 would not be modified by this citywide
20 standard.

21 I understand there may be some
22 concerns by residents or businesses in
23 Manayunk about those, and that would
24 require an amendment to that overlay.

25 COUNCILMAN GREENLEE: But the

1 10/31/12 - RULES - BILLS 120654, ETC.
2 overlay, as you said, takes --

3 MS. GLADSTEIN: The overlay
4 take precedence, and it's in existence.
5 It's been in existence for a number of
6 years.

7 COUNCILMAN GREENLEE: Okay.
8 Thank you.

9 Councilman Kenney.

10 COUNCILMAN KENNEY: Thank you.
11 Just for the context of the
12 timeline of the working group, the
13 working group was convened when?

14 MS. GLADSTEIN: It had two
15 meetings in mid and at the end of August.

16 COUNCILMAN KENNEY: So it met
17 twice?

18 MS. GLADSTEIN: It met twice.

19 COUNCILMAN KENNEY: Who were
20 the members of the working group, if you
21 recall?

22 MS. GLADSTEIN: It was -- the
23 notices went out from Councilman Green's
24 office. The Planning Commission and the
25 Water Department were both represented

1 10/31/12 - RULES - BILLS 120654, ETC.
2 there. There was a representative from
3 Schuylkill River Development Corporation,
4 PennFuture, Development Workshop, and
5 BIA, Building Industry Association. Then
6 District Councilmembers were invited by
7 Councilman Green's office, and at several
8 meetings we had representatives from
9 Councilman Henon's office, Councilman
10 Jones's office, Councilman Squilla's
11 office, Councilman Green's office was at
12 all of the meetings, and somebody from
13 the Mayor's Office of Legislative
14 Affairs.

15 COUNCILMAN KENNEY: At the
16 conclusion of the working group, did you
17 believe that there was a consensus on the
18 bill that's before us today?

19 MS. GLADSTEIN: There was a
20 statement made as to what the bill would
21 say. There was -- I would say there was
22 a general consensus, with the exception
23 of the Development Workshop, which felt
24 that there should not be a buffer on the
25 rivers.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 COUNCILMAN KENNEY: Any buffer
3 at all or any size?

4 MS. GLADSTEIN: I would ask a
5 representative from there to speak on
6 that. It was somewhat confusing. I
7 think Rich -- I don't know if Rich
8 Lombardo is still there.

9 COUNCILMAN KENNEY: I can wait
10 for that testimony. But with the
11 exception of the Developer Workshop,
12 everyone else was in accordance with what
13 we're having in front of us today so far
14 unamended?

15 MS. GLADSTEIN: Correct.
16 That's my understanding.

17 COUNCILMAN KENNEY: Thank you.

18 COUNCILMAN GREENLEE: Okay.
19 Councilwoman Reynolds Brown and then
20 Councilman Henon.

21 COUNCILWOMAN BROWN: For
22 clarity, could we hear from Councilman
23 Jones, and just for my own understanding,
24 the nuances of your particular district
25 that's been alluded to.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 COUNCILMAN GREENLEE:

3 Councilman Jones, yes.

4 COUNCILMAN JONES:

5 Mr. Chairman, Councilwoman Reynolds
6 Brown, we worked very hard in the last
7 Administration to create certain overlays
8 and protections along the waterways of
9 the upper end of the Schuylkill, which
10 includes Manayunk, East Falls, and
11 Roxborough, as evidenced by in some cases
12 allowing development where there was
13 commercial development along the back end
14 of Main Street to deal with decks and
15 over the trail area, which we're very
16 happy with. One of our concerns was that
17 this automatic 50 foot would impact that
18 kind of development, which it, on the
19 record, does not, correct?

20 MS. GLADSTEIN: Correct.

21 COUNCILMAN JONES: Second
22 component of it is that on our
23 tributaries and areas up a little
24 further, in Manatawna Farms and along the
25 Wissahickon basin that we were concerned

1 10/31/12 - RULES - BILLS 120654, ETC.
2 about overdevelopment in those areas
3 using non-porous surfaces that would
4 attribute to flooding -- what happens
5 upstream impacts downstream. So some of
6 those concerns -- most of -- all of those
7 concerns have been covered by for a
8 grandfather clause, if you would, which
9 would allow us to maintain existing
10 setbacks and existing ordinances, which
11 would supersede what is happening today.
12 So we're okay with that.

13 COUNCILWOMAN BROWN: And that
14 was worked out prior to today's hearing?

15 COUNCILMAN JONES: Absolutely.

16 MS. GLADSTEIN: And that's in
17 the Zoning Code since it was adopted by
18 Council. It says -- in the old Zoning
19 Code, there was sometimes confusion that
20 said if something was a citywide standard
21 and an overlay, the strictest was what
22 was applied. The new Zoning Code says
23 the overlay -- if there's an overlay, the
24 overlay is what rules. So that's very
25 clear. So if there's an overlay that

1 10/31/12 - RULES - BILLS 120654, ETC.
2 contradicts a citywide standard, the
3 overlay rules, and that's in the Zoning
4 Code.

5 COUNCILWOMAN BROWN: Okay. So
6 to deepen my own understanding of this as
7 an at-large, so knowing that we have
8 District Councilmembers who each have
9 different nuances about their waterways,
10 if you will, this new measure, how would
11 it impact those District Councilmembers,
12 like Councilman Squilla and Councilman
13 Bobby Henon, to a smaller extent
14 Councilwoman Bass? Help me understand.

15 MS. GLADSTEIN: This bill would
16 apply citywide on the map watercourses,
17 which includes both rivers and quite a
18 number of streams, not just the large
19 tributaries but smaller streams. It
20 would not apply only if there was an
21 overlay that contradicted it. So if
22 there was an overlay for the North
23 Delaware or the Central Delaware that
24 contradicted it or for Manayunk, Venice
25 Island, then that overlay would apply.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 But absent an overlay, these standards
3 would apply in all those districts.

4 COUNCILWOMAN BROWN: So then --

5 COUNCILWOMAN TASC0: Can we do
6 an overlay later?

7 MS. GLADSTEIN: Yes. Council
8 has the right to amend the Zoning Code at
9 its discretion, and it routinely does
10 that. And so an overlay could be created
11 later, yes.

12 COUNCILMAN GREENLEE: I'm going
13 to recognize Councilman Henon. I know he
14 has some proposed amendments. Now, there
15 will also be amendments proposed, I
16 think, by some of the environmental
17 groups, but just for the record so people
18 know what we're talking about, Councilman
19 Henon, if you could just kind of briefly
20 describe your proposed amendments.

21 COUNCILMAN HENON: Absolutely.
22 Thank you, Chairman, and good morning --
23 or good evening -- good afternoon now.

24 COUNCILMAN GREENLEE: Not
25 evening yet.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 COUNCILMAN HENON: I hope we
3 don't run that long.

4 One, I want to thank you for
5 the ongoing conversations and dealing
6 with some of the zoning matters here.
7 It's been truly an experience, to say the
8 least, but I appreciate your cooperation
9 with my office going through this
10 process.

11 I am proposing two significant
12 amendments today to this bill. The first
13 one deals with non-conforming buildings.
14 If you have an existing non-conforming
15 building, this amendment would allow you
16 to develop sideways but not closer to the
17 water, not an inch closer to the water.
18 So essentially it creates a new setback
19 line. This amendment applies citywide.

20 COUNCILWOMAN TASC0: Could
21 you --

22 COUNCILMAN HENON: The second
23 deals with permitted uses along the
24 Delaware and the Schuylkill.

25 COUNCILWOMAN TASC0: Excuse me,

1 10/31/12 - RULES - BILLS 120654, ETC.

2 please. For those of us who do not have
3 riverfront, could you explain that,
4 please.

5 COUNCILMAN HENON: According to
6 the Hydrology Maps that has been
7 provided, any creeks, waterways, streams,
8 rivers, so the Delaware River, the
9 Schuylkill River, the Wissahickon, the
10 Tookany Creek, the Frankford Creek, and
11 the Pennypack Creek, they're streams and
12 waterways that are reflected on the
13 Hydrology Maps, and what this does is,
14 one, my amendment keeps the 50-foot
15 setback, and this is what we're having
16 ongoing conversations about and have been
17 over the summer, where it protects the
18 waterways and streams, large and small,
19 as well as providing opportunities for
20 recreational use.

21 COUNCILWOMAN TASC0: And your
22 amendment does?

23 COUNCILMAN HENON: My
24 amendment -- there are two things that
25 I'm proposing. The one is, it creates

1 10/31/12 - RULES - BILLS 120654, ETC.

2 existing buildings permitted uses that
3 fall -- that are basically grandfathered
4 if. For instance, I'm going to use my
5 district. The Delaware River, if a
6 permitted structure is existing and is
7 within the 50-foot setback, it would be
8 grandfathered in and a new setback is
9 created. So if it's 40 foot from the
10 waterway, the 40 foot is applied and that
11 is the new setback. My amendment says
12 that you can build parallel to the
13 waterway, to the Delaware River.

14 COUNCILWOMAN TASC0: And not
15 out?

16 COUNCILMAN HENON: But not
17 towards it, not east towards the river.
18 So that 40 foot has been established and
19 would not -- is not allowed to be
20 breached. So you can build parallel and
21 you can build back and you can build
22 upwards, but not closer to the waterway.

23 COUNCILWOMAN TASC0: But this
24 is a 50 foot.

25 COUNCILWOMAN BROWN: Thereby

1 10/31/12 - RULES - BILLS 120654, ETC.

2 not violating the --

3 COUNCILMAN HENON: Right. This
4 is for those that are existing -- and it
5 is a small percentage. I believe it is
6 under one percent citywide, let alone my
7 district. So it's a small percentage of
8 those permitted structures that would
9 fall in this category that would have new
10 setbacks.

11 COUNCILMAN KENNEY:
12 Mr. Chairman, on that point, do we know
13 the number of buildings, for example,
14 both in Councilman Henon's district and
15 citywide, that what are the closest
16 buildings existing to the river now?
17 What's the closest? Is it ten foot, 20
18 foot? Of the one percentage of the
19 buildings that exist that would be
20 addressed in this amendment, how close
21 are any of those buildings to a waterway
22 now?

23 DEPUTY COMMISSIONER CROCKETT:
24 We don't have that information.

25 COUNCILMAN KENNEY:

1 10/31/12 - RULES - BILLS 120654, ETC.

2 Hypothetically, then, if there was a
3 building that existed that was ten feet
4 from the waterway and the property owner
5 owned acreage both north and south of
6 that existing property, they would be
7 able to develop a new buffer of ten feet
8 without --

9 DEPUTY COMMISSIONER CROCKETT:

10 Well, I think Eva is going to tell you
11 about how the floodplain and floodway
12 regulations would work with that.

13 COUNCILMAN KENNEY: This is all
14 dealing with existing properties, from
15 what I understand.

16 MS. GLADSTEIN: Correct.

17 COUNCILMAN KENNEY: And what it
18 does is, it doesn't take anything away
19 from them, but it gives them the ability
20 to develop within their current buffer.
21 So if their buffer is 40 feet, as the
22 example Councilman Henon gave, they'd be
23 able to build 40 feet from the river both
24 north and south of the existing building?

25 DEPUTY COMMISSIONER CROCKETT:

1 10/31/12 - RULES - BILLS 120654, ETC.

2 That's correct.

3 COUNCILWOMAN TASCO: So they
4 wouldn't have to comply with the City?

5 COUNCILMAN KENNEY: What would
6 happen, I guess, under the proposed bill
7 was, the guy who is 40 feet from the
8 river could develop north and south 50
9 feet from the river connecting to his
10 property, not the full frontage.

11 MS. GLADSTEIN: Right. A
12 non-conforming building in the Zoning
13 Code can expand up to 10 percent, but
14 they just wouldn't be able to expand in
15 that buffer area. So they could expand
16 otherwise.

17 COUNCILMAN KENNEY: If the
18 building was 100 feet long facing the
19 river and it was 40 feet from the
20 riverbed, then they could expand --

21 MS. GLADSTEIN: Behind.

22 COUNCILMAN KENNEY: -- behind
23 it?

24 MS. GLADSTEIN: And they could
25 expand up.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 COUNCILMAN KENNEY: But we
3 don't know how many buildings of
4 non-conforming buildings what the average
5 distance or the closest distance is today
6 to the waterway?

7 MS. GLADSTEIN: No, we don't.

8 COUNCILMAN KENNEY: Should we
9 know that? I mean, wouldn't that be
10 germane to our decision-making? If the
11 one percent of all existing properties
12 that Councilman Henon is talking about on
13 average was 20 feet from the river or a
14 river, wouldn't we want to know that --

15 DEPUTY COMMISSIONER CROCKETT:
16 Well, I think --

17 COUNCILMAN KENNEY: -- before
18 we grant this as-of-right development
19 opportunity?

20 DEPUTY COMMISSIONER CROCKETT:
21 Well, it would be a process, and first
22 we'd have to start with if in the bill
23 certain uses are accepted, we'd have to
24 take out all those buildings that are
25 within that distance and only find the

1 10/31/12 - RULES - BILLS 120654, ETC.

2 ones that are of the land uses that are
3 not accepted and then how many buildings
4 are within there. So we would have to
5 start -- that would be an effort. It
6 would take a little while to figure that
7 out.

8 COUNCILMAN KENNEY: I'm sorry.

9 COUNCILMAN GREENLEE:

10 Councilman, why don't you --

11 MS. GLADSTEIN: If I could
12 just --

13 COUNCILMAN GREENLEE: Let the
14 Councilman --

15 COUNCILMAN HENON: If I may
16 continue, please.

17 The second deals with again the
18 permitted uses along the Delaware and the
19 Schuylkill. The amendment says that a
20 properly zoned property can do a set of
21 defined activities within the waterfront
22 setback by right. It does not expand the
23 type of scope of permitted uses. It just
24 takes away the additional, I'm going to
25 say, bureaucracy, no pun intended, and

1 10/31/12 - RULES - BILLS 120654, ETC.
2 review process on it. It more conforms
3 with the intent of the zoning reform and
4 trying to eliminate the backlog of the
5 zoning process and having people who are
6 zoned properly, again, have it by right
7 on their property that they have.

8 So I hope that we can move this
9 bill out as I proposed. I'm introducing
10 these amendments that have been
11 circulated amongst the Committee members,
12 and I'm open to using this hearing here
13 to continue this conversation as we move
14 forward, provide the amendments and hear
15 conversations of the stakeholders and
16 look forward to the dialogue moving
17 forward. But I do plan on moving these
18 amendments out of Committee today.

19 Thank you.

20 COUNCILMAN GREENLEE: Thank
21 you, Councilman.

22 Councilman Kenney.

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

25 Just from my perspective as a

1 10/31/12 - RULES - BILLS 120654, ETC.

2 member here for a while, I recognize the
3 responsibilities of both District
4 Councilpeople and at-large people,
5 at-large members, and at-large members
6 generally are responsible for kind of
7 dealing with larger policy issues, not
8 specific to a district. So in my time
9 here, I've tried, and I think I've
10 succeeded, in never interjecting myself
11 in a District Councilperson's district.

12 I believe that when we're
13 talking about the issues of buffers, the
14 at-large members, I think, are more
15 concerned with the overall policy of 100
16 versus 50 versus 25 citywide.

17 If there's specific issues in
18 Councilman Squilla's district or
19 Councilman Henon's district or
20 Councilwoman Tasco's district that need
21 to be addressed because they know their
22 districts better than the at-large people
23 generally, then I don't have a problem
24 adjusting that. My main concern with the
25 amendments is not what is trying to be

1 10/31/12 - RULES - BILLS 120654, ETC.

2 accomplished in the Councilman's
3 district, but why it would apply
4 citywide.

5 I am willing to entertain
6 Councilman Henon or Councilman Squilla's
7 specific concerns about an issue that
8 relates to their district, the industrial
9 nature of people's districts, the
10 recreational and residential nature of
11 people's districts, but my hesitation on
12 the amendments is that it applies
13 citywide as a blanket, and we don't even
14 know how many properties are along the
15 Schuylkill, how close they are to the
16 riverbed, how many properties are along
17 the Delaware close to the riverbed,
18 Pennypack Creek, Tookany Creek. I mean,
19 I don't know. We haven't really done an
20 analysis of every property that exists
21 along these existing waterways.

22 So my hesitance is not
23 contradicting or questioning Councilman
24 Henon's needs in his district, which I
25 would always gladly abide by. I just

1 10/31/12 - RULES - BILLS 120654, ETC.
2 have a concern about it applying to the
3 City as a whole when we don't even know
4 how many properties are along these
5 waterways and what impact it would have
6 on future development by right.

7 If you can come in and explain
8 to a Zoning Board or to the Planning
9 Commission and the Zoning Board that you
10 really need this, this is a hardship for
11 you not to be able to develop north and
12 south of your existing building, that's
13 why we have the Zoning Board, and the
14 Planning Commission is advising it. But
15 I have a real issue with it applying
16 citywide as opposed to individual
17 districts tinkering for their own
18 industrial or commercial or recreational
19 needs.

20 So that's just my position for
21 the record.

22 COUNCILMAN GREENLEE: Let me
23 ask you this, if you can: How difficult
24 would it be to put together the list of
25 where those properties are that would be

1 10/31/12 - RULES - BILLS 120654, ETC.
2 covered under Councilman Henon's?

3 COUNCILWOMAN BROWN:
4 Mr. Chairman, that would be very, very
5 helpful. It informs our work here.

6 COUNCILMAN GREENLEE: I don't
7 know how hard a request that is.

8 COUNCILWOMAN BROWN: We have
9 the technology, I'm sure, to figure that
10 out.

11 COUNCILMAN KENNEY: But can I
12 add, we also need to know how close they
13 are to the existing waterbed now.

14 MS. GLADSTEIN: That's what we
15 would have to do.

16 COUNCILMAN GREENLEE: That's
17 what we were talking about.

18 So I just throw that out there.
19 At least then we kind of know.

20 MS. GLADSTEIN: We had had
21 discussions about trying to do this, and
22 I believe the Council offices were trying
23 to do it and for whatever reason were
24 unable to. So we would have to go back.
25 I think we could do it. I don't know how

1 10/31/12 - RULES - BILLS 120654, ETC.
2 much time it would take.

3 DEPUTY COMMISSIONER CROCKETT:
4 We can do a rough analysis. If City
5 Planning has the building coverages, we
6 can work with the stream buffers and try
7 to calculate something.

8 COUNCILMAN GREENLEE: Okay. As
9 the Councilwoman also said, I think that
10 would kind of put it in perspective where
11 we're talking about.

12 DEPUTY COMMISSIONER CROCKETT:
13 You want to know bigger than a bread box
14 kind of analysis.

15 COUNCILMAN GREENLEE: We'd kind
16 of like to know, as Councilman Kenney
17 said, are there some that's ten feet,
18 some 20 feet, whatever.

19 And I want to make it clear,
20 because I know there's going to be a lot
21 of testimony towards this, there is no
22 proposal by Council to lessen that
23 50-foot buffer except in circumstances
24 that Councilman Henon is talking about.
25 No proposal. Okay? So I know a lot of

1 10/31/12 - RULES - BILLS 120654, ETC.
2 people -- we've gotten a lot of testimony
3 and a lot of feedback on that. So
4 there's no proposal like that.

5 Any other questions for these
6 witnesses before we start?

7 Councilman Kenney.

8 COUNCILMAN KENNEY: Just one
9 more reiteration for the record. You're
10 saying that if an individual
11 Councilmember wants to do an overlay to
12 address problems related to the Hydrology
13 Maps and the impact on their district,
14 that that would trump anything we do?

15 MS. GLADSTEIN: Yes. An
16 overlay would trump the citywide
17 standards.

18 COUNCILMAN KENNEY: Thank you.

19 MS. GLADSTEIN: If they're in
20 conflict, it trumps.

21 COUNCILMAN KENNEY: It trumps.
22 Okay.

23 COUNCILMAN GREENLEE: If I
24 could also just get on record from
25 Councilman Henon, how long have you been

1 10/31/12 - RULES - BILLS 120654, ETC.
2 working with the Administration on these
3 proposed amendments?

4 COUNCILMAN HENON: Most
5 recently we've been working with them
6 over several weeks.

7 MS. GLADSTEIN: Two or three
8 weeks.

9 COUNCILMAN HENON: Three weeks
10 to a month, you know, in pretty detailed
11 conversations and meetings. So I think
12 we've been very thorough, and as a matter
13 of fact, I think we've been sort of
14 accommodating to some of the issues that
15 have been brought up in some of those
16 meetings. One, when you deal with the
17 second part of my amendment that deals
18 with by right as opposed to special
19 exceptions, I put in the amendment a
20 special exception to a provision
21 permitted use that is quite broad, and I
22 think it was a result of having these
23 kind of conversations.

24 COUNCILMAN GREENLEE: Okay.
25 Thank you. Thank you. Just for the

1 10/31/12 - RULES - BILLS 120654, ETC.

2 record -- Ms. Gladstein, go ahead.

3 MS. GLADSTEIN: I just want to
4 add one clarification just because I
5 haven't seen amendments today. I assume
6 they're consistent with what we were
7 seeing last week. The setback, the
8 adjusted setback, is a little bit
9 different than it's usually done in
10 zoning. So instead of it being 40
11 feet from -- and, Councilman, correct me
12 if I'm wrong. Instead of it being
13 adjusted to, let's say, 40 feet from the
14 top of the bank, what it does is, it
15 adjusts it from the front lot line. So
16 in some cases, it may be further than 50
17 feet if the stream meanders, and in other
18 cases, it may be closer because it's kind
19 of a line parallel to the front lot line.
20 I don't know if that's how it's still
21 defined in your amendments. That is? So
22 I just wanted to make people aware of
23 that, because one point of the building
24 may be 40 feet. The buffer is 50 feet,
25 but the new setback, the new 40 feet

1 10/31/12 - RULES - BILLS 120654, ETC.
2 setback, is kind of measured from the
3 front lot line, not measured from the top
4 of the bank of the river.

5 COUNCILMAN GREENLEE: And
6 before I recognize Councilman Kenney, is
7 that correct, Councilman Henon?

8 COUNCILMAN HENON: Yes. That's
9 correct. That hasn't changed.

10 COUNCILMAN GREENLEE: Okay.
11 Councilman Kenney.

12 COUNCILMAN KENNEY: That
13 complicates it a little more for me,
14 because if you're looking at the front
15 lot line, say, of an industrial parcel
16 that's either a linear manufacturing
17 building or a surface parking lot and the
18 front lot line deals with the
19 administrative offices of that company
20 and the rest of it meanders inward,
21 outward where they own the property, how
22 do you figure out what distance -- do you
23 go by the front door and the address? Do
24 you go by the closest point of the
25 surface parking lot or linear

1 10/31/12 - RULES - BILLS 120654, ETC.
2 manufacturing building to the south? I
3 mean, none of these properties are
4 squares generally.

5 MS. GLADSTEIN: Right. It was
6 not easy, but we figured out a way to
7 measure it. I don't -- I think --

8 COUNCILMAN KENNEY: Is it an
9 average distance?

10 MS. GLADSTEIN: No. We took
11 the distance from the point that's
12 closest to the waterway. We measured
13 that.

14 COUNCILMAN KENNEY: So the
15 closest distance?

16 MS. GLADSTEIN: Right. Right.

17 COUNCILMAN KENNEY: Okay.
18 Thank you.

19 COUNCILMAN GREENLEE: Any
20 other -- Councilwoman Reynolds Brown.

21 COUNCILWOMAN BROWN: So that
22 I'm clear, so then if you've been working
23 cooperative with Councilman Bobby Henon,
24 your position on his amendment is?

25 MS. GLADSTEIN: Oh, I said in

1 10/31/12 - RULES - BILLS 120654, ETC.
2 the notes we thought they're generally
3 acceptable. We thought there were two
4 that could be improved somewhat, but we
5 think they're generally acceptable.

6 COUNCILWOMAN BROWN: Okay,
7 then.

8 MS. GLADSTEIN: And, again, the
9 Planning Commission itself has not had
10 the opportunity to review these
11 amendments, so this is the Planning
12 Commission's staff giving you its
13 opinion.

14 COUNCILWOMAN BROWN: Got it.
15 Okay. Helpful.

16 COUNCILMAN GREENLEE: Not to
17 use a different word, but you said
18 generally acceptable. So you are not
19 opposing any of this?

20 MS. GLADSTEIN: We're not
21 opposing it, no.

22 COUNCILMAN GREENLEE: All
23 right. Thank you.

24 Any other questions or
25 comments?

1 10/31/12 - RULES - BILLS 120654, ETC.

2 (No response.)

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

5 Ms. Gladstein, I know you'll stay around.
6 We still have that other piece on 774
7 that I think we have to get into.

8 MS. GLADSTEIN: We'll stay
9 around.

10 COUNCILMAN GREENLEE:
11 Ms. Marconi, if you could call the next
12 three witnesses. We're going to call up
13 in three's.

14 THE CLERK: Joseph Syrnick,
15 Elizabeth Masters, Sarah Stuart.

16 COUNCILMAN GREENLEE: As you're
17 all coming up, I'm going to repeat. I
18 know I've said this a number of times.
19 If you have written testimony, it will be
20 made part of the record. We have a very
21 long list of people who want to testify.
22 So please be as brief as possible, but
23 still getting your point across. And,
24 again, any written testimony will be made
25 part of the record.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 (Witnesses approached witness
3 table.)

4 COUNCILMAN GREENLEE:

5 Mr. Syrnick, I think you're first. If
6 you identify yourself and proceed.

7 MR. SYRNICK: Good afternoon,
8 Mr. Chairman and members of the Committee
9 on Rules. My name is Joseph Syrnick.
10 I'm the President and CEO of the
11 Schuylkill River Development Corporation,
12 which is a non-profit working with the
13 City and the state to revitalize the
14 tidal Schuylkill River.

15 I come before you today to
16 express my support and the support of my
17 organization for Bill 120654 as
18 introduced. I must tell you, I'm a
19 little bit confused because I thought
20 there was going to be two amendments
21 offered today, but I believe I heard that
22 there was only one. So our testimony
23 here is really in support of the bill as
24 it was introduced.

25 This bill would, among other

1 10/31/12 - RULES - BILLS 120654, ETC.
2 things, provide for buffers or waterfront
3 setbacks on rivers and streams in
4 Philadelphia.

5 Folks, this ordinance as
6 introduced is a good regulation. It
7 demonstrates the City's forward thinking,
8 proactive thinking really, to address a
9 number of City goals with respect to the
10 environment and the quality of life for
11 its citizens. The waterfront setback
12 will protect the water's edge, stem
13 pollution, aid with stormwater
14 management, and create and improve
15 habitat and -- and this is very
16 important -- it will preserve a
17 right-of-way and allow for consideration
18 of and discussion toward the development
19 of waterfront trails and greenways, open
20 to everyone and improving the quality of
21 life for thousands of people. This
22 ordinance, if enacted, will be a big step
23 towards making Philadelphia America's
24 greenest city.

25 Sometime ago, Inga Saffron, the

1 10/31/12 - RULES - BILLS 120654, ETC.
2 Inquirer's architectural critic, called
3 Schuylkill Banks the most
4 transformational project built in
5 Philadelphia in the last decade. Imagine
6 then extending the Schuylkill trail to
7 Fort Mifflin or similar trails along the
8 Delaware River, Tookany Creek, and other
9 waterways.

10 Make no mistake about it,
11 trails and greenways are economic engines
12 that promote development and economic
13 vitality. They promote this activity.
14 They do not hamper it.

15 Councilmembers, this is a good
16 ordinance. It's good science. It's good
17 urban planning. It's good public policy.
18 If you ever needed an Exhibit A as to why
19 waterfront buffers make sense, look at
20 the last two days and see the damage that
21 stormwater can do.

22 (Applause.)

23 MR. SYRNICK: Members of the
24 Committee, your vote here today can put
25 Philadelphia on the path to a more robust

1 10/31/12 - RULES - BILLS 120654, ETC.
2 economy, more robust economic recovery,
3 and improved sustainability. I urge you
4 to pass this bill as introduced and
5 propel Philadelphia forward on the road
6 to sustainability.

7 Now, I also have here with me a
8 letter from the University of
9 Pennsylvania, which is very strongly
10 written in terms of supporting the
11 buffers. In the interest of time, I'd
12 like to just submit this to you and have
13 it included into the record, and they
14 have actually asked me to do that. So
15 thank you.

16 COUNCILMAN KENNEY: Thank you
17 for your testimony.

18 Please identify yourself for
19 the record, whoever would like to go
20 next.

21 MS. MASTERS: Good afternoon.
22 My name is Elizabeth Masters. I'm here
23 today to testify on behalf of the
24 Philadelphia Chapter of the American
25 Institute of Architects to express our

1 10/31/12 - RULES - BILLS 120654, ETC.
2 support for an unamended Bill 120654.

3 The AIA Philadelphia represents
4 over 1,700 architect members and member
5 companies, and I have to say in spite of
6 some other groups that claim to have
7 architects, we have 1,700 architect
8 members, and we're pleased to comment on
9 issues that concern the quality of the
10 built and natural environment of our
11 city.

12 Dare I drink this? Will we
13 have to ask this question if we don't
14 protect our waterways? AIA Philadelphia
15 supports a minimum 50-foot buffer, which
16 is the minimum dimension that is
17 effective for protecting the quality of
18 our water supply. Buffers are essential
19 to protect stream banks from erosion,
20 sedimentation, and stormwater runoff.
21 While the Pennsylvania Department of
22 Environmental Protection recommends the
23 buffer of 100 feet or greater -- and we
24 would prefer that dimension -- it is
25 essential for Philadelphia's watershed

1 10/31/12 - RULES - BILLS 120654, ETC.
2 areas to have protection now. And I'd
3 like to ditto Mr. Crockett's testimony on
4 the technical aspects of the protection,
5 in light of abbreviating my comments.

6 We appreciate your
7 consideration and encourage you to enact
8 this bill to improve and protect the
9 environment and health of Philadelphia.
10 We urge you to enact an unamended Bill
11 120654.

12 Thank you for taking my
13 testimony today.

14 COUNCILMAN KENNEY: Thank you
15 for your testimony.

16 (Applause.)

17 COUNCILMAN KENNEY: Prior to
18 the next witness, the Chair recognizes
19 Councilman Henon.

20 COUNCILMAN HENON: Thank you,
21 Mr. Vice-Chair. I just wanted to clarify
22 for the record that we have a lot of or
23 several environmental groups that are
24 here today and some other stakeholders
25 who have suggested proposed amendments to

1 10/31/12 - RULES - BILLS 120654, ETC.
2 the amendments that I have proposed
3 today, and I have -- I just want to say
4 for the record that I have circulated
5 them amongst the Rules Committee members
6 and we have them up here for review. I
7 just wanted to clarify that for the
8 record.

9 Thank you.

10 COUNCILMAN KENNEY: Thank you,
11 Councilman.

12 MR. SYRNICK: Mr. Chairman,
13 could I say one more thing?

14 COUNCILMAN KENNEY: Sure.

15 MR. SYRNICK: Those amendments
16 that Councilman Henon just spoke about, I
17 believe some people are referring to that
18 as Plan B. The original ones that he
19 introduced earlier we were referring to
20 as Plan A. The Schyulkill River
21 Development Corporation can live with
22 Plan B. We believe Plan A weakens the
23 ordinance and we do not support those.

24 COUNCILMAN KENNEY: But it's
25 your preference that it be unamended?

1 10/31/12 - RULES - BILLS 120654, ETC.

2 MR. SYRNICK: Our preference
3 would be that it be unamended.

4 COUNCILMAN KENNEY: Thank you.

5 MS. MASTERS: And the AIA has
6 the same opinion. We prefer the
7 unamended bill. We could accept Plan B.

8 COUNCILMAN GREENLEE: Thank
9 you. Okay. Thank you.

10 Ms. Stuart.

11 MS. STUART: Thank you,
12 Mr. Chairman. My name is Sarah Clark
13 Stuart. I'm a Policy Director with the
14 Bicycle Coalition of Greater
15 Philadelphia. I thank you for the
16 opportunity to testify today. I just
17 want to acknowledge some folks from
18 Manayunk who came down today, Dave
19 Chasili (ph) and Chris Sarfa (ph), who
20 are not going to speak but they are here
21 in support of this bill.

22 As Mr. Syrnick said, the past
23 two days are extremely -- do point out
24 how important waterfront setbacks are.
25 There are many reasons why they're

1 10/31/12 - RULES - BILLS 120654, ETC.
2 prudent and wise public policy. The
3 environmental ones have been covered.
4 But in addition to providing for the
5 possibility of creating riverfront
6 trails, they also protect structural
7 assets, whether public or private, by
8 setting them further out of harm's way.

9 Increasing the protection of
10 property saves on emergency response,
11 insurance, restoration, and other losses
12 associated with flooding. And by
13 requiring a 50-foot setback, this bill,
14 120654, would protect property and
15 provide those benefits, and we support
16 this bill as unamended.

17 I cannot support -- and I speak
18 on behalf of my organization. I cannot
19 support any amendment that would allow
20 for non-conforming structures to broadly
21 expand into the setback. This amendment
22 as proposed by Plan A I think would be a
23 great big loophole. I think that it's
24 many more parcels than just one percent
25 have existing structures that jut into

1 10/31/12 - RULES - BILLS 120654, ETC.
2 the 50-foot space. I don't know where
3 the one percent came from. It could be
4 as high as maybe 20 to 30 percent. That
5 would be a loophole for many parcels. I
6 think it would undermine the integrity of
7 this bill, and I would urge you,
8 Committee members, to not vote in favor
9 of it.

10 (Applause.)

11 MS. STUART: I could support an
12 amendment that allows for reasonable
13 expansion, and that is what is in Plan B,
14 but I can't support something that would
15 effectively force trails away from the
16 riverfront and, in the end, cost the City
17 much more money.

18 The City has invested millions
19 of dollars in riverfront trails, and I
20 think passing a bill that would allow
21 these non-conforming structures to impede
22 them would be a very big mistake.

23 So in closing, it's important
24 that the Council -- that this Rules
25 Committee pass a bill that supports the

1 10/31/12 - RULES - BILLS 120654, ETC.

2 City's trail system and not harm it.

3 So I'll be happy to answer any
4 questions.

5 COUNCILMAN GREENLEE: Thank
6 you.

7 Any questions or comments for
8 these three witnesses?

9 (No response.)

10 COUNCILMAN GREENLEE: Seeing
11 none, thank you.

12 Ms. Marconi, the next three,
13 please.

14 THE CLERK: Andrew Sharp, Lee
15 Huang, Maya van Rossum.

16 (Witnesses approached witness
17 table.)

18 MR. SHARP: Good morning,
19 Chairman Greenlee.

20 COUNCILMAN GREENLEE:
21 Unfortunately it's the afternoon, but go
22 ahead.

23 MR. SHARP: Good afternoon. My
24 name is Andrew Sharp and I'm the Outreach
25 Coordinator for PennFuture.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 We worked with the Zoning Code
3 Commission over the last four years to
4 create a setback requirement. Today, we
5 either support an unamended version of
6 Bill 120654 as it was introduced in
7 September and as the working group this
8 summer concluded or we would be willing
9 to support Plan B amendments to the bill.
10 For us, both strike the right balance
11 between the need to protect our waterways
12 while offering reasonable exemptions for
13 industry and commercial activity on our
14 rivers.

15 Last Friday afternoon, we were
16 presented with a copy of the amendments.
17 Because the City has been shut down
18 effectively for two days, we haven't had
19 a business day to fully examine their
20 impacts. For instance, on this
21 non-conforming issue, we don't know how
22 many properties will be affected. So the
23 hope is that at least, at the very least,
24 we can hold these amendments or have
25 further discussion on this non-conforming

1 10/31/12 - RULES - BILLS 120654, ETC.
2 issue, because we really have no idea how
3 this will affect us going forward.

4 As I said, we're concerned with
5 the amendments as offered in Plan A for a
6 number of reasons. They weaken the
7 buffer requirement, create a significant
8 loophole for structures already within
9 the buffer. They also remove oversight
10 and the Planning Commission's input into
11 determining whether permitted uses are
12 allowed within the buffer.

13 As I said, we have put forth
14 our own set of amendments referred to as
15 Plan B, and we believe that represents a
16 more than fair compromise. In our
17 version, we allow for the expansion of
18 structures within the buffer, but instead
19 of complete unrestricted expansion along
20 the entire waterfront, property owners
21 are allowed to expand by a reasonable
22 percentage, thereby preserving the
23 integrity of the buffer law while
24 allowing property owners to expand.

25 We've also allowed for more

1 10/31/12 - RULES - BILLS 120654, ETC.
2 community and stakeholder input by
3 requiring a Zoning Board hearing before a
4 permitted use may occur within the
5 setback. On these important decisions
6 that will affect our riverfronts for
7 decades, we believe the community input
8 and City Council input is critical, and
9 we believe our set of amendments
10 addresses that issue.

11 As I said, we believe we've
12 offered a fair set of amendments that
13 would represent a compromise. Obviously
14 our first goal would be to pass the bill
15 unamended, but in any case, we could
16 support a Plan B of the amendments that
17 we have proposed. And in light of the
18 extraordinary timing of this hearing, two
19 days after a huge hurricane and the fact
20 that we've had zero business days to
21 consider the amendments delivered to us
22 on Friday, I'd ask at the very least we
23 hold those amendments before passing them
24 and, in the best-case scenario, pass an
25 unamended bill.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 Thanks, and I'd be happy to
3 answer any questions.

4 COUNCILMAN GREENLEE: Thank
5 you.

6 Mr. Huang.
7 (Applause.)

8 MR. HUANG: Mr. Chairman,
9 members of Council, thanks for your time.
10 I have a full written testimony that I'd
11 like to submit for the record.

12 COUNCILMAN GREENLEE: It will
13 be made part of the record.

14 MR. HUANG: And I'll summarize
15 my comments.

16 My name is Lee Huang. I'm a
17 Director at Econsult Corporation. We
18 were engaged by PennFuture in 2010 to
19 estimate the economic and fiscal impact
20 of a fully connected waterfront greenway
21 in Philadelphia, and we've looked at the
22 benefits of green infrastructure in a
23 number of studies since then.

24 As economists, we understand
25 that when it comes to finite things like

1 10/31/12 - RULES - BILLS 120654, ETC.
2 money and land, there's always
3 trade-offs. Money spent investing in
4 buffers or greenways means that it can't
5 be spent elsewhere, and land dedicated to
6 one use may encroach on it being
7 available to other uses.

8 The purpose of my remarks is
9 not to make those prioritization
10 decisions. That's your job. But to
11 rather inform the process by which those
12 decisions are made by identifying and
13 quantifying the benefits associated with
14 waterfront buffers.

15 I want to organize my findings
16 into four largely non-overlapping
17 categories. First, impacts from initial
18 investments and ongoing increases in
19 visitor spending. Green infrastructure
20 investments, such as greenways along our
21 waterways, provide a one-time boost to
22 the local economy by employing people.
23 There aren't any hard estimates as to how
24 much in new infrastructure investment
25 would be contemplated, but those

1 10/31/12 - RULES - BILLS 120654, ETC.
2 amendments would have a multiplier effect
3 within the local economy in terms of
4 business activity, job creation, and tax
5 revenue generation.

6 These investments would then in
7 turn stimulate the economy by attracting
8 visitor activity, and, of course, tourism
9 is big business, and it's particularly
10 impactful for our local economy because
11 it captures outside dollars for the
12 benefit of local merchants, local
13 employment, and local tax revenues.

14 We conservatively estimate that
15 a fully connected waterfront greenway
16 would represent annual visitor spending
17 of about \$50 million a year and generate
18 about 2 million a year in local tax
19 revenues.

20 Second, impacts from increased
21 property values. Green infrastructure
22 and waterfront trails are increasingly
23 valued as an amenity that people are
24 willing to pay a premium to live near. A
25 fully connected waterfront greenway

1 10/31/12 - RULES - BILLS 120654, ETC.
2 would, therefore, generate increased
3 household wealth for nearby property
4 owners. We conservatively estimate this
5 property value increase to be about \$800
6 million over a 30-year period.

7 Third, impacts from increased
8 usage. A fully connected waterfront
9 greenway would increase access to outdoor
10 amenities and lead to two gains. One is
11 the gain from the value users derive from
12 enjoying a recreational activity. We
13 estimate that a fully connected
14 waterfront greenway would make recreation
15 newly accessible to about 100,000 new
16 residents and yield about 15 million new
17 uses per year.

18 Another gain is the health care
19 cost reduction that occurs as a result of
20 people exercising and, therefore,
21 becoming healthier. There's a growing
22 literature that quantified the cost
23 reduction associated with access to
24 recreational amenities. Even using
25 low-end estimates from this literature,

1 10/31/12 - RULES - BILLS 120654, ETC.
2 we estimate that a fully connected
3 waterfront greenway would yield about \$20
4 million in annual health care cost
5 reduction.

6 Fourth and finally, impacts
7 from increased commuting options. The
8 City has been making a big push to become
9 more bicycle and pedestrian friendly, and
10 a fully connected waterfront greenway
11 would make it even easier for people to
12 not drive. We conservatively estimate
13 that we would see 1,500 more bicycle
14 commuters and one million fewer miles
15 driven as a result. This would reduce
16 CO2 emissions, gasoline consumed, and oil
17 barrels not consumed.

18 These estimates are necessarily
19 rough in nature, but what we do hope is
20 that in presenting these findings,
21 they'll become part of the weighing of
22 pros and cons that goes into making the
23 decisions that are before you.

24 Thank you very much.

25 (Applause.)

1 10/31/12 - RULES - BILLS 120654, ETC.

2 MR. STEIN: My name is Fred
3 Stein. I'm the Citizen Action
4 Coordinator for the Delaware Riverkeeper
5 Network, a non-profit environmental
6 advocacy organization focusing on water
7 quality and wildlife habitat protection
8 and enhancement and mitigation in the
9 Delaware River watershed, including
10 obviously all the tributaries, streams in
11 Philadelphia and the Schuylkill.

12 We are here to support the
13 adoption of an unamended bill as proposed
14 and, to be a team player, could support
15 the Plan B that's being offered today.

16 I did want to just take a look
17 back in history, that it was just four
18 years ago that there was a process, a
19 very open and public process, in focusing
20 on riparian buffers, buffers in the City
21 of Philadelphia where 100 feet was agreed
22 to as economically and ecologically the
23 greatest value to the City of
24 Philadelphia. And I know today we're
25 looking at 50. One of the alternatives

1 10/31/12 - RULES - BILLS 120654, ETC.

2 we would suggest is that we reopen the
3 entire process to a public process to
4 give the City of Philadelphia, the
5 residents, another chance to look at
6 this, the total impact of the buffer
7 question. And, again, four years ago, we
8 looked at and saw where they supported a
9 100-foot buffer. But, again, the
10 unamended bill is something that we could
11 live with.

12 I just wanted to point out that
13 the City of Philadelphia is a city that
14 fishes and swims and drinks from its
15 streams and rivers, and protecting the
16 water quality through wide buffers is
17 important.

18 And in conclusion, this is not
19 a question of what's right for a
20 developer. This is a matter of what's
21 right for the people of the City of
22 Philadelphia.

23 Thank you.

24 (Applause.)

25 COUNCILMAN GREENLEE: Thank

1 10/31/12 - RULES - BILLS 120654, ETC.

2 you. Before I recognize Councilman
3 Kenney, sir, I'm sorry, I was distracted.
4 You're representing the Delaware --

5 MR. STEIN: I'm sorry. Yeah.
6 I'm here in speaking for Maya van Rossum.

7 COUNCILMAN GREENLEE: That's
8 fine.

9 Councilman Kenney.

10 COUNCILMAN KENNEY: I have a
11 question, Mr. Chairman, for Econsult.

12 In light of the last two days
13 of amazing natural power, has there been
14 any analysis done as to the level of
15 property insurance needed relative to the
16 proximity of the property to the
17 waterway? For example, does a person who
18 has a building that's -- a company that's
19 50 feet from the river pay less or is it
20 negligible than someone who is closer?

21 MR. HUANG: Insurance markets
22 are very well behaved, and I don't know
23 the science behind it, but there is
24 certainly a lot of analysis that goes
25 into the risk involved in being near or

1 10/31/12 - RULES - BILLS 120654, ETC.
2 even in the floodplain. So that is
3 priced into premiums.

4 COUNCILMAN KENNEY: But that
5 wasn't part of your analysis?

6 MR. HUANG: No.

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

9 COUNCILMAN GREENLEE: Okay.
10 Thank you.

11 Any other questions or comments
12 for this panel?

13 (No response.)

14 COUNCILMAN GREENLEE: Seeing
15 none --

16 MR. STEIN: Just to reiterate,
17 in part of my testimony that I didn't
18 read but you have copies of this, it does
19 say every dollar invested in watershed
20 protection can save a community \$7.50 to
21 \$200 and costs for new water treatment
22 facilities. I mean, it only partially
23 addresses that question, but it's
24 relative.

25 COUNCILMAN GREENLEE: Thank

1 10/31/12 - RULES - BILLS 120654, ETC.

2 you. Thank you.

3 Councilman Henon.

4 COUNCILMAN HENON: Yes. I just
5 wanted to circle back with Andrew, if you
6 would, please.

7 Can you speak a little slower
8 and define the differences between the
9 amendment Plan A, we're going to call it,
10 to Plan B on some other suggested
11 changes.

12 MR. SHARP: Sure. I believe in
13 your set of amendments, if any existing
14 structure right now that exists within
15 the buffer and encroaches within that
16 buffer -- so say there's some kind of
17 building on a thousand-foot property
18 that's ten feet from the waterway. What
19 would happen under your amendments would
20 be that because of the existence of this
21 ten-foot structure on an a thousand-foot
22 parcel, the new buffer would now be ten
23 feet away on the entire parcel.

24 What we've proposed is, we
25 understand that folks will want to expand

1 10/31/12 - RULES - BILLS 120654, ETC.
2 their properties. That's a natural
3 inclination, and we get that. What we
4 propose is some reasonable limitation on
5 that expansion so it doesn't negate the
6 entire 50-foot buffer along the entire
7 frontage of the property.

8 So I hope that helps, and I'd
9 be willing to answer any further
10 questions on that.

11 COUNCILMAN HENON: No. I think
12 that's clear. I just wanted to make
13 sure, because in your opening testimony,
14 I just want to make sure that you were
15 heard clearly.

16 MR. SHARP: Okay.

17 COUNCILMAN GREENLEE: And
18 you're saying that acceptable to you
19 would be the ten percent; is that what
20 you're saying?

21 MR. SHARP: We would be fine
22 with ten percent.

23 COUNCILMAN GREENLEE: Okay.

24 COUNCILMAN HENON: Are you
25 opposed to any other percent?

1 10/31/12 - RULES - BILLS 120654, ETC.

2 MR. SHARP: We'd be willing to
3 negotiate. Our position has been some
4 reasonable limitation on building
5 expansion.

6 COUNCILMAN GREENLEE: So you
7 would be open to more if --

8 MR. SHARP: Within reason,
9 sure.

10 COUNCILMAN GREENLEE: All
11 right.

12 MR. STEIN: Just to add --

13 COUNCILMAN HENON: Andrew,
14 while you're there, the other proposed
15 change in the amendments that I'm
16 submitting today, can you speak on that,
17 on special exceptions?

18 MR. SHARP: Sure. Within sort
19 of the bill in its entirety, there are a
20 number of carve-outs essentially, because
21 we recognize that we're an industrial
22 city, we're a port city. So there are a
23 number of what we call permitted uses
24 within the buffer.

25 In our proposal, we've said

1 10/31/12 - RULES - BILLS 120654, ETC.

2 because these are sort of uses that we're
3 going to allow within the buffer, we
4 believe they should have a slightly
5 higher bar than just standard zoning. So
6 what we've said is, if we're going to
7 permit a special use within the buffer,
8 we think that should be granted a Zoning
9 Board hearing so there's more input for
10 City Council, more input for
11 stakeholders.

12 We understand that you would
13 like to streamline the process, and we'd
14 be willing to talk further about that,
15 but from our perspective, we want more
16 stakeholder input and community input
17 when there is an encroachment within that
18 buffer.

19 COUNCILMAN HENON: And there
20 are prohibited uses -- or permitted uses
21 as it exists; is that correct?

22 MR. SHARP: Right. There are
23 permitted uses within the original bill.

24 COUNCILMAN HENON: So this only
25 applies to permitted uses that are

1 10/31/12 - RULES - BILLS 120654, ETC.

2 properly zoned?

3 MR. SHARP: Correct.

4 COUNCILMAN HENON: Thank you.

5 COUNCILMAN GREENLEE: Thank

6 you.

7 Any other questions?

8 (No response.)

9 COUNCILMAN GREENLEE: Thank

10 you.

11 MR. STEIN: I just wanted to,
12 just to jump on the Councilman's question
13 about expanding the percentage, and as we
14 go into negotiations of what is, as long
15 as we all recognize that it's
16 scientifically documented that there's
17 economic and environmental benefits for
18 every square foot of natural riparian
19 buffer. So every time we expand, even if
20 it's percentage, we are paying a price
21 environmentally for water quality and
22 access, et cetera. So while we recognize
23 that it's important to allow that
24 expansion as a compromise, we have to
25 recognize there's a cost to that too.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 COUNCILMAN HENON: Again, I
3 just want to clarify. As the bill
4 exists, you can expand up, no height
5 limitation, and back behind the existing
6 structure. Would that have any kind of
7 effect on any kind of runoff quality, to
8 your argument?

9 MR. STEIN: Just from my
10 understanding, no, because that would not
11 expand into the existing buffer, because
12 it would be back. If it was a
13 ten-foot-wide building and went back an
14 extra ten feet -- I mean a hundred feet
15 if it wasn't expanding north and south,
16 opening -- expanding native natural
17 buffers, it wouldn't impose an additional
18 environmental cost.

19 MR. SHARP: I would also add, I
20 believe someone provided you a big
21 picture of a property sort of right along
22 the river, and that property owner owns
23 several acres, I believe, along -- I
24 believe this is in Manayunk, but this is
25 just an example. So that property,

1 10/31/12 - RULES - BILLS 120654, ETC.

2 because he is right now about ten feet
3 away from the water, conceivably could
4 extend new expansion right along the
5 water for the rest of his acreage, which
6 for us seems problematic. We think we
7 should limit that to some reasonable
8 expansion and not just have him allowed
9 because now his building is five feet
10 away from the water, that he could now
11 potentially build buildings for three
12 more acres right along the water.

13 So our goal is to get some
14 reasonable limitation on that.

15 COUNCILMAN HENON: Thank you
16 for your time.

17 COUNCILMAN GREENLEE: Thank
18 you.

19 Councilman Kenney.

20 COUNCILMAN KENNEY: Thank you.

21 On that issue, are you aware
22 whether or not that particular property
23 is within the overlay in the 4th
24 Councilmanic District?

25 MR. SHARP: I believe that is

1 10/31/12 - RULES - BILLS 120654, ETC.
2 within the Manayunk overlay, so that is
3 not --

4 COUNCILMAN KENNEY: That
5 property owner couldn't do what you're
6 describing.

7 MR. SHARP: I'm not familiar
8 exactly with the Manayunk overlay, but
9 that's just an example of potentially
10 what could happen.

11 COUNCILMAN KENNEY: I agree,
12 but my point is is that the overlay
13 trumps the code.

14 MR. SHARP: Exactly.

15 COUNCILMAN KENNEY: So the
16 biggest protection is in the overlay, not
17 necessarily in trying to have a universal
18 standard citywide. Because Venice Island
19 doesn't exist anywhere else in
20 Philadelphia, so it needs special
21 treatment.

22 So I think that's an example of
23 why an overlay is probably a better
24 vehicle than an as-of-right, because even
25 if he had it as-of-right, the overlay is

1 10/31/12 - RULES - BILLS 120654, ETC.
2 going to trump it anyway.

3 MR. SHARP: Right.

4 COUNCILMAN KENNEY: Thank you.

5 COUNCILMAN GREENLEE: Any other
6 questions?

7 (No response.)

8 COUNCILMAN GREENLEE: Thank
9 you.

10 We're going to take a two,
11 three-minute break just for a minute.

12 (Short recess for
13 stenographer.)

14 COUNCILMAN GREENLEE: Thank you
15 for your time. I want to get started
16 again. We just had to take a little
17 break there.

18 Could I have everybody's
19 attention, please. Can everybody have a
20 seat again, please. Thank you.

21 Ms. Marconi, you want to call
22 the next three witnesses, please.

23 THE CLERK: Maura McCarthy,
24 Friends of Wissahickon, TTF Watershed;
25 Kiki Bolender; and Lucy McDonald.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 (Witnesses approached witness
3 table.)

4 COUNCILMAN GREENLEE: Is
5 Ms. McDonald here?

6 UNIDENTIFIED SPEAKER: I think
7 she went to the restroom.

8 COUNCILMAN GREENLEE: Okay.
9 You can tell her to come up when she
10 comes back.

11 Please, Ms. McCarthy.

12 MS. MCCARTHY: Thank you. Good
13 afternoon, and thanks for the opportunity
14 to testify today. My name is Maura
15 McCarthy. I'm Executive Director of
16 Friends of the Wissahickon, and today I'm
17 speaking on behalf of both FOW and a peer
18 watershed organization, the
19 Tookany/Tacony-Frankford Watershed
20 Partnership.

21 Both FOW and the TTF strongly
22 support a minimum 50-foot buffer zone for
23 all of Philadelphia's waterways. The
24 importance of a 50-foot minimum stream
25 buffer zone in sustaining water quality

1 10/31/12 - RULES - BILLS 120654, ETC.

2 is well established, as you've heard from
3 previous testimony, and supported by EPA
4 and the Pennsylvania Department of
5 Environmental Protection. And that's why
6 stream corridor restoration and
7 preservation are essential parts of the
8 Water Department's Green Cities, Clean
9 Water program, an EPA-approved plan that
10 will potentially save Philadelphians
11 billions of dollars in the coming decades
12 by replacing costly built Water
13 Department infrastructure with green
14 infrastructure.

15 City Council has historically
16 well known the value of buffer zones in
17 protecting the health of our waterways
18 and our citizens. Over 35 years ago,
19 this legislative body enacted a visionary
20 stream bank setback ordinance for the
21 Wissahickon Creek, and over the last four
22 years, Council has had two hearings about
23 and expressed approval for at various
24 times 100 and 50-foot stream bank
25 setback.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 We hope and expect that Council
3 will continue to protect the health and
4 long-term financial interests of
5 Philadelphians by passing Bill 120654,
6 preferably unamended or with the more
7 limited Plan B amendments, and without
8 loopholes that will devalue our
9 waterways.

10 Thank you.

11 COUNCILMAN GREENLEE: Thank
12 you.

13 Ms. Bolender.

14 MS. BOLENDER: Thank you. I'm
15 Kiki Bolender, an architect and small
16 business owner, speaking to you now as
17 Chair of the Design Advocacy Group of
18 Philadelphia. DAG is pro development,
19 pro quality development, pro raising the
20 tax base, because we know that we can't
21 have the kind of public amenities and
22 civic quality of life we want without a
23 decent tax base. But we're definitely
24 about the quality of life, and we think
25 our rivers and streams are a great part

1 10/31/12 - RULES - BILLS 120654, ETC.
2 of that.

3 We urge you to be very cautious
4 about accepting any amendment language
5 that makes the 50-foot waterfront setback
6 less robust.

7 I've been listening to
8 Councilman Henon and others talking about
9 two other things that are of great
10 concern to us. One is the expansion of
11 non-conforming uses into the setback.
12 And from those of us who have been very
13 involved in the Zoning Code reform
14 process, it's good to think of this as a
15 setback. It's a setback. If there is an
16 exceptional circumstance, you can get a
17 zoning variance to build in it. But I
18 think this, as Councilman Kenney was
19 saying, and I believe it's all of you,
20 not just the at-large Councilman, you're
21 setting public policy, and it's a very
22 big deal on our rivers and streams.

23 So I think that the list you're
24 talking about of properties that are
25 affected is an interesting list, but

1 10/31/12 - RULES - BILLS 120654, ETC.
2 maybe not an essential one to your
3 decision-making, because even if there
4 are lots of properties or few properties
5 that are in this situation, one might be
6 ten feet from the river, one might be,
7 say, 48 feet from the river. You go for
8 a zoning variance and they are treated
9 differently, the ten-foot one from the
10 48-foot one.

11 The second item would be the
12 ability of the Planning Commission to
13 review uses by keeping the listed uses as
14 special exceptions, which I think is in
15 the spirit of the protection we need to
16 give our waterways.

17 We like to think at DAG of
18 development for the future. It looks to
19 the future and not to short-term profit
20 of a small group of land owners and their
21 consultants. I'm sure you've heard the
22 mantra, water is the next oil. It is
23 probably, next to our people here in
24 Philadelphia, our greatest resource, and
25 it's a great part of how our city has

1 10/31/12 - RULES - BILLS 120654, ETC.

2 been shaped by our two great rivers and
3 the streams that feed them.

4 I'll close with a quote about
5 another river, but apropos for us here
6 today. "The river is always there. It
7 is the past and it is the present. It is
8 time made visible."

9 Thank you.

10 COUNCILMAN GREENLEE: Thank
11 you.

12 Ms. McDonald, right?

13 MS. McDONALD: I'd like to
14 offer to switch places with Matt Ruben,
15 if that's okay. He has a prior
16 commitment.

17 COUNCILMAN GREENLEE: When you
18 saw "switch places," what do you mean?

19 MS. McDONALD: In order of
20 testimony.

21 COUNCILMAN GREENLEE: You're
22 here. Please. You're here right now.

23 MS. McDONALD: That's all
24 right.

25 Well, my name is Lucy McDonald

1 10/31/12 - RULES - BILLS 120654, ETC.
2 and I live in the 2nd Council District.
3 Thank you for taking the time to listen
4 to my brief comments today.

5 I support at least a 50-foot
6 buffer on all rivers and streams in
7 Philadelphia. I would prefer a 100-foot
8 buffer, as recommended by the
9 Pennsylvania Department of Environmental
10 Protection, but if we can agree on the
11 50-foot compromise, then I support the
12 bill as it was introduced.

13 I have lived in Philadelphia
14 almost my whole life and I love this
15 city. One of my favorite things about it
16 has always been our beautiful parks and
17 the availability of outdoor activities
18 right here in the City. I enjoy biking
19 and walking along the Schuylkill, and a
20 50-foot buffer is a good sustainable
21 practice that would allow for an extended
22 bike trail along the Schuylkill, and I'd
23 love to see one on the Delaware too.
24 Anything less than 50 feet is not enough
25 for a riverfront green space or to

1 10/31/12 - RULES - BILLS 120654, ETC.
2 protect nearby property from erosion and
3 flooding.

4 I used to work at the
5 Independence Visitors Center and have
6 seen firsthand that visitors from all
7 over the world are drawn to riverfront
8 activities. Some were more surprised
9 than I would have liked to find that we
10 actually have trees and green space
11 within the City limits, but most people
12 that I encountered commented on how
13 beautiful our city is, and it feels good
14 to hear that from someone who came here
15 with, I hate to say it, often low
16 expectations.

17 A minimum 50-foot buffer would
18 help create more parks and trails along
19 the rivers. I believe this will help
20 enhance Philadelphia as a world-class
21 destination and not just a stop along the
22 way from New York to DC. Also equally as
23 important, it would make Philadelphia an
24 even better place to live by giving more
25 residents access to outdoor activities.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 Thank you again for taking my
3 testimony into consideration, and I urge
4 you to pass this bill unamended or at
5 least with Plan B.

6 Thank you.

7 COUNCILMAN GREENLEE: Thank
8 you. Thank you very much.

9 Are there any questions?

10 (No response.)

11 COUNCILMAN GREENLEE: Thank you
12 very much.

13 The next three witnesses,
14 please.

15 THE CLERK: Danielle Gray, Zoe
16 Axelrod, Joe Nye -- excuse me. His
17 testimony was submitted for the record.
18 Excuse me. So Josh Nims.

19 (Witnesses approached witness
20 table.)

21 COUNCILMAN GREENLEE: Please,
22 Ms. Gray, if you could go first and
23 identify yourself for the record.

24 MS. GRAY: Yes. My name is
25 Danielle Gray and I live at 24th and

1 10/31/12 - RULES - BILLS 120654, ETC.

2 Catharine, which is the 2nd District, and
3 thank you for allowing me to speak today.

4 I actually moved here five
5 years ago because my husband started at
6 the University of Pennsylvania, and so
7 like many students, we came here not
8 knowing much about the City. We came
9 from Arizona, which has lots of wide open
10 spaces, but not a lot of real parks. And
11 I quickly fell in love with this city, in
12 large part because of the world-class
13 riverfront amenities along the
14 Schuylkill, including Schuylkill Banks
15 and the Drives.

16 Like thousands of other people,
17 I use the Schuylkill trail as part of my
18 daily commute and I also use it for
19 weekend recreation. It's allowed me to
20 be a healthier and much happier person.
21 I'm excited about the prospect of a
22 completely connected trail so I could
23 actually hop on my bike on the Schuylkill
24 and get all the way around to the
25 Delaware. I think that would be a

1 10/31/12 - RULES - BILLS 120654, ETC.
2 fantastic amenity, and that having those
3 sorts of facilities is what's going to
4 attract and retain people in the City of
5 Philadelphia.

6 I know that a lot of people in
7 the City talk about making Philadelphia
8 the greenest city in the nation, and
9 here's a great opportunity to start
10 acting on that by supporting the bill,
11 the spirit of this bill, and passing it
12 either unamended or with Plan B.

13 Thank you.

14 COUNCILMAN KENNEY: Thank you
15 very much for your testimony.

16 (Applause.)

17 COUNCILMAN KENNEY: Whoever is
18 next, please identify yourself for the
19 record and proceed. Don't fight over it.

20 MS. AXELROD: Good afternoon,
21 members of the Rules Committee. My name
22 is Zoe Axelrod and I live in the 7th
23 Council District.

24 I strongly support the idea of
25 buffers and urge you to pass this bill

1 10/31/12 - RULES - BILLS 120654, ETC.

2 unamended or with Plan B, if necessary.

3 I recently moved to Philadelphia from

4 Baltimore, one of many cities that

5 require buffers on all rivers and

6 streams. I moved here under the

7 impression that Philadelphia is a city

8 interested in becoming cleaner, greener,

9 and more accessible to its citizens. The

10 City is already headed in the right

11 direction. Trails and greenways already

12 constructed have opened up waterfront

13 access and improved quality of life for

14 thousands of Philadelphians.

15 Why wouldn't Philadelphia want

16 to enforce buffers which are so central

17 to our citywide sustainability goals?

18 Buffers protect our properties from

19 flooding, protect our waterways from

20 runoff, and preserve the possibility of a

21 future trail and greenway to be enjoyed

22 by Philadelphians and visitors to our

23 great city.

24 Councilmembers, I urge you to

25 pass this bill to protect our environment

1 10/31/12 - RULES - BILLS 120654, ETC.
2 and improve the quality of life for so
3 many people. Please pass Bill 120654
4 unamended or with Plan B.

5 Thank you for your time.

6 COUNCILMAN GREENLEE: Thank
7 you. Thank you very much.

8 Please identify yourself and
9 proceed.

10 MR. NIMS: My name is Josh
11 Nims. I live in the 8th Councilmanic
12 District.

13 Councilwoman Bass, good to see
14 you.

15 COUNCILWOMAN BASS: How are
16 you?

17 MR. NIMS: I support the bill
18 as it stands unamended. Fifty-foot
19 setbacks are key to our water quality and
20 to the ability of our city to have the
21 amenities like the trails and greenways
22 that we have. And I think it's of great
23 note that our state environmental
24 protection organization actually holds a
25 100-foot setback as what they consider to

1 10/31/12 - RULES - BILLS 120654, ETC.
2 be the minimum. So it's almost a shame
3 that we have to go down to just 50, but
4 understanding that we're an industrial
5 city that has a lot of other needs for
6 our riverfronts, so be it.

7 So that's my statement. Thank
8 you.

9 COUNCILMAN GREENLEE: Thank you
10 very much.

11 (Applause.)

12 COUNCILMAN GREENLEE: Any
13 questions?

14 (No response.)

15 COUNCILMAN GREENLEE: Seeing
16 none, Ms. Marconi, please, next three.

17 THE CLERK: Karen Thompson,
18 Steve Rush, Rich Lombardo.

19 (Witnesses approached witness
20 table.)

21 COUNCILMAN GREENLEE: Good
22 afternoon. Please identify yourself for
23 the record and proceed.

24 MS. THOMPSON: Good afternoon.
25 My name is Karen Thompson. I am a

1 10/31/12 - RULES - BILLS 120654, ETC.
2 planner with the Delaware River
3 Waterfront Corporation, and I am here
4 today on behalf of our President, Tom
5 Corcoran. I have a letter that's been
6 submitted. I'll just summarize it.

7 COUNCILMAN GREENLEE: Please.

8 MS. THOMPSON: Delaware River
9 Waterfront Corporation would like to
10 express its support for the unamended
11 Bill 120654 or possibly Plan B, if
12 necessary. We strongly support the bill
13 in its entirety and believe it should
14 apply to all the rivers and streams
15 outlined in the bill.

16 As you may know, we have a
17 master plan for the Central Delaware, of
18 which a 50-foot setback is very key to
19 the implementation of this plan. A
20 backbone of the 25-year plan is the
21 creation of a riverfront trail from Pier
22 70 North to Lehigh Avenue, where it would
23 then join with the North Delaware trail
24 to help complete the East Coast greenway.
25 The riverfront trail is a keystone of the

1 10/31/12 - RULES - BILLS 120654, ETC.
2 master plan and is of paramount
3 importance to the future success of the
4 riverfront and can only be achieved
5 through the implementation of a buffer
6 that prohibits development in a small but
7 meaningful sliver of land adjacent to the
8 river's edge.

9 The environmental benefits are
10 well-documented in advancing water
11 quality goals and providing important
12 habitat opportunities for wildlife. It's
13 also an important tool in helping DRWC
14 create wetland parks, which will help
15 filter stormwater, improve habitat, and
16 create the potential for creating
17 mitigation areas that can be used for
18 major economic development projects.

19 Of equal importance to DRWC is
20 the principle that buffers of 50 feet
21 will allow for future public access along
22 the river's edge. DRWC intends to
23 acquire over time the rights to create a
24 waterfront trail through the setback
25 areas from private land owners via arm's

1 10/31/12 - RULES - BILLS 120654, ETC.

2 length negotiations that would result in
3 obtaining fee-simple ownership or
4 permanent easements and to design, build,
5 and maintain the trail.

6 Philadelphia shouldn't miss
7 this generational opportunity to provide
8 a recreational trail along the Central
9 Delaware that will provide high-quality
10 access to the Delaware River for all
11 Philadelphia residents. As it has in so
12 many other cities throughout the United
13 States and indeed the world, the creation
14 of this trail will also increase the
15 development potential and hence the value
16 of the adjacent privately and publicly
17 owned upland parcels.

18 Please note that the 50 foot
19 recommended in the master plan was a
20 compromised amount developed in
21 consultation with planning experts, land
22 owners, and community members and
23 represents a balancing between
24 environmental and recreational needs and
25 the desires of land owners to maximize

1 10/31/12 - RULES - BILLS 120654, ETC.
2 the developable footprint. It should be
3 seen as a minimum for us to achieve the
4 recreational and environmental benefits
5 described in the plan.

6 Thank you.

7 (Applause.)

8 COUNCILMAN KENNEY: Thank you
9 for your testimony.

10 Please identify yourself for
11 the record and proceed.

12 MR. RUSH: Good afternoon. My
13 name is Steven Rush and I'm here
14 representing Brandywine Realty Trust to
15 testify on behalf -- to express our
16 support for Bill No. 120654, which
17 establishes a zoning regulation requiring
18 a 50-foot-wide buffer setback from rivers
19 and streams in Philadelphia.

20 Brandywine has an interest in
21 6.7 million square feet of commercial
22 space in Philadelphia, making us one of
23 the largest owners of commercial space in
24 the City. Roughly 1.7 million square
25 feet of that is located either on the

1 10/31/12 - RULES - BILLS 120654, ETC.
2 Delaware or the Schuylkill Rivers. In
3 addition to that, we control land on the
4 Schuylkill River in which we can build an
5 additional roughly 1.3 million square
6 feet.

7 While I certainly can't and
8 don't intend to speak for every
9 development situation, we at Brandywine
10 believe there are benefits to setback
11 provisions in terms of effective urban
12 planning, creating open space, and
13 ensuring Philadelphia stays at the
14 forefront of sustainable development
15 practice.

16 I appreciate consideration of
17 our position in support of this bill.

18 COUNCILMAN GREENLEE: Thank
19 you.

20 Mr. Lombardo.

21 MR. LOMBARDO: Good afternoon.
22 First of all, I want to set things
23 straight. We support and have, as Eva
24 Gladstein testified, participated in the
25 working group to discuss this whole idea

1 10/31/12 - RULES - BILLS 120654, ETC.
2 of a waterfront setback. We do not have
3 a problem with the concept. We do not
4 have a problem with the execution of it.
5 Our only issues -- always the devil are
6 in the detail.

7 We had suggested that -- and I
8 think some of the things Councilman Henon
9 is talking about gets added. The setback
10 should reflect the use of the property,
11 what it's actually being put to.

12 Imagine for a moment Packer
13 Marine Terminal with a 50-foot setback
14 from the edge -- I know you're shaking
15 your head --

16 COUNCILMAN KENNEY: That's not
17 possible.

18 MR. LOMBARDO: I know it's not.

19 COUNCILMAN KENNEY: The Zoning
20 Code does not apply to PRPA-owned
21 property.

22 MR. LOMBARDO: Let me finish
23 what I'm saying.

24 COUNCILMAN KENNEY: But it
25 doesn't apply.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 MR. LOMBARDO: I know it
3 doesn't apply, but most people can
4 visualize the Packer Marine Terminal
5 rather than the bulkheaded lot up in
6 Rhawn Street on the Delaware River. The
7 point I was trying to make is, imagine a
8 trail along the edge of a bulkhead. So
9 we suggested that there should be some
10 reference in the legislation to recognize
11 the trail may have to go around some
12 places like Packer Marine Terminal. That
13 was, I think, a minor -- not a minor
14 point, but a point. It should reflect
15 the use of the property. If it's a
16 physically built bulkhead and paving and
17 concrete up to the edge of the water, the
18 legislation ought to require that, and
19 there should be a trail, but the trail
20 may not necessarily at that particular
21 point be along the water. That's all --
22 I was just using an example. Most people
23 could visualize Packer Marine Terminal
24 rather than some other bulkheaded
25 property. Like along the Schuylkill

1 10/31/12 - RULES - BILLS 120654, ETC.

2 River, Sunoco's property is all
3 bulkheaded along the Schuylkill River.

4 The second thing was that we
5 asked where is the scientific backup for
6 the contention that a 50-foot setback on
7 developed up -- like, again, my example,
8 a bulkheaded lot, will produce the
9 results that are being talked about about
10 quality of water, stopping erosion, that
11 type of thing? We asked for that back
12 when the Zoning Code Commission was
13 talking about this. We didn't ask for
14 it; we just suggested that it should be
15 part of -- any legislation should be some
16 documentation that you're going to be
17 able to achieve the end you're talking
18 about.

19 And the last thing was that we
20 don't think the same setbacks for that
21 reason are appropriate. We think along
22 the small streams all over the City, the
23 50-foot setback is appropriate, more than
24 appropriate. Not more; it's appropriate
25 as a minimum to have a setback from those

1 10/31/12 - RULES - BILLS 120654, ETC.

2 streams, because the effect on water
3 quality is more demonstrative. When you
4 get to the Delaware and Schuylkill, not
5 only may they be inappropriate, but
6 they're already protected by federal.
7 FEMA regulations have to approve
8 development within the floodplain of
9 those rivers. The state Stormwater --
10 rather, Stream Encroachment Act has to
11 review any proposal to develop within, I
12 think, it's 100 feet of those waters.

13 So they are already subject --
14 they're going to be subject to scrutiny,
15 and there's an opportunity to
16 differentiate between a natural stream
17 bank that you would want to protect and a
18 developed stream bank.

19 And then, lastly, our last
20 comment was that we thought that the
21 decider in terms of who decides whether
22 you get -- you should get a permit for
23 what you want to do ought not to be the
24 same -- should not be the same people
25 that put forth the regulation, and we

1 10/31/12 - RULES - BILLS 120654, ETC.
2 were suggesting -- which seems to be
3 other people have picked up on since we
4 participated in that subcommittee -- that
5 it go to the Zoning Board for special
6 permit or whatever to determine whether
7 or not you're entitled to get permission
8 to build. They were the reason that we
9 were -- the reason we sort of didn't back
10 off, but people say we were not -- the
11 group was not unanimous. We still were
12 unanimous, and we believe that the idea
13 of the setback from all the minor streams
14 and hydrology for the bulk of the rivers
15 that are not developed and bulkheaded, we
16 think there should be reflection of uses
17 of the riverfront that are there.

18 COUNCILMAN GREENLEE: Thank
19 you.

20 Councilman Kenney.

21 COUNCILMAN KENNEY: Thank you,
22 Mr. Chairman.

23 Mr. Lombardo, of all the people
24 in this room, you're probably the most
25 qualified to answer this question which I

1 10/31/12 - RULES - BILLS 120654, ETC.

2 am still mystified as today. Every
3 district that comes up that has waterways
4 in it is a totally different district,
5 and we were having this conversation with
6 Councilman Henon. If you go up into the
7 industrial Northeast, it's port, it's
8 warehouse, it's trucking. There's tons
9 of stuff up there. If you go into
10 Councilman Squilla's district, you have
11 this residential component, recreational,
12 central waterfront, totally different
13 dynamic. If you go into Councilman
14 Kenyatta's district, you have Bartram
15 Gardens and you have that whole wildlife
16 thing, water runoff, Eastwick stuff.
17 It's a totally different district. You
18 go into Councilman Jones's district, it's
19 Manayunk, it's the tow paths, it's the
20 Schuylkill.

21 Every single district is
22 different as it relates to its waterways.
23 Why isn't the protection or the answer to
24 this question an overlay as opposed to an
25 overall universal as-of-right development

1 10/31/12 - RULES - BILLS 120654, ETC.
2 right?

3 MR. LOMBARDO: I wouldn't
4 disagree with you. There are overlays.
5 There are -- in the Schuylkill there
6 are -- there's one for East Falls.
7 There's one for Manayunk that deal with
8 distances from the river.

9 COUNCILMAN KENNEY: So I guess
10 the question, since the amendments have
11 been circulating, I've been trying to
12 figure out why we can't cure any concerns
13 on the development side with the overlay
14 process as opposed to now -- and I think
15 in some ways, District Councilpeople are
16 going to be at a disadvantage if we pass
17 the amendments, because then what they
18 have to say if they don't have an
19 overlay, for a developer that has
20 something to do by right, is a lot less
21 community input and a lot less District
22 Council input, because it's by right.

23 So I think that your experience
24 and your history, I hope you agree with
25 me that every one of these districts have

1 10/31/12 - RULES - BILLS 120654, ETC.

2 peculiar different things --

3 MR. LOMBARDO: I don't disagree
4 with you. One thing I did say, though,
5 is that there is -- because of FEMA
6 regulations and state regulations,
7 especially if you're on the edge of the
8 two rivers, it's not totally as of right
9 today. You have to get permitting
10 from --

11 COUNCILMAN KENNEY: As of right
12 from the City's perspective. I mean Army
13 Corp, all that stuff, that's a totally
14 different process. I don't think that
15 should count as our process.

16 MR. LOMBARDO: But it gets out
17 there in plenty of time for people to
18 respond to it and know what's going on.
19 That's all I'm saying.

20 COUNCILMAN KENNEY: Okay. I
21 just really wish we could do this by
22 overlay.

23 MR. LOMBARDO: Well, I said I
24 didn't disagree with the comment about
25 overlays.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 COUNCILMAN KENNEY: I just
3 really think it makes more sense.

4 So you don't disagree with me
5 on that?

6 MR. LOMBARDO: No. It points
7 out to what you said, each -- Manayunk
8 Canal is different than the lower
9 Schuylkill. Upper Schuylkill with steep
10 banks, it's different than the lower
11 Schuylkill. East Falls where it's
12 Fairmount Park on both sides on the edge
13 of the river is different than other
14 places.

15 So you're right, an overlay
16 would be a more appropriate way to go
17 about it. But for whatever reason, the
18 decision was to try to do it on a
19 citywide, every stream, every river
20 treated equal basis, and that's what
21 we're dealing with today.

22 COUNCILMAN KENNEY: But do you
23 believe that the 50-foot buffer as a rule
24 of thumb, absent overlay, absent anything
25 else, is a good thing?

1 10/31/12 - RULES - BILLS 120654, ETC.

2 MR. LOMBARDO: No; I don't have
3 a problem with that at all. The only
4 thing with the caveat, I said, at least
5 it should reflect how the property is
6 being used. Packer Marine Terminal would
7 be exempt. Tioga Marine Terminal would
8 be exempt. The Naval Yard, I think, will
9 be exempt. But --

10 COUNCILMAN KENNEY: Not
11 necessarily -- I mean, I agree with you
12 on Packer and Tioga, but I don't think
13 the Navy Yard.

14 MR. LOMBARDO: What I'm getting
15 at is, the Sunoco property, which is all
16 bulkheaded, there should be something
17 within the language that says maybe a
18 trail along the edge of a bulkhead is not
19 a great idea. Maybe it ought to run
20 around it.

21 COUNCILMAN KENNEY: But you
22 don't disagree the 50-foot buffer as a
23 floor, as a floor is okay?

24 MR. LOMBARDO: I'll give you
25 one more caveat. I'm always great with

1 10/31/12 - RULES - BILLS 120654, ETC.
2 caveats. You know me all these years.
3 Is that as a basis for establishing a
4 setback, what we start talking about is a
5 basis for acquiring a trail. I think
6 that's sort of an argument that really
7 shouldn't be put forth, because that's
8 not the way you acquire property. You go
9 out and you negotiate. You trade
10 something, whether it's additional
11 development rights or a zoning change or
12 something else, or money, but you don't
13 acquire it by saying we're proposing a
14 setback, now you can't use it, so give us
15 the trail or put the trail.

16 COUNCILMAN KENNEY: Not if
17 there's an overlay.

18 MR. LOMBARDO: Pardon me?

19 COUNCILMAN KENNEY: If there's
20 an overlay with appropriate protections
21 for the industrial property.

22 MR. LOMBARDO: For example, in
23 the Manayunk overlay, you got a bonus
24 for -- you have to set back from the
25 canal and from the river, but you get

1 10/31/12 - RULES - BILLS 120654, ETC.
2 additional FAR on the rest of your site
3 for doing that.

4 COUNCILMAN KENNEY: Thank you.
5 All right. Thanks.

6 COUNCILMAN GREENLEE: I saw
7 some people jumping up. Just to make it
8 clear, if you've already testified,
9 you're not coming back up. One to a
10 customer. Otherwise, we'll be going back
11 and forth.

12 Ms. Gladstein, the
13 Administration gets an exemption on that.
14 Councilwoman Bass.

15 COUNCILWOMAN BASS: I just had
16 a question just going back to what you
17 just said about overlays. Did you just
18 say that you thought that overlays were
19 basically the best way -- I mean, is that
20 your general --

21 MR. LOMBARDO: Better in that
22 they reflect the character of the area
23 for which you're doing an overlay. If
24 you're doing it for an industrial area
25 where you want to protect the use of the

1 10/31/12 - RULES - BILLS 120654, ETC.

2 property, your overlay may be completely
3 different than one where you have a
4 stretch of park land running along
5 through the area. They really are easier
6 to tailor to the needs of each district.

7 COUNCILWOMAN BASS: Sure.

8 Because every district is very, very
9 different, as was mentioned previously,
10 but overlays would obviously apply to
11 specific districts instead of being
12 citywide.

13 MR. LOMBARDO: Yeah.

14 COUNCILWOMAN BASS: All right.

15 Thank you.

16 COUNCILMAN GREENLEE: Thank
17 you.

18 I'm going to make an
19 announcement. We have a couple more
20 people who said they want to testify.
21 You've seen there's been a lot of back
22 and forth up here. There's been a lot of
23 testimony. On this bill, because
24 Mr. Sharp and others have said maybe
25 there's a middle ground here or some

1 10/31/12 - RULES - BILLS 120654, ETC.
2 compromise, I'm going to -- we're going
3 to finish whoever is here today. I'm
4 going to continue this bill, Bill 120654,
5 until Wednesday, November 14th at 10:00
6 a.m.

7 Now, let me just tell everybody
8 involved here. We're going to move a
9 bill that day. So we need everybody,
10 whoever, the Administration, whoever, to
11 be involved in the next couple weeks and
12 try to do your best to work out whatever
13 disagreements you might have. We might
14 not be able to do that, and then it's up
15 to this Committee to make a decision, but
16 I want to give, in fairness to the
17 Councilmembers and to others, see if
18 there's a chance to work something out.
19 We had months, but we'll try another two
20 weeks. Okay? Wednesday, November 14th
21 at 10:00 a.m. on this bill, on 120654.

22 Ms. Marconi -- you know what,
23 I'll call it. I have two more people
24 listed, Matt Ruben and Dave Cellini. I
25 hope I'm pronouncing that right. Is he

1 10/31/12 - RULES - BILLS 120654, ETC.
2 still here?

3 Is there anyone else here that
4 wants to testify?

5 Okay. Seeing none -- all
6 right. Come on up now, please.

7 (Witnesses approached witness
8 table.)

9 COUNCILMAN GREENLEE: Whoever
10 would like to go first. Matt, go ahead.
11 Please identify yourself and proceed.

12 MR. RUBEN: Hi. My name is
13 Matt Ruben. I am Chair of the Central
14 Delaware Advocacy Group. I'm also
15 President of the Northern Liberties
16 Neighbors Association. I'm here speaking
17 individually today, because we've only
18 had time to have informal conversations
19 within the groups about this. I'll be as
20 brief as I can.

21 I want to clarify a few things
22 that have just been discussed. First
23 off, 50 feet is a minimum. As we've
24 heard from the Water Department -- and I
25 was not invited, but I nevertheless

1 10/31/12 - RULES - BILLS 120654, ETC.
2 intended to attend the working groups
3 that were held in August, so I was privy
4 to those conversations. And 50 foot is
5 the minimum. A hundred feet is the more
6 comfortable and what the science supports
7 better. So what we're already saying is
8 from 51 out to 100 feet, you can do
9 whatever you want by right as long as it
10 otherwise conforms to the zoning. So we
11 have already fallen back to 50 feet.

12 In terms of individual
13 districts having individual characters,
14 that is absolutely true, but that has no
15 bearing on the necessity for a minimum
16 protection citywide, which is 50 feet.

17 So I am clearly speaking in
18 strong support of this bill, and I'm also
19 speaking in strong support of this bill
20 unamended and in lesser, but willing,
21 support of the so-called Plan B.

22 The problem that I see with the
23 Plan A is that because 50 feet is a
24 minimum protection, if you have a
25 structure that impinges, I don't believe

1 10/31/12 - RULES - BILLS 120654, ETC.
2 it's proper policy to say that you reward
3 a situation that shouldn't exist by
4 saying you have free reign to expand that
5 situation. I think the goal here is not
6 only to provide trails, but to protect
7 our drinking water -- and I live in the
8 1st District, which is downstream from
9 the 6th -- and to protect from flood and
10 erosion. Fifty feet is from that wall to
11 approximately the second or third desk
12 from where I am now. It's not very far,
13 and it's a minimum protection that our
14 entire city needs.

15 If Plan A is passed, I
16 guarantee you that major constituencies
17 in the 1st District and probably the 5th
18 and the 2nd and others will be coming
19 back here for overlays for those
20 districts, requesting overlays for those
21 districts, to undo what will have been
22 done with Plan A, because we do not think
23 it is wise.

24 Similarly, I would also like to
25 reiterate that port industrial, marina,

1 10/31/12 - RULES - BILLS 120654, ETC.

2 dock, and other essential uses are
3 allowed to not only go within 50 feet but
4 to touch the water by the nature of their
5 uses. The idea that you shouldn't have a
6 trail on a bulkheaded part of the
7 waterfront is not only of questionable
8 relevance to this bill, but is also
9 simply not the case. The Schuylkill
10 River trail is often on bulkheaded
11 property, and the only reason you would
12 want the bulkhead to be an issue here is
13 if you want or your clients want to build
14 large gated residential and commercial
15 properties right up to the water, which
16 everyone agrees is what we're trying to
17 prevent.

18 So I speak in strong --

19 COUNCILMAN HENON: Excuse me,
20 Mr. Ruben. I don't know if you've read
21 the latest version, but bulkheads have
22 been excluded from any exceptions in my
23 proposed amendments.

24 MR. RUBEN: I wasn't speaking
25 to your -- Councilman, I appreciate the

1 10/31/12 - RULES - BILLS 120654, ETC.
2 information. I want to clarify, I was
3 not speaking to anything you said. I was
4 speaking to what Mr. Lombardo just said
5 about not having that kind of use on
6 bulkheaded properties, and I was not at
7 all referencing with regard to bulkheads
8 anything that you have said or proposed.
9 So I apologize for the lack of clarity on
10 that.

11 COUNCILMAN HENON: And in the
12 proposal, for the record, in my amendment
13 does protect and support a 50-foot
14 setback.

15 MR. RUBEN: Absolutely,
16 Councilman, and I acknowledge that your
17 amendment does not distinguish between
18 bulkheaded and not bulkheaded. And,
19 again, I apologize for any lack of
20 clarity in the way that I said it. But I
21 do feel strongly that we need to have the
22 50-foot minimum and that there should be
23 no or minimum expansion of non-conforming
24 structures towards the water.

25 I would also reinforce, unless

1 10/31/12 - RULES - BILLS 120654, ETC.

2 I'm mistaken, that if you count the new
3 reduced setback from the front line of a
4 property, if the property front line is
5 not parallel to the water, you can end up
6 with situations where portions of large
7 properties would be allowed to build out
8 literally right to the water's edge, and
9 that, I believe, is something we should
10 avoid.

11 So thank you very much, and I'm
12 happy to take any questions.

13 COUNCILMAN GREENLEE: We'll
14 hear from all three and then see if
15 there's any questions.

16 Sir.

17 MR. CELLINI: My name is Dave
18 Cellini. I'm President of Residents of
19 Shawmont Valley Association in
20 Roxborough, and I make my living
21 developing real estate, and I support
22 this bill unamended, and the reason I do
23 is, I live next to a small stream. Every
24 time somebody develops upstream or does
25 any kind of clearing within that 50 foot

1 10/31/12 - RULES - BILLS 120654, ETC.
2 or even 100 feet, we see the effects
3 downstream. We're flooded out. Property
4 owners have spent over \$140,000 at times
5 to repair their properties after the
6 streams have flooded.

7 That's all I have to say.
8 That's why I support the bill. I feel
9 that like we should not have to feel the
10 brunt of development in a 50-foot setback
11 or within a 100-foot setback.

12 Thank you.

13 COUNCILMAN GREENLEE: Okay.

14 Thank you.

15 Sir.

16 MR. FIKE: My name is Lane
17 Fike. I live in Queen Village. I'm here
18 to talk about the bill. I support it as
19 originally proposed or Amendment B.

20 It mentioned earlier about
21 benchmarking, and I did my own informal
22 benchmarking on a hundred-foot river
23 buffer. I got hits in Virginia,
24 Maryland, Pennsylvania, New York,
25 Massachusetts, Connecticut. I did a

1 10/31/12 - RULES - BILLS 120654, ETC.
2 search on a 50-foot river buffer, and the
3 majority of the hits were in the City of
4 Philadelphia.

5 It would seem to me that the
6 benchmark here is being set lower than
7 what is accepted around the rest of the
8 country, and I don't think it's too late
9 to change that.

10 To echo what the other
11 gentleman said here about the trail not
12 being suitable for a bulkhead, I invite
13 him to come down to Schuylkill Banks and
14 take a walk on the banks. Almost the
15 entire mile there is on bulkheaded
16 property.

17 Thank you.

18 COUNCILMAN GREENLEE: Any
19 questions?

20 (No response.)

21 COUNCILMAN GREENLEE: Seeing
22 none, thank you very much.

23 That concludes the hearing on
24 that bill. Again, one more time, we're
25 going to continue it until Wednesday,

1 10/31/12 - RULES - BILLS 120654, ETC.
2 November 14th at 10:00 a.m. in this
3 Chamber. As I said, we are going to move
4 some bill on that day.

5 Now, I'm going to go back to
6 Bill 120774, because I want to leave
7 testimony open because I know there's at
8 least one other amendment Councilman
9 O'Neill wanted to put forward. I'm going
10 to ask his office to go on record and
11 just explain that. And also did the
12 Administration get -- do they have copies
13 of all this?

14 MR. YERKOV: They're on the
15 table.

16 COUNCILMAN GREENLEE: Maybe if
17 we could provide them to them so they
18 could look at them, I'd appreciate it.

19 We're almost there, guys.

20 (Witness approached witness
21 table.)

22 MR. YERKOV: Good afternoon,
23 members of the Committee. My name is
24 Bobby Yerkov from Councilman O'Neill's
25 office and I'm just here to explain the

1 10/31/12 - RULES - BILLS 120654, ETC.

2 three amendments that we're going to be
3 introducing today.

4 The first changes the criteria
5 for minimum -- changes the minimum
6 criteria for an amendment to master plan
7 districts. The original proposal had the
8 definition of a minor amendment set at
9 20,000 square feet. It was changed and
10 reduced down to 5,000 square feet, but
11 this amendment would further reduce it to
12 2,500 square feet, and that would give
13 District Councilmembers say in whether or
14 not the amendments are approved.
15 Otherwise, it would be able to be
16 approved by solely the Planning
17 Commission.

18 The second amendment changes
19 the uses for light and medium industrial
20 districts. So areas of the City that
21 have a lot of industrial parks or
22 industrial uses would be affected by
23 this, and what it does in the new code
24 is, I-1, formerly L-1, L-2, and L-3, and
25 I-2, formerly G-1 and G-2, currently

1 10/31/12 - RULES - BILLS 120654, ETC.
2 allow educational facilities, religious
3 assemblies, and entertainment assemblies,
4 whereas they did not in the old code
5 before. The Councilman's concern is
6 having industrial parks and areas of the
7 City with industrial parcels having
8 schools, churches next to places that are
9 factories, warehousing, distributors,
10 things like that.

11 And then, finally, the third
12 amendment changes the use tables for C-2
13 and RC-2, now CMX-2. And CMX-2 now was
14 previously C-2 and RC-2, but rather than
15 take A and B and make AB, they took A and
16 B and a whole bunch of things that
17 weren't previously allowed in A or B. So
18 what we did was, we went line by line
19 through the new code and the old code
20 with Rosalie and myself and changed those
21 back to what they were.

22 Some of the more egregious uses
23 in those areas, RC-2 being partly
24 residential unit -- I'm sorry;
25 residential district, would be visitor

1 10/31/12 - RULES - BILLS 120654, ETC.
2 accommodations, allowing bed and
3 breakfasts, hotels, full-fledged hotels,
4 things like that.

5 So those are the three
6 amendments that we have today.

7 COUNCILMAN GREENLEE: Okay.
8 Thank you.

9 Councilman Kenney had a
10 question.

11 COUNCILMAN KENNEY: Just one
12 question relative to the issue of
13 schools. There was some discussion
14 earlier, and I just want to get your
15 point of view on, for example, in an
16 industrial area where they wanted to put
17 in a vocational charter school that dealt
18 with machine shop or carpentry or
19 something that's in a kind of similar or
20 appropriate activity in an industrial
21 area, would they also be prohibited from
22 establishing a charter school, for
23 example, to do automotive repair?

24 MR. YERKOV: With this change
25 they would be prohibited, but that would

1 10/31/12 - RULES - BILLS 120654, ETC.

2 be something we could discuss allowing in
3 that area.

4 COUNCILMAN KENNEY: You'd have
5 to go to the Zoning Board?

6 MR. YERKOV: Yeah, you would
7 have to go to the Zoning Board.

8 COUNCILMAN KENNEY: Okay.

9 COUNCILMAN GREENLEE: Thank
10 you.

11 Just to get on the record,
12 because I've spoken with Councilman
13 O'Neill about this, I know Ms. Gladstein
14 had suggested letting this go through for
15 the year review, but I think the
16 Councilman -- you may have said this. I
17 may have missed it. But I think the
18 Councilman's concern is that there could
19 be some things put in in the meantime
20 that could be a problem in the community.
21 Am I saying that right?

22 MR. YERKOV: Yeah. And I think
23 she could speak for herself, but she can
24 attest to we're in communication via
25 e-mail, and I think we both agree that

1 10/31/12 - RULES - BILLS 120654, ETC.
2 that was an issue. Where we disagree was
3 a timing, immediacy of the issue. And
4 you're right, the Councilman feels it's
5 something we need to address now before
6 something like that gets in there rather
7 than to wait a year for the review.

8 COUNCILMAN GREENLEE: I
9 understand.

10 Ms. Gladstein, you want to
11 speak to that?

12 MS. GLADSTEIN: I do. We had
13 seen two of the amendments before. One
14 was with regard to minor amendments to
15 master plan districts and reducing the
16 square footage from 5,000 to 2,500.
17 That's acceptable. And we also saw
18 several amendments to industrial
19 districts about educational and religious
20 institutions, which we have had a
21 correspondence about, but what I was just
22 handed today goes far beyond that. It's
23 not anything that we've discussed before,
24 and we have serious concerns, because
25 after four years of work of the Zoning

1 10/31/12 - RULES - BILLS 120654, ETC.

2 Code Commission, multiple briefings with
3 City Council on the components of the
4 bill, 40 amendments that Council gave us
5 last November, none of them addressed
6 these other changes. And there are over
7 20 changes to commercial mixed-use to
8 CMX-2, which is the dominant commercial
9 zoning throughout the City. So it
10 affects Ridge Avenue, Baltimore Avenue,
11 Broad Street, Girard Avenue, you name it.
12 It affects Castor Avenue. It affects
13 commercial areas throughout the City, and
14 there are over two dozen changes to what
15 would be permitted in that district, and
16 this was not discussed with our office.
17 We've not had the opportunity to vet it
18 since the Zoning Code was approved. And,
19 again, during the Zoning Code process, we
20 did negotiate what uses would be
21 permitted in C-2.

22 So this third amendment -- and
23 I'm not sure how you separate them, but
24 the use charts that I just got have
25 marked up changes in uses in the

1 10/31/12 - RULES - BILLS 120654, ETC.
2 commercial mixed-use 2 district, and I
3 cannot say at this point that we would
4 support those at all.

5 MR. YERKOV: Can I just go on
6 the record as saying that I wouldn't
7 consider them to be changes, because the
8 things that we changed weren't allowed
9 before. So the new code is allowing
10 these uses either as a matter of right or
11 by special exception, whereas they
12 wouldn't have even been allowed before.

13 So nothing is really being
14 changed. We haven't had the new code for
15 that long to consider it a change, I
16 wouldn't say, because it wasn't there
17 before.

18 COUNCILMAN GREENLEE: Wait a
19 minute. Before we keep going back and
20 forth, I think you just gave us these
21 amendments just now, right? I know the
22 others I think you've given --

23 MR. YERKOV: Two were
24 circulated. The one that came this
25 morning was the CMX-2.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 COUNCILMAN GREENLEE: But the
3 one that we're having the discussion on I
4 think you just gave us, right?

5 MR. YERKOV: Right.

6 COUNCILMAN GREENLEE: I think
7 in fairness -- and I talked to some of
8 the members here. I think because
9 there's so much here today. I mean, I
10 was aware of Councilman O'Neill's other
11 two, if you will, and I think we were
12 certainly favorable to moving them today,
13 but I think given that -- now, whether
14 you call it changes or taking it back to
15 where it was or whatever, there seems to
16 be a lot here, and I think if the
17 Committee agrees --

18 COUNCILWOMAN BROWN:
19 Completely.

20 COUNCILMAN GREENLEE: -- I
21 think since we already are coming on
22 November 14th, you got two weeks to try
23 to work this out. I think in all
24 fairness, we've been trying to be fair to
25 everybody here, and even the Committee at

1 10/31/12 - RULES - BILLS 120654, ETC.

2 this point, something coming in this

3 late -- and I understand the last two

4 days have been different, but I think we

5 have to -- I think I'm going to have to

6 continue this until November 14th too,

7 and hopefully -- and, again, I'll say the

8 same thing. We're going to move a bill

9 on November 14th. So if we could

10 hopefully have some discussion, and then

11 it will be up to us, if you can't reach

12 an agreement, to make a decision. But

13 it's hard for us to make a decision, I

14 think, when we were just given something

15 right now, especially with all the other

16 things that have gone on.

17 MR. YERKOV: That's fair.

18 COUNCILMAN GREENLEE: All

19 right. So if you could relay to the

20 Councilman.

21 So Bill 120774 will also be

22 continued until Wednesday, November 14th

23 at 10:00 a.m.

24 COUNCILWOMAN BLACKWELL: Mr.

25 Chairman?

1 10/31/12 - RULES - BILLS 120654, ETC.

2 COUNCILMAN GREENLEE: Wait a
3 minute. Hold it.

4 Councilwoman Blackwell.

5 COUNCILWOMAN BLACKWELL: Thank
6 you. If I may, certainly we adhere to
7 whatever the Committee would like, but we
8 have made an agreement.

9 COUNCILMAN GREENLEE: You have
10 made an agreement?

11 COUNCILWOMAN BLACKWELL: Yes.

12 COUNCILMAN GREENLEE: Well, I
13 think probably maybe the best thing --
14 hold on one second.

15 COUNCILWOMAN BLACKWELL: But if
16 the Committee wants to ponder further,
17 obviously we adhere to, but we wanted you
18 to know that we did make an agreement.

19 COUNCILMAN GREENLEE: I think
20 since you already have an agreement, the
21 time isn't the issue here. Maybe it's
22 better if we just move everything to
23 November 14th and we can move all the
24 amendments at that time, if that's
25 agreeable to you. I appreciate you

1 10/31/12 - RULES - BILLS 120654, ETC.
2 working this out, but I didn't know this
3 was going to come up sort of at the last
4 minute.

5 COUNCILWOMAN BLACKWELL: That's
6 fine, Mr. Chairman. It's okay.

7 COUNCILMAN GREENLEE: Okay.
8 Thank you. So we'll continue this until
9 November 14th also. All right?

10 MR. YERKOV: Sounds good.

11 MS. GLADSTEIN: Thank you.

12 COUNCILMAN GREENLEE: Thank
13 you.

14 I think that completes now --
15 so Bill 120774, 120654 will be continued
16 until Wednesday, November 14th at 10:00
17 a.m.

18 That concludes the hearing on
19 the other two bills, and we're going to
20 go into our public meeting in like a
21 minute. Thank you.

22 We're going to go into the
23 committee meeting of the Committee on
24 Rules, and the Chair recognizes
25 Councilman Kenney on Bill No. 120781.

1 10/31/12 - RULES - BILLS 120654, ETC.

2 COUNCILMAN KENNEY: Thank you,
3 Mr. Chairman. I move that Bill No.
4 120781 be reported out of this Committee
5 with a favorable recommendation, a
6 request made for rules suspension to
7 allow first reading at our next Council
8 session.

9 (Duly seconded.)

10 COUNCILMAN GREENLEE: It's been
11 moved and seconded.

12 All in favor?

13 (Aye.)

14 COUNCILMAN GREENLEE: Opposed?

15 (No response.)

16 COUNCILMAN GREENLEE: Hearing
17 none, Bill No. 120781 is reported out of
18 Committee favorably with a rules
19 suspension.

20 Once again, Councilman Kenney
21 on the amendments for 120656.

22 COUNCILMAN KENNEY: Thank you,
23 Mr. Chairman. I move that the amendments
24 to Bill No. 120656 be approved.

25 (Duly seconded.)

1 10/31/12 - RULES - BILLS 120654, ETC.

2 COUNCILMAN GREENLEE: It's been
3 moved and seconded.

4 All in favor?

5 (Aye.)

6 COUNCILMAN GREENLEE: Opposed?

7 (No response.)

8 COUNCILMAN GREENLEE: Hearing
9 none, the bill is amended.

10 I want to just be clear. Those
11 amendments do not include the Building
12 Industry. The sponsor of the bill was
13 not ready to approve them yet. We can
14 talk about that and maybe it could be
15 amended on the floor. But the amendments
16 that were put in was the Administration
17 amendment and also Council President
18 Clarke's amendment, adding the Temple
19 area.

20 MS. GLADSTEIN: With regard to
21 density?

22 COUNCILMAN GREENLEE: No. That
23 was not.

24 Once again, Councilman Kenney.

25 COUNCILMAN KENNEY: Thank you,

1 10/31/12 - RULES - BILLS 120654, ETC.

2 Mr. Chairman. I move that Bill No.
3 120656, as amended, be reported out of
4 this Committee with a favorable
5 recommendation and a request made for
6 rules suspension to allow first reading
7 at our next Council session.

8 (Duly seconded.)

9 COUNCILMAN GREENLEE: Been
10 moved and seconded.

11 All in favor?

12 (Aye.)

13 COUNCILMAN GREENLEE: Opposed?

14 (No response.)

15 COUNCILMAN GREENLEE: Hearing
16 none, Bill No. 120656, as amended, is
17 reported out of this Committee favorably
18 with a rules suspension.

19 Being no further business
20 before the Committee today, thank
21 goodness, that concludes our business for
22 today.

23 Thank you all very, very much.

24 (Committee on Rules concluded
25 at 2:10 p.m.)

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CERTIFICATE

I HEREBY CERTIFY that the
proceedings, evidence and objections are
contained fully and accurately in the
stenographic notes taken by me upon the
foregoing matter on October 31, 2012, and that
this is a true and correct transcript of same.

MICHELE L. MURPHY
RPR-Notary Public

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

A				
AB 255:15	140:12	208:19	117:17	191:15 212:13
abandon 149:24	accommodate	added 36:10	adjusts 175:15	222:20 225:22
abandonment	107:18	231:9	administer 90:10	225:24 229:12
104:3	accommodating	adding 19:15	90:24 112:4	230:21 253:22
abbreviate 5:2	174:14	266:18	administration	agencies 6:22
abbreviating	accommodations	addition 5:21	7:13 33:2 53:7	52:15 90:17
185:5	97:7 256:2	12:10 14:9	55:15 65:17	agency 145:14
abide 169:25	accomplished	30:23 90:4 97:6	66:20 68:10,24	agenda 4:21 43:7
ability 6:13 38:15	169:2	188:4 230:3	71:8 106:22	43:8 53:25
51:9,22 163:19	account 89:4	additional 5:25	135:25 155:7	58:13
216:12 224:20	107:9	7:10 15:7 49:19	174:2 242:13	aggrieved 78:21
able 8:17 15:10	accountant 29:14	112:11 143:7	244:10 253:12	ago 23:19 58:21
26:23 41:21	accurately 268:5	166:24 208:17	266:16	68:22 69:21
44:14 63:10	achieve 46:12	230:5 241:10	Administration's	181:25 199:18
115:10 117:12	229:3 233:17	242:2	18:14 101:25	200:7 213:18
142:12 163:7,23	achieved 227:4	additionally	108:11	221:5
164:14 170:11	acknowledge	12:15 83:19	administrative	agree 25:25 26:3
233:17 244:14	187:17 249:16	143:6	8:18 113:10	34:4 54:3 60:5
254:15	acquire 227:23	additions 20:6	176:19	77:9 104:24
absent 158:2	241:8,13	address 8:21 22:7	adopt 33:14	147:14 210:11
239:24,24	acquiring 241:5	25:11 30:21	adopted 8:20	218:10 237:24
absolutely 38:12	acreage 163:5	43:2 44:11 63:8	58:18 63:17	240:11 257:25
52:17 156:15	209:5	88:17 146:7	67:2 107:23	agreeable 263:25
158:21 246:14	acres 208:23	173:12 176:23	156:17	agreed 25:13,17
249:15	209:12	181:8 258:5	adopting 150:13	26:8 199:21
absorb 122:17,18	Act 148:9 234:10	addressed 31:19	adoption 140:2	agreeing 27:14,16
abstract 107:10	acting 222:10	42:24 162:20	199:13	agreement 53:11
accept 187:7	action 6:8 199:3	168:21 259:5	adults 86:9	99:19 117:10
acceptable 19:11	actions 39:9	addresses 50:12	advance 8:12	144:20 262:12
53:13 178:3,5	active 116:21	193:10 202:23	advancing 227:10	263:8,10,18,20
178:18 204:18	activities 141:2	addressing	advice 143:18	agrees 33:22
258:17	166:21 218:17	135:15 150:5	advising 170:14	248:16 261:17
accepted 23:25	219:8,25	adds 96:20 107:2	advisory 6:17,20	ahead 26:16
28:20 126:18	activity 182:13	140:23	advocacy 199:6	27:21 41:9
165:23 166:3	191:13 196:4,8	adequate 6:7	214:17 245:14	55:25 75:18
252:7	197:12 256:20	89:13 147:16	advocates 92:4	102:18,18
accepting 215:4	actual 11:22	adequately	affairs 79:19	111:12 137:12
access 34:6 51:18	48:13 104:12	149:18	153:14	175:2 190:22
91:5 197:9,23	106:3 107:9	adhere 263:6,17	affect 117:2,4	245:10
207:22 219:25	ad 53:20	adjacent 141:9	122:14 192:3	AIA 184:3,14
223:13 227:21	adamant 68:14	227:7 228:16	193:6	187:5
228:10	add 12:19 19:24	adjust 8:11	affordable 117:23	aid 181:13
accessible 197:15	30:10 34:4	adjusted 175:8,13	afternoon 139:4,5	aimed 7:22 85:25
223:9	43:15 52:19	adjusting 168:24	139:9 142:15	ain't 127:16
accessory 12:17	55:24 84:9	Adjustment 8:20	145:7 158:23	airport 61:13
60:21 87:16	150:24 171:12	83:12 97:21	180:7 183:21	airport-related
	175:4 205:12	106:14,25	190:21,23	141:4

Alan 3:10 4:12 9:25 alleviate 121:11 alley 97:25 122:3 allow 50:10 76:20 87:4 90:19 105:2 114:5 132:17 133:4 134:18 156:9 159:15 181:17 188:19 189:20 192:17 206:3 207:23 218:21 227:21 255:2 265:7 267:6 allowed 29:18 87:14,21 91:7 149:8 161:19 192:12,21,25 209:8 221:19 248:3 250:7 255:17 260:8,12 allowing 58:12 64:9 116:18 133:18 155:12 192:24 221:3 256:2 257:2 260:9 allows 121:6 189:12 alluded 154:25 alter 132:15 134:14 alternative 135:4 135:7,12 alternatives 199:25 alters 132:3 133:16 amazing 81:10 201:13 amend 81:5 142:5 158:8 amended 69:15 98:13 113:24 266:9,15 267:3 267:16	amending 2:23 3:3 82:8,10 94:16 138:11 amendment 12:8 12:9 15:8,24 19:3 23:10 27:4 28:10 33:15 54:12 62:25 69:8 74:25 75:16 78:11 82:3 83:15 85:24 98:6,15 99:10,25 100:3 100:3,7,12,17 101:3,4,5,14 108:4,16,17 111:18 112:21 117:14,22 118:13 136:13 136:17,21,25 137:2 141:19,22 143:17 151:24 159:15,19 160:14,22,24 161:11 162:20 166:19 174:17 174:19 177:24 188:19,21 189:12 203:9 215:4 249:12,17 251:19 253:8 254:6,8,11,18 255:12 259:22 266:17,18 amendments 5:13 6:19 7:2 10:2 12:4,6 16:21 17:7,10,16,18 17:22 18:8,10 18:16,21,23 19:13,14 24:22 25:6 55:14 57:8 59:2 60:4,6 66:6 66:11,17 67:12 67:17,19 70:12 70:16 71:7 72:7 75:12 76:14	84:2 101:23 108:12,15 112:25 113:10 135:9,23 136:7 136:10 141:24 142:8,13,19,21 144:18,21 145:2 158:14,15,20 159:12 167:10 167:14,18 168:25 169:12 174:3 175:5,21 178:11 180:20 185:25 186:2,15 191:9,16,24 192:5,14 193:9 193:12,16,21,23 196:2 203:13,19 205:15 214:7 237:10,17 248:23 254:2,14 256:6 258:13,14 258:18 259:4 260:21 263:24 265:21,23 266:11,15 amends 83:5 amenities 197:10 197:24 214:21 221:13 224:21 amenity 196:23 222:2 American 76:3 183:24 America's 181:23 amount 30:11 36:6 109:5 228:20 analysis 169:20 172:4,14 201:14 201:24 202:5 Andrew 190:14 190:24 203:5 205:13 and/or 268:22 ankle 95:7 Anne 57:3,20	102:6 111:2 anniversary 9:6 announced 35:17 announcement 243:19 annual 196:16 198:4 answer 109:2 130:14,16 136:15 150:21 190:3 194:3 204:9 235:25 236:23 antenna 55:16 antennas 15:14 15:18,19 antiquated 103:2 anybody 20:15 38:5 39:10 50:11 51:14 53:3 73:19 93:15 anyway 17:5 37:3 127:15 211:2 apartments 97:17 97:17 118:3 132:19 apologies 16:2 apologize 15:9 31:3 50:8 79:10 111:5 249:9,19 appeal 11:19,23 40:17,24 41:2 78:22 106:12 appeals 90:21 appear 84:19 appearing 145:11 Appendix 144:5 Applause 151:2 182:22 185:16 189:10 194:7 198:25 200:24 222:16 225:11 229:7 applicant 30:13 30:18 50:23 79:17	applicants 11:13 23:5 143:13 application 30:21 31:16 89:23 120:4 applied 156:22 161:10 applies 86:3 159:19 169:12 206:25 apply 47:7 141:11 157:16,20,25 158:3 169:3 226:14 231:20 231:25 232:3 243:10 268:20 applying 170:2,15 appreciate 4:4 26:25 33:10 114:23 116:13 137:20 159:8 185:6 230:16 248:25 253:18 263:25 appreciated 142:9 approached 4:5 57:10 75:9 82:16 85:7 94:23 102:8 116:4 130:21 138:24 180:2 190:16 212:2 220:19 225:19 245:7 253:20 appropriate 23:22 88:25 89:9 233:21,23 233:24,24 239:16 241:20 256:20 approval 11:18 87:9,15,22 92:18 117:16 118:8 121:22 141:18 149:10 213:23
--	--	---	--	---

approvals 11:20	185:2 227:17,25	attended 7:20	222:20,22	135:3,15 191:10
approve 93:9	254:20 255:6,23	43:11	Aye 265:13 266:5	balancing 228:23
234:7 266:13	259:13	attending 40:18	267:12	ball 34:21 35:12
approved 12:22	argument 208:8	attention 59:11	a.m 1:7 244:6,21	Ballard 61:6
12:23 23:15	241:6	133:3 211:19	253:2 262:23	Baltimore 223:4
83:10 84:8	arguments 37:17	attest 257:24	264:17	259:10
98:13 117:20,23	Arizona 221:9	attorney 40:3,6		bank 175:14
140:21 254:14	Army 147:6	85:20	B	176:4 213:20,24
254:16 259:18	238:12	attorneys 61:23	B 1:14 186:18,22	234:17,18
265:24	arm's 227:25	attract 222:4	187:7 189:13	banks 182:3
approving 138:17	articulated 8:12	attracting 196:7	191:9 192:15	184:19 221:14
approximately	Aside 120:19	attribute 156:4	193:16 199:15	239:10 252:13
103:8 247:11	asked 35:8 48:6	at-large 157:7	203:10 214:7	252:14
apropos 217:5	183:14 233:5,11	168:4,5,5,14,22	220:5 222:12	bar 206:5
aquatic 146:18	asking 3:23 55:4	215:20	223:2 224:4	barrels 198:17
147:12,17	aspects 86:13	audience 30:9	226:11 246:21	barriers 107:20
architect 120:14	185:4	August 36:4	251:19 255:15	Bartram 236:14
184:4,7 214:15	assemblies 255:3	37:13 52:19,19	255:16,17	base 214:20,23
architects 61:22	255:3	105:12 152:15	back 36:4 48:23	based 50:25 79:13
76:4 183:25	assembly 21:7	246:3	49:10 55:4	112:22 139:23
184:7	assessment	auspices 7:16	59:21 61:25	basement 97:16
architectural	104:25	authority 149:11	62:3 63:3,18	basic 145:20
182:2	assets 188:7	authorized 83:23	69:14,17,18,20	basically 101:22
area 12:20 18:25	assistance 41:25	automatic 155:17	81:4,8 87:19	123:14 161:3
25:18,19 31:2	associated 188:12	automobile	90:20,23 102:25	242:19
31:19 33:8	195:13 197:23	107:16	131:4 145:24	basin 155:25
60:15 62:11,23	association 57:4	automotive	155:13 161:21	basis 11:6 239:20
62:24 83:15,15	57:22 58:8	256:23	171:24 199:17	241:3,5
94:18 96:6	88:23 111:4,15	availability	203:5 208:5,12	Bass 1:10 2:15
100:20 101:8	153:5 245:16	218:17	208:13 212:10	157:14 224:13
104:12,22	250:19	available 16:12	233:11 235:9	224:15 242:14
105:14,17,21,25	associations	55:14 56:4 99:3	241:24 242:9,10	242:15 243:7,14
109:6,10,14,20	77:22 112:8	148:22 195:7	242:16 243:21	Bay 147:13
109:22,25	assume 175:5	Avenue 100:22,22	246:11 247:19	bearing 246:15
110:11,13 130:9	assumed 11:9	226:22 259:10	253:5 255:21	beautiful 218:16
155:15 164:15	assuming 26:17	259:10,11,12	260:19 261:14	219:13
242:22,24 243:5	as-of-right 122:8	average 104:22	backbone 226:20	beauty 81:5
256:16,21 257:3	165:18 210:24	106:9,11 117:7	background	becoming 135:18
266:19	210:25 236:25	165:4,13 177:9	120:15	197:21 223:8
areas 13:24,25	attached 13:19	averaging 117:7	backlog 167:4	bed 13:5,13 256:2
21:6 23:6,9	attack 102:21	avoid 38:6 250:10	backup 233:5	began 5:23 7:17
44:19 103:6,10	133:17	aware 15:6 19:12	backward 108:7	beginning 29:22
103:25 104:2,6	attempt 77:20	46:14,18 55:13	bad 42:4 95:7	70:2 123:11
105:8 112:7	85:22	73:19 106:20	102:25	behalf 58:16
113:17 122:22	attempting 94:6	143:24 175:22	balance 36:13,15	91:25 92:6
128:2 150:4	attend 246:2	209:21 261:10	37:15 38:11	145:12 183:23
155:23 156:2	attendance 28:19	Axelrod 220:16	46:12 132:7,9	188:18 212:17

226:4 229:15	246:7 263:22	139:17,24	49:1 50:1 51:1	159:1 160:1
behaved 201:22	beyond 108:5	141:17,18 144:3	52:1 53:1,5 54:1	161:1 162:1
believe 17:16,21	258:22	145:12 153:18	55:1 56:1 57:1	163:1 164:1
19:2 26:8 32:6	BIA 58:16,21,23	153:20 157:15	58:1,13,15 59:1	165:1 166:1
60:13 62:19	59:8 60:3	159:12 164:6	60:1 61:1 62:1	167:1 168:1
63:7 72:21 82:2	136:21 137:3	165:22 167:9	63:1 64:1 65:1	169:1 170:1
88:15 89:17	153:5	180:17,23,25	66:1 67:1 68:1	171:1 172:1
98:19,25 99:16	bicycle 187:14	183:4 184:2	69:1 70:1 71:1	173:1 174:1
141:25 142:24	198:9,13	185:8,10 187:7	72:1 73:1 74:1	175:1 176:1
143:8 153:17	big 19:21 63:5	187:21 188:13	75:1 76:1 77:1	177:1 178:1
162:5 168:12	73:25 121:9,21	188:16 189:7,20	78:1 79:1 80:1	179:1 180:1
171:22 180:21	138:7 181:22	189:25 191:6,9	81:1 82:1 83:1	181:1 182:1
186:17,22	188:23 189:22	193:14,25	84:1 85:1 86:1	183:1 184:1
192:15 193:7,9	196:9 198:8	199:13 200:10	87:1 88:1 89:1	185:1 186:1
193:11 203:12	208:20 215:22	205:19 206:23	90:1 91:1 92:1	187:1 188:1
206:4 208:20,23	bigger 78:6	208:3 214:5	93:1 94:1 95:1	189:1 190:1
208:24 209:25	172:13	218:12 220:4	96:1 97:1 98:1	191:1 192:1
215:19 219:19	biggest 210:16	222:10,11,25	99:1 100:1	193:1 194:1
226:13 230:10	bike 218:22	223:25 224:3,17	101:1 102:1	195:1 196:1
235:12 239:23	221:23	226:11,12,15	103:1 104:1	197:1 198:1
246:25 250:9	biking 218:18	229:16 230:17	105:1 106:1	199:1 200:1
believes 101:6	bill 2:18,20,22	243:23 244:4,4	107:1 108:1	201:1 202:1
believing 91:9	3:15,19,20 5:11	244:9,21 246:18	109:1 110:1	203:1 204:1
benchmark 252:6	6:5,10 7:5 9:25	246:19 248:8	111:1 112:1	205:1 206:1
benchmarking	12:19 13:2 15:6	250:22 251:8,18	113:1 114:1	207:1 208:1
148:22 251:21	17:4,6 56:22	252:24 253:4,6	115:1 116:1	209:1 210:1
251:22	59:13,25 60:23	259:4 262:8,21	117:1 118:1	211:1 212:1
benefit 7:7 76:7	67:13 70:8,12	264:15,25 265:3	119:1 120:1	213:1 214:1
196:12	70:16 72:13,14	265:17,24 266:9	121:1 122:1	215:1 216:1
benefits 118:18	72:16 74:24,25	266:12 267:2,16	123:1 124:1	217:1 218:1
188:15 194:22	80:11,16 81:20	billions 213:11	125:1 126:1	219:1 220:1
195:13 207:17	81:21 82:6,7,24	bills 1:16 3:1,16	127:1 128:1	221:1 222:1
227:9 229:4	83:4,19 84:3,6	3:17 4:1 5:1 6:1	129:1 130:1	223:1 224:1
230:10	84:22 85:11,11	7:1 8:1 9:1 10:1	131:1 132:1	225:1 226:1
best 10:24 38:19	94:13,14,15	11:1 12:1 13:1	133:1 134:1	227:1 228:1
72:8 88:24	95:15,18,24	14:1 15:1 16:1	135:1 136:1	229:1 230:1
100:4 101:7	96:12,20 97:18	17:1 18:1 19:1	137:1 138:1	231:1 232:1
112:21 117:17	98:12,15 100:6	19:19 20:1 21:1	139:1 140:1	233:1 234:1
119:11 146:10	102:20,24 103:4	22:1 23:1 24:1	141:1 142:1	235:1 236:1
147:7 149:14	105:24 108:6	25:1 26:1 27:1	143:1 144:1	237:1 238:1
242:19 244:12	111:6 112:15,25	28:1 29:1 30:1	145:1 146:1	239:1 240:1
263:13	119:21,22,23,24	31:1 32:1 33:1	147:1 148:1	241:1 242:1
best-case 193:24	120:6,18 122:13	34:1 35:1 36:1	149:1 150:1	243:1 244:1
better 32:13 33:4	123:2 131:21,22	37:1 38:1 39:1	151:1 152:1	245:1 246:1
88:17 137:23	132:3,15 133:16	40:1 41:1 42:1	153:1 154:1	247:1 248:1
168:22 210:23	134:14 135:24	43:1 44:1 45:1	155:1 156:1	249:1 250:1
219:24 242:21	137:14 138:4,9	46:1 47:1 48:1	157:1 158:1	251:1 252:1

253:1 254:1 255:1 256:1 257:1 258:1 259:1 260:1 261:1 262:1 263:1 264:1,19 265:1 266:1 267:1 Billy 44:21 bit 3:21,22 33:16 33:24 36:11 38:25 42:16 62:9 74:20 82:25 83:24 111:21 139:17 175:8 180:19 Blackwell 1:11 18:4 24:19 25:5 27:23 29:2 32:3 34:5 41:11 47:2 47:23 53:2,12 53:17 54:16 75:20 262:24 263:4,5,11,15 264:5 Blackwell's 16:25 17:22 34:20 blame 95:4 blanket 169:13 blight 104:4 blighted 105:8 block 30:20 31:16 43:25 78:15 89:2 129:3 blocks 122:24 Blondell 1:13 84:10 board 8:20 11:5 11:17 23:16 30:16 43:10,20 44:3 47:16 49:14 51:11 83:11 89:23 92:18 93:8 97:20 101:22 106:13,21,25 117:16 133:7,21	133:22 136:2 143:16 170:8,9 170:13 193:3 206:9 235:5 257:5,7 boat 141:2 Bobby 1:12 157:13 177:23 253:24 body 81:2 133:21 134:3 213:19 boils 69:24 Bolender 75:3,7 75:14,19,25 76:2 81:9 211:25 214:13 214:14,15 bonus 241:23 boost 195:21 boots 44:12 boundaries 25:23 26:2 39:5 45:16 46:2,7 boundary 32:22 bounded 100:21 box 172:13 brace 44:17 brand 118:3 Brandywine 229:14,20 230:9 breached 161:20 bread 172:13 break 37:17 211:11,17 breakfast 13:5,13 breakfasts 256:3 Brewerytown 103:11 brief 3:24 57:15 62:5 85:23 92:11 179:22 218:4 245:20 briefed 6:24 briefing 19:9 84:11 93:16 94:4 briefings 7:2	259:2 briefly 7:12 76:13 158:19 bring 78:18 brings 100:9 broad 174:21 259:11 broadly 188:20 Brooklyn 43:24 brought 76:9 109:6,16 174:15 Brown 1:13 2:15 71:5,6 84:10,16 85:6 91:23,24 92:13 93:16,25 94:2,9 154:19 154:21 155:6 156:13 157:5 158:4 161:25 171:3,8 177:20 177:21 178:6,14 261:18 brunt 251:10 buffer 3:20 72:16 145:13 146:10 147:2,15 148:25 149:4,6,9,17 150:4,14 153:24 154:2 163:7,20 163:21 164:15 172:23 175:24 184:15,23 192:7 192:9,12,18,23 200:6,9 203:15 203:16,22 204:6 205:24 206:3,7 206:18 207:19 208:11 212:22 212:25 213:16 218:6,8,20 219:17 227:5 229:18 239:23 240:22 251:23 252:2 buffers 73:3,17 73:21 111:9 138:15 145:19	145:23 146:16 146:21,25 147:9 147:21 148:2,12 148:18 149:14 149:20 150:18 168:13 172:6 181:2 182:19 183:11 184:18 195:4,14 199:20 199:20 200:16 208:17 222:25 223:5,16,18 227:20 build 13:15,18 114:19 117:12 117:15,17 118:6 118:9 124:14 125:18,20 161:12,20,21,21 163:23 209:11 215:17 228:4 230:4 235:8 248:13 250:7 builders 58:9 114:10 building 13:15 14:14 22:4 32:11 57:4,22 58:4,7 64:13 90:11 93:3 104:13 105:16 105:18 106:12 111:3,15 113:16 153:5 159:15 163:3,24 164:12 164:18 170:12 172:5 175:23 176:17 177:2 201:18 203:17 205:4 208:13 209:9 266:11 buildings 106:3 108:2,19 159:13 161:2 162:13,16 162:19,21 165:3 165:4,24 166:3 209:11	built 182:4 184:10 213:12 232:16 bulk 235:14 bulkhead 232:8 232:16 240:18 248:12 252:12 bulkheaded 232:5 232:24 233:3,8 235:15 240:16 248:6,10 249:6 249:18,18 252:15 bulkheads 248:21 249:7 bunch 132:5 255:16 burden 89:20 burdensome 79:17 105:23 burden-shifting 89:17 bureaucracy 166:25 business 30:19 31:14 48:24 117:2 118:16,17 191:19 193:20 196:4,9 214:16 267:19,21 businesses 151:22 buying 129:4 bylaw 29:7 bylaws 28:8 34:13 45:17,19 46:4 48:17
C				
Cabry 25:14 calculate 172:7 calculation 96:13 98:9 call 3:7 19:17 56:23 73:23 74:23 84:25 94:13 102:4 179:11,12 203:9 205:23 211:21				

244:23 261:14 called 76:8 182:2 calling 58:22 75:2 114:16 canal 151:12 239:8 241:25 captures 196:11 car 123:21 124:4 124:8 129:13 care 33:3 82:13 83:6,7,8,20 85:11 86:5,8,9 86:11,15,17,18 86:21,25 87:5 87:13,21,24 88:4,8,21 89:11 90:5,9,14,15,16 91:2 92:8,20 197:18 198:4 cared 91:9 cares 86:6 carpentry 256:18 cars 109:16 127:19 128:24 129:5,10 cartway 65:3,4,6 carve-outs 205:20 case 40:12,14 50:6,6 193:15 248:9 cases 22:22 23:14 106:16 133:6,20 133:22 149:8 155:11 175:16 175:18 casino 34:21 35:12 Castor 259:12 catching 19:12 categories 195:17 category 13:3 162:9 Catharine 221:2 caused 7:3 cautious 215:3 caveat 240:4,25 caveats 241:2	CBOs 45:4 CBO's 44:19 Cellini 244:24 250:17,18 Center 219:5 centers 91:8 central 12:20 98:21 108:20 157:23 223:16 226:17 228:8 236:12 245:13 CEO 180:10 certain 3:2,5 15:3 20:23,25 21:19 23:21 31:2 76:20 82:13 94:19,21 95:20 97:11 112:17 113:16 138:13 138:16,20 149:8 155:7 165:23 certainly 23:5 46:12,18 50:13 115:6 201:24 230:7 261:12 263:6 CERTIFICATE 268:2 certification 268:19 CERTIFY 268:3 certifying 268:23 cetera 119:6 207:22 Chair 1:10 2:18 54:6 185:18 202:8 214:17 245:13 264:24 chairing 4:15 Chairman 25:6 26:11 42:13 70:6 155:5 158:22 162:12 167:24 171:4 180:8 186:12 187:12 190:19 194:8 201:11	235:22 262:25 264:6 265:3,23 267:2 challenge 50:23 challenges 150:6 Chamber 253:3 chance 200:5 244:18 change 15:13 45:19 59:2 62:12 63:20 67:19 72:4 86:19 95:18,24 96:12 104:25 119:22 129:6 143:25 144:7,12 144:14 150:7 205:15 241:11 252:9 256:24 260:15 changed 15:3 19:25 22:20 63:13 65:12 86:15 144:9 176:9 254:9 255:20 260:8,14 changes 3:3,4 10:3,7 13:2 15:7 20:23 50:20 60:2,14,16,18 60:20 62:13 66:23,25 67:6,9 67:11 69:24 94:20 97:13 107:13 119:25 138:15 142:25 144:19 203:11 254:4,5,18 255:12 259:6,7 259:14,25 260:7 261:14 changing 6:10 41:15 116:24 channel 77:14 channeling 61:7 61:16 Chapter 151:10	183:24 character 89:5 242:22 characters 246:13 charged 145:14 charter 21:25 58:25 256:17,22 charts 259:24 Chasili 187:19 cheap 121:5 check 99:15 100:5 cheek 131:3 Chesapeake 147:13 child 92:8 93:6 childcare 86:3,6 86:22 88:2,25 91:5,14 Childhood 92:2 children 83:7,9 83:10 86:7,10 87:6 90:15 91:3 91:9,17 93:9,11 choose 13:10 Chris 26:18 187:19 Christopher 138:22 145:9 Chrysler 129:19 Chryslers 129:16 church 21:25 churches 255:8 CINDY 1:10 circle 203:5 circles 126:18 circulated 68:2 167:11 186:4 260:24 circulating 237:11 circumstance 215:16 circumstances 89:10 172:23 cities 148:25 149:2,5,6 213:8 223:4 228:12	citizen 58:2 199:3 citizens 7:16 8:2 76:25 146:13 150:2 181:11 213:18 223:9 city 1:2,6 4:18 6:6 6:16,21,21,24 7:18 8:19 9:18 12:13 15:20 21:16 34:9 39:19 43:24 53:25 64:25 65:5 66:4,5 78:8 79:3 82:23 84:5 87:3 90:12 91:12 95:13,16 95:22 98:10 103:7,9,17 104:18 105:7 106:8,20 107:24 112:7 113:7,17 114:20,22 116:22 118:9,14 118:16 123:6 124:9 129:14 132:17,25 133:10,13 139:11,24 141:16 145:14 145:22 148:13 148:23 150:12 150:16 164:4 170:3 172:4 180:13 181:9,24 184:11 189:16 189:18 191:17 193:8 198:8 199:20,23 200:4 200:13,13,21 205:22,22 206:10 213:15 216:25 218:15 218:18 219:11 219:13 221:8,11 222:4,7,8 223:7 223:10,23 224:20 225:5
--	--	--	---	---

229:24 233:22 247:14 252:3 254:20 255:7 259:3,9,13 citywide 47:7 101:11 151:16 151:19 156:20 157:2,16 159:19 162:6,15 168:16 169:4,13 170:16 173:16 210:18 223:17 239:19 243:12 246:16 City's 6:11 103:25 104:4 107:18 140:2 146:3 149:23 181:7 190:2 238:12 City-owned 141:6 civic 11:18 12:10 30:17 40:19 43:20 49:15 50:3 51:23 76:22 77:3,19 77:21 78:12,13 78:17 79:2,18 79:19 214:22 claim 184:6 claiming 34:17 44:25 clarification 151:5 175:4 clarified 11:24 141:20 clarifies 83:20 140:4 clarify 15:13 27:7 151:8 185:21 186:7 208:3 245:21 249:2 clarifying 2:25 11:2 12:3,16 13:14 14:13 clarity 5:20 6:2 15:18 154:22 249:9,20 Clark 187:12	Clarke 99:13 109:2,11 Clarke's 266:18 classification 103:19 132:25 classifications 103:5,6 113:5 132:22 clause 156:8 Clean 148:8 213:8 cleaner 223:8 cleaning 86:11 clean-up 57:7 67:13,17,18 74:25 clean-ups 67:23 clear 12:7 13:21 27:12 51:8 94:5 122:7 123:11 143:12 156:25 172:19 177:22 204:12 242:8 266:10 clearer 10:5 84:18 clearing 250:25 clearly 44:11 204:15 246:17 CLERK 2:22 3:9 57:3 75:3,7 82:7 85:4 94:15 102:6 115:22 116:2 138:10 179:14 190:14 211:23 220:15 225:17 clients 248:13 climate 150:7 clock 102:25 close 109:8 162:20 169:15 169:17 171:12 217:4 closer 105:4 113:20 159:16 159:17 161:22 175:18 201:20 closest 54:25	88:23 162:15,17 165:5 176:24 177:12,15 closing 7:11 189:23 CMX-1 96:3 CMX-2 96:3,22 103:5,14 105:14 107:15 108:2 121:24 255:13 255:13 259:8 260:25 CMX-2.5 96:22 CMX-3 14:21 Coalition 92:2 187:14 Coast 226:24 Cobbs 103:12 code 2:24 4:15,20 5:7,14,16,24 6:23 7:15,18 9:4 9:7,8,20 10:3,19 10:22,25 11:8 12:2,5,15,24 13:20 14:11 15:15,22 17:19 21:11 24:6 27:5 30:12 36:11 45:15 51:17,18 58:18,19,23 59:3,9 60:3 61:23 63:7 64:2 64:20,22 65:5 65:12,18,20,21 66:3,7,12,19,21 66:25 67:2,3,10 67:12,12,19 71:23 72:2 76:7 76:9 79:25 82:9 83:5 86:2,5,12 86:14 87:11,12 87:17,20 89:3,8 90:6,6,11,19,25 91:14 94:17 96:25 97:21 103:3,20 104:8 104:11 105:11	107:11,23 108:9 119:15 131:24 132:4,6,12 134:6,22 138:12 151:11,15 156:17,19,22 157:4 158:8 164:13 191:2 210:13 215:13 231:20 233:12 254:23 255:4,19 255:19 259:2,18 259:19 260:9,14 codes 8:16 90:12 91:6 codified 44:20 come 25:16 41:24 46:6,8 48:15 51:19 59:21 69:6 71:16 81:4 81:8 116:7 127:8 130:9 134:12 170:7 180:15 212:9 245:6 252:13 264:3 comes 37:8 72:5 93:7 194:25 212:10 236:3 comfortable 246:6 coming 2:5 16:22 43:8 55:3 68:21 89:16 109:13 120:25 126:4 131:3 179:17 213:11 242:9 247:18 261:21 262:2 comment 8:9 26:14 29:3 69:23 88:24 95:3,6 111:7 136:22 184:8 234:20 238:24 commented 105:6 219:12	commenting 111:8 comments 5:25 42:8 46:24 60:22 61:21 81:17 85:22 125:16 142:16 178:25 185:5 190:7 194:15 202:11 218:4 commercial 13:24 13:25 14:22 23:23 91:11 95:20 155:13 170:18 191:13 229:21,23 248:14 259:7,8 259:13 260:2 commercially 103:17 Commission 4:15 4:19,20 5:18 6:17,23 8:19 9:2 9:19,20 11:22 27:6 28:4 40:20 52:4 58:20 59:3 65:18,20 66:3 66:21 67:3 71:23 72:3 76:7 82:23 84:6 95:14 98:6,10 101:3,6,16 102:22 103:21 105:6 106:14,19 107:2,6,12 131:24 135:7,25 136:8,10 137:17 139:12 141:10 141:13,16 142:4 143:6,13 152:24 170:9,14 178:9 191:3 216:12 233:12 254:17 259:2 Commissioner 145:3,6,9 162:23 163:9,25
---	--	---	---	---

165:15,20 172:3 172:12 Commission's 87:17 135:13 178:12 192:10 commitment 217:16 committed 88:19 committee 1:3 2:11,13 8:24 16:19 33:21 40:20 43:21 58:12 64:22 69:20 116:19 137:15 145:8 167:11,18 180:8 182:24 186:5 189:8,25 222:21 244:15 253:23 261:17,25 263:7 263:16 264:23 264:23 265:4,18 267:4,17,20,24 committees 2:17 49:13 common 10:17 13:12 65:8,10 76:8 77:8 126:10 132:24 commonly 95:21 Commonwealth 76:19 communal 91:3 91:16 communication 112:14 257:24 communities 5:22 36:22 125:7 community 11:16 22:5 25:22 27:8 28:5,13 29:4,6 29:11,13,17 31:7 32:17 34:25 36:9,17 37:2 38:2,13,18 44:15 45:8 46:19 47:9,12	47:20,21 52:22 55:3,9 75:15 77:12 85:5,20 85:21 88:20 89:14,18,22 90:2 91:4,10 109:7,10 111:16 117:4 118:5 125:21 126:3 132:10,11 143:14 193:2,7 202:20 206:16 228:22 237:21 257:20 community's 22:2 community-bas... 7:23 commute 221:18 commuters 198:14 commuting 110:12 198:7 companies 184:5 company 176:19 201:18 compares 148:24 compatible 141:8 complaints 81:6 complete 192:19 226:24 completed 8:5,8 completely 221:22 243:2 261:19 completes 264:14 complicated 34:24 complicates 176:13 comply 14:2 164:4 component 155:22 236:11 components 259:3 comprehensive 119:15	compressed 38:10 compromise 25:17 114:10,13 114:17 142:24 192:16 193:13 207:24 218:11 244:2 compromised 228:20 conceivably 209:3 concept 76:24 231:3 concern 7:3 27:19 37:14 46:25 47:6 48:24 134:2 168:24 170:2 184:9 215:10 255:5 257:18 concerned 37:24 45:10 48:11 155:25 168:15 192:4 concerns 25:10 26:24 41:12 49:3,8 51:12 65:17 112:19 120:20 135:15 151:22 155:16 156:6,7 169:7 237:12 258:24 conclude 9:9 concluded 191:8 267:24 concludes 252:23 264:18 267:21 concluding 16:11 conclusion 149:19 153:16 200:18 concrete 232:17 condense 9:23 139:14 conditional 149:10 conditions 3:5 14:13 82:14 94:21 105:10	138:21 147:17 conducted 5:18 7:21 confirm 4:23 conflict 78:9 86:13 173:20 conforming 3:4 conforms 167:2 246:10 confused 79:10 180:19 confusing 90:10 154:6 confusion 151:6 156:19 congestion 121:12 124:20 125:12 125:20 127:23 128:2,8 129:23 connected 140:15 194:20 196:15 196:25 197:8,13 198:2,10 221:22 Connecticut 251:25 connecting 164:9 cons 198:22 conscious 41:17 43:2 44:3 consensus 69:2 153:17,22 consequence 86:20 conservatively 196:14 197:4 198:12 consider 64:8 71:14 137:9,19 150:13 193:21 224:25 260:7,15 considerable 148:20 consideration 64:6 112:11 114:13 181:17 185:7 220:3 230:16	considered 38:22 46:14 72:8 84:6 96:10 104:20 141:17 considering 66:6 150:11 consisted 6:20 consistency 5:20 6:3 consistent 10:6,16 11:4 12:21 45:17 83:16 142:22 144:3 175:6 consists 5:12 constant 59:10 constituencies 247:16 constitutes 19:18 construct 49:25 constructed 148:12 223:12 construction 105:16 consultants 216:21 consultation 228:21 consumed 198:16 198:17 contained 84:2 268:5 contamination 146:4,8 contemplated 195:25 content 6:5 contention 233:6 contents 6:8,9,18 6:25 7:10 context 152:11 contingent 87:7 continue 50:19 62:19 91:15 166:16 167:13 214:3 244:4 252:25 262:6
--	--	--	---	---

264:8	copy 43:6,9 56:5	134:20,21	70:4,5,10,15,18	157:12 158:12
continued 150:16	93:17 99:7	137:15 139:21	70:21,22 71:4	158:13,18,21,24
262:22 264:15	114:16 144:7	141:14,14,21	71:18 72:6,10	159:2,22 160:5
continues 39:10	191:16	142:4,7 143:13	72:12,18,25	160:23 161:16
continuously	Corcoran 226:5	144:5 148:23	73:7,13,20,24	162:3,11,14,25
47:10	Corp 238:13	150:13,17	74:5,7,11,17,22	163:13,17,22
contractors 58:10	Corporation	156:18 158:7	75:5,11,17,21	164:5,17,22
contradicted	153:3 180:11	171:22 172:22	76:15 80:4,13	165:2,8,12,17
157:21,24	186:21 194:17	189:24 193:8	80:18 81:14,19	166:8,9,10,13
contradicting	226:3,9	194:9 206:10	81:23 82:2,18	166:14,15
169:23	Corps 147:6	213:15,22 214:2	83:2 84:14,24	167:20,21,22,23
contradicts 157:2	correct 67:20	218:2 222:23	85:9,13 91:21	168:18,19 169:6
contrary 88:14	154:15 155:19	237:22 259:3,4	92:12 93:20	169:6,23 170:22
contributions	155:20 163:16	265:7 266:17	94:10,25 95:10	171:2,6,11,16
94:7	164:2 175:11	267:7	98:18,23 99:4,8	172:8,15,16,24
control 151:10	176:7,9 206:21	Councilman 1:10	99:12,18,22	173:7,8,18,21
230:3 268:22	207:3 268:8	1:11,12,12,13	100:2,14 101:12	173:23,25 174:4
controls 22:13	correcting 10:4	1:14 2:2,12,14	101:17,21 102:2	174:9,24 175:11
98:20 140:24	correspondence	2:16 3:6,11 4:7	102:10,17	176:5,6,7,8,10
controversial	258:21	4:24 5:4 9:13	108:10,24	176:11,12 177:8
34:15	corridor 213:6	16:3,14,18,25	110:16,22	177:14,17,19,23
controversy	cost 107:2 119:18	17:17,24 18:7,9	111:10 114:15	178:16,22 179:3
84:20	122:17 124:4,11	18:12,17 19:5	114:24 115:3,8	179:10,16 180:4
convened 6:17	124:18 127:3	19:22 20:9,13	115:15,19,24	183:16 185:14
139:19 152:13	130:5 189:16	20:18 21:20	116:6 118:20	185:17,19,20
conversation 17:2	197:19,22 198:4	22:14,25 23:7	120:9 123:9,23	186:10,11,14,16
33:18 68:11	207:25 208:18	24:7,12,18	124:3,16 125:6	186:24 187:4,8
71:8 167:13	costly 213:12	26:12,16 27:10	125:13 126:11	190:5,10,20
236:5	costs 117:18	27:20,25 31:25	126:14 127:5,13	194:4,12 200:25
conversations 7:6	123:20 126:22	33:9,11,25 34:2	128:19 130:2,6	201:2,7,9,10
99:11 159:5	202:21	34:3 35:25	130:17,23 131:7	202:4,7,9,14,25
160:16 167:15	cost-effective	38:21 39:2,14	131:13,19	203:3,4 204:11
174:11,23	148:7,13	39:18,22 40:5	135:20 136:5,9	204:17,23,24
245:18 246:4	Council 1:2 6:6	40:23 41:5,6,7,9	136:14 137:4,10	205:6,10,13
convert 106:11	6:21,24 7:8,12	41:10,10 44:8	137:22 138:2,6	206:19,24 207:4
conveyors 141:3	7:20 9:6 10:9,22	45:11 46:17	139:2,7,19	207:5,9 208:2
cooperation	12:13,23 13:8	52:24 54:7	141:25 142:2	209:15,17,19,20
159:8	19:9,11 58:18	55:10,17 56:6,9	143:20 144:13	210:4,11,15
cooperative	58:25 62:2 66:4	56:14,20 57:6	144:24,25 145:7	211:4,5,8,14
177:23	66:5 69:15	57:12,17,23	150:22 151:3,25	212:4,8 214:11
cooperatively	83:17,17 84:11	58:3 59:14,20	152:7,9,10,16	215:8,18,20
142:10	87:3 91:12	60:21,25 61:10	152:19,23 153:7	217:10,17,21
Coordinator	95:16 98:17	61:14 62:7	153:9,9,10,11	220:7,11,21
190:25 199:4	107:24 108:25	65:14,22 66:14	153:15 154:2,9	222:14,17 224:6
copies 70:19	109:11 114:23	67:4,14,15,16	154:17,18,20,22	225:9,12,15,21
115:7,18 202:18	119:19 120:5	67:21,22,25	155:2,3,4,21	226:7 229:8
253:12	124:9 133:8,8	68:8 69:4,9 70:3	156:15 157:12	230:18 231:8,16

231:19,24 235:18,20,21 236:6,10,13,18 237:9 238:11,20 239:2,22 240:10 240:21 241:16 241:19 242:4,6 243:16 245:9 248:19,25 249:11,16 250:13 251:13 252:18,21 253:8 253:16,24 256:7 256:9,11 257:4 257:8,9,12,16 258:4,8 260:18 261:2,6,10,20 262:18,20 263:2 263:9,12,19 264:7,12,25 265:2,10,14,16 265:20,22 266:2 266:6,8,22,24 266:25 267:9,13 267:15 Councilmanic 42:9 209:24 224:11 Councilman's 169:2 207:12 255:5 257:18 Councilmember 173:11 Councilmembers 8:15 16:23 17:8 45:15 46:21,24 56:4 89:25 94:5 153:6 157:8,11 182:15 223:24 244:17 254:13 Councilpeople 168:4 237:15 Councilperson 11:15 13:10 25:21 26:5 30:14,23 31:21 52:10 99:13	Councilperson's 168:11 Councilwoman 1:10,11,13,14 2:14,15 16:17 16:24 17:22 18:4 24:19,21 25:5 26:13 27:12,23 29:2 31:18 32:2,3 33:13,20 34:5 34:20 41:11 46:25 47:3,5,23 49:9,21 50:22 52:25 53:6,12 53:14,17,19 54:16 71:4,6 75:19 77:9 80:20,22 84:10 84:16 93:16,25 94:2 125:17,25 127:18,25 128:21 129:24 130:15 154:19 154:21 155:5 156:13 157:5,14 158:4,5 159:20 159:25 160:21 161:14,23,25 164:3 168:20 171:3,8 172:9 177:20,21 178:6 178:14 224:13 224:15 242:14 242:15 243:7,14 261:18 262:24 263:4,5,11,15 264:5 Councilwoman's 26:22 43:14 Council's 139:25 count 62:22 140:17,19 238:15 250:2 country 91:7 252:8 couple 17:5 76:13	77:13 92:20 243:19 244:11 course 6:12 112:12 114:8 134:19 196:8 court 40:14 51:3 courts 76:19 cover 90:13 103:6 coverages 172:5 covered 156:7 171:2 188:3 covering 103:8 covers 103:16 Co-Chair 76:3 CO2 198:16 Craig 61:7,16,19 73:7 Crawford 102:7 102:13,14,20 108:14 109:24 110:20 115:17 create 27:4 64:12 107:19 113:17 121:20 126:25 155:7 181:14 191:4 192:7 219:18 227:14 227:16,23 created 59:2 104:8 128:25 140:3 158:10 161:9 creates 159:18 160:25 creating 22:10 77:21 188:5 227:16 230:12 creation 145:18 196:4 226:21 228:13 Creek 103:12 160:10,10,11 169:18,18 182:8 213:21 creeks 160:7 crew 73:3 criteria 148:16	254:4,6 critic 182:2 critical 6:14 59:7 146:18 193:8 Crockett 138:23 145:4,6,9 162:23 163:9,25 165:15,20 172:3 172:12 Crockett's 185:3 cruising 128:10 crunch 110:10 curbside 121:5 cure 34:20 237:12 current 8:11 10:16 149:21 163:20 currently 83:12 83:16 96:23 254:25 CURTIS 1:12 customer 242:10 cut 53:3 80:14 90:22 cuts 87:19 cutting 90:20 C-2 255:12,14 259:21 D DAG 214:18 216:17 daily 221:18 damage 182:20 Danielle 220:15 220:25 Dare 184:12 date 7:24 9:7 48:18 dating 145:24 Dave 187:18 244:24 250:17 day 44:13 82:13 83:6,6,8,20 85:11 86:5,8,11 86:15,16,18,21 86:24 87:5,13	87:21,24 88:3,7 88:21 89:11 90:5,9,14,15,16 91:2 92:20 110:2,9 123:22 191:19 244:9 253:4 days 2:7 30:15 31:2 102:25 117:11 141:14 141:21 182:20 187:23 191:18 193:19,20 201:12 262:4 DC 219:22 deal 27:4,5 42:12 44:12 61:23 155:14 174:16 215:22 237:7 dealing 35:20 159:5 163:14 168:7 239:21 deals 103:4 159:13,23 166:17 174:17 176:18 dealt 134:12 256:17 dear 119:9 decade 58:21 182:5 decades 148:17 193:7 213:11 December 5:17 12:23 decent 214:23 decide 18:20 31:21 decider 234:21 decides 234:21 decision 20:11 25:22 26:5 40:14 42:22 239:18 244:15 262:12,13 decisions 11:7,10 193:5 195:10,12
---	---	---	---	---

198:23	102:15 115:22	derail 78:23	developer 35:6	27:14,17 28:24
decision-making	130:8,19 131:2	derive 197:11	37:6 41:23 46:9	28:25 31:20
165:10 216:3	131:16,21 136:3	describe 158:20	102:14 116:20	differences 26:24
deck 14:2	136:18,24 137:7	described 229:5	154:11 200:20	27:3 79:5
decks 13:24	137:13,24	describing 46:2	237:19	142:12 203:8
155:14	demonstrates	210:6	developers 60:5	different 13:15
dedicated 195:5	181:7	design 5:22 11:18	60:10 61:8,20	23:24 38:25
deed 21:18 22:8	demonstrating	12:11 14:16	76:8 77:7	39:24 68:6 77:5
deemed 86:25	89:21	30:17 40:19	119:16 122:15	77:6 93:22
deepen 157:6	demonstrative	43:20 49:15	122:20 123:18	109:4 111:20
default 14:5	234:3	50:4 51:23 76:4	124:10,14	112:2,2,3
defeat 120:6	densest 14:22	214:17 228:4	126:24	128:18 143:21
defer 60:9	density 95:19,23	designated 140:8	developing	157:9 175:9
define 203:8	95:25 112:16	144:11	250:21	178:17 236:4,12
defined 86:8	113:21 116:24	designating	development 4:14	236:17,22 238:2
166:21 175:21	117:22 118:13	138:18	5:21 8:17 20:4	238:14 239:8,10
definitely 214:23	128:16,17,23	designation 44:23	32:7,16 34:22	239:13 243:3,9
definition 10:13	266:21	designed 49:4	35:7,17 37:16	262:4
13:4,12 39:8	dentist 131:4,10	98:2 100:23	41:17,22 42:14	differentiate
60:16,18 63:2	deny 52:17,20	desirability 41:16	42:17 47:14	35:21 234:16
63:20 71:24	Department 5:17	desires 228:25	48:3 52:6 72:19	differently 33:5
86:14,19 254:8	8:22,24,25	desk 247:11	73:16 77:6	108:22 109:3
definitions 10:6	11:21 138:18	desperately 113:7	85:21 106:24	216:9
10:13 39:6	140:4,22 143:19	destination	107:3 113:4,6	difficult 46:11
138:14	145:17 152:25	219:21	120:16 122:7,8	78:20,24 90:10
degraded 149:23	184:21 213:4,13	detached 13:20	122:25 123:5	112:4 118:17
Delaware 140:24	218:9 245:24	detail 6:19 231:6	132:9,13 133:23	121:25 123:6,7
157:23,23	Department's	detailed 5:19	133:24 139:21	170:23
159:24 160:8	213:8	174:10	149:8 153:3,4	dimension 184:16
161:5,13 166:18	depend 120:2	details 5:10 7:10	153:23 155:12	184:24
169:17 182:8	depending 93:2	detector 92:23	155:13,18	dimensional 13:3
199:4,9 201:4	deprives 118:14	determination	165:18 170:6	13:22 14:4
218:23 221:25	depth 15:3	141:15	180:11 181:18	direct 102:21
226:2,8,17,23	Deputy 4:11,13	determine 235:6	182:12 186:21	130:5 268:22
228:9,10 230:2	4:18,25 5:6 9:18	determining 51:3	214:18,19	direction 223:11
232:6 234:4	19:16 20:2,10	192:11	216:18 227:6,18	directly 117:2
245:14	22:21 23:2	Detroit 149:3	228:15 230:9,14	140:15
delay 117:18	24:16 35:23	devalue 214:8	234:8 236:25	Director 4:18,20
delayed 69:10	36:3 38:24 39:4	develop 32:23	237:13 241:11	9:18,20 61:8,18
delaying 68:12	39:16,20 40:8	122:2 159:16	251:10	82:22 95:13
deleted 7:4 143:8	41:3 48:25	163:7,20 164:8	developments	139:11 187:13
delicate 132:7,8	52:13 56:18	170:11 234:11	120:22 122:5	194:17 212:15
135:2,3	82:22 95:13	developable	develops 250:24	disadvantage
delivered 193:21	139:10 145:3,6	229:2	devil 231:5	237:16
demand 124:22	145:9 162:23	developed 7:6	dialogue 112:13	disagree 125:8
124:23 132:19	163:9,25 165:15	228:20 233:7	114:22 167:16	126:12 127:14
DeMarco 102:7	165:20 172:3,12	234:18 235:15	difference 12:3	237:4 238:3,24

239:4 240:22 258:2 disagreement 25:19 26:7 35:3 disagreements 244:13 disband 49:9 discretion 158:9 discuss 113:14 230:25 257:2 discussed 19:8 64:21 66:2 71:21 135:22 245:22 258:23 259:16 discussion 20:22 21:12 50:19 68:15,23 73:2 84:12 99:14 181:18 191:25 256:13 261:3 262:10 discussions 78:20 171:21 distance 165:5,5 165:25 176:22 177:9,11,15 distances 237:8 distinguish 249:17 distinguished 119:14 distracted 201:3 distribution 140:6 141:5 distributors 255:9 district 8:4,14 11:15 13:16,19 21:21 22:11 25:21 26:4 30:14 31:21,24 42:9 44:13 47:11 48:5 49:21 52:9 83:17,17 97:3 107:7 128:16	133:4,6 139:20 153:6 154:24 157:8,11 161:5 162:7,14 168:3 168:8,11,11,18 168:19,20 169:3 169:8,24 173:13 209:24 218:2 221:2 222:23 224:12 236:3,4 236:10,14,17,18 236:21 237:15 237:21 243:6,8 247:8,17 254:13 255:25 259:15 260:2 districts 14:23 17:21 18:21 20:4,5 21:2,5 63:24 87:14,23 94:20 95:21 96:3,13,16,23 96:24 97:11 106:4 112:18 121:25 125:3 128:15 132:17 133:18,19 138:17 158:3 168:22 169:9,11 170:17 237:25 243:11 246:13 247:20,21 254:7 254:20 258:15 258:19 ditto 185:3 diverse 103:10 dock 140:25 248:2 docket 138:9 docks 140:11 document 11:10 46:5 59:10 documentation 43:15,16 47:18 233:16 documented 109:23 207:16	documents 43:5 147:5 doing 2:10 14:11 19:21,23 20:6 48:23 77:14 121:14 131:25 242:3,23,24 dollar 202:19 dollars 93:2 189:19 196:11 213:11 dominant 97:13 259:8 door 32:6,11 42:14 78:5 176:23 downsized 117:25 downstream 147:25 156:5 247:8 251:3 downtown 48:3 48:15 128:23 dozen 259:14 dozens 10:3 draft 58:25 86:4 86:16 drafted 8:13 11:8 112:20 139:24 drawn 219:7 drink 184:12 drinking 146:17 146:23 247:7 drinks 200:14 drive 121:4 130:12 198:12 driven 198:15 driver's 23:23 drives 122:3 221:15 driveway 64:18 64:24 65:3,9,10 97:25 driveways 140:14 driving 110:9 128:9 dropped 79:22 DRWC 227:13,19	227:22 due 25:8 104:10 Duly 265:9,25 267:8 duplexes 117:13 duplication 83:25 dwelling 96:8,21 97:5,10,13 116:24 dwelling s 96:2 dynamic 236:13 dysfunctional 103:2 E earlier 104:14 186:19 251:20 256:14 Early 92:2 earning 24:25 easement 62:16 62:17,22 easements 228:4 easier 82:25 198:11 243:5 east 155:10 161:17 226:24 237:6 239:11 Eastwick 236:16 easy 35:24 95:8 177:6 echo 41:12 252:10 ecologically 199:22 economic 4:13 85:21 182:11,12 183:2 194:19 207:17 227:18 economically 199:22 economists 194:24 economy 183:2 195:22 196:3,7 196:10 Econsult 194:17 201:11	edge 181:12 227:8 227:22 231:14 232:8,17 238:7 239:12 240:18 250:8 educated 91:10 educational 21:3 255:2 258:19 effect 15:15 87:25 105:12 134:6 196:2 208:7 234:2 effective 9:7 121:13 147:3 184:17 230:11 effectively 120:24 189:15 191:18 effectiveness 146:6 effects 251:2 efficient 87:18 89:8 effort 5:8 31:4 77:19 166:5 egregious 255:22 eight 14:6 either 7:4 16:23 22:7 47:14 113:23 122:9 149:9 176:16 191:5 222:12 229:25 260:10 elections 28:17 electronically 144:4 elements 147:4 eliminate 108:4 167:4 eliminated 107:24 eliminates 108:17 eliminating 86:20 Elizabeth 179:15 183:22 elongate 130:7 elucidate 61:3 emergency 188:10
---	--	---	---	--

emissions 198:16	entities 77:7	establishing 51:6	232:22 233:7	50:20 104:17
emphasize 86:16	entitled 2:24 82:9	241:3 256:22	241:22 256:15	162:19 210:19
employing 195:22	82:11 94:17	establishments	256:23	247:3
employment	138:12 235:7	13:6	exceed 83:7,9	existed 37:12
196:13	entity 50:13	estate 118:11,25	excellent 76:16	163:3
enact 185:7,10	entrance 14:24	119:2 120:16	120:20	existence 151:17
enacted 5:16	environment	250:21	exception 6:10	152:4,5 203:20
181:22 213:19	181:10 184:10	estimate 194:19	22:10 23:20	existing 34:25
encountered	185:9 223:25	196:14 197:4,13	83:11,14 86:21	41:18 96:3
219:12	environmental	198:2,12	87:2,9,15,22	104:8 105:10
encourage 8:17	139:22 145:10	estimates 195:23	88:3,13,15 89:7	141:9 143:3
185:7	158:16 184:22	197:25 198:18	89:15 92:19	156:9,10 159:14
encouraged	185:23 188:3	et 119:6 207:22	97:22 121:22	161:2,6 162:4
142:16	199:5 207:17	Eva 3:9 4:17 7:9	122:11 143:10	162:16 163:6,14
encouraging	208:18 213:5	9:11,17 18:12	143:11 153:22	163:24 165:11
23:18	218:9 224:23	25:14 82:15,21	154:11 174:20	169:21 170:12
encroach 195:6	227:9 228:24	94:22 95:12	260:11	171:13 188:25
encroaches	229:4	104:13,24	exceptional	203:13 208:5,11
203:15	environmentally	138:22 139:10	215:16	exists 21:11 50:19
encroachment	207:21	163:10 230:23	exceptions 11:3	104:17 169:20
206:17 234:10	envisioned 113:4	evaluate 134:8,16	11:11 174:19	203:14 206:21
enforce 90:24	EPA 213:3	evaluation 134:19	205:17 216:14	208:4
223:16	EPA-approved	evening 158:23,25	248:22	expand 164:13,14
engaged 194:18	213:9	eventually 128:9	excessive 65:7	164:15,20,25
Engineers 147:6	equal 227:19	everybody 2:7	113:2	166:22 188:21
engines 182:11	239:20	30:25 33:7	excited 221:21	192:21,24
enhance 219:20	equally 219:22	42:18 43:7 48:2	excluded 62:23	203:25 207:19
enhancement	erosion 146:20	53:14 55:4	248:22	208:4,11 247:4
199:8	147:21 148:5	121:2 128:9	excluding 90:4	expanding 45:5
enjoy 218:18	184:19 219:2	135:6 211:19	excuse 29:2 59:14	46:8 207:13
enjoyed 223:21	233:10 247:10	244:7,9 261:25	115:17 149:24	208:15,16
enjoying 197:12	errors 10:4	everybody's	159:25 220:16	expansion 143:4
ensure 5:20 7:14	especially 29:10	211:18	220:18 248:19	189:13 192:17
59:11 94:5	121:19 238:7	evidence 89:20	execution 231:4	192:19 204:5
148:15	262:15	90:3 268:4	Executive 4:18,19	205:5 207:24
ensuring 86:12	essential 184:18	evidenced 155:11	9:18,19 61:8	209:4,8 215:10
88:19 230:13	184:25 213:7	exactly 50:12	82:22 95:13	249:23
entered 151:4	216:2 248:2	69:19 84:3	139:11 212:15	expect 52:7,8
entertain 169:5	essentially 123:19	98:22 125:2	exempt 98:7	214:2
255:3	124:24 159:18	129:18 130:2	240:7,8,9	expectation 37:7
entire 192:20	205:20	210:8,14	exemption 242:13	expectations
200:3 203:23	establish 42:2	examine 191:19	exemptions	219:16
204:6,6 247:14	established 34:9	examined 149:3	191:12	expense 121:2
252:15	34:12 35:19	example 13:18	exempts 83:15	expensive 90:22
entirety 205:19	161:18 213:2	104:13 162:13	exercising 197:20	126:24 127:4
226:13	establishes 35:6	163:22 201:17	Exhibit 182:18	experience 35:10
	140:7 229:17	208:25 210:9,22	exist 23:6 37:3	159:7 237:23

experts 147:14 149:12 228:21	66:16 67:8,11 67:24 68:3	feel 20:6 79:13 137:23 249:21 251:8,9	figure 166:6 171:9 176:22 237:12	fishes 200:14
explain 146:16 160:3 170:7 253:11,25	102:6 111:2,3 111:13 114:18 115:2,5	feeling 42:23 76:21 79:3,4 111:14	figured 177:6	fit 105:9 113:3
explicitly 90:8	fair 33:6 87:17	feels 134:20	Fike 251:16,17	five 36:2 73:25 143:21 209:9 221:4
express 180:16 183:25 226:10 229:15	192:16 193:12 261:24 262:17	219:13 258:4	filter 146:25 227:15	five-unit 113:16
expressed 213:23	fairly 6:14 40:13	fees 118:10	filtering 147:3	fix 109:20 133:25
extend 38:20 209:4	109:24 126:17	feet 14:7,24 15:4 15:4 19:2,4 63:25 64:25	final 59:5 86:16	fixed 36:6
extended 20:7 36:7 38:12 218:21	Fairmount 130:10 146:2 239:12	93:6 96:5,6,7,14 97:23 104:16,23 105:4,5,13,17 105:19,22,25 106:6 107:11 114:2 116:25,25 117:8 147:9,15 149:7 163:3,7 163:21,23 164:7 164:9,18,19 165:13 172:17 172:18 175:11 175:13,17,24,24 175:25 184:23 199:21 201:19 203:18,23 208:14,14 209:2 209:9 216:6,7 218:24 227:20 229:21,25 230:6 234:12 245:23 246:5,8,11,16 246:23 247:10 248:3 251:2 254:9,10,12	finalized 7:5	flexible 59:9 107:8
extending 182:6	fairness 244:16 261:7,24	fee-simple 228:3	finally 54:2,17 198:6 255:11	flood 147:23,25 247:9
extensive 8:9 36:12	fall 6:16 161:3 162:9	fell 111:6 221:11	financial 214:4	flooded 251:3,6
extent 157:13	fallen 246:11	Felt 6:7 112:24 142:5 153:23	find 34:8 78:18,19 130:13 165:25 219:9	flooding 146:20 147:21 148:2,4 150:10 156:4 188:12 219:3 223:19
extra 65:19 122:18 208:14	Falls 155:10 237:6 239:11	FEMA 6:13 234:7 238:5	findings 195:15 198:20	floodplain 6:11 6:14 163:11 202:2 234:8
extraordinary 193:18	familiar 40:4 109:22,25 210:7	fewer 198:14	fine 29:4 37:4,6 56:6 66:12,18 69:2 74:21 93:23 102:3 201:8 204:21 264:6	floodwaters 147:22
extremely 123:6 187:23	families 128:24	Fifty 247:10	finish 29:3 30:3 231:22 244:3	floodway 163:11
eyes 150:2	family 51:13 82:12 83:5,6,20	fight 222:19	finished 70:25 71:3 74:10	floor 18:25 97:14 240:23,23 266:15
e-mail 257:25	family-based 83:8		finite 194:25	fly 16:6 18:8
	fantastic 222:2		first 2:20 3:7 15:13 16:16 18:18 22:16 24:23 62:4 63:17 75:23 76:15 96:6 98:7 98:8 102:19 103:24 113:11 114:3 134:17 145:4 159:12 165:21 180:5 193:14 195:17 220:22 230:22 245:10,22 254:4 265:7 267:6	focusing 199:6,19
	far 18:7 20:12 154:13 242:2 247:12 258:22		fishable 148:15	folks 181:5 187:17 203:25
F	Farms 155:24			following 146:22
face 42:8 131:5	favor 35:7 108:13 108:15,17 189:8 265:12 266:4 267:11			foot 12:10 64:24 96:9,17 114:5,6 114:8 149:13 155:17 161:9,10 161:18,24 162:17,18 207:18 228:18 246:4 250:25
faced 48:14	favorable 261:12 265:5 267:4			footage 93:11 136:19 258:16
facilities 21:3 141:4,6 202:22 222:3 255:2	favorably 265:18 267:17			footprint 229:2
facility 86:17	favorite 218:15			force 38:4 189:15
facing 164:18	fear 49:5,5,6,11			forced 117:25
fact 64:2,11 76:18 149:22 174:13 193:19	federal 148:7,14 148:19 149:12 234:6			forefront 230:14
factions 112:2	fee 121:15			foregoing 268:7
factories 255:9	feed 217:3			
factors 120:3 150:12	feedback 173:3			
Faddulon 110:23				
Fadullon 57:3,20 57:21 58:6 59:18,23 66:10				

268:19 forest 146:10 forever 34:11 forget 40:15 form 28:6 48:9 123:20 formal 70:16 formalized 70:11 former 4:19 6:22 9:19 61:17 formerly 254:24 254:25 forms 86:24 87:13 90:16 Fort 182:7 forth 87:10 192:13 234:25 241:7 242:11 243:22 260:20 Forty 106:17 forums 51:24 forward 133:14 144:4 150:15 167:14,16,17 181:7 183:5 192:3 253:9 found 22:18 77:8 95:21 four 3:17 34:16 36:2 68:17,22 69:11,24 96:8 96:18 97:15 100:10 102:23 105:2 108:5 113:16 114:7 117:9 119:13 129:18 135:19 148:6 191:3 195:16 199:17 200:7 213:21 258:25 fourth 3:20 198:6 four-year 5:8 FOW 212:17,21 fractured 36:25 fragile 149:16 frank 127:17	Frankford 103:13 160:10 Fred 199:2 free 121:6 123:16 123:16,21,24 124:5,6,12,22 125:19 126:19 126:20 128:13 128:14 129:21 247:4 frequent 150:11 Friday 142:15 191:15 193:22 friend 119:9 friendly 198:9 friends 119:4 211:24 212:16 frightening 61:11 61:15 front 17:12,17 26:20 93:21 123:18 129:3 154:13 175:15 175:19 176:3,14 176:18,23 250:3 250:4 frontage 63:6 164:10 204:7 front-loaded 98:2 fulfill 91:15 full 119:7 133:8 164:10 194:10 fully 89:8 135:10 191:19 194:20 196:15,25 197:8 197:13 198:2,10 268:5 full-fledged 256:3 function 91:16 133:5,19 functioning 134:9 functions 140:21 146:21 further 27:7 74:8 90:20 138:17 149:10 155:24 175:16 188:8	191:25 204:9 206:14 254:11 263:16 267:19 future 39:9 41:21 64:8 118:12 146:13 149:21 150:4,8 170:6 216:18,19 223:21 227:3,21 G gain 197:11,18 gains 197:10 game 72:5 Garden 103:11 Gardens 236:15 gasoline 198:16 gated 248:14 general 31:10 46:10 110:15 121:10 144:20 149:14 153:22 242:20 generally 29:20 79:23 96:10 100:21 103:18 168:6,23 177:4 178:2,5,18 generate 196:17 197:2 generates 118:11 generation 196:5 generational 228:7 generations 42:4 146:14 gentleman 80:7 252:11 geographic 101:8 geography 42:12 42:20 germane 165:10 getting 2:4 76:25 179:23 240:14 Girard 100:22 259:11 give 9:14 29:19	30:13 89:15 200:4 216:16 240:24 241:14 244:16 254:12 given 9:23 48:20 86:7 97:12 112:6 114:13 143:6 150:8 260:22 261:13 262:14 gives 45:7 163:19 giving 137:20 178:12 219:24 gladly 169:25 Gladstein 3:9 4:9 4:17 9:14,16,17 16:5 17:14 18:11,15,18 19:7 20:21 23:13,17 24:13 25:14 26:15,17 27:16,22 28:3 30:4,6 40:2,11 40:25 42:25 45:13 51:7 55:12 56:2,11 56:15 82:15,19 82:20,22 83:4 84:21 94:22 95:3,5,11,12 98:22,25 99:6,9 99:15,20,24 100:8,16 101:15 101:19,24 104:14 108:12 109:18 136:6,7 136:12,16,20 138:22 139:4,5 139:9,10 143:23 144:16 150:24 151:3 152:3,14 152:18,22 153:19 154:4,15 155:20 156:16 157:15 158:7 163:16 164:11 164:21,24 165:7	166:11 171:14 171:20 173:15 173:19 174:7 175:2,3 177:5 177:10,16,25 178:8,20 179:5 179:8 230:24 242:12 257:13 258:10,12 264:11 266:20 Gladstein's 104:25 go 5:2,9,11 20:7 23:19 26:16 27:21 34:11 36:4 41:9 47:15 48:23 49:10 51:23,23 52:3 52:10 54:14 55:25 60:10 63:11 75:17 80:7 81:24 91:18 102:17,18 102:19 109:25 110:6 111:12 118:7 119:17,25 129:15 133:7,20 137:11 138:7 171:24 175:2 176:23,24 183:19 190:21 207:14 216:7 220:22 225:3 232:11 235:5 236:6,9,13,18 239:16 241:8 245:10,10 248:3 253:5,10 257:5 257:7,14 260:5 264:20,22 goal 32:20 193:14 209:13 247:5 goals 8:12 181:9 223:17 227:11 goes 198:22 201:24 258:22 going 5:2 10:10
--	--	---	--	---

16:21 18:5	136:4 137:24	greatly 42:19	98:18,23 99:4,8	242:6 243:16
22:22 28:15	139:3,4,5,9	116:13	99:18,22 100:2	245:9 250:13
36:20 45:19	145:7 158:22,23	green 71:4 141:25	100:14 101:12	251:13 252:18
48:20 51:2	158:23 180:7	194:22 195:19	101:17,21 102:2	252:21 253:16
54:14 55:18,21	181:6 182:15,16	196:21 213:8,13	102:10,17	256:7 257:9
56:19 57:8	182:16,17	218:25 219:10	108:10,24	258:8 260:18
58:14 60:7,8	183:21 190:18	Greenberger 3:10	110:16,22	261:2,6,20
64:3 72:14,15	190:23 212:12	4:8,11,12,25 5:6	111:10 114:15	262:18 263:2,9
72:19,24 73:15	215:14 218:20	19:16 20:2,10	114:24 115:3,8	263:12,19 264:7
74:19 78:9	219:13 222:20	22:21 23:2	115:15,19,24	264:12 265:10
80:14 81:25	224:13 225:21	24:14,16 35:23	116:6 118:20	265:14,16 266:2
82:4,6 95:7	225:24 229:12	36:3 38:24 39:4	120:9 123:9,23	266:6,8,22
96:18 120:21	230:21 239:25	39:16,20 40:8	124:3,16 125:6	267:9,13,15
121:10,11,20	253:22 264:10	41:3 48:25	125:13 126:11	greenway 194:20
122:6,14,16,20	Goode 1:11 2:14	52:13 56:11,17	126:14 127:5,13	196:15,25 197:9
123:3,4 124:13	70:4,5,10,15,18	56:18	128:19 130:2,6	197:14 198:3,10
124:15 125:11	70:21	greener 223:8	130:17,23	223:21 226:24
125:12,18	goodness 267:21	greenest 181:24	131:13,19	greenways 181:19
126:22,23,25	good-faith 31:4	222:8	135:20 136:5,9	182:11 195:4,20
127:16 129:6	gotten 108:9	Greenlee 1:10 2:2	136:14 137:4,10	223:11 224:21
131:17,17	173:2	2:18 3:6,11 4:7	137:22 138:2,6	Green's 139:19
133:12,22	government	4:24 5:4 9:13	139:2,7 143:20	152:23 153:7,11
137:15,16	119:11	16:3,14 17:24	144:13,24 145:7	gross 18:25
139:14 144:25	governs 119:11	18:12,17 19:5	150:22 151:25	ground 44:12
145:2 158:12	119:12	19:22 20:9,13	152:7 154:18	76:8 243:25
159:9 161:4	gradually 147:25	20:18 22:14,25	155:2 158:12,24	group 6:18,20
163:10 166:24	grandfather	23:7 24:7,12,18	166:9,13 167:20	28:17 34:18,25
172:20 179:12	156:8	26:12,16 27:10	170:22 171:6,16	35:4,6,16,18
179:17 180:20	grandfathered	27:20,25 31:25	172:8,15 173:23	38:2,13 43:4
187:20 192:3	161:3,8	33:9 41:6 45:11	174:24 176:5,10	46:8,10 48:9,16
203:9 206:3,6	grant 165:18	46:17 52:24	177:19 178:16	49:6 50:24 51:4
211:2,10 222:3	granted 11:23	54:7 55:10,17	178:22 179:3,10	52:5 54:24
233:16 234:14	44:22 206:8	56:6,9,14,20	179:16 180:4	78:13,20 79:18
237:16 238:18	graphics 10:5	57:6,12 62:7	187:8 190:5,10	86:5,15,16,21
242:10,16	Gray 220:15,22	65:14,22 66:14	190:19,20 194:4	87:21 88:3,7,21
243:18 244:2,2	220:24,25	67:4,14,21 68:8	194:12 200:25	88:25 89:11
244:4,8 252:25	great 5:4 60:25	69:4,9 70:3,22	201:7 202:9,14	90:5,8,14,15
253:3,5,9 254:2	133:13 188:23	71:18 72:6 74:7	202:25 204:17	92:3,19 139:18
260:19 262:5,8	214:25 215:9	74:11,17,22	204:23 205:6,10	139:24 142:14
264:3,19,22	216:25 217:2	75:5,11,17,21	207:5,9 209:17	148:24 152:12
good 2:2 4:11	222:9 223:23	80:4,13,18	211:5,8,14	152:13,20
9:17 13:11	224:22 240:19	81:14,19,23	212:4,8 214:11	153:16 191:7
48:12 61:5	240:25	82:18 83:2	217:10,17,21	214:17 216:20
75:25 82:20	greater 22:13	84:14,24 85:9	220:7,11,21	230:25 235:11
85:14,18 95:12	184:23 187:14	85:13 91:21	224:6 225:9,12	245:14
109:15 126:10	greatest 199:23	92:12 93:20	225:15,21 226:7	groups 29:9 32:21
131:6 135:14	216:24	94:10,25 95:10	230:18 235:18	34:7,10,16 35:2

35:11 36:9,17 36:23 37:2,11 44:15 45:8,22 46:3 47:9 53:19 53:21,23 76:18 76:21 77:5,19 78:2 79:2 158:17 184:6 185:23 245:19 246:2 growing 197:21 growth 41:22 guarantee 247:16 guess 19:23 22:15 38:23 68:3 72:8 73:10 84:9 164:6 237:9 guessing 44:20 guide 45:7 gut 119:21 guy 164:7 guys 3:23 129:16 253:19 G-1 254:25 G-2 254:25	happy 32:4 53:18 54:3 125:11 136:22 150:20 155:16 190:3 194:2 250:12 hard 55:3,9 144:7 155:6 171:7 195:23 262:13 hardship 89:18 170:10 hardwired 92:23 harm 19:21,23 190:2 harmful 147:4 harm's 188:8 hate 219:15 head 99:21 119:7 231:15 headed 223:10 heads 33:20 health 185:9 197:18 198:4 213:17 214:3 healthier 197:21 221:20 healthy 145:21 148:2 hear 20:8 46:23 66:15 72:14 81:6 110:18 118:21 154:22 167:14 219:14 250:14 heard 33:13 77:2 77:15 78:16 79:14,24 106:15 109:9 120:20 121:21 180:21 204:15 213:2 216:21 245:24 hearing 4:17 10:11 15:12 25:8 30:16 39:11 40:19,21 52:11 54:9 68:15 106:19 120:2 131:8	156:14 167:12 193:3,18 206:9 252:23 264:18 265:16 266:8 267:15 hearings 119:17 119:18 213:22 heavily 90:2 106:21 heck 55:25 height 208:4 held 93:12 246:3 help 70:23 94:4 111:9 137:8 146:16 147:22 157:14 219:18 219:19 226:24 227:14 helped 58:24 helpful 171:5 178:15 helping 147:24 227:13 helps 204:8 Henon 1:12 16:18 141:25 142:2 144:25 154:20 157:13 158:13 158:19,21 159:2 159:22 160:5,23 161:16 162:3 163:22 165:12 166:15 169:6 172:24 173:25 174:4,9 176:7,8 177:23 185:19 185:20 186:16 203:3,4 204:11 204:24 205:13 206:19,24 207:4 208:2 209:15 215:8 231:8 236:6 248:19 249:11 Henon's 153:9 162:14 168:19 169:24 171:2	hesitance 169:22 hesitation 169:11 Hi 245:12 high 104:2 189:4 higher 101:7 128:16 206:5 highlight 131:17 highly 128:23 high-density 128:15 129:13 high-quality 228:9 Hill 54:22 129:16 hinder 113:6 historically 45:6 145:22 213:15 history 139:17 199:17 237:24 hits 251:23 252:3 hoc 53:20 hold 60:23 191:24 193:23 263:3,14 holds 224:24 home 13:19 14:6 58:9 92:24 97:12 114:10 130:11 homes 13:20 65:9 honestly 78:25 honor 4:14 hop 221:23 hope 2:7 81:12 83:3 137:8,23 159:2 167:8 191:23 198:19 204:8 214:2 237:24 244:25 hopefully 61:19 82:24 262:7,10 hoping 68:18 111:23 host 38:2,3,4 hosted 38:18 hosting 49:20 hotels 97:8 256:3 256:3 hour 128:12	hours 59:5 79:20 110:14,15 house 96:11 129:3 household 197:3 housing 100:24 101:10 123:20 126:23 Huang 190:15 194:6,8,14,16 201:21 202:6 huge 112:9 133:12,24 193:19 hundred 19:6 92:25 93:21 208:14 246:5 hundred-foot 251:22 hurricane 2:8 71:16 193:19 hurt 29:23 122:16 122:20 husband 221:5 hydrology 15:21 138:18 140:2,9 143:25 144:6 160:6,13 173:12 235:14 Hypothetically 163:2
H				I
habitat 146:19 147:12 181:15 199:7 227:12,15 hair 119:7 half 128:11 Hall 1:6 hamper 182:14 hand 144:8 Handbook 147:14 handed 112:21 258:22 happen 50:5 122:5 127:16 129:22 134:11 164:6 203:19 210:10 happening 124:9 127:11 156:11 happens 156:4 happier 221:20				idea 37:16 58:24 64:6 65:7 68:12 69:5 76:25 126:18 128:14 192:2 222:24 230:25 235:12 240:19 248:5 ideal 107:10 identical 6:4 identified 7:3 8:7 identify 4:9 57:13 57:18 61:2 74:13 75:23 80:8 82:19 85:16 102:11

110:23 116:15 118:23 120:11 130:24 180:6 183:18 220:23 222:18 224:8 225:22 229:10 245:11 identifying 195:12 ill-instituted 107:17 imagine 182:5 231:12 232:7 immediacy 258:3 immediately 47:17 impact 10:8 120:21 143:15 155:17 157:11 170:5 173:13 194:19 200:6 impacted 42:18 88:20 impactful 196:10 impacts 9:3 156:5 191:20 195:17 196:20 197:7 198:6 impaired 148:10 impede 189:21 imperfect 59:9 impervious 140:15 impinges 246:25 implement 102:23 implementation 226:19 227:5 imply 55:7 importance 145:23 148:18 149:20 212:24 227:3,19 important 30:8 76:23 77:18 79:24 91:3,16 131:22 136:25	137:18 150:5 181:16 187:24 189:23 193:5 200:17 207:23 219:23 227:11 227:13 impose 89:18 126:22 208:17 imposed 89:3 105:12 142:25 imposing 108:7 impossible 106:8 impression 223:7 improve 80:2 147:17 148:10 181:14 185:8 224:2 227:15 improved 178:4 183:3 223:13 improvement 150:17 improving 146:24 181:20 inappropriate 234:5 inch 93:7 159:17 inclination 204:3 include 10:14 43:6 146:22 266:11 included 62:13 140:5 183:13 includes 103:10 139:25 155:10 157:17 including 13:4 37:9 69:16 139:20 147:5 149:12 199:9 221:14 inclusive 111:17 111:24 inconsistency 86:2 91:13 inconsistent 90:7 incorporate 42:23 incorporated	28:9 incorporates 8:9 increase 64:19 100:18 105:24 109:13 117:18 197:5,9 228:14 increased 122:17 123:20 196:20 197:2,7 198:7 increases 112:17 125:19,20 195:18 increasing 64:16 126:2 188:9 increasingly 129:4 150:5 196:22 Independence 219:5 indicates 141:10 individual 37:18 38:15 49:6 50:7 51:12,22 52:18 52:21 72:22 73:23 78:22 170:16 173:10 246:12,13 individually 245:17 individuals 7:25 32:21 76:21 industrial 17:20 20:25 21:4,4,8 21:13,14,15,15 21:16,24 22:4 22:11,12 23:6,9 23:22 24:3 169:8 170:18 176:15 205:21 225:4 236:7 241:21 242:24 247:25 254:19 254:21,22 255:6 255:7 256:16,20 258:18 industry 57:4,22 58:4,8 111:4,15	153:5 191:13 266:12 inflexible 89:3 inform 195:11 informal 28:21 245:18 251:21 information 12:5 17:15 92:9 162:24 249:2 informs 171:5 infrastructure 194:22 195:19 195:24 196:21 213:13,14 Inga 181:25 initial 195:17 initially 29:25 initiating 59:6 input 41:21 42:7 89:15 192:10 193:2,7,8 206:9 206:10,16,16 237:21,22 Inquirer's 182:2 insoluble 77:10 Inspection 8:22 Inspections 10:21 install 92:23 instance 93:12 118:15 161:4 191:20 Institute 7:17 8:2 76:4 183:25 institutional 20:4 institutions 258:20 insurance 6:14 188:11 201:15 201:21 integrity 189:6 192:23 intend 123:4 230:8 intended 6:18,25 120:19 121:11 166:25 246:2 intends 227:22	intent 87:17 114:11 167:3 intention 132:8 interest 99:13 183:11 229:20 interested 29:23 40:16 114:21 223:8 interesting 215:25 interests 78:8 214:4 interferes 132:16 interim 68:9 interject 65:15 interjecting 168:10 interpret 90:24 interpretations 10:19,23 interpreted 19:14 interrupt 27:11 59:15 135:21 Inter-Faith 92:6 introduce 13:8 145:3 introduced 6:6 68:4 95:15 99:12 180:18,24 181:6 183:4 186:19 191:6 218:12 introducing 167:9 254:3 introduction 12:12 15:5 invention 81:10 invest 119:5 invested 119:8 189:18 202:19 investing 195:3 investment 92:25 195:24 investments 195:18,20 196:6 investor 119:2 invite 252:12
--	--	--	--	---

late 2:4 71:15 72:5 137:21 252:8 262:3	let's 36:4 49:5 58:3 78:17,19 175:13	51:14 53:4 56:21,22 74:18 85:2 111:11 170:24 179:21 215:23,25	74:21 116:3 120:13,14 123:10,15,25 124:6,19 125:9 125:24 126:8,13 126:16 127:10 127:21 128:5 129:8 130:3	looking 43:22 113:9 128:10 150:3 176:14 199:25
laterally 147:24	level 39:25 150:7 201:14	listed 51:16 216:13 244:24	Lombardo 57:5 60:9 61:2,5,6,12 61:17 62:8,10 65:19,24 67:9 69:3,7,12 70:9 70:13,17,20 71:2,10,20 72:17,21 73:5 73:10,18,22 74:3,9 154:8 225:18 230:20 230:21 231:18 231:22 232:2 235:23 237:3 238:3,16,23 239:6 240:2,14 240:24 241:18 241:22 242:21 243:13 249:4	looks 17:15 131:3 216:18
latest 248:21	liability 149:25	listen 218:3		loophole 188:23 189:5 192:8
law 5:17 8:24,25 29:25 49:17,17 50:12 143:18 192:23	liberal 36:16	listening 215:7		loopholes 214:8
laws 106:22	Liberties 245:15	listing 142:18		lose 118:9
lawyer 29:14	license 40:9	literally 250:8		loss 122:18
lawyers 77:7	Licenses 8:22 10:21	literature 149:15 197:22,25		losses 188:11
lead 97:16 197:10	licensing 92:8 118:10	little 2:4 3:21,22 33:16,23 38:25 48:9 54:23 62:8 74:20 79:10 82:25 83:24 111:21 112:4 139:17 155:23 166:6 175:8 176:13 180:19 203:7 211:16		lost 117:22
Leader 2:16	life 146:18 147:12 147:18 181:10 181:21 214:22 214:24 218:14 223:13 224:2	live 32:15 39:19 42:14,20 88:6 109:7,8 114:11 186:21 196:24 200:11 218:2 219:24 220:25 222:22 224:11 247:7 250:23 251:17		lot 2:5 5:8 19:24 21:23 25:10 26:24 44:9 45:3 47:11,13 48:5 52:6 62:14 63:4 68:18 76:17 84:17,19 94:18 95:24 96:6,9,11 96:15,18 104:15 104:16,22 105:3 105:3,14,17,21 105:25 106:5,10 107:9,10,16 109:16 114:2,5 114:6,8 117:7 120:2 122:22 125:7 129:9 140:16 142:11 172:20,25 173:2 173:3 175:15,19 176:3,15,17,18 176:25 185:22 201:24 221:10 222:6 225:5 232:5 233:8 237:20,21 243:21,22 254:21 261:16
leaders 77:4 78:17 79:2	light 21:4,8,14,24 139:15 185:5 193:17 201:12 254:19	lived 126:6 218:13	long 3:14,22 4:21 32:25 52:14 53:4 54:4,5,9 56:16 67:18,25 80:2 87:23 91:7 159:3 164:18 173:25 179:21 207:14 246:9 260:15	
learn 91:17	lighting 61:19	lives 32:6 42:16 49:11 88:16 121:3	longer 74:20 119:16	
leave 24:15 123:22 130:18 253:6	liked 219:9	living 32:21 110:11 250:20	long-term 214:4	
leaving 124:8	likewise 37:24	local 89:25 148:19 195:22 196:3,10 196:12,12,13,18	look 43:10 45:23 47:10 113:20 115:10 119:7 150:15 167:16 182:19 199:16 200:5 253:18	
Lee 190:14 194:16	limit 12:8 18:20 18:24 21:19 39:12 83:7,9 96:16 100:23 101:7 127:19 209:7	located 30:20 140:22 229:25	looked 194:21 200:8	
left 25:18 63:15 65:12 66:8,8 135:11	limitation 38:14 105:13 204:4 205:4 208:5 209:14	Logan 103:10		
legal 39:6,8 41:4 41:25 50:9 76:24 85:5,20	limited 79:20 214:7	Lohbauer 57:5,25 58:2 74:13,15		
legislation 11:13 25:7 26:10 64:8 81:3 112:19 114:12 134:5 135:16 232:10 232:18 233:15	Limiting 97:10			
legislative 81:2 153:13 213:19	limits 143:4 219:11			
legitimate 35:11	line 159:19 175:15,19,19 176:3,15,18 250:3,4 255:18 255:18			
Lehigh 100:21 226:22	linear 176:16,25			
length 228:2	list 3:14 29:7			
lessen 172:22				
lessens 111:11				
lesser 246:20				
letter 183:8 226:5				
letters 89:24				
letting 257:14				

124:11,14 127:2 140:14 216:4 221:9 Louis 149:4 love 218:14,23 221:11 low 219:15 lower 128:17 239:8,10 252:6 low-end 197:25 Lucy 211:25 217:25 lunch 124:7 L&I 5:17 15:15 30:15 L-1 254:24 L-2 254:24 L-3 254:24	Manayunk 151:8 151:9,18,23 155:10 157:24 187:18 208:24 210:2,8 236:19 237:7 239:7 241:23 maneuvers 41:4 manner 84:4 98:13 101:11 mantra 216:22 Mantua 103:12 Manual 147:8 manufacturing 176:16 177:2 map 8:11 13:7 15:21 138:18 140:2,9 157:16 mapping 45:3 maps 44:19 143:19,25 144:6 144:8 160:6,13 173:13 March 7:15 Marconi 2:19 24:25 81:24 84:25 94:13 102:4 138:8 179:11 190:12 211:21 225:16 244:22 MARIAN 1:14 marina 16:9 141:2 247:25 marinas 15:22 55:16 Marine 231:13 232:4,12,23 240:6,7 Marion 85:5 MARK 1:14 marked 259:25 market 132:20 markets 201:21 Marty 25:14 Maryland 251:24 Massachusetts	251:25 massive 34:23 master 12:4,11 18:21 20:3 226:17 227:2 228:19 254:6 258:15 Masters 179:15 183:21,22 187:5 material 2:5 materials 140:5 Matt 217:14 244:24 245:10 245:13 matter 6:15 33:5 42:20 51:20 174:12 200:20 260:10 268:7 matters 159:6 Maura 211:23 212:14 maximize 228:25 Maya 190:15 201:6 Mayor 4:11,13,25 5:6 19:16 20:2 20:10 22:21 23:2 24:16 35:23 36:3 38:24 39:4,16 39:20 40:8 41:3 48:25 52:13 56:18 Mayor's 153:13 McCarthy 211:23 212:11,12,15 McDonald 211:25 212:5 217:12,13 217:19,23,25 mean 22:17 23:5 23:12,17 32:10 35:9 37:5 40:10 71:23 109:7 112:9 123:24 127:2 128:13 129:5 135:10 165:9 169:18	177:3 202:22 208:14 217:18 238:12 240:11 242:19 261:9 meanders 175:17 176:20 meaning 50:10 97:8 meaningful 227:7 means 21:19 36:19 41:25 49:19 50:18 105:15 148:7,13 195:4 268:21 measure 18:22 23:3 157:10 177:7 measured 93:10 176:2,3 177:12 measurement 60:15 62:6,11 measures 93:7 meat 5:3 median 105:21 106:5 medium 21:4,14 21:24 254:19 meet 25:25 28:18 29:19 53:20,21 55:5 92:17 111:25 148:7,15 meeting 9:2 29:7 33:15 37:25 38:13,16 40:20 43:6,12,19 48:17 49:20 50:2 52:10 54:11,12 55:22 69:22 84:7 87:8 98:11 111:23 141:18 264:20 264:23 meetings 5:9 31:9 31:10,22 34:12 34:13 38:8,17 46:20 109:10 111:19 112:9	142:7 152:15 153:8,12 174:11 174:16 meets 63:8 148:14 member 2:17 51:13 99:16 168:2 184:4 members 5:21 6:22 7:8,19,20 10:22 16:18 28:16 30:8 58:11 59:4 71:14 72:23 73:23 84:11,18 89:14,19 143:14 145:8 152:20 167:11 168:5,5 168:14 180:8 182:23 184:4,8 186:5 189:8 194:9 222:21 228:22 253:23 261:8 membership 31:11 37:11 71:12 111:22 memberships 38:6 mention 77:17 108:11 mentioned 61:25 243:9 251:20 merchants 196:12 merits 120:3 message 118:16 met 14:14 51:5 68:9 139:22 152:16,18 mic 62:9 MICHELE 268:14 microphone 66:15 75:22 mid 122:24 152:15 middle 122:24 243:25
---	---	--	---	--

Mifflin 182:7	80:10 116:3	223:3,6 265:11	198:19 248:4	negate 204:5
mile 252:15	118:24	266:3 267:10	Naval 240:8	negatively 88:20
miles 198:14	mitigate 135:14	Movement 92:7	Navy 240:13	117:3,3
million 196:17,18	137:8 148:2	moves 133:13	near 32:15 39:12	negligible 201:20
197:6,16 198:4	mitigation 199:8	moving 167:16,17	43:11,12,16	negotiate 205:3
198:14 229:21	227:17	261:12	50:15 77:11,23	241:9 259:20
229:24 230:5	mixed 22:5	multiple 31:22,23	78:3,15 79:8,15	negotiation
millions 189:18	mixed-use 95:21	36:22 37:2 38:8	88:22 196:24	112:13
mind 22:3	103:15 259:7	259:2	201:25	negotiations
mine 119:9	260:2	multiplier 196:2	nearby 197:3	207:14 228:2
minimizing 46:22	model 97:13	multi-family	219:2	neighbor 39:13
minimum 15:3	modernization	95:20 96:2	necessarily 3:15	39:15,17 78:16
64:18 96:4	58:22	103:7 106:7,9	114:7 198:18	neighborhood
113:25 117:21	modified 7:4	106:12 107:25	210:17 232:20	34:17,18 35:20
140:19 184:15	14:20 112:25	122:6 132:18,24	240:11	41:22 44:22
184:16 212:22	151:19	133:6,18,19	necessary 90:23	45:3 78:6,7
212:24 219:17	modify 112:22	MURPHY 268:14	223:2 226:12	88:23 89:6,16
225:2 229:3	moment 24:17	mystified 236:2	necessity 246:15	92:6 98:4 112:8
233:25 245:23	56:12 139:6		need 15:6 21:9	114:20 121:2,3
246:5,15,24	231:12		28:8 29:13	128:22
247:13 249:22	Monday 25:9	N	40:21 41:17,20	neighborhoods
249:23 254:5,5	79:11	name 4:12 9:17	44:13,16,19,19	14:6 41:15,19
minimums	money 25:2	57:20,25 76:2	45:2 47:19	47:8,16,25 91:6
120:23	128:12 189:17	82:21 85:19	59:10 88:11	91:8 121:17
minor 12:3,5,7,8	195:2,3 241:12	95:12 116:19	104:5 113:19	124:21,24
17:18 18:20,23	monitor 9:3	118:24 120:13	115:9,10 117:15	neighborhood-...
19:13,18 20:6	month 118:4	139:10 180:9	118:5 122:9,21	5:23
61:24 63:22	174:10	183:22 187:12	122:24 123:5	neighbors 43:11
232:13,13	months 23:19	190:24 194:16	125:22 126:3	43:12,17 50:15
235:13 254:8	68:17,22 69:11	199:2 212:14	142:5 148:11	77:11,24 78:4
258:14	134:7 244:19	217:25 220:24	168:20 170:10	79:8,15 88:18
minute 24:19 25:3	morning 2:3 4:12	222:21 224:10	171:12 191:11	88:22 89:24
78:22 211:11	4:22 9:17 15:10	225:25 229:13	216:15 244:9	245:16
260:19 263:3	43:14 61:5	245:12 250:17	249:21 258:5	Network 199:5
264:4,21	75:25 76:12	251:16 253:23	needed 12:7 68:14	never 37:22
minutes 128:12	82:20 85:18	259:11	149:17 182:18	123:16 129:10
130:12	95:12 116:18	named 145:25	201:15	129:19 168:10
mismatch 104:11	139:3 158:22	names 56:24 75:6	needless 107:19	nevertheless
missed 257:17	190:18 260:25	narrow 107:17	108:8	105:22 245:25
missing 122:23	move 58:4 82:6	nation 222:8	needs 23:25 28:9	new 5:13,16,24
mistake 182:10	83:13 88:11	native 208:16	45:20 89:5	7:14 8:21 9:3,7
189:22	129:10,19 167:8	natural 147:15	92:17 105:8	9:8 12:5,14,19
mistaken 250:2	167:13 244:8	148:11 184:10	113:8 134:20,23	12:24 15:15
misunderstandi...	253:3 262:8	201:13 204:2	150:6 169:24	24:6 30:9,22
28:16	263:22,23 265:3	207:18 208:16	170:19 210:20	32:7 36:11
misused 79:21	265:23 267:2	234:16	225:5 228:24	43:23 46:8
Mitch 75:4,8	moved 221:4	nature 5:15 62:21	243:6 247:14	47:24 58:17
		146:6 169:9,10		

67:10,12,12 86:2,5 87:10,12 87:20 89:8 90:5 90:19 91:13 105:11 106:2 107:23 108:9 118:3 126:4 132:4,6,12 134:13 151:14 156:22 157:10 159:18 161:8,11 162:9 163:7 175:25,25 195:24 197:15 197:16 202:21 203:22 209:4 219:22 250:2 251:24 254:23 255:19 260:9,14 newly 197:15 Nicetown 103:11 Nick 116:2,20 night 128:11 130:11 Nims 220:18 224:10,11,17 Noelle 56:23 non-accessory 12:18 non-conforming 104:20 143:4 159:13,14 164:12 165:4 188:20 189:21 191:21,25 215:11 249:23 non-conformity 12:16 non-overlapping 195:16 non-porous 156:3 non-profit 180:12 199:5 non-substantive 5:15 normally 52:7 64:4	north 12:20 98:20 108:20 157:22 163:5,24 164:8 170:11 208:15 226:22,23 Northeast 236:7 Northern 245:15 note 87:12 224:23 228:18 noted 24:24 60:22 103:24 104:7 105:21 106:15 notes 178:2 268:6 notice 11:14 30:9 30:11,13,22,25 31:5,12,13 32:12 36:5,20 36:20 38:20 45:21 49:19 notices 152:23 notification 36:8 36:8,10 37:4,19 37:21 38:12 79:13,14,22,23 notified 32:18,24 33:8 49:22 notify 30:18 37:9 141:13 notifying 30:23 noting 36:14 November 244:5 244:20 253:2 259:5 261:22 262:6,9,22 263:23 264:9,16 nuances 154:24 157:9 numb 131:5 number 3:16 5:12 10:2 15:16 18:22 60:2 93:13 97:10,19 112:9 125:21 127:19 139:16 142:12 152:5 157:18 162:13 179:18 181:9	192:6 194:23 205:20,23 Numerous 147:5 nurture 146:18 Nye 220:16 O objections 268:4 obligating 37:5 obligation 37:7 148:9 149:25 obligations 148:8 148:14 observations 103:22 obstacles 104:9 104:10 obtain 106:8 obtaining 228:3 obviously 5:7 36:13 37:14 50:17 100:5 109:12 131:23 131:25 134:21 135:11 137:13 137:17 193:13 199:10 243:10 263:17 occupants 30:19 31:14 occur 193:4 occurs 197:19 October 1:7 68:17 84:7 141:17 268:7 offense 68:20 offer 15:24 51:10 77:13 113:25 136:21 142:16 217:14 offered 98:15 100:17 136:16 141:24 142:9 180:21 192:5 193:12 199:15 offering 15:8 98:6 141:22 143:17	191:12 office 49:25 94:3 139:19 152:24 153:7,9,10,11 153:11,13 159:9 253:10,25 259:16 officer 29:8 offices 139:21 171:22 176:19 officials 7:19 offsite 14:23 off-street 98:3 107:13,24 Oh 99:22 115:5 177:25 oil 198:16 216:22 okay 2:10 20:14 22:14 24:17 27:20 31:25 33:9 73:21 75:17 85:14 99:23 100:6 101:13,16,21 102:2,17 110:16 110:19 126:12 144:15 152:7 154:18 156:12 157:5 172:8,25 173:22 174:24 176:10 177:17 178:6,15 187:9 202:9 204:16,23 212:8 217:15 238:20 240:23 244:20 245:5 251:13 256:7 257:8 264:6,7 old 22:3 32:8 96:24 102:25 103:20 104:19 156:18 255:4,19 once 81:6 119:9 265:20 266:24 ones 36:23 38:17 55:14 68:13 74:2 128:18	166:2 186:18 188:3 one-for-one 96:25 one-time 195:21 one-year 9:6 134:4,18 ongoing 114:22 159:5 160:16 195:18 onslaught 22:22 on-street 98:3 open 17:4,6 18:6 31:10 38:4,13 60:15 62:11,15 62:21,23,24 81:25 82:5 111:16 112:12 113:19 114:21 124:24 140:13 140:18 167:12 181:19 199:19 205:7 221:9 230:12 253:7 opened 223:12 opening 204:13 208:16 operate 28:15 operated 83:22 operational 47:10 operators 30:19 31:15 opinion 25:20 34:8 42:15 110:17 178:13 187:6 opportunities 89:14 118:6 149:22 160:19 227:12 opportunity 9:10 9:21 120:7 139:13 142:10 144:17 146:16 165:19 178:10 187:16 212:13 222:9 228:7 234:15 259:17
---	---	---	--	---

oppose 121:19 122:13 137:14	47:9 48:16 52:7 76:22	242:17,18 243:10 247:19 247:20	paramount 227:2	part 39:3 52:22 59:6 62:13,20 62:22 76:5 77:20 108:22,23 115:20 131:14 151:9 174:17 179:20,25 194:13 198:21 202:5,17 214:25 216:25 221:12 221:17 233:15 248:6
opposed 46:10 89:2 116:23 170:16 174:18 204:25 236:24 237:14 265:14 266:6 267:13	original 6:9 108:6 112:24 113:23 186:18 206:23 254:7	overnight 110:12 override 141:15 oversee 49:13 oversight 11:8 192:9	parcel 176:15 203:22,23 parcels 188:24 189:5 228:17 255:7	partially 202:22
opposing 67:5 178:19,21	originally 44:9 64:19 86:8 112:20 251:19	owned 163:5 228:17	Pardon 241:18 parents 91:18	participated 65:20 142:6 230:24 235:4
opposite 53:21	ought 232:18 234:23 240:19	owner 62:16 64:9 83:23,24 163:4 208:22 210:5 214:16	park 23:22 34:22 35:12 123:21 124:4 125:23 146:2 239:12 243:4	particular 37:18 49:8 61:3 66:18 89:2,5 101:9 109:19,20 118:15 132:22 133:15 149:11 154:24 209:22 232:20
options 198:7	outdoor 140:13 197:9 218:17 219:25	ownership 228:3	parking 14:19,21 14:25 15:4 60:21 64:16,17 94:19 95:19 96:20,23 97:2,4 97:6,22 98:3,20 100:9,18,19 101:7 107:14,18 107:18,25 108:5 108:8,18 109:5 109:12,17 110:4 110:6,7,10,14 112:17 113:2,11 113:12,18 120:23,24 121:4 121:16 122:4,10 122:18 123:16 124:5,10,12,14 124:17,25 125:4 125:19,22 126:4 126:6,9,20 127:7,22 128:4 128:10,14,25 129:2 130:10,13 130:13 136:12 136:17,24 140:14 176:17 176:25	particularly 20:3 36:21 49:16 50:3 98:20 109:12 196:9
orange 36:5	outside 120:25 196:11	owns 208:22	partly 255:23	partnership 76:6 150:16 212:20
order 106:11 217:19	outward 176:21	o'clock 130:11	partnership 76:6 150:16 212:20	parts 86:12 103:12,14 213:7
ordinance 2:23 6:4 12:13,22 13:9 15:21 25:12 62:3 69:15 82:8 87:4 90:19,25 94:16 119:21 138:11 181:5,22 182:16 186:23 213:20	overall 168:15 236:25	O'Neill 16:25 17:17 82:3 99:12 253:9 257:13	pass 54:4,12 81:3 87:3 183:4 189:25 193:14 193:24 220:4 222:25 223:25 224:3 237:16	passed 62:2 69:15 117:14 119:23 247:15
ordinances 8:14 156:10	overcome 79:6	O'Neill's 18:7,10 21:20 253:24 261:10	passage 11:12 78:11	passing 90:18 119:24 133:10
organization 29:11,17 31:7 32:9,17 38:19 42:2 47:20 48:19,19 52:23 75:15 78:14 90:2 180:17 188:18 199:6 212:18 224:24	overdevelopment 156:2	P		
organizational 77:18	overhead 62:18	Packer 231:12 232:4,12,23 240:6,12	parks 21:13,16,17 21:22 22:11,12 24:3 140:13 218:16 219:18 221:10 227:14 254:21 255:6	
organizations 5:23 7:24 11:16 25:23 27:9 28:5 28:6,13 29:5,6 31:15 47:12,22 48:4,5 139:22 148:20 149:13	overinvolved 79:19	page 78:3		
organize 47:17 195:15	overlap 25:24 26:2	pages 69:7,23 93:18,21		
organized 34:7,10	overlay 12:20 108:20 138:16 151:10,15,24 152:2,3 156:21 156:23,23,24,25 157:3,21,22,25 158:2,6,10 173:11,16 209:23 210:2,8 210:12,16,23,25 236:24 237:13 237:19 238:22 239:15,24 241:17,20,23 242:23 243:2	paid 127:7 133:4 pains 51:8 panel 119:14 202:12 paper 15:9,25 16:4,6,8 18:8 48:12 54:20 parallel 161:12,20 175:19 250:5		

189:20 193:23 214:5 222:11 path 122:8 182:25 paths 236:19 paving 232:16 pay 123:13,17 124:7,15,25 125:4 127:22,24 128:3,7 129:11 129:25 196:24 201:19 paying 121:7,15 126:9 127:3 129:6,8 130:4 207:20 pays 123:17,19 128:8 peculiar 238:2 pedestrian 198:9 peer 212:17 pen 102:24 penalizing 126:5 Penn 44:21 PennFuture 153:4 190:25 194:18 Pennsylvania 1:6 54:23 92:2 147:7 183:9 184:21 213:4 218:9 221:6 251:24 Pennypack 160:11 169:18 people 9:24 20:5 25:10 29:23 33:6 34:6 36:19 37:10 42:21 44:11 47:16 48:7 49:7 51:9 51:18 65:8 76:10 77:15 78:4,18 109:9 110:10,12 118:16 120:25 121:6 123:13 124:25 125:21	126:4,5,22 127:19,22 128:3 128:7 129:4,9 129:10,11,15,20 132:6 139:16 150:9 158:17 167:5 168:4,22 173:2 175:22 179:21 181:21 186:17 195:22 196:23 197:20 198:11 200:21 216:23 219:11 221:16 222:4,6 224:3 232:3,22 234:24 235:3,10 235:23 238:17 242:7 243:20 244:23 people's 169:9,11 percent 103:8,16 104:18,20 106:17,23 162:6 164:13 165:11 188:24 189:3,4 204:19,22,25 percentage 64:10 162:5,7,18 192:22 207:13 207:20 perfect 46:13 perfectly 49:2 period 31:5,23 38:8,10 106:18 111:21 112:10 134:8,19 197:6 permanent 140:10 228:4 permission 235:7 permissive 28:12 permit 11:22 13:9 14:15,15,17 15:16 97:14 106:9,17 110:5 110:7 121:13 125:5 128:3 130:10,13	140:25 206:7 234:22 235:6 permits 13:20 87:5 140:16 permitted 13:6,16 15:2 17:20 20:24 21:10 83:21 86:25 125:3 141:7,12 143:7 159:23 161:2,6 162:8 166:18,23 174:21 192:11 193:4 205:23 206:20,23,25 259:15,21 permitting 13:23 83:6 238:9 person 25:15 51:4 73:15 201:17 221:20 perspective 52:14 167:25 172:10 206:15 238:12 Peter 102:7,13 petitions 89:24 ph 187:19,19 Philadelphia 1:2 1:6 2:24 8:4 12:20 44:18 47:8 82:9 84:5 86:14 90:11 92:5,9 94:17 98:21 108:20 119:3,5,8 133:2 138:12 140:3 145:16 146:22 150:15 181:4,23 182:5,25 183:5 183:24 184:3,14 185:9 187:15 194:21 199:11 199:21,24 200:4 200:13,22 210:20 214:18 216:24 218:7,13 219:20,23 222:5	222:7 223:3,7 223:15 228:6,11 229:19,22 230:13 252:4 Philadelphians 213:10 214:5 223:14,22 Philadelphia's 58:23 184:25 212:23 Phillips 85:4,16 85:18,19 94:8 physically 232:16 pick 12:25 picked 235:3 picture 208:21 PIDC 21:18 23:25 piece 15:9,25 16:6 16:8 81:3 111:18 179:6 pieces 16:4 122:23 Pier 226:21 piers 140:12 Pine 54:21 pipeline 120:22 pipelines 141:3 Pizzola 116:3,17 116:20 placard 36:6 place 13:7 38:9,9 44:18 51:2 88:8 95:2 118:17 151:18 219:24 placed 15:23 places 217:14,18 232:12 239:14 255:8 plan 8:8,8,13 18:21 20:4 117:4,10 167:17 186:18,20,22,22 187:7 188:22 189:13 191:9 192:5,15 193:16 199:15 203:9,10 213:9 214:7	220:5 222:12 223:2 224:4 226:11,17,19,20 227:2 228:19 229:5 246:21,23 247:15,22 254:6 258:15 planner 226:2 planning 2:25 4:19 5:18 6:16 7:16 8:2,19,25 9:19 11:21 27:6 28:4 40:20 52:4 61:18 82:10,23 84:5 94:18 95:14 98:5,10 101:3,6,15 118:2 126:18 135:7,12,24 136:8,10 137:17 138:13 139:11 141:10,16 145:10 152:24 170:8,14 172:5 178:9,11 182:17 192:10 216:12 228:21 230:12 254:16 plans 8:5 12:4,11 104:4 plantings 140:18 play 91:18 137:2 player 199:14 please 2:19 3:8,24 4:9,22 16:16 57:15,17,23 74:13 75:6,18 75:22,23 80:8 82:19 85:16 92:12 94:13 100:15 102:18 110:24 116:7,9 116:15 120:11 130:23 138:8 139:7 145:5 160:2,4 166:16 179:22 183:18
---	---	---	--	--

190:13 203:6 211:19,20,22 212:11 217:22 220:14,21 222:18 224:3,8 225:16,22 226:7 228:18 229:10 245:6,11 pleased 184:8 plenty 238:17 point 20:11 24:15 25:13 27:2 64:20 76:16 92:20 101:25 144:25 162:12 175:23 176:24 177:11 179:23 187:23 200:12 210:12 232:7,14 232:14,21 256:15 260:3 262:2 pointed 104:14 points 27:18 239:6 policy 39:9 168:7 168:15 182:17 187:13 188:2 215:21 247:2 political 127:14 politically 127:12 pollutants 146:25 pollution 181:13 ponder 263:16 poor 41:19 pops 34:15 35:16 population 126:2 pop-up 46:8 port 116:22 117:5 117:6,24 205:22 236:7 247:25 portions 140:16 250:6 port-related 140:25 position 18:14 33:22 101:5	123:14 124:17 170:20 177:24 205:3 230:17 positive 8:17 possibility 38:7 188:5 223:20 possible 3:25 57:15 79:4 85:23 111:17,24 179:22 231:17 possibly 226:11 potential 41:16 143:14 227:16 228:15 potentially 41:23 66:23 78:23 113:5,12 209:11 210:9 213:10 power 201:13 practical 145:18 practicality 146:7 practice 48:13 146:11 218:21 230:15 practices 10:16 147:8 Practicing 40:9 precedence 152:4 precisely 117:12 predictability 44:10 predicted 150:6 prefer 101:10 143:3 184:24 187:6 218:7 preferably 214:6 preference 32:14 186:25 187:2 premium 196:24 premiums 202:3 prepared 148:21 prerequisite 11:20 present 1:9 16:19 51:10 217:7 presented 67:3 71:11 191:16	presenting 198:20 presently 116:22 117:9 preservation 145:18 213:7 preserve 126:21 181:16 223:20 preserving 192:22 President 108:25 109:11 180:10 226:4 245:15 250:18 266:17 pretty 25:9,12 36:16 38:10 53:15 54:9 78:15 109:22 128:6 174:10 prevent 98:2 248:17 previous 84:3 86:4 213:3 previously 10:8 243:9 255:14,17 pre-date 107:15 price 207:20 priced 202:3 primarily 100:23 120:18 primary 86:18 87:25 principle 227:20 print 92:14 prior 11:22 156:14 185:17 217:15 prioritization 195:9 private 58:2 65:2 102:14 141:2 188:7 227:25 privately 228:16 privilege 121:16 privy 246:3 pro 132:9,13 214:18,19,19 proactive 181:8	probably 54:14 57:14 64:7 113:14 210:23 216:23 235:24 247:17 263:13 problem 23:15 39:3 48:8 59:23 59:24 61:4 109:19,23 110:4 110:5 121:21 125:12 127:20 127:23 128:3,22 129:20 133:24 168:23 231:3,4 240:3 246:22 257:20 problematic 60:6 60:8,13 111:22 137:11 209:6 problems 46:6 124:20 128:25 173:12 procedures 10:17 12:2 87:8 proceed 4:10 57:19 80:9 85:17 92:19 102:12 110:25 120:12 139:8 180:6 222:19 224:9 225:23 229:11 245:11 proceedings 268:4 process 8:6,15 11:19 12:11,14 20:8 23:16,20 27:8 45:20 52:2 63:12 64:23 66:22 71:23 78:23 86:24 87:19 88:3,11 88:13 90:9 107:4 111:16 121:23 143:12 159:10 165:21 167:2,5 195:11	199:18,19 200:3 200:3 206:13 215:14 237:14 238:14,15 259:19 processes 8:21 produce 233:8 produced 76:6 product 59:5 proffered 108:4 profit 216:19 program 146:9 213:9 programs 7:18 91:14 progress 8:4 142:11 prohibited 20:25 21:3,8 206:20 256:21,25 prohibits 140:10 227:6 project 37:16 47:15 49:8,10 49:13,16,23 54:25 76:6 116:22 117:18 117:20,24 118:10 182:4 projects 11:17 50:5 122:16 227:18 promote 182:12 182:13 promulgated 27:7 pronouncing 244:25 proof 89:21 propel 183:5 proper 247:2 properly 134:16 166:20 167:6 207:2 properties 2:10 41:15 63:6 87:7 132:21 135:18 143:5 146:19
---	---	---	---	--

147:19 148:3 163:14 165:11 169:14,16 170:4 170:25 177:3 191:22 204:2 215:24 216:4,4 223:18 248:15 249:6 250:7 251:5 property 30:16 62:17 63:5 87:24 88:4,16 150:9 163:4,6 164:10 166:20 167:7 169:20 176:21 188:10 188:14 192:20 192:24 196:21 197:3,5 201:15 201:16 203:17 204:7 208:21,22 208:25 209:22 210:5 219:2 231:10,21 232:15,25 233:2 240:5,15 241:8 241:21 243:2 248:11 250:4,4 251:3 252:16 proposal 172:22 172:25 173:4 205:25 234:11 249:12 254:7 propose 204:4 proposed 5:13 67:7 76:14 85:24 97:18 127:7 136:8,11 142:8 158:14,15 158:20 164:6 167:9 174:3 185:25 186:2 188:22 193:17 199:13 203:24 205:14 248:23 249:8 251:19 proposes 10:2	proposing 18:25 159:11 160:25 241:13 pros 198:22 prospect 221:21 protect 135:17 146:12,17,19 147:16,19 148:3 149:18 181:12 184:14,19 185:8 188:6,14 191:11 214:3 219:2 223:18,19,25 234:17 242:25 247:6,9 249:13 protected 150:10 234:6 protecting 147:10 150:19 184:17 200:15 213:17 protection 140:9 144:11 145:15 145:24 146:9,10 147:12 149:14 149:21 184:22 185:2,4 188:9 199:7 202:20 210:16 213:5 216:15 218:10 224:24 236:23 246:16,24 247:13 protections 6:12 132:10,11 155:8 241:20 protects 160:17 protest 48:9 50:24 proud 59:6 proven 146:25 provide 7:9 9:4 11:14 31:4,13 41:24 49:19 88:3,7 89:11 90:8 97:22 118:12 124:10 125:18 126:13 128:14 135:3	143:12 147:22 148:6,12 151:5 167:14 181:2 188:15 195:21 228:7,9 247:6 253:17 provided 86:3,17 88:7 160:7 208:20 provider 86:6,11 88:2,16 89:10 92:17 providers 86:23 92:3 provider's 86:18 87:24 provides 89:12 91:4 providing 86:8 91:16 160:19 188:4 227:11 proving 121:15 provision 10:18 12:21 87:5 88:15 89:7 132:4 133:16 134:12,13,13 142:3 174:20 provisions 3:2 5:19 12:16 30:9 30:11 90:13 132:10,14,14 133:15,17 134:9 135:2 138:13 141:11 144:22 230:11 proximity 201:16 PRPA-owned 231:20 prudent 150:9 188:2 public 5:8 7:19 8:9 31:11 38:5,5 38:14,16 39:11 45:20 49:20 50:2 51:24 76:9 140:12 182:17	188:2,7 199:19 200:3 214:21 215:21 227:21 264:20 268:15 publicize 31:8 publicly 228:16 pulled 14:15 pun 166:25 purchased 88:5 117:11 146:2 pure 19:17 49:14 purpose 48:20 53:20 88:14 195:8 purposely 36:18 purposes 147:10 push 24:3 198:8 pushback 23:4 pushing 59:7 put 11:6 22:17 28:14 41:11 42:4 46:18,22 48:12 51:2 62:2 71:13,16 118:2 170:24 172:10 174:19 182:24 192:13 231:11 234:25 241:7,15 253:9 256:16 257:19 266:16 puts 16:9 65:7 putting 25:2 59:4 PWD 148:21 149:19 p.m 267:25	200:16 207:21 208:7 212:25 214:19,22,24 223:13 224:2,19 227:11 233:10 234:3 quantified 197:22 quantifying 195:13 Queen 103:12 251:17 question 33:12 41:8 47:4 72:11 80:21,23 99:9 184:13 200:7,19 201:11 202:23 207:12 235:25 236:24 237:10 242:16 256:10 256:12 questionable 105:20 248:7 questioning 169:23 questions 9:12,15 10:20 16:13 20:15 24:9 53:10 55:19 56:7,10 70:24 81:16 84:21 93:24 101:18 115:13 118:22 125:15 150:21 173:5 178:24 190:4,7 194:3 202:11 204:10 207:7 211:6 220:9 225:13 250:12,15 252:19 quickly 134:25 221:11 quite 36:11 127:17 157:17 174:21 quorum 2:12 quote 217:4
---	---	---	--	--

R				
railroad 151:13	104:16	168:2 176:6	229:11 249:12	167:3 215:13
raised 65:16,24	realization	201:2 205:21	253:10 257:11	reforms 102:22
66:2,3,4	145:20	207:15,22,25	260:6	regard 10:12
raising 65:23	realize 111:5	232:10	recount 139:16	11:20 55:15
214:19	realized 12:6	recognized 104:5	recovery 183:2	95:23 99:24
ranging 149:7	15:17,20 18:24	148:19	recreation 91:8	121:22 249:7
ranks 146:9	really 27:13 42:15	recognizes 90:25	197:14 221:19	258:14 266:20
rarely 104:17	77:25 110:2,5	185:18 264:24	recreational	regarding 59:13
Rasheedah 85:4	112:9 114:23	recommend	160:20 169:10	112:15
85:19	122:13,19,21	62:12 63:12	170:18 197:12	regardless 50:11
rates 104:3	126:15 132:16	65:11 87:3	197:24 228:8,24	96:15
ratio 96:21 97:2	133:5,17 134:8	147:8 149:13	229:4 236:11	region 92:5
100:19 101:8	135:13 137:8	recommendation	recyclable 140:5	region's 58:9
RCO 25:10 30:14	144:14 169:19	58:19 63:19	redevelo 104:5	register 52:3
30:24 32:18	170:10 180:23	137:16 265:5	105:7	registered 11:16
43:5 45:16	181:8 192:2	267:5	redevelopment	28:5,13 29:5
49:17,17,18	238:21 239:3	recommendatio...	103:25 104:4,9	31:6 36:9 37:8
50:20 51:6,20	241:6 243:5	8:10 9:5 45:14	107:20	38:2,18 45:22
51:21 52:2,8,12	260:13	70:11	redo 143:19	47:19,21 51:19
RCOs 25:20	Realty 229:14	recommended	reduce 19:3 64:9	51:21 52:22
31:24 45:4 47:7	rear 63:9 97:24	84:8 98:12	107:5 124:23	75:15 77:21
48:7 49:24	122:3	107:6,13 141:18	198:15 254:11	78:12,13
111:6,14,20	reason 43:18 44:7	143:2 218:8	reduced 119:20	registering 27:8
RC-2 255:13,14	62:15 73:11	228:19	250:3 254:10	registration 36:17
255:23	77:20 109:3	recommending	reduces 112:16	regular 49:11
reach 68:25	121:9,18 122:12	64:6	reducing 117:19	regularly 9:2
262:11	171:23 205:8	recommends	258:15	regulated 90:17
react 134:25	233:21 235:8,9	184:22	reduction 197:19	regulation 45:18
read 2:20 92:14	239:17 248:11	reconstituted	197:23 198:5	49:18 181:6
116:10 138:8	250:22	8:23	reemphasize 49:3	229:17 234:25
141:20 142:20	reasonable 49:2	record 4:10 16:16	reference 111:13	regulations 8:21
142:21 202:18	105:13 135:9	17:4,6 24:24	113:21 232:10	27:6 28:4 43:3
248:20	189:12 191:12	57:13,18 59:16	referencing 249:7	44:5 47:24
reading 265:7	192:21 204:4	80:9 81:25 82:5	referrals 97:20	50:25 51:17
267:6	205:4 209:7,14	82:21 85:17	referred 192:14	63:17 90:7,11
reads 13:21	reasonably 109:8	102:11 110:24	referring 114:25	92:16 93:5,17
ready 9:4 17:7,23	reasons 45:24	115:21 116:11	137:5,6 186:17	105:9 107:7
80:15,15 82:4	187:25 192:6	116:16 130:8,24	186:19	119:6 163:12
266:13	recall 152:21	131:14 155:19	reflect 8:11 16:17	234:7 238:6,6
real 19:23 63:22	receive 15:16	158:17 170:21	64:11 144:6	regulators 150:3
118:11,25 119:2	received 5:24	173:9,24 175:2	231:10 232:14	regulatory 38:17
120:16 132:17	recess 211:12	179:20,25	240:5 242:22	49:12 50:13
170:15 221:10	recite 60:7	183:13,19	reflected 160:12	reign 247:4
250:21	recognition	185:22 186:4,8	reflection 235:16	reinforce 249:25
realities 107:23	107:22	194:11,13	reform 59:7	reiterate 58:17
reality 58:24	recognize 44:23	220:17,23	102:22 103:21	202:16 247:25
	64:2 158:13	222:19 225:23	106:14 133:10	reiteration 173:9

related 6:13 12:17 21:13 72:13,13 86:10 101:10 145:12 173:12	reporter 268:23 represent 29:12 33:7 58:8 150:7 193:13 196:16	108:5,18 141:13 145:20 191:4 192:7	250:18 resolve 26:23 91:13	retail 34:22 retain 222:4 reusing 22:3
relates 169:8 236:22	representative 34:18 111:24 153:2 154:5	requirements 14:10,20 32:12 50:3 51:5 63:9 82:12 94:19 95:19,25 97:7 104:12 107:14 107:19,25 108:8 112:17 113:2,22 122:10 138:20 140:20 148:25 149:5,6	resolved 69:13,14 69:25 142:24 resolving 85:25 142:11	revenue 117:19 196:5 revenues 118:14 196:13,19
relating 82:12 83:5 138:15	representatives 6:21 17:9 77:4,5 139:20 142:14 153:8	requires 30:16 65:5 83:12 97:21 105:17,18	resource 129:21 216:24	review 5:19,24 6:8,18 7:7 10:10 11:18 12:11 30:17 40:19 43:21 49:15 50:4 51:24 69:22 76:5 101:4 134:4 141:10,20 142:4 142:7 143:7,10 143:11,14 144:17 149:11 167:2 178:10 186:6 216:13 234:11 257:15 258:7
relative 36:25 48:21 72:15 73:3 201:15 202:24 256:12	represented 152:25	requiring 43:5 106:23 124:10 188:13 193:3 229:17	respect 181:9 respond 30:4 32:2 100:11 238:18	
relax 3:21	representing 73:16 201:4 229:14	rescheduled 79:11	response 20:17 24:11 56:8,13 81:18,22 84:23 85:12 101:20 115:14 138:5 179:2 188:10 190:9 202:13 207:8 211:7 220:10 225:14 252:20 265:15 266:7 267:14	
relay 262:19	represents 184:3 192:15 228:23	residence 83:22 86:4,19,22 87:25 88:8,12 89:12	responsibilities 168:3	reviewed 10:8 69:20,21 101:2 106:24
release 147:25	reproduction 268:20	residency 121:15	responsible 168:6	revised 8:20 10:13 119:15
relevance 248:8	reputation 118:18	resident 83:23	rest 29:21 62:2 77:11 176:20 209:5 242:2 252:7	revising 2:25 82:12 94:18 138:13
relevant 59:12 90:12	request 171:7 265:6 267:5	residential 13:24 14:11 58:9,10 87:14 89:11 90:5,8,14,15 91:2 98:7 110:4 121:12 125:3 132:24 169:10 236:11 248:14 255:24,25	restoration 145:15 188:11 213:6	revisit 81:12 revitalize 180:13
relies 106:21	requesting 247:20	residentially 87:6 88:4 103:9	restriction 105:15	reward 247:2
religious 21:7 255:2 258:19	requests 15:17 106:18	residential/com... 103:15	restrictions 21:18 22:8 105:19	Reynolds 1:13 2:14 71:5 84:10 84:16 93:25 154:19 155:5 177:20
rely 45:2	require 11:6,17 13:17 30:12,18 113:11 114:4 151:24 223:5 232:18	residents 41:19 91:4 110:18 128:15 151:22 197:16 200:5 219:25 228:11	restate 32:13	
remain 151:18	required 9:8 11:14 14:21 28:22 30:2 31:8 31:9 45:24 49:20 62:14 63:24 64:5 96:5 96:14 98:9 105:25 106:13 114:2 122:3 140:18		restroom 212:7	Rhawn 232:6
remainder 149:5	requirement 28:11,23 30:22 31:12 52:12 64:16 96:4,24 97:4 100:9,19		result 61:21 96:8 97:19 124:21 174:22 197:19 198:15 228:2	Rich 57:5 60:9 69:5 102:7,15 115:22 154:7,7 225:18
remarks 9:9,14 9:23 195:8			resulted 106:18 119:14	Richard 61:6
remember 134:3			results 133:22 233:9	Richmond 116:23 117:5,6,24
reminder 24:5				
remove 10:24 142:3 192:9				
removes 98:3				
removing 10:18				
rent 118:4				
rental 132:20				
rented 88:5				
rents 121:8				
reopen 200:2				
repair 150:2 251:5 256:23				
repeat 19:7 53:9 116:8 179:17				
repeating 57:14				
replace 146:5				
replacing 213:12				
report 9:5 29:15 58:21				
reported 265:4,17				

rid 108:9	Rittenhouse	107:15 108:2,22	31:1 32:1 33:1	145:1,8 146:1
Ridge 259:10	103:13	121:24 132:23	34:1 35:1 36:1	147:1 148:1
right 5:2,11 13:7	river 140:25	road 58:5 183:5	37:1 38:1 39:1	149:1 150:1
16:5 18:2,17	151:13 153:3	roads 140:14	40:1 41:1 42:1	151:1 152:1
20:9,13 22:20	160:8,9 161:5	robust 182:25	43:1 44:1 45:1	153:1 154:1
23:6,17 24:13	161:13,17	183:2 215:6	45:24 46:1,6	155:1 156:1,24
27:21 28:2,2	162:16 163:23	rod 61:19	47:1 48:1 49:1	157:1,3 158:1
45:12 54:17	164:8,9,19	role 76:5	50:1 51:1 52:1	159:1 160:1
57:8 67:7 74:12	165:13,14 176:4	roof 13:23 14:2	53:1 54:1 55:1	161:1 162:1
75:13 77:14	180:11,14 182:8	rooftop-mounted	56:1 57:1 58:1	163:1 164:1
80:17,19 81:8	186:20 199:9	15:19	58:12 59:1 60:1	165:1 166:1
86:25 98:21	201:19 208:22	room 1:6 126:25	61:1 62:1,5,10	167:1 168:1
100:7,8 109:8	216:6,7 217:5,6	132:6 151:4	63:1 64:1 65:1	169:1 170:1
115:12,20	226:2,8 228:10	235:24	66:1 67:1 68:1	171:1 172:1
117:13,15 120:6	230:4 232:6	Rosalie 255:20	69:1 70:1 71:1	173:1 174:1
125:14 126:10	233:2,3 237:8	Rossum 190:15	72:1 73:1 74:1	175:1 176:1
131:4,10,11	239:13,19	201:6	75:1 76:1 77:1	177:1 178:1
136:6,15 149:9	241:25 248:10	rough 172:4	78:1 79:1 80:1	179:1 180:1,9
158:8 162:3	251:22 252:2	198:19	81:1 82:1 83:1	181:1 182:1
164:11 166:22	riverbed 164:20	roughly 229:24	84:1 85:1 86:1	183:1 184:1
167:6 170:6	169:16,17	230:5	87:1 88:1 89:1	185:1 186:1,5
174:18 177:5,16	riverfront 160:3	routinely 158:9	90:1 91:1 92:1	187:1 188:1
177:16 178:23	188:5 189:16,19	row 14:6 96:10	93:1 94:1 95:1	189:1,24 190:1
191:10 200:19	218:25 219:7	97:12	96:1 97:1 98:1	191:1 192:1
200:21 203:14	221:13 226:21	Roxborough	99:1 100:1	193:1 194:1
205:11 206:22	226:25 227:4	155:11 250:20	101:1 102:1	195:1 196:1
208:21 209:2,4	235:17	RPR-Notary	103:1 104:1	197:1 198:1
209:12 211:3	riverfronts 193:6	268:15	105:1 106:1	199:1 200:1
217:12,22,24	225:6	RSA 87:22	107:1 108:1	201:1 202:1
218:18 223:10	Riverkeeper	RTA 87:23	109:1 110:1	203:1 204:1
237:2,20,22	199:4	Ruben 217:14	111:1 112:1	205:1 206:1
238:8,11 239:15	rivers 143:9	244:24 245:12	113:1 114:1	207:1 208:1
242:5 243:14	153:25 157:17	245:13 248:20	115:1 116:1,19	209:1 210:1
244:25 245:6	160:8 181:3	248:24 249:15	117:1 118:1	211:1 212:1
246:9 248:15	191:14 200:15	rule 45:7 60:14	119:1,20 120:1	213:1 214:1
250:8 257:21	214:25 215:22	151:15 239:23	121:1 122:1	215:1 216:1
258:4 260:10,21	217:2 218:6	rules 1:3 2:11 3:1	123:1 124:1	217:1 218:1
261:4,5 262:15	219:19 223:5	4:1 5:1 6:1 7:1	125:1 126:1	219:1 220:1
262:19 264:9	226:14 229:18	8:1 9:1 10:1	127:1 128:1	221:1 222:1,21
rights 11:23	230:2 234:9	11:1 12:1 13:1	129:1 130:1	223:1 224:1
227:23 241:11	235:14 238:8	14:1 15:1 16:1	131:1 132:1	225:1 226:1
right-of-way	riverside 145:19	17:1 18:1 19:1	133:1 134:1	227:1 228:1
151:14 181:17	river's 227:8,22	20:1 21:1 22:1	135:1 136:1	229:1 230:1
riparian 146:9	RM 87:23	23:1 24:1 25:1	137:1 138:1	231:1 232:1
147:13,15,21	RM-1 96:2,22	26:1 27:1 28:1,7	139:1 140:1	233:1 234:1
199:20 207:18	97:3 103:5,7,18	28:10,21,22	141:1 142:1	235:1 236:1
risk 201:25	105:14 106:6	29:1,15 30:1	143:1 144:1	237:1 238:1

239:1 240:1 241:1 242:1 243:1 244:1 245:1 246:1 247:1 248:1 249:1 250:1 251:1 252:1 253:1 254:1 255:1 256:1 257:1 258:1 259:1 260:1 261:1 262:1 263:1 264:1,24 265:1,6,18 266:1 267:1,6 267:18,24 run 159:3 240:19 running 95:6 243:4 runoff 147:2 184:20 208:7 223:20 236:16 Rush 225:18 229:12,13 rushed 131:10 Ryan 57:4,25 116:3 120:14 R-10 103:20 104:2,19,23 106:5 132:22 R-9 103:19 104:2 104:21	satisfying 89:20 save 202:20 213:10 saves 188:10 saw 2:15 200:8 217:18 242:6 258:17 saying 23:13 29:16 32:15 55:6,7 65:2 69:23 72:25 78:12 79:16 124:12 130:5 173:10 204:18 204:20 215:19 231:23 238:19 241:13 246:7 247:4 257:21 260:6 says 28:11 32:7 45:15 51:12 59:11 66:12,19 144:10 156:18 156:22 161:11 166:19 240:17 scale 121:24 122:19 scenario 14:8 193:24 Schelter 61:7 school 21:25 23:23 91:19 110:13 256:17 256:22 schools 23:21 24:2 91:7 255:8 256:13 Schuylkill 140:24 153:3 155:9 159:24 160:9 166:19 169:15 180:11,14 182:3 182:6 199:11 218:19,22 221:14,14,17,23 230:2,4 232:25 233:3 234:4	236:20 237:5 239:9,9,11 248:9 252:13 Schyulkill 186:20 science 148:20 182:16 201:23 246:6 scientific 149:15 233:5 scientifically 207:16 scope 166:23 scrutiny 234:14 sea 150:7 search 252:2 seat 211:20 second 27:11 42:11 59:15 62:25 64:10 93:4 104:7 135:21 155:21 159:22 166:17 174:17 196:20 216:11 233:4 247:11 254:18 263:14 seconded 265:9 265:11,25 266:3 267:8,10 seconds 111:8 section 10:12,18 12:8 60:13,15 60:17,19 62:5 64:14 75:15 82:10 87:10 sections 13:4 60:7 60:12 61:3 66:18,24 116:21 sedimentation 184:20 see 14:8 16:7 19:19,20 38:23 41:14 43:11,22 43:23 45:25 52:5 55:21 68:12 69:4 81:7 81:11 84:18	99:20 107:11 108:21 129:9,15 137:24 142:20 182:20 198:13 218:23 224:13 244:17 246:22 250:14 251:2 seeing 24:13 56:9 81:23 84:24 101:22 115:15 138:6 175:7 179:3 190:10 202:14 225:15 245:5 252:21 seeks 132:15 134:14 seen 54:20 98:16 98:17 108:14,19 129:16 175:5 219:6 229:3 243:21 258:13 sees 149:19 selected 110:6 sends 118:15 senior 32:6 sense 23:11 38:11 106:25 182:19 239:3 separate 44:14 88:10 111:19 259:23 September 6:23 95:16 98:11 191:7 series 7:17 8:10 serious 258:24 seriously 50:16 serve 32:9 served 64:17 97:24 Services 85:5,20 145:10 session 141:21 265:8 267:7 sessions 7:22 set 14:5 28:9 29:14 37:17	81:8 87:9 141:24 142:8 166:20 192:14 193:9,12 203:13 230:22 241:24 252:6 254:8 setback 14:5 63:9 63:24,25 138:20 140:7,10,17,19 140:23 141:7 143:5 159:18 160:15 161:7,8 161:11 166:22 175:7,8,25 176:2 181:11 188:13,21 191:4 193:5 213:20,25 215:5,11,15,15 224:25 226:18 227:24 229:18 230:10 231:2,9 231:13 233:6,23 233:25 235:13 241:4,14 249:14 250:3 251:10,11 setbacks 138:16 143:9 145:13 150:14 151:12 156:10 162:10 181:3 187:24 224:19 233:20 setting 188:8 215:21 settle 117:10 settled 72:3 seven 30:15 31:2 86:6,9 seven-day 31:5 severe 150:11 shake 99:21 shaking 33:19 231:14 shallow 107:17 shame 225:2 shaped 217:2 share 7:12 142:13 shared 8:14 97:25
---	---	--	---	---

Sharp 190:14,18 190:23,24 203:12 204:16 204:21 205:2,8 205:18 206:22 207:3 208:19 209:25 210:7,14 211:3 243:24	simplest 18:19 simply 10:24 11:7 36:15 38:6 52:21 248:9 single 37:25 38:13 83:21 114:19 236:21 sir 80:13 102:10 116:15 118:23 120:11 126:12 201:3 250:16 251:15 sit 78:25 116:9 site 15:2 36:6 37:10 242:2 sitting 129:17 situated 88:6,17 88:24 situation 50:16 80:2 216:5 230:9 247:3,5 situations 250:6 six 7:21 83:7,9 size 95:24 96:15 106:3,5 107:10 117:7 149:2 154:3 sized 105:2,3 106:9 sizes 107:9 Sklaroffs 73:8 sleeping 110:11 slightly 9:22 206:4 sliver 227:7 slow 147:22,24 slower 203:7 small 54:23 78:14 97:17 116:20 117:7 118:25 121:23 122:19 160:18 162:5,7 214:15 216:20 227:6 233:22 250:23 smaller 117:9 135:18 149:16	157:13,19 small-scale 122:15,20,25 smoke 92:23 smooth 7:14 Society 129:15 solely 254:16 Solomon-style 44:14 solution 110:3 solve 55:2,6,8 125:12 127:20 solved 110:3,5 somebody 32:11 32:22 37:25 123:17,25 124:7 128:8 129:17 153:12 250:24 someplace 61:13 somewhat 105:20 144:23 154:6 178:4 soon 15:24 sophisticated 29:9 41:20 53:23 sophistication 29:24 sorry 2:3 27:22 61:14 66:16 70:25 74:18 143:21 166:8 201:3,5 255:24 sort 46:21 111:25 174:13 205:18 206:2 208:21 235:9 241:6 264:3 sorts 76:11 222:3 sought 21:6 sounds 48:12 124:5 264:10 source 146:8 south 163:5,24 164:8 170:12 177:2 208:15 Southeast 91:25	92:4 so-called 104:15 246:21 space 64:17 100:20 125:22 126:7 129:2 140:13,18 147:23 189:2 218:25 219:10 229:22,23 230:12 spaces 15:4 64:17 91:17 96:21 97:8 98:4,9 110:8 121:5 126:9 127:2 221:10 Spahr 61:6 speak 17:8,9 18:5 24:22 26:21 51:25 57:9 58:12 61:20 62:8 66:14 74:16 75:22 85:10 108:25 120:8,17 145:4 154:5 187:20 188:17 203:7 205:16 221:3 230:8 248:18 257:23 258:11 SPEAKER 212:6 speaking 33:21 75:12 103:18 132:21 201:6 212:17 214:16 245:16 246:17 246:19 248:24 249:3,4 special 11:3,11,25 22:9 23:19 51:8 83:11,14 86:21 87:2,9,15,22 88:2,13,14 89:7 89:15 92:19 97:22 121:22 122:10 140:23	143:10,11 151:10 174:18 174:20 205:17 206:7 210:20 216:14 235:5 260:11 specific 44:5 60:12 90:13 101:8 133:3 168:8,17 169:7 243:11 specifically 7:23 38:3 58:14 63:21 121:20 specifics 60:11 spending 128:11 195:19 196:16 spent 119:18 195:3,5 251:4 spirit 216:15 222:11 spite 184:5 splinter 35:2,2 spoke 46:20 186:16 spoken 257:12 sponsor 135:16 266:12 sponsors 92:7 100:6 135:24 spots 124:25 128:11 spread 36:21 147:23 spring 66:5 103:11 Spruce 54:22 spurred 10:20 square 12:9 19:2 19:3 30:20 31:16 93:6,11 96:5,6,7,9,14,17 103:13 104:15 104:23 105:4,5 105:13,17,18,22 105:25 106:6 107:11 114:2,5
--	---	--	---	--

114:6,8 116:25 116:25 136:18 207:18 229:21 229:24 230:5 254:9,10,12 258:16 squares 177:4 Squilla 1:14 157:12 Squilla's 153:10 168:18 169:6 236:10 St 149:3 staff 7:20 8:13 26:19,22 43:14 53:6,8 99:16 101:6,16 119:19 139:25 142:8 178:12 stage 14:18 stair 19:15 stake 34:8 stakeholder 193:2 206:16 stakeholders 6:2 7:8 10:10 143:2 167:15 185:24 206:11 standard 13:3 89:3,17 96:10 96:17 104:15,18 106:2 151:16,20 156:20 157:2 206:5 210:18 standards 6:11 13:5,12 14:3 15:14 24:5 60:20 64:15 82:11 87:8,21 151:17 158:2 173:17 standing 32:19 38:22,23 39:3,7 39:8,23,24 40:17,22,22 50:10,24 51:4 54:19 76:16,20	76:24 77:16 79:8 stands 224:18 start 16:4 17:12 29:10 39:5 129:12 165:22 166:5 173:6 222:9 241:4 started 2:4 15:16 44:24 211:15 221:5 startups 36:24,25 state 32:14 33:3,4 90:17 93:5,6,10 93:17 148:8,14 148:19 149:12 180:13 224:23 234:9 238:6 stated 27:12 statement 80:24 153:20 225:7 statements 4:4 116:12 States 228:13 stay 56:16,19 134:15 179:5,8 staying 56:15 stays 230:13 steep 239:9 Stein 199:2,3 201:5 202:16 205:12 207:11 208:9 stem 181:12 stenographer 211:13 stenographic 268:6 step 90:20 106:3 108:7 137:18 181:22 steps 7:12 Steve 225:18 Steven 229:13 stimulate 196:7 stop 85:6 92:8 93:14 146:11	219:21 stopping 233:10 storage 140:6,13 141:3,5 store 147:24 storing 129:18 Storm 2:9 stormwater 140:20 147:7 181:13 182:21 184:20 227:15 234:9 straight 230:23 stream 3:19 111:9 138:15 145:13 145:19 146:21 147:17 148:12 148:25 149:4,16 150:13,18 172:6 175:17 184:19 212:24 213:6,20 213:24 234:10 234:16,18 239:19 250:23 streamline 206:13 streams 145:21 147:20 148:3 149:23 150:19 157:18,19 160:7 160:11,18 181:3 199:10 200:15 214:25 215:22 217:3 218:6 223:6 226:14 229:19 233:22 234:2 235:13 251:6 street 63:6 65:2,5 78:5 97:24 100:21,22 110:7 123:13,22 124:17 126:20 155:14 232:6 259:11 streets 11:21 54:21 110:6 124:13 127:8	128:10 strengthen 44:4 strengthened 144:22 stretch 243:4 stretching 126:15 strict 24:6 stricter 86:23 88:10 strictest 156:21 strictly 49:18 90:17 strike 132:8 135:14 191:10 strikes 23:8 132:7 stringent 93:13 strokes 102:24 strong 246:18,19 248:18 stronger 26:10 strongly 91:12 145:17 150:12 183:9 212:21 222:24 226:12 249:21 structural 188:6 structure 97:16 161:6 203:14,21 208:6 246:25 structured 151:15 structures 140:11 140:12 162:8 188:20,25 189:21 192:8,18 249:24 Stuart 179:15 187:10,11,13 189:11 stuck 61:12 student 100:24 101:10 students 109:14 109:16 221:7 studies 120:15 194:23 study 148:22 stuff 29:22 78:25	236:9,16 238:13 subcommittee 61:22 235:4 subdivision 10:14 10:14 14:12 60:17 63:2,4,11 63:13,16 66:5 71:24 72:4 subject 138:19 143:10 234:13 234:14 subjected 88:9 subjecting 86:22 submit 25:6 53:24 72:7 79:9 183:12 194:11 submitted 116:10 220:17 226:6 submitting 205:16 subsequent 15:5 114:4 subsidize 120:24 substantive 60:2 succeeded 168:10 success 227:3 successor 103:19 suggest 53:5 200:2 suggested 22:6 43:13 135:8 137:2 185:25 203:10 231:7 232:9 233:14 257:14 suggesting 54:8 235:2 suggestion 134:18 suggestions 135:13 suitable 252:12 summarize 4:3 116:12 131:15 194:14 226:6 summary 90:18 92:16 summer 7:22 70:2
---	---	--	--	---

139:18 160:17 191:8 Sunoco 240:15 Sunoco's 233:2 supersede 42:3 156:11 supervision 268:22 supplied 148:23 suppliers 58:10 supply 146:3,17 146:24 147:11 184:18 support 58:17 89:22,25 113:23 114:11 131:23 131:25 135:10 180:16,16,23 184:2 186:23 187:21 188:15 188:17,19 189:11,14 191:5 191:9 193:16 199:12,14 212:22 218:5,11 222:24 224:17 226:10,12 229:16 230:17 230:23 246:18 246:19,21 249:13 250:21 251:8,18 260:4 supportable 97:11 supported 200:8 213:3 supporting 183:10 222:10 supports 60:3 145:17 184:15 189:25 246:6 supposed 53:24 sure 10:5 24:7 32:20 33:7 50:2 55:13 70:20 74:6 83:2 114:18 115:2	120:13 125:9 129:6 130:3 135:6 143:24 171:9 186:14 203:12 204:13 204:14 205:9,18 216:21 243:7 259:23 surface 23:11 140:16 176:17 176:25 surfaces 156:3 surging 132:20 surprise 69:17 surprised 219:8 surroundings 91:11 survived 2:8 suspension 265:6 265:19 267:6,18 sustainability 183:3,6 223:17 sustainable 218:20 230:14 sustaining 212:25 swimmable 148:16 swims 200:14 switch 217:14,18 Syrnick 179:14 180:5,7,9 182:23 186:12 186:15 187:2,22 system 92:24 190:2 systems 148:11 T table 4:6 16:10 55:4 57:11 75:10 82:17 85:8 94:24 102:9 116:5 130:22 138:25 180:3 190:17 212:3 220:20 225:20 245:8	253:15,21 tables 14:4 15:23 255:12 tailor 105:8 243:6 take 28:18,22 38:9,9 48:8 58:3 89:4 90:19 93:19 95:8 101:5 107:8 113:20 134:19 137:16 146:15 152:4 163:18 165:24 166:6 172:2 199:16 211:10,16 250:12 252:14 255:15 taken 6:9 7:13 268:6 takes 50:14,15 152:2 166:24 talk 53:7 54:3 55:23 58:14 76:10 144:25 206:14 222:7 251:18 266:14 talked 22:16 23:18 66:20 76:17,18 108:12 233:9 261:7 talking 17:13 23:8,10 39:5 66:22 76:12 98:19 115:9 122:22 128:17 158:18 165:12 168:13 171:17 172:11,24 215:8 215:24 231:9 233:13,17 241:4 talks 34:5 111:18 Tasco 1:14 16:17 47:3,5 50:22 53:19 77:9 80:20,22 125:17 125:25 127:18 127:25 128:21	129:24 130:15 158:5 159:20,25 160:21 161:14 161:23 164:3 Tasco's 168:20 tax 196:4,13,18 214:20,23 taxes 118:9,11 129:25 team 199:14 technical 3:2 5:15 6:19,25 8:23 10:2 41:24 57:7 60:2 63:22 94:20 138:14 139:25 147:5 185:4 technology 171:9 tedious 22:18 teeth 137:23 tell 29:18 33:19 39:21 52:16 53:10 127:6,15 134:10 163:10 180:18 212:9 244:7 telling 125:10 133:12 Temple 266:18 temporary 140:11 ten 93:11 96:21 97:8 149:5 162:17 163:3,7 172:17 203:18 203:22 204:19 204:22 208:14 209:2 216:6 tenant 83:23 tend 21:17 36:23 ten-foot 203:21 216:9 ten-foot-wide 208:13 term 40:15 Terminal 231:13 232:4,12,23	240:6,7 terms 3:5 40:18 70:11 82:13 93:4 94:21 138:21 146:6 183:10 196:3 230:11 234:21 246:12 Terrace 54:24 Terrific 101:17 territory 45:5 testified 56:3 63:2 230:24 242:8 testify 38:16 50:11 69:14 71:17 80:11 81:20 95:15 116:18 139:13 145:11 179:21 183:23 187:16 212:14 229:15 243:20 245:4 testifying 69:19 70:7 72:15 testimony 4:2,22 7:9 16:12 50:15 51:10 52:17,20 57:2 58:4 59:17 59:22,22 68:5 68:22 73:12,14 79:9 80:25 110:21 112:22 115:11,18 116:9 126:17 131:9 135:5 137:19 139:15 154:10 172:21 173:2 179:19,24 180:22 183:17 185:3,13,15 194:10 202:17 204:13 213:3 217:20 220:3,17 222:15 229:9 243:23 253:7 text 144:3 thank 2:3 3:6,11
---	---	--	---	--

4:7,16 5:5 9:10 9:16 16:14 20:18 25:5 26:11,12 32:3 41:5 53:17 54:5 56:25 57:16 58:11 70:5,18 70:21 74:6 80:3 80:4,24 81:13 81:14 84:15 91:20,21,24 93:23 94:2,8,9 94:10 95:11 115:12 116:17 118:19,20 120:7 120:9 130:20 131:2,7,8,19 133:9,11 135:5 139:12 150:22 152:8,10 154:17 158:22 159:4 167:19,20,23 173:18 174:25 174:25 177:18 178:23 179:4 183:15,16 185:12,14,20 186:9,10 187:4 187:8,9,11,15 190:5,11 194:4 198:24 200:23 200:25 202:7,8 202:10,25 203:2 207:4,5,9 209:15,17,20 211:4,8,14,20 212:12 214:10 214:11,14 217:9 217:10 218:3 220:2,6,7,8,11 221:3 222:13,14 224:5,6,7 225:7 225:9 229:6,8 230:18 235:18 235:21 242:4 243:15,16 250:11 251:12	251:14 252:17 252:22 256:8 257:9 263:5 264:8,11,12,21 265:2,22 266:25 267:20,23 thanks 9:21 94:7 123:8 194:2,9 212:13 242:5 they'd 163:22 thing 44:16 66:11 76:25 77:16 79:7,9,12,24 92:14 109:15,15 120:6 133:12 144:9 186:13 233:4,11,19 236:16 238:4 239:25 240:4 262:8 263:13 things 23:5 43:13 45:9 61:24 69:16,25 76:11 76:14 77:8,10 77:13 80:25 93:22 127:4 143:22 160:24 181:2 194:25 215:9 218:15 230:22 231:8 238:2 245:21 255:10,16 256:4 257:19 260:8 262:16 think 3:18 16:22 16:23 17:11,25 18:3,19 19:9,10 19:10,20 21:12 21:20 23:25 25:12,17 26:9 30:7 31:17 33:4 33:21 35:9,16 36:14,16 37:5 38:19 44:3 46:20,23 49:2 49:23 52:25 53:10,14 54:13	55:20 60:8 64:21 65:6 66:10 73:18 77:6,11,24 78:10 79:20,21 79:25 81:9,10 84:17 92:15 93:14 99:5 109:2,17,21 110:9 111:11,14 111:21 113:13 113:18,22 114:9 115:6,25 119:10 121:18,21 122:12 123:2 125:6 126:11,14 126:20 127:6,21 131:5 134:23 135:14,17 137:7 144:14 154:7 158:16 163:10 165:16 168:9,14 171:25 172:9 174:11,13,22 177:7 178:5 179:7 180:5 188:22,23 189:6 189:20 204:11 206:8 209:6 210:22 212:6 214:24 215:14 215:18,23 216:14,17 221:25 224:22 231:8 232:13 233:20,21 234:12 235:16 237:14,23 238:14 239:3 240:8,12 241:5 247:5,22 252:8 257:15,17,22,25 260:20,22 261:4 261:6,8,11,13 261:16,21,23 262:4,5,14 263:13,19	264:14 thinking 129:12 181:7,8 third 79:7,8,12 197:7 247:11 255:11 259:22 Thirty-six 64:24 Thomas 119:10 Thompson 225:17,24,25 226:8 thorough 9:5 174:12 thought 10:24 13:10 16:6 26:4 28:12 61:15,25 66:7 68:14 69:12,25 72:2 112:5 144:21 178:2,3 180:19 234:20 242:18 thousand 93:2 thousands 59:4 181:21 221:16 223:14 thousand-foot 203:17,21 three 8:5 34:16,25 35:25 63:13,15 72:3 78:2 96:16 96:19,21 97:5,8 98:7 100:10 113:11 114:3,6 118:21 128:24 129:18 147:19 174:7,9 179:12 190:8,12 209:11 211:22 220:13 225:16 250:14 254:2 256:5 three's 179:13 three-minute 211:11 three-story 97:12 97:15 three-unit 105:18 108:18	thrive 91:15 throw 171:18 thumb 239:24 tidal 180:14 time 6:7 36:7,7 38:10 42:9,10 46:18 60:24 65:16 71:12 75:6 86:7 90:23 93:19 107:2 119:18,22 122:22 128:13 137:20 139:15 143:22 150:20 168:8 172:2 183:11 194:9 207:19 209:16 211:15 217:8 218:3 224:5 227:23 238:17 245:18 250:24 252:24 263:21 263:24 timeframe 71:11 timeline 152:12 times 42:5 71:21 71:22 112:3 139:3,23 179:18 213:24 251:4 time-consuming 90:22 timing 193:18 258:3 tinkering 170:17 tiny 127:2 Tioga 240:7,12 tired 95:2 title 2:20,23 82:8 94:16 138:8,11 144:2 Titles 3:4 today 2:21 3:17 9:22,24 15:8 21:11 58:13 61:7 67:7 71:17 73:4,5,9,17 76:2 85:25 87:3
--	---	--	---	--

98:16 100:17 120:20 131:8 139:13 141:22 142:3,9 143:18 144:19 145:11 148:23 153:18 154:13 156:11 159:12 165:5 167:18 175:5 180:15,21 182:24 183:23 185:13,24 186:3 187:16,18 191:4 199:15,24 205:16 212:14 212:16 217:6 218:4 221:3 226:4 236:2 238:9 239:21 244:3 245:17 254:3 256:6 258:22 261:9,12 267:20,22 today's 58:13 146:13 156:14 told 30:15 43:7 52:15 102:15 135:8 Tom 226:4 tons 236:8 Tookany 160:10 169:18 182:8 Tookany/Tacon... 212:19 tool 150:18 227:13 top 23:8 146:11 175:14 176:3 topic 65:25 total 3:16 106:15 130:14 200:6 totally 34:4 236:4 236:12,17 238:8 238:13 touch 248:4 tourism 196:8 tow 236:19	tower 19:15 town 42:17 trade 241:9 trade-off 132:12 trade-offs 195:3 trail 155:15 182:6 190:2 218:22 221:17,22 223:21 226:21 226:23,25 227:24 228:5,8 228:14 232:8,11 232:19,19 240:18 241:5,15 241:15 248:6,10 252:11 trails 181:19 182:7,11 188:6 189:15,19 196:22 219:18 223:11 224:21 247:6 trained 7:25 training 7:18,21 7:22 transcript 268:8 268:20 transformational 182:4 transition 7:14 translator 51:13 treated 109:3 216:8 239:20 treating 108:21 129:20 treatment 146:5 202:21 210:21 trees 219:10 tremendous 109:5,13 tributaries 147:20 148:4 155:23 157:19 199:10 tried 25:11,17 36:18 51:14 133:25 168:9	trigger 12:10,14 88:12 triplexes 117:13 Tropical 2:9 troubled 78:11 trucking 236:8 true 246:14 268:8 truly 105:7 159:7 trump 173:14,16 211:2 trumps 173:20,21 210:13 Trust 229:14 try 3:24 9:22 25:16 33:18 43:2 46:12 57:15 78:17,19 172:6 239:18 244:12,19 261:22 trying 18:20 61:13 77:14 109:20 130:12 143:21 167:4 168:25 171:21 171:22 210:17 232:7 237:11 248:16 261:24 TTF 211:24 212:21 turn 9:11 196:7 turns 19:24 20:3 23:14 102:25 Twenty-five 19:6 twice 152:17,18 two 2:6 3:7 8:6 10:15 16:21 17:8,15 18:16 25:20 27:18 30:7 35:16,21 41:12 56:21 58:13 63:4,14 64:25 69:21 74:24 83:25 85:14 98:8 100:20 103:4 107:21 128:24	134:6 142:25 144:21 147:11 148:16 149:2 152:14 159:11 160:24 174:7 178:3 180:20 182:20 187:23 191:18 193:18 197:10 201:12 211:10 213:22 215:9 217:2 238:8 244:19,23 258:13 259:14 260:23 261:11 261:22 262:3 264:19 two-bedroom 118:2,3 two-family 83:21 two-month 134:24 two-unit 105:16 type 13:15 100:25 113:3 123:5 166:23 233:11 typical 14:7 96:9 105:2,3 107:16 typically 22:24 43:10 89:21 typographical 10:4 U unable 117:15 171:24 unacceptable 52:17,20,23 unamended 154:14 184:2 185:10 186:25 187:3,7 188:16 191:5 193:15,25 199:13 200:10 214:6 220:4 222:12 223:2 224:4,18 226:10 246:20 250:22	unanimous 235:11,12 uncertainty 107:3 150:8 unchanged 66:8,9 undergone 144:19 underground 62:18 underlying 141:8 undermine 189:6 understand 18:9 23:12 44:8 69:10 74:23 98:14 100:16 108:3 110:17 113:15 127:10 127:11 131:6 141:23 151:21 157:14 163:15 194:24 203:25 206:12 258:9 262:3 understanding 39:7 67:6 92:10 135:23 142:19 142:22 154:16 154:23 157:6 208:10 225:4 understands 59:8 understood 42:7 undo 247:21 unduly 79:16 105:23 uneven 133:23 unfairly 88:9 unfortunately 33:16 190:21 UNIDENTIFIED 212:6 uniform 48:2 unintended 86:20 unit 85:21 96:5,7 96:14 97:14 100:25 105:14 106:2 116:24 122:19 255:24
---	---	---	--	---

United 228:12	178:17 193:4	van 190:15 201:6	visitors 219:5,6	204:14 206:15
units 14:12 96:8	195:6 206:7	variance 13:17,22	223:22	208:3 211:15,21
96:17,19,19,22	221:17,18	13:22 21:5,9	visualize 232:4,23	214:22 223:15
97:5,9,11,15	231:10 232:15	24:4,6 49:14	vitality 182:13	230:22 234:17
98:8,8 100:10	241:14 242:25	83:13,14 86:23	vocational 256:17	234:23 242:25
100:10,20,23	249:5 255:12	88:10 114:9	voice 48:21 49:12	243:20 244:16
105:2 108:6	259:24	119:17 122:9	50:7 51:16	245:21 246:9
113:12 114:3,4	users 197:11	215:17 216:8	76:23	248:12,13,13
114:6,7 117:24	user-friendly	variances 11:5	voices 47:25 77:2	249:2 253:6
135:19	87:18	87:19	volunteer 79:20	256:14 258:10
universal 210:17	uses 13:13,25	variety 51:9	vote 182:24 189:8	266:10
236:25	17:20 20:24	various 3:3 41:14	vo-tech 23:24	wanted 13:18
University 54:22	21:10,19 22:19	44:15 53:5		41:7 44:10 53:2
183:8 221:6	87:2 89:15	71:21,22 116:21	W	76:13 77:12,17
unnecessary	140:7 141:6,9	213:23	W 1:11	100:11 151:5,8
90:21 104:8	141:11 143:7,8	vast 5:14 60:4	wage 118:9	175:22 185:21
unpredictable	143:15 159:23	103:6 107:14	wait 17:11 24:18	186:7 200:12
133:23	161:2 165:23	vehicle 60:19	30:3 74:19	203:5 204:12
unrestricted	166:2,18,23	64:15 210:24	154:9 258:7	207:11 253:9
192:19	192:11 195:7	Venice 151:7,9	260:18 263:2	256:16 263:17
updated 107:7	197:17 205:23	157:24 210:18	walk 252:14	wanting 92:10
updating 8:16	206:2,20,20,23	version 26:18	walking 218:19	wants 32:22 33:11
upland 228:17	206:25 215:11	108:6 191:5	wall 247:10	88:7 105:7
upper 155:9	216:13,13	192:17 248:21	want 13:15 19:11	173:11 245:4
239:9	235:16 248:2,5	versions 86:4	19:20 22:13	263:16
upstream 156:5	254:19,22	versus 19:18	24:21,24 27:2	wards 48:6
250:24	255:22 259:20	21:14 168:16,16	29:11,12,17	warehouse 236:8
upwards 161:22	259:25 260:10	vet 259:17	31:18 32:2,5,8,9	warehousing
urban 76:4 113:3	use-specific 82:11	Vice-Chair 2:13	33:6 34:3 39:11	255:9
120:15 182:17	87:20	185:21	41:12 45:2	wasn't 137:5
230:11	usual 112:12	Vice-President	46:13 47:24	202:5 208:15
urge 91:12 120:5	usually 73:2	57:21 58:7	49:3 51:15,18	248:24 260:16
134:25 150:12	175:9	111:3	55:12,23 56:3	water 138:17
183:3 185:10	utilities 141:4	view 101:25 110:2	56:23 59:22	140:4,22 145:16
189:7 215:3	utility 62:18,19	256:15	73:14,14,25	145:23 146:3,4
220:3 222:25	U.S 106:20	Village 103:12	74:5 84:25	146:7,9,12,12
223:24		251:17	93:19 102:4,11	146:17,23,24
usage 197:8	V	violating 162:2	108:25 111:4,16	147:4,10,16,23
use 8:12 13:3,17	vacancy 104:3	Virginia 251:23	116:7 124:12,23	148:9 152:25
13:21 15:2,21	Valley 250:19	virtue 45:13	126:21 130:7	159:17,17
15:23 16:9,9	valuable 150:18	visible 217:8	139:16 143:24	184:18 199:6
21:5,8,9 24:5	value 41:16 42:15	vision 29:20	144:8 150:24	200:16 202:21
32:23 37:24	148:21 149:21	visionary 213:19	159:4 165:14	207:21 209:3,5
86:21 87:5,16	197:5,11 199:23	visitability 14:10	172:13,19 175:3	209:10,12
88:2 89:9 91:3	213:16 228:15	visitor 97:7	179:21 186:3	212:25 213:8,9
106:12 160:20	valued 196:23	195:19 196:8,16	187:17 195:15	213:12 216:22
161:4 174:21	values 196:21	255:25	199:16 203:25	224:19 227:10

232:17,21	28:15 29:25	260:8	261:3 262:8	130:21,21
233:10 234:2	32:5,14 33:3,17	wetland 227:14	264:19,22	138:24 180:2
236:16 245:24	33:23 46:15	we'll 9:15 15:24	we've 10:8,13	185:18 190:16
247:7 248:4,15	53:13 54:10	16:8 20:8 60:23	11:9 14:5 15:2	212:2 220:19
249:24 250:5	65:12 72:8	81:11 100:4	20:12,22 21:12	225:19 245:7
waterbed 171:13	78:18,19 79:19	115:20 118:21	25:12 26:8	253:20,20
watercourses	102:16 109:18	118:22 130:9	28:20 36:15	witnesses 3:8,24
138:19 140:8	122:6 128:6	131:13 142:20	51:16 65:24	4:5 17:5 53:4
144:10 157:16	133:9 134:9	179:8 242:10	66:3,4 68:7	56:21 57:10
waterfront	151:14 177:6	244:19 250:13	121:21 133:25	74:24 75:9 85:7
138:16,19	188:8 219:22	264:8	134:5 142:10	85:15 94:12
166:21 181:2,11	221:24 239:16	we're 2:4 3:21,23	144:16 173:2	102:8 116:4
181:19 182:19	241:8 242:19	8:3 9:4 10:18	174:5,12,13	138:24 173:6
187:24 192:20	249:20	11:2 12:2,15	192:25 193:11	179:12 180:2
194:20 195:14	ways 18:22 22:7	13:4,14,23	193:20 194:21	190:8,16 211:22
196:15,22,25	22:15 80:2	14:12 15:7 29:4	203:24 205:25	212:2 220:13,19
197:8,14 198:3	109:15 237:15	29:16 32:4	206:6 245:17,23	225:19 245:7
198:10 215:5	wayside 118:7	37:23 43:4	258:23 259:17	Wolfson 75:4,8
223:12 226:3,9	weaken 192:6	44:20 46:17,21	261:24	80:10,11,17
227:24 231:2	weakens 186:22	48:18,19 53:11	whatsoever 38:14	116:3 118:24,25
236:12 248:7	wealth 197:3	53:15,18 54:14	wholesale 140:6	wonderful 80:25
waters 147:25	Wednesday 1:7	55:21 58:14	141:5	Woodland 54:24
150:14,19	244:5,20 252:25	59:16 66:12,18	wide 51:9 97:23	word 50:8 178:17
234:12	262:22 264:16	68:16 69:18,23	200:16 221:9	wording 33:14,23
watershed 184:25	weed 34:19	72:14 73:2 75:2	wider 64:25	54:10
199:9 202:19	week 53:22,24	80:14,15 82:4,5	wildlife 199:7	words 101:13
211:24 212:18	71:15 84:13	93:22 94:6	227:12 236:15	work 10:23 14:16
212:19	94:4 142:15	98:19 101:22	WILLIAM 1:10	29:21 33:18,23
waterway 161:10	175:7	111:23 114:20	willing 169:5	45:8 46:22
161:13,22	weekend 25:15	122:22 124:13	191:8 196:24	49:25 52:9
162:21 163:4	26:23 221:19	136:22 139:6	204:9 205:2	54:10 55:20
165:6 177:12	weeks 35:16	141:21 143:21	206:14 246:20	59:5 81:4 91:18
201:17 203:18	69:21 151:7	144:14 154:13	WILSON 1:11	92:7 110:13
waterways	174:6,8,9	155:15 156:12	wind 34:16,24	117:4 119:13
144:12 145:16	244:11,20	158:18 160:15	wireless 15:14,18	120:18,23
148:10,15 155:8	261:22	168:12 172:11	15:19 55:16,24	121:10 123:3,4
157:9 160:7,12	weigh 31:18	178:20 179:12	wise 188:2 247:23	139:23 142:10
160:18 169:21	weighing 198:21	184:8 192:4	wish 40:12 238:21	163:12 171:5
170:5 182:9	weighs 89:23	199:24 203:9	wishing 89:10	172:6 219:4
184:14 191:11	weight 35:18	205:21,22 206:2	Wissahickon	244:12,18
195:21 212:23	well-documented	206:6 211:10	155:25 160:9	258:25 261:23
213:17 214:9	227:10	214:23 225:4	211:24 212:16	worked 25:15
216:16 223:19	went 15:15 37:20	239:21 241:13	213:21	68:19 102:23
236:3,22	51:7 152:23	244:2,8 246:7	witness 4:5 57:10	132:5 155:6
water's 181:12	208:13 212:7	248:16 251:3	75:9 82:16,16	156:14 191:2
250:8	255:18	252:24 253:19	85:7 94:23,23	working 15:20
way 4:3 13:20	weren't 255:17	254:2 257:24	102:8 116:4	22:9 58:25 59:6

81:7,7 94:3	240:8,13	107:21 108:2	157:3 158:8	36:1 37:1 38:1
110:15 139:18	yeah 19:6 22:25	213:16	159:6 164:12	39:1 40:1 41:1
142:14 148:24	40:10 47:5 71:2	zoning 2:24 4:15	167:3,5 170:8,9	42:1 43:1 44:1
152:12,13,20	123:15 201:5	4:20 5:7,13,16	170:13 175:10	45:1 46:1 47:1
153:16 174:2,5	243:13 257:6,22	5:24 6:17,23	191:2 193:3	48:1 49:1 50:1
177:22 180:12	year 36:5 58:18	7:15,17 8:11,16	206:5,8 215:13	51:1 52:1 53:1
191:7 230:25	81:11,12 125:4	8:19,23 9:3,20	215:17 216:8	54:1 55:1 56:1
246:2 264:2	134:15 196:17	11:5,13,17 12:2	229:17 231:19	57:1 58:1 59:1
workload 107:5	196:18 197:17	12:15,24 13:7	233:12 235:5	60:1 61:1 62:1
works 81:11	257:15 258:7	13:16 14:10,15	241:11 246:10	63:1 64:1 65:1
128:5 130:25	years 4:16 32:7	14:17 15:22	257:5,7 258:25	66:1 67:1 68:1
146:5	35:19 102:23	17:19 23:16	259:9,18,19	69:1 70:1 71:1
workshop 60:5,10	119:13 152:6	25:14 27:5		72:1 73:1 74:1
61:9,20,22	191:3 199:18	30:11,12,16	\$	75:1 76:1 77:1
72:19 73:16	200:7 213:18,22	36:11 43:10,20	\$140,000 251:4	78:1 79:1 80:1
153:4,23 154:11	221:5 241:2	44:3 45:15	\$20 198:3	81:1 82:1 83:1
world 22:2 73:8	258:25	47:15 49:14	\$200 202:21	84:1 85:1 86:1
219:7 228:13	Yerkov 253:14,22	51:11 58:17,19	\$35 125:4	87:1 88:1 89:1
world-class	253:24 256:24	58:23 59:2,9	\$50 196:17	90:1 91:1 92:1
219:20 221:12	257:6,22 260:5	63:7,8 64:22	\$7.50 202:20	93:1 94:1 95:1
worst 117:19	260:23 261:5	65:18,20,21	\$750 118:4	96:1 97:1 98:1
wouldn't 19:19	262:17 264:10	66:2,7,21 67:3	\$800 197:5	99:1 100:1
47:18,19 50:16	yield 197:16	67:19 71:23		101:1 102:1
52:7,11 68:20	198:3	72:2 74:25,25	1	103:1 104:1
164:4,14 165:9	York 43:24	75:12 76:7,9	1 83:15	105:1 106:1
165:14 208:17	219:22 251:24	77:25 82:9 83:5	1st 247:8,17	107:1 108:1
223:15 237:3	younger 119:7	83:11 87:4,16	1,000 14:24	109:1 110:1
260:6,12,16		87:18 89:23	1,080 105:18	111:1 112:1
writing 11:7	Z	90:6 91:6 92:18	114:6	113:1 114:1
28:14 71:13	ZBA 40:18,18,19	93:8 94:17	1,440 96:6,9,17	115:1 116:1
written 3:25 28:7	42:22 51:15,23	96:25 97:20	104:15 105:5	117:1 118:1
28:10,21,22	90:21 106:15,19	102:21 103:2,4	107:10 114:7	119:1 120:1
31:4,13 45:24	107:6 118:8	103:21 104:8,11	1,500 198:13	121:1 122:1
46:5 66:25	zero 14:5 113:11	105:6,9,11	1,700 184:4,7	123:1 124:1
79:14,22 116:8	193:20	106:13,14,17,21	1.3 230:5	125:1 126:1
126:16 131:9	Zoe 220:15	106:22,24 107:7	1.7 229:24	127:1 128:1
134:5 137:14	222:22	107:12,23 108:9	10 83:18 164:13	129:1 130:1
179:19,24	zone 103:7,15	112:18 113:4	10/31/12 3:1 4:1	131:1 132:1
183:10 194:10	104:19,21	117:16 119:15	5:1 6:1 7:1 8:1	133:1 134:1
wrong 74:18	108:22 212:22	119:17,21,25	9:1 10:1 11:1	135:1 136:1
175:12	212:25	120:2 131:24	12:1 13:1 14:1	137:1 138:1
wrongly 79:15	zoned 21:24 87:7	132:4,24 133:7	15:1 16:1 17:1	139:1 140:1
	88:4 103:9,17	133:10,20	18:1 19:1 20:1	141:1 142:1
Y	103:25 166:20	134:22 138:12	21:1 22:1 23:1	143:1 144:1
yard 60:19 63:9	167:6 207:2	141:8 143:15	24:1 25:1 26:1	145:1 146:1
63:10,20,21,23	zones 103:23	151:11,14	27:1 28:1 29:1	147:1 148:1
64:4,5,10,12	104:10 106:7	156:17,18,22	30:1 31:1 32:1	149:1 150:1
			33:1 34:1 35:1	

151:1 152:1	245:1 246:1	44:1 45:1 46:1	157:1 158:1	250:1 251:1
153:1 154:1	247:1 248:1	47:1 48:1 49:1	159:1 160:1	252:1 253:1
155:1 156:1	249:1 250:1	50:1 51:1 52:1	161:1 162:1	254:1 255:1
157:1 158:1	251:1 252:1	53:1 54:1 55:1	163:1 164:1	256:1 257:1
159:1 160:1	253:1 254:1	56:1 57:1 58:1	165:1 166:1	258:1 259:1
161:1 162:1	255:1 256:1	59:1 60:1 61:1	167:1 168:1	260:1 261:1
163:1 164:1	257:1 258:1	62:1 63:1 64:1	169:1 170:1	262:1 263:1
165:1 166:1	259:1 260:1	65:1 66:1 67:1	171:1 172:1	264:1,15 265:1
167:1 168:1	261:1 262:1	68:1 69:1 70:1	173:1 174:1	266:1 267:1
169:1 170:1	263:1 264:1	71:1 72:1 73:1	175:1 176:1	120656 1:16 58:15
171:1 172:1	265:1 266:1	74:1 75:1 76:1	177:1 178:1	59:13 60:23
173:1 174:1	267:1	77:1 78:1 79:1	179:1 180:1,17	74:16 80:12
175:1 176:1	10:00 110:14	80:1 81:1 82:1	181:1 182:1	94:15 95:15,18
177:1 178:1	244:5,21 253:2	83:1 84:1 85:1	183:1 184:1,2	98:12 102:21
179:1 180:1	262:23 264:16	86:1 87:1 88:1	185:1,11 186:1	105:24 108:7
181:1 182:1	10:25 1:7	89:1 90:1 91:1	187:1 188:1,14	112:16 131:22
183:1 184:1	100 147:9,15	92:1 93:1 94:1	189:1 190:1	265:21,24 267:3
185:1 186:1	149:13 164:18	95:1 96:1 97:1	191:1,6 192:1	267:16
187:1 188:1	168:15 184:23	98:1 99:1 100:1	193:1 194:1	120774 1:16 2:22
189:1 190:1	199:21 213:24	101:1 102:1	195:1 196:1	5:12 7:5 9:25
191:1 192:1	234:12 246:8	103:1 104:1	197:1 198:1	58:15 59:17,25
193:1 194:1	251:2	105:1 106:1	199:1 200:1	82:5 84:3 111:6
195:1 196:1	100,000 197:15	107:1 108:1	201:1 202:1	253:6 262:21
197:1 198:1	100-foot 200:9	109:1 110:1	203:1 204:1	264:15
199:1 200:1	218:7 224:25	111:1 112:1	205:1 206:1	120781 1:16 82:7
201:1 202:1	251:11	113:1 114:1	207:1 208:1	83:4 84:6
203:1 204:1	11 130:11	115:1 116:1	209:1 210:1	264:25 265:4,17
205:1 206:1	110681 12:22	117:1 118:1	211:1 212:1	13th 95:16
207:1 208:1	12 83:10 86:7,9,10	119:1 120:1	213:1 214:1,5	14 2:23 82:8
209:1 210:1	87:6 90:14 91:2	121:1 122:1	215:1 216:1	94:16 138:11
211:1 212:1	93:9 149:2	123:1 124:1	217:1 218:1	14th 6:24 244:5
213:1 214:1	12,609 106:16	125:1 126:1	219:1 220:1	244:20 253:2
215:1 216:1	120431 6:5	127:1 128:1	221:1 222:1	261:22 262:6,9
217:1 218:1	120654 1:16 3:1	129:1 130:1	223:1 224:1,3	262:22 263:23
219:1 220:1	3:19 4:1 5:1 6:1	131:1 132:1	225:1 226:1,11	264:9,16
221:1 222:1	7:1 8:1 9:1 10:1	133:1 134:1	227:1 228:1	14-202 60:14 62:5
223:1 224:1	11:1 12:1 13:1	135:1 136:1	229:1,16 230:1	62:10
225:1 226:1	14:1 15:1 16:1	137:1 138:1,10	231:1 232:1	14-203(328) 60:16
227:1 228:1	17:1 18:1 19:1	139:1 140:1	233:1 234:1	14-203(370) 60:17
229:1 230:1	20:1 21:1 22:1	141:1,19 142:1	235:1 236:1	14-303(7) 87:10
231:1 232:1	23:1 24:1 25:1	143:1 144:1	237:1 238:1	14-500 151:11
233:1 234:1	26:1 27:1 28:1	145:1,12 146:1	239:1 240:1	14-603 82:10
235:1 236:1	29:1 30:1 31:1	147:1 148:1	241:1 242:1	14-803 60:19
237:1 238:1	32:1 33:1 34:1	149:1 150:1	243:1 244:1,4	64:15
239:1 240:1	35:1 36:1 37:1	151:1 152:1	244:21 245:1	15 117:8 197:16
241:1 242:1	38:1 39:1 40:1	153:1 154:1	246:1 247:1	16th 84:7 98:11
243:1 244:1	41:1 42:1 43:1	155:1 156:1	248:1 249:1	141:17

17 103:8	360 96:4 105:13	218:5,11,20	
18 8:7 15:4	114:2 116:25	219:17 226:18	
1800s 44:21		231:13 233:6,23	
1850s 145:25	4	239:23 240:22	
2	4 14:21	249:13,22	
2 83:15 196:18	4th 42:9 209:23	251:10 252:2	
260:2	40 35:19 93:6	50-foot-wide	
2nd 218:2 221:2	106:23 130:12	229:18	
247:18	161:9,10,18	500 7:24	
2,500 19:3 254:12	163:21,23 164:7	51 246:8	
258:16	164:19 175:10	52 77:6	
2:10 267:25	175:13,24,25	56 111:11	
20 97:23 128:12	259:4	57 69:7,23 111:11	
162:17 165:13	40th 54:21	6	
172:18 189:4	400 1:6	6 83:17	
259:7	45 141:14,20	6th 247:9	
20th 100:22	45-day 31:23 38:8	6.7 229:21	
20,000 254:9	111:20 112:10	60 104:20 117:11	
200 76:10 77:3	141:20	147:9	
149:7	48 216:7	65 117:8	
2000 106:16	48-foot 216:10	656 59:21,22 95:9	
2007 106:16	480 96:7,14	7	
2010 194:18	105:25 114:5	7th 222:22	
2011 5:17	116:25	70 93:18 226:22	
2012 1:7 6:24	5	700 105:4	
95:17 98:11	5 14:21	706 104:23 105:21	
105:12 268:7	5th 247:17	106:5	
2015 127:8	5,000 12:9 19:2	720 105:17	
2035 8:4	254:10 258:16	774 179:6	
22 15:4	50 14:12 147:14	774's 59:22	
22nd 36:5 37:13	149:13 155:17	8	
52:19,19	161:24 164:8	8th 224:11	
24th 220:25	168:16 175:16	80 32:7	
25 63:25 149:7	175:24 199:25	82 77:4 79:2	
168:16	201:19 218:24	86 104:18	
25-year 226:20	225:3 227:20	9	
3	228:18 245:23	9th 48:5 100:21	
3:00 110:15	246:4,11,16,23		
30 111:7 130:12	248:3 250:25		
189:4	50s 44:24 63:18		
30-year 197:6	50-foot 140:7		
31 1:7 268:7	143:5 160:14		
34-foot 65:3,6	161:7 172:23		
35 35:19 63:25	184:15 188:13		
103:16 213:18	189:2 204:6		
36-foot 64:18 65:4	212:22,24		
	213:24 215:5		