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COUNCIL OF THE CITY OF PHILADELPHIA
PUBLIC HEARING - COMMITTEE ON RULES

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Room 400, City Hall
Philadelphia, Pennsylvania
Tuesday, May 24, 2005, 10:28 a.m.

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9 BILL 050230 - An Ordinance amending Title 14 of
The Philadelphia Code, entitled
10 "Zoning and Planning," by amending
Chapter 14-200 entitled "Residential
11 Districts," by amending requirements
relating to courts in certain
12 Residential Districts, under certain
terms and conditions.

13

14 BILL 050232 - An Ordinance amending Title 14 of
The Philadelphia Code, entitled
15 "Zoning and Planning," by increasing
the permissible height for fences
located on the front lot line of
16 certain properties in residential
districts; and by permitting certain
17 architectural embellishments on
fences; all under certain terms and
18 conditions.

19 BILL 050233 - An Ordinance amending Title 14,
Entitled "Zoning and Planning," to
20 add definitions for certain
architectural features that are
21 commonly located on residential

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buildings, and to permit said
architectural features on
residential buildings located in
residentially zoned districts, under
certain terms and conditions.

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BILL 050339 - An Ordinance to amend the
Philadelphia Zoning Maps by changing
the zoning designations of certain
areas of land located within an area
bounded by Bridge Street, Tacony
Street, a line 245 feet north of
Sanger Street, the Delaware River
and the Frankford Creek.

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BILL 050285 - An Ordinance to amend the
Philadelphia Zoning Maps by changing
the zoning designations of certain
areas of land located within an area
bounded by Essington Avenue, 67th
Street, the Delaware River and the
former Pennypacker Avenue.

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14 PRESENT:

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COUNCIL PRESIDENT ANNA C. VERNA
COUNCILMAN DARRELL L. CLARKE
COUNCILMAN DiCICCO
COUNCILMAN JACK KELLY
COUNCILMAN JAMES F. KENNEY
COUNCILMAN RICHARD T. MARIANO
COUNCILWOMAN DONNA REED MILLER
COUNCILMAN MICHAEL NUTTER
COUNCILWOMAN BLONDELL REYNOLDS-BROWN

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3 P R O C E E D I N G S

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5 COUNCIL PRESIDENT VERNA: Good
6 morning, everyone. This is the public
7 hearing of the Committee of the Whole. I'm
8 sorry. Committee on Rules. I'm very
9 anxious, believe me. I am so anxious for
10 this budget to be behind us. Can we go to
11 the Committee of the Whole and consider the
12 budget?

13 (Laughter.)

14 COUNCIL PRESIDENT VERNA: Okay. I
15 would ask Tommie Ericson to please read the
16 title of Bill Number 050285.

17 CLERK: An ordinance to amend the
18 Philadelphia Zoning Maps by changing the
19 zoning designations of certain areas of land
20 located within an area bounded by Essington
21 Avenue, 67th Street, the Delaware River and
22 the former Pennypacker Avenue.

23 COUNCIL PRESIDENT VERNA: Okay.
24 Good morning. Excuse me, please. It has
25 been called to my attention that someone

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2 would like me to indicate for the record who
3 is present.

4 To my immediate left is Councilman
5 Clarke, to my immediate right Councilman
6 Kenney, Councilman Mariano, Councilwoman
7 Miller and Councilwoman Brown. So, we have a
8 quorum. Okay.

9 Please identify yourself --

10 MR. KELSEN: Good morning --

11 COUNCIL PRESIDENT VERNA: -- and
12 proceed with your testimony.

13 MR. KELSEN: -- Council President,
14 members of the committee. Peter Kelsen, on
15 behalf of the O'Neill property group.

16 COUNCIL PRESIDENT VERNA: Excuse me.
17 You're going to have to pull the microphone
18 closer to you.

19 MR. KELSEN: How's that, Council
20 person.

21 COUNCIL PRESIDENT VERNA: Much
22 better.

23 MR. KELSEN: Before I begin, let me
24 introduce, Mr. Kevin Silver from O'Neill
25 Property Group, who's with me today.

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2 MR. SILVER: Good morning.

3 COUNCIL PRESIDENT VERNA: Good
4 morning.

5 MR. KELSEN: Mr. Lamont Shaw, as
6 well.

7 MR. SHAW: Good morning.

8 MR. KELSEN: Council President,
9 before I begin, I would like to hand up a
10 proposed amendment to this bill that includes
11 an additional parcel in the remapping.

12 This has been discussed with
13 technical staff, the Planning Commission, and
14 if I may, I'd like to hand it up now, Council
15 President.

16 COUNCIL PRESIDENT VERNA: Okay.

17 MR. KELSEN: Members of the
18 committee, we are pleased to present to you a
19 request for rezoning of the property which is
20 bounded by 67th Street, Essington Avenue and
21 the Schuylkill River. It is approximately a
22 50 acre parcel.

23 We are requesting remapping to C-3
24 commercial, in order to allow the
25 redevelopment of this blighted site for a

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2 viable community shopping center.

3 The property, as we will indicate to
4 you in a moment, consists of a vacant,
5 deteriorated and blighted former industrial
6 use.

7 Members of the committee, it is
8 environmentally impaired, having been used as
9 junkyard and salvage yard. And our proposal
10 is to reestablish it for a state of the art
11 retail shopping center, containing
12 approximately half a million square feet.

13 We believe, and in meeting with the
14 community and the Planning Commission and
15 other constituent groups, that this
16 development would not only create a viable
17 shopping center at this location, but maybe
18 more importantly, act as a catalyst to create
19 development along Essington Avenue in areas
20 that are extremely blighted.

21 We would like to suggest to the
22 committee that development of this center
23 would create a minimum of 500 new, permanent
24 jobs; create approximately 150 to 200
25 construction jobs; and generate fiscal --

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2 COUNCIL PRESIDENT VERNA: Sorry.

3 How many construction jobs?

4 MR. KELSEN: Approximately 150 to
5 200, Council President.

6 The net impact to the City would be
7 additional taxes in excess of \$2 million a
8 year, even during the tax abatement period.

9 This is contrasted with about...
10 And I know during budget time that's a very
11 important number -- This is contrasted with
12 about \$50,000 a year in taxes generated by
13 the existing blighted site.

14 We've met extensively with the
15 community. And I'm pleased to say that the
16 Eastwick PAC and others readily support this
17 application. They see it as we see it, as a
18 gateway to the renaissance of Essington
19 Avenue and the Eastwick area.

20 In terms of our developer, O'Neill
21 Property Group is a premier developer. They
22 are responsible for the renaissance of
23 Conshohocken Waterfront through the
24 Millennium Project, a project that includes
25 probably a half a billion dollars of private

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2 and government investment to stabilize that
3 area.

4 That was also a former industrial
5 site that is now a mixed use site for
6 residential, retail and commercial.

7 I'm handing out a brochure that
8 details our developer, as well as the
9 proposed use.

10 In addition, they were selected as
11 the master redeveloper of Norristown, in
12 order to reposition that critical hub for
13 renovation and redevelopment.

14 Finally, in Montgomery County, as
15 well as in Bucks County, they have created
16 over half a billion dollars, approximately,
17 of new retail and commercial development in
18 former brownfield sites, adding extensively
19 to the tax base, employment base and overall
20 quality of life of those areas.

21 If the committee has any questions,
22 we would be happy to answer them at this
23 time.

24 COUNCIL PRESIDENT VERNA: Thank you.

25 I know that there have been numerous

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2 community meetings, and that the community
3 has given me a letter in writing saying that
4 they fully support this.

5 MR. KELSEN: Thank you, Council
6 person.

7 COUNCIL PRESIDENT VERNA: Can you
8 tell us if any tenants have been lined up for
9 this project?

10 MR. KELSEN: Council President --

11 COUNCIL PRESIDENT VERNA: If so, who
12 are they?

13 MR. KELSEN: I can tell you that no
14 definitive tenants have been lined up at this
15 time.

16 The project is being marketed to a
17 wide variety of tenants. And if I could give
18 the committee an illustration of the types of
19 tenants that we have been seeking and working
20 with:

21 For example, Target, Lowes. We have
22 been working with Circuit City, Best Buy, a
23 number of retail development opportunities
24 such as Starbucks, local banks, et cetera.
25 Council President, no formal tenant has been

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2 signed at this time.

3 And one of the reasons for that is
4 because until the property is zoned to permit
5 the use, tenants are really reluctant to
6 commit for a letter of intent purpose.

7 COUNCIL PRESIDENT VERNA: Well, it
8 is my hope that the developer will definitely
9 keep the community involved, and that you
10 have their input because I think they're very
11 concerned as to what would be developed
12 there.

13 MR. KELSEN: Council President, I
14 have given my word to the community and to
15 staff that during the process we will
16 continue to dialogue and involve the
17 community in our thoughts, as well as our
18 efforts to market the site, as well as to
19 develop the site. So, there will in fact be
20 ongoing community --

21 COUNCIL PRESIDENT VERNA: I know it
22 was mentioned that the developer was trying
23 to get Bocsov's to locate there. Has there
24 been any movement on that?

25 MR. KELSEN: Mr. Silver, I'm going

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2 to ask you if you can answer that.

3 MR. SILVER: Council President, no,
4 there hasn't been any further movement on
5 that. We're continuing to pursue that
6 through our retail brokerage company that
7 we've retained. And we're hopeful that in
8 the next six weeks or so we might be able to
9 get some movement on that front.

10 COUNCIL PRESIDENT VERNA: Do we have
11 any indication as to when we will see
12 something actually starting to get built and
13 just when the completion date you anticipate
14 will be?

15 MR. SILVER: Yes. As part of the
16 remediation of the property, we're obligated,
17 as per our consent order with Pennsylvania
18 DEP, to have the site cleaned up within a
19 year from the date of closing for the
20 entirety of the assemblage which is going to
21 be happening within the next week or so.

22 So by a year from today the salvage
23 operations will be completely cleaned off.
24 The car carcasses, if you will, will be gone
25 and the remediation will have been largely

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2 completed, if not fully completed, with the
3 exception of continuing groundwater
4 monitoring.

5 During that time, simultaneously
6 we're going to be preparing the site for the
7 site development of the premises. And
8 construction, we hope, will be able to
9 commence within around the same time frame.

10 And it should have about a 12 to 18
11 month construction period, as soon as we get
12 into the ground. So we're hopeful that
13 within two years or so, give or take a couple
14 of months, we ought to have a thriving,
15 vibrant center.

16 COUNCIL PRESIDENT VERNA: And there
17 was a traffic study conducted?

18 MR. KELSEN: Yes, Council President.
19 We retained the services of an independent
20 traffic engineering firm who confirmed that
21 the site would not have any negative traffic
22 impact with this development.

23 We will, of course, continue to meet
24 with the Planning Commission and Streets
25 Department as the site plan evolves, to

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2 ensure that they're satisfied with our
3 engineering.

4 A copy of the report that I've given
5 you, Council President, as well as to the
6 committee, has been provided to your staff
7 and to the community.

8 COUNCIL PRESIDENT VERNA: Thank you
9 very much.

10 Are there any questions from members
11 of the committee?

12 The Chair recognizes Councilman
13 Kenney.

14 COUNCILMAN KENNEY: Thank you, Madam
15 President.

16 First of all, I'd like to thank
17 O'Neill Properties for their continued
18 interest in the City. I know it's a very
19 viable and well-known organization. They
20 have done great work in the suburbs and the
21 counties. So we're happy to have you
22 continue to develop here.

23 MR. SILVER: Thank you.

24 COUNCILMAN KENNEY: And obviously
25 you're professionals at this, so you look at

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2 that site and you see it; have a vision for
3 what it could be.

4 I just have to ask you as to what
5 potential you think the surrounding
6 activities have, not only on -- Obviously you
7 think that your project will be successful
8 regardless of what's there.

9 But what do you think the future use
10 of those, you know, waste disposal pits and
11 sumps and old decaying industrial equipment,
12 underground storage tanks and the operating
13 junkyard... Do you see the potential for
14 that use to change and improve? And how
15 difficult will it be to get that done?

16 MR. SILVER: Well, generally
17 speaking, when we come into a community and
18 invest, particularly in a large-scale
19 brownfields remediation like this one, we
20 oftentimes are successful in creating a new
21 aura for the community, where it chases away
22 a lot of these nuisance uses.

23 And even though we can't control
24 anything outside of our site, we're confident
25 that because we're going -- this is going to

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2 be a draw for the community where people are
3 going to be coming from all different areas
4 in Philadelphia and in the counties, that it
5 will create a negative incentive for those
6 uses to continue.

7 We're directly attacking, you know,
8 a lot of the salvage operations on the
9 Essington Avenue side. So, we're solving
10 that problem directly within this assemblage.
11 And we're hopeful that our development will
12 be able to have a positive impact on the
13 balance of the block.

14 COUNCILMAN KENNEY: Some of the
15 stuff that I see in your handout deals with
16 old industrial sites, so you have experience
17 doing that.

18 So I guess at some point you could
19 possibly have the increased vision or
20 extended vision of seeing those other areas
21 perhaps developed either -- I don't know
22 whether or not residential is doable or light
23 industrial or retail. But I mean, is there a
24 kind of a --

25 MR. SILVER: Yeah. We've had a

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2 history of when we invest in an area, that we
3 usually look at very seriously add-on
4 properties to create an additional critical
5 mass. And we would certainly intend to do so
6 in the future, particularly if any of the
7 other property parcels become available.

8 COUNCILMAN KENNEY: Because I know
9 that Southwest Philly has suffered for many
10 years under -- you know, having location --
11 many locations for these kind of activities.

12 And looking at your proposal for the
13 shopping center, and then knowing your track
14 record, it seems like a really good day,
15 moving forward, for Southwest Philly in that
16 area.

17 So I congratulate you and thank you
18 for your involvement.

19 MR. KELSEN: Thank you, Councilman.

20 Councilman, just to add one brief
21 word on that, I have found in the land use
22 area that once a use like this goes into 50
23 acres -- it's a very sizable chunk of
24 property -- the values of properties become
25 impacted in a good way.

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2 And people come in and they realize
3 that these negative blighted sites are not
4 appropriate. And I think we're excited about
5 the opportunity to sort of anchor that
6 portion of it.

7 COUNCILMAN KENNEY: So your
8 development will increase the value of these
9 questionable -- not questionable uses, but
10 not exactly attractive uses for the
11 neighborhood, increase the value to the point
12 where the owners may decide it would be
13 better maybe to sell it and go.

14 MR. KELSEN: Well, that's what we're
15 hopeful of, yes.

16 COUNCILMAN KENNEY: Okay. Great.

17 COUNCIL PRESIDENT VERNA: Certainly.

18 And for the benefit of the members
19 of the committee, I would just like to call
20 to your attention that this 50 acre parcel is
21 directly across the street from the Auto
22 Mall. I think you would recognize the Auto
23 Mall area, and that's where it's located.

24 I would like the record to reflect
25 that Councilman O'Neill has joined us.

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2 And the Chair recognizes Councilman
3 Clarke.

4 COUNCILMAN CLARKE: Thank you, Madam
5 President.

6 Good morning, gentlemen.

7 MR. KELSEN: Good morning,
8 Councilman.

9 COUNCILMAN CLARKE: In terms of how
10 far along you are in this project, have you
11 selected the general contractor yet?

12 MR. SILVER: We have not. We are in
13 the site engineering phase at the moment.

14 COUNCILMAN CLARKE: Right.

15 In your discussions with the local
16 community and other members -- I don't know
17 if you work with any people from the City.
18 Have you talked about the opportunities for
19 Philadelphians on the construction side?

20 MR. SILVER: It's a bit premature to
21 get into specifics of that, but we have
22 assured the Eastwick PAC, and any of the
23 other personnel from the City, that we fully
24 intend to employ local personnel as much as
25 we can. That would be also true in our

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2 selection of the general contractor.

3 COUNCILMAN CLARKE: Do you have a
4 process that you've developed?

5 MR. SILVER: We don't have a formal
6 process, but we made it known and when we put
7 out our RFP for the construction general
8 contractor selection process we have no
9 problem in inputting that because that's our
10 intention anyway.

11 COUNCILMAN CLARKE: That as a part
12 of your RFP process you will, although it
13 can't be obviously a requirement, but there
14 will be some language to speak of goals, as
15 it relates to local Philadelphia opportunity,
16 particularly in the local community?

17 MR. SILVER: Yes, that's correct.

18 COUNCILMAN CLARKE: All right.

19 In terms of long-term employment,
20 and traditionally in these types of
21 operations people tend to hire people from
22 the local community.

23 Do you have a component as a part of
24 your development strategy that will ensure
25 that people are job ready? I know one of the

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2 things that, some instances, we have a
3 development comes up and there are people not
4 in the local community that have not been
5 prepared adequately for the type of
6 opportunities that will arise.

7 MR. KELSEN: Let me answer that.
8 Councilman Clarke, as part of our discussions
9 with Eastwick PAC, we specifically indicated
10 that we will create a job fair, so to speak.

11 COUNCILMAN CLARKE: Okay.

12 MR. KELSEN: To advise the community
13 of job opportunities that the retailers will
14 make available. These are post construction
15 jobs. And to allow the community to be
16 involved in a preferential hiring program.

17 As long as the people are qualified,
18 they will be given opportunity. So we, in
19 fact, as part of our initial discussions with
20 Eastwick PAC, discussed this, and we're
21 committed to that process.

22 COUNCILMAN CLARKE: Great. Okay.

23 Thank you, Madam President.

24 COUNCIL PRESIDENT VERNA: Thank you.

25 The Chair recognizes Councilman

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2 O'Neill.

3 COUNCILMAN O'NEILL: Thank you,
4 Madam President.

5 I'd like to thank Mr. Kelsen, first
6 of all, for giving me a courtesy call, where
7 he pretty much went through all this.

8 I just want to tell him that had he
9 told me it was O'Neill Properties doing it --
10 and they're no relation -- but I have high
11 regard for their work and their successes and
12 their turnarounds. I would have even been in
13 more of a hurry to get here for this hearing.
14 Thank you.

15 MR. KELSEN: Thank you, Councilman.

16 COUNCIL PRESIDENT VERNA: Thank you.

17 Are there any other questions or
18 comments from members of the committee?

19 MR. KELSEN: Madam President, I
20 would just request, if I could, a suspension
21 of the rules so that we could move forward on
22 this project.

23 COUNCIL PRESIDENT VERNA: Thank you.
24 We will certainly consider that.

25 MR. KELSEN: And we thank you so

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2 very much for your time and consideration,
3 members of Council.

4 COUNCIL PRESIDENT VERNA: And I want
5 to thank you for all of your involvement with
6 the community. I think that's extremely
7 important. And I certainly want to wish you
8 well. I think this is going to be a great
9 shot in the arm for the entire City.

10 MR. KELSEN: We thank you for your
11 assistance.

12 COUNCIL PRESIDENT VERNA: Thank you
13 again.

14 MR. KELSEN: Thank you.

15 COUNCIL PRESIDENT VERNA: May we
16 hear from -- Just a moment, please. The
17 Chair recognizes Councilman Clarke.

18 COUNCILMAN CLARKE: Thank you. One
19 last question. Are you looking for any other
20 opportunities?

21 (Laughter.)

22 MR. KELSEN: Absolutely, Councilman.

23 COUNCIL PRESIDENT VERNA: Yes, All
24 of the other property that's adjacent to
25 this.

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2 COUNCILMAN CLARKE: After you take
3 care of Council President's project. We have
4 some vacant land up in North Philadelphia.

5 MR. KELSEN: We'll be back to you on
6 that one.

7 COUNCILMAN CLARKE: Okay. Fair
8 enough.

9 COUNCIL PRESIDENT VERNA: Thank you.
10 Thank you very much. Thank you.

11 May we hear from City Planning,
12 please.

13 MR. CHAPMAN: Good morning, Madam
14 President and members of the Rules Committee.
15 My name is Thomas Chapman. I am the Director
16 of the Development Planning Division for the
17 City Planning Commission.

18 I'm here today to testify on Bill
19 Number 050285. Rather than burden the record
20 with repetitive testimony, Mr. Kelsen has
21 already stated much of what my testimony was
22 about.

23 May I just say that the Planning
24 Commission at its meeting of May 12, 2005,
25 considered this bill and recommended that it

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2 be approved.

3 One comment, partly in response to
4 Councilman Kenney's question. I would expect
5 that if this property does get developed,
6 that you should see --

7 COUNCIL PRESIDENT VERNA: Please
8 don't say if. Say when.

9 MR. CHAPMAN: When. When this
10 property becomes developed, that there will
11 be an increase in value in adjacent sites,
12 and that there would be renewed interest in
13 various types of development along that
14 stretch of Essington Avenue.

15 I -- I don't -- I don't know that I
16 would say that you'd see interest in
17 residential development, but certainly --
18 certainly retail, additional retail; perhaps
19 light industrial; possibly even hotel.

20 COUNCIL PRESIDENT VERNA: Thank you.

21 MR. CHAPMAN: Thank you.

22 COUNCIL PRESIDENT VERNA: Any
23 questions of City Planning?

24 (No response.)

25 COUNCIL PRESIDENT VERNA: Thank you.

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2 At this time I would ask Mr. Ericson
3 to please read the title of Bill Number
4 050230.

5 CLERK: An ordinance amending Title
6 14 of The Philadelphia Code, entitled "Zoning
7 and Planning," by amending Chapter 14-200
8 entitled "Residential Districts," by amending
9 requirements relating to courts in certain
10 Residential Districts, under certain terms
11 and conditions.

12 COUNCIL PRESIDENT VERNA: Thank you.
13 Mr. Chapman.

14 MR. CHAPMAN: Good morning once
15 again, Madam President, and members of the
16 Rules Committee.

17 My name is Thomas Chapman. I'm the
18 Director of the Development Planning Division
19 for the City Planning Commission.

20 And I'm here today to testify on
21 Bill Number 050230.

22 Council members Mariano and DiCicco
23 introduced this bill on March 31st of this
24 year. This bill amends Section 14-200 of The
25 Philadelphia Zoning Code, by eliminating

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2 minimum size requirements for courts in the
3 R-1 residential district through the R-10-B
4 residential districts.

5 While the Code does not require
6 courts, when they are used they must be of a
7 certain minimum width. Courts can be created
8 by the simple addition of two bay windows or
9 two dormers for residential property.

10 In both instances, space between is
11 considered a court and must meet minimum
12 dimensional requirements which normally is 12
13 feet.

14 The interpretation of what
15 constitutes a court is one of the reasons why
16 so many new homes are not able to meet some
17 of the requirements of the zoning code.

18 This slows down the development
19 process, contributes to the backlog of cases
20 at the Zoning Board of Adjustment and delays
21 new development.

22 This is one of the many antiquated
23 provisions of the Zoning Code that serve
24 little purpose today.

25 The elimination of the minimum court

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2 width requirement was specifically
3 recommended by the Building Industry's
4 Association's report which was issued in
5 2004.

6 The Planning Commission, at its
7 meeting of April 14, 2005, recommended that
8 Bill Number 050230 be approved.

9 That concludes my testimony. I'd be
10 happy to answer any questions of the
11 committee.

12 COUNCIL PRESIDENT VERNA: Does L & I
13 agree with this?

14 Do we have L & I here to testify?

15 MR. CHAPMAN: L & I is here.

16 COUNCIL PRESIDENT VERNA: Good
17 morning.

18 MR. HAIGLER: Good morning. Good
19 day, Council President Verna and members of
20 the committee.

21 I am Otis Haigler, Jr., Director of
22 Legislative Affairs for the Department of
23 Licenses and Inspections.

24 Today I'm here to provide testimony
25 on Bill 050230, which, if enacted, will amend

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2 Chapter 14-200 of the Zoning Code, related to
3 inner courts located on residential
4 properties.

5 The Department of Licenses and
6 Inspections, in its efforts to streamline the
7 regulatory process, to improve the service
8 provided to our stakeholders, from time to
9 time conducts internal reviews of its
10 operations and codes that are enforced by the
11 department, to determine if a certain code
12 requirement or operational function no longer
13 serves its intended purpose.

14 Because of advances in building
15 design, technology, and model code adoptions,
16 certain zoning code requirements or
17 operational functions may no longer be
18 applicable to its intended purpose or it's
19 initial purpose, and in fact, may have become
20 impediments to develop in the City.

21 With regard to the requirement of
22 Section 14-204, subsection 2 of the Zoning
23 Code, related to inner courts and residential
24 occupancies, the initial intent of this
25 provision was to address concerns during a

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2 period in the early 1900s when tenement
3 housing, having no ventilation or natural
4 lighting, was the norm, and the building
5 codes of that time did not address this type
6 of problem.

7 This condition was highlighted in
8 the October 2004 report of the Building
9 Industry Association of Philadelphia.

10 Through the evolution of building
11 design and code updates, the provision that
12 was first enacted to address concerns related
13 to ventilation and lighting no longer applies
14 to its intended purpose.

15 The inner court requirement, as
16 currently enforced by the department,
17 provides for a distance of at least 12 feet
18 between enclosed spaces on the same building
19 lot.

20 When zoning applications are filed
21 with the department, showing an architectural
22 feature, such as a recessed indentation in
23 the wall, dormer windows for the second floor
24 habitable rooms, as is common in many cape
25 code type homes and some newer homes under

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2 consideration for development in the City or
3 a recessed garage door that creates an
4 exterior hallway, the applicant is issued a
5 refusal for being in non-compliance with the
6 inner court provision of the Zoning Code.

7 After the refusal has been issued,
8 the applicant's options are either to
9 redesign the building, to eliminate the
10 architectural feature or to seek a variance
11 from the Zoning Board of Adjustment.

12 Either option mentioned above adds
13 delays and costs to the construction project
14 and relates to an issue that is now
15 adequately addressed in the adopted Model
16 Building Code of the City for new
17 construction, alterations and additions.

18 Also due to periodic updates to
19 model building codes, advances in technology
20 and building design are incorporated in the
21 update, to provide for public safety and
22 health concerns of the local authority.

23 The elimination of the inner court
24 requirement for residential occupancies will
25 further aid to streamline the permit

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2 application process of the department and
3 assisted development community, wishing to
4 commence construction projects in a timely
5 manner in the City.

6 The department thanks the Building
7 Industry Association for highlighting this
8 matter in their report, and will continue to
9 work cooperatively actively with this
10 association to address other shared concerns,
11 in order to improve the service provided to
12 our stakeholders.

13 Thank you for allowing me to provide
14 the department's testimony.

15 I'd be happy to answer any questions
16 at this time.

17 COUNCIL PRESIDENT VERNA: Thank you.

18 You may have said this, and I was
19 distracted. Is it your testimony that the
20 current city building code adequately
21 addresses the issue of necessary ventilation
22 of new construction, alterations and
23 additions?

24 MR. HAIGLER: Yes, ma'am, it does.
25 The model codes take into account when there

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2 are areas in a building that doesn't have
3 natural lighting or natural ventilation by
4 openable windows.

5 And in those instances, the model
6 codes will require certain mechanical systems
7 to be installed in the building to provide
8 artificial ventilation and light.

9 It's like any office building that
10 does not have openable windows now, MSB, in
11 particular. We have no openable windows
12 there, but we have mechanical systems to
13 address some of the ventilation issues that
14 are necessary to sustain life in that type of
15 environment.

16 COUNCIL PRESIDENT VERNA: Let me
17 ask: When was the current building code
18 adopted?

19 MR. HAIGLER: Our current building
20 code, we adopted the International
21 Construction Code, and it was recently
22 adopted last year.

23 COUNCIL PRESIDENT VERNA: Well, I am
24 just thinking of... In my district there are
25 condos being built. They're in the process

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2 of being built. And I think there's just an
3 atrium that will be provided, without...
4 Doesn't have windows. It will just have the
5 atrium. So, how does this particular bill
6 now address that issue?

7 MR. HAIGLER: Well, with an atrium
8 you still would have --

9 COUNCIL PRESIDENT VERNA: I beg your
10 pardon?

11 MR. HAIGLER: With atriums, you
12 still would have to have some sort of
13 lighting. You would have natural lighting
14 from the -- from the -- from the skylight
15 area, and as far as --

16 COUNCIL PRESIDENT VERNA: There
17 would be ventilation from that?

18 MR. HAIGLER: As far as ventilation,
19 you would have mechanical ventilation
20 systems.

21 COUNCIL PRESIDENT VERNA: I'm sorry.
22 I can't hear you. There are conversations
23 going on all over.

24 MR. HAIGLER: With ventilation, you
25 would still have mechanical ventilation

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2 systems, air conditioning -- heating/air
3 conditioning ventilation systems that are
4 mechanically installed to provide a certain,
5 if I might get technical, certain cubic feet
6 per minute. CFMs. Most mechanical systems
7 provide a certain amount of ventilation, a
8 certain amount of air that's required to
9 sustain life. Generally you need somewhere
10 in the neighborhood of about 19 CFMs to have
11 proper ventilation, proper air.

12 COUNCIL PRESIDENT VERNA: Thank you
13 for your explanation. I just wouldn't know
14 that. Thank you.

15 MR. HAIGLER: Okay.

16 COUNCIL PRESIDENT VERNA: Is there
17 any request for suspension of the rules on
18 this?

19 MR. HAIGLER: Yes, ma'am. We do
20 request a suspension of the rules to permit
21 first reading at the next session of Council.

22 COUNCIL PRESIDENT VERNA: Thank you.
23 Are there any questions from members of the
24 committee or any comments?

25 (No response.)

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2 COUNCIL PRESIDENT VERNA: Seeing
3 none, I thank you.

4 Do we have anyone else to testify on
5 this bill?

6 (No response.)

7 COUNCIL PRESIDENT VERNA: I would
8 like the record to reflect that Councilman
9 Kelly has joined us.

10 And I would ask Tom Ericson to
11 please read the title of the next bill,
12 050232.

13 CLERK: Bill Number 050232, an
14 ordinance amending Title 14 of The
15 Philadelphia Code, entitled "Zoning and
16 Planning," by increasing the permissible
17 height for fences located on the front lot
18 line of certain properties in residential
19 districts; and by permitting certain
20 architectural embellishments on fences; all
21 under certain terms and conditions.

22 COUNCIL PRESIDENT VERNA: Mr.
23 Ericson, excuse me. I am just being told
24 that we do have witnesses on the last bill
25 that we just heard.

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2 If they're here, would they please
3 approach the witness table? That's on Bill
4 Number 050230.

5 Good morning. Please identify
6 yourself for the record and proceed with your
7 testimony.

8 MR. RUST: Good morning, Council
9 President.

10 My name is Lawrence Rust. I'm the
11 President of the Building and Industry
12 Association of Philadelphia, the BIA.

13 COUNCIL PRESIDENT VERNA: Do you
14 want to proceed with your testimony, sir.

15 MR. RUST: Thank you.

16 I'm a resident of Philadelphia. I
17 live in Councilman Clarke's district at 1119
18 Green Street. My company is also located in
19 Philadelphia, at 4418 North American Street.

20 I am the current President of the
21 BIA. And in October, the BIA released a
22 report called, If we fix it, they will come,
23 which you all have a copy of.

24 This report was the result of a
25 request from the Managing Director's Office

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2 to identify key problems with the development
3 process. The report was funded by the BIA
4 and also by the William Penn Foundation.

5 The findings of the report and the
6 recommendations include changes in three
7 bills which we're hearing today. May I
8 testify on all three bills or just the one?

9 COUNCIL PRESIDENT VERNA: No. One
10 at a time, please.

11 MR. RUST: Okay. The report has
12 been endorsed by 10,000 Friends of
13 Pennsylvania, the American Institute of
14 Architects, Central Philadelphia Development
15 Corporation, the Housing Alliance of
16 Pennsylvania, LISK, Philadelphia Association
17 of CDCs, Philadelphia Neighborhood
18 Development Collaborative, the Reinvestment
19 Fund, and the Urban Land Institute.

20 In the production of this report, we
21 interviewed over a hundred people. During
22 the preparation, many of them cited three
23 particular provisions, one being this inner
24 court requirement.

25 Bill Number 050230 regarding the

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2 inner court: A century ago in Philadelphia
3 it was required that a ten-foot wide inner
4 court be provided in tenements, to ensure
5 adequate light and ventilation.

6 Today L & I defines any area with
7 two walls and no roof or a partial roof as a
8 court and requires that that be 12 feet wide.

9 The exhibits that are shown over
10 here... A good example of this is where it
11 says cape code.

12 The two -- The three dormer windows
13 that are installed on the top of that house,
14 this is a typical architectural detail that
15 people use on modern homes.

16 The Zoning Code calls the space
17 between those two windows an inner court.
18 Therefore, that very basic design must go
19 before the Zoning Board of Adjustment.

20 Your question previously, Council
21 President, regarding the atrium, the
22 ventilation issue is still covered by the
23 Building Code.

24 We're dealing strictly with the
25 zoning issue. So, to further answer your

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2 question, the ventilation issue would still
3 be dealt with by building, and it would not
4 be disregarded by this change to the Zoning
5 Code.

6 Removal of the requirement would
7 also allow architects to add interesting
8 design elements to residential properties,
9 and not have to square off each building.

10 This home here, the cape code or the
11 Philadelphia twin, both of these buildings,
12 in order to meet Zoning Code and to go
13 through the process without going to the
14 Zoning Board, would be built without anything
15 projecting from the front of the building,
16 not a porch, not a bay window, not a dormer.

17 And what we're asking is simply that
18 the Zoning Code be amended and modernized so
19 that architects and builders can design and
20 build homes that are typically being built in
21 other parts of the United States.

22 Thank you.

23 COUNCIL PRESIDENT VERNA: Thank you.

24 Gentlemen, are you going to testify?

25 Please identify yourself for the

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2 record and proceed with your testimony.

3 MR. CLAFLIN: Thank you, Council
4 President. My name is George Claflin. I'm a
5 resident of the Fifth District. And I've
6 just built a building in the Far Northeast in
7 Councilman O'Neill's district, the Core
8 Services Building.

9 I'm an architect. I was the
10 President of the American Institute of
11 Architects, Philadelphia Chapter, in 1997.
12 And this morning I am representing that
13 organization.

14 I have very little to add. It was
15 very well expressed by my colleague. Our
16 organization has endorsed the report. As you
17 can see, it applies to both suburban type
18 dwellings that are built within the City
19 limits, such as cape code houses. It also
20 applies to twins, and particularly the type
21 of twins that the Philadelphia Housing
22 Authority is building as well.

23 These conditions, that do not really
24 impinge upon the safety and light and
25 ventilation access for the residents, occur.

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2 And the result is often that the
3 feature is completely eliminated and the
4 building becomes a box, where in the
5 beginning it was no one's intention to make
6 the box.

7 And I would just add to the comments
8 made before, that this is often the case when
9 the developer or owner is willing to spend
10 this money. So there's an economic factor
11 that's positive for the City, to allow these
12 features to be built.

13 COUNCIL PRESIDENT VERNA: Thank you
14 very much.

15 Good morning.

16 MR. JOHNS: Good morning, Council
17 President. Michael John's. I'm the General
18 Manager of Program Development and Design for
19 the Philadelphia Housing Authority.

20 And I'm here representing the
21 Housing Authority in support of this change
22 to the Zoning Code.

23 The plans that you see that are the
24 renderings of buildings that we've recently
25 completed, the top one on your right is the

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2 Lucien E. Blackwell Homes site. And those
3 townhomes, the Philadelphia Housing Authority
4 had to go to the Zoning Board of Adjustment
5 to do the bays, exactly which was explained
6 earlier, that cost us at least two months in
7 our construction time frame.

8 And as you know, with most of our
9 developments, we develop our developments
10 with a series of maybe bonds and tax credits.
11 And they come with strict time limits, in
12 terms of the time that we have to do the
13 construction documents, go through the L & I
14 process, and to complete the project and
15 occupy the buildings.

16 And each time we have to go to the
17 Zoning Board for a hearing that takes a
18 minimum of a month or two months to complete
19 that process.

20 So, we're here supporting the
21 changes.

22 COUNCIL PRESIDENT VERNA: Thank you
23 very much.

24 Are there any questions from members
25 of the committee?

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2 (No response.)

3 COUNCIL PRESIDENT VERNA: Gentlemen,
4 thank you.

5 Do we have anyone else to testify on
6 this bill?

7 (No response.)

8 COUNCIL PRESIDENT VERNA: Again, I
9 would ask Mr. Ericson to please read the
10 title of Bill Number 050232.

11 CLERK: An ordinance amending Title
12 14 of The Philadelphia Code, entitled "Zoning
13 and Planning," by increasing the permissible
14 height for fences located on the front lot
15 line of certain properties in residential
16 districts; and by permitting certain
17 architectural embellishments on fences; all
18 under certain terms and conditions.

19 COUNCIL PRESIDENT VERNA: Gentlemen.
20 Mr. Chapman.

21 MR. CHAPMAN: Madam President, for
22 the City Planning Commission, my name is
23 Thomas Chapman.

24 Bill Number 050232 amends Section
25 14-231 of the Philadelphia Zoning Code, by

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2 increasing the permissible height of fences
3 located in the front yard of a property from
4 three feet six inches to four feet.

5 Additionally, this bill would permit
6 certain architectural features on fences to
7 be up to eight feet in height.

8 The architectural features that
9 would be permitted to be up to eight feet in
10 height include fence posts, gate posts and
11 trellises.

12 The increase of fence height to four
13 feet was a recommendation of the Building
14 Industry Association report. This change
15 would make the allowable height of a fence to
16 be consistent with the standard fences
17 offered at many retail home stores.

18 The Planning Commission is
19 supportive of the increase in the allowable
20 fence height, but there were some concerns
21 regarding the permitted architectural
22 features that would be allowed up to eight
23 feet.

24 Having a four feet trellis on top of
25 an already four foot high fence would in

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2 effect create an eight foot high fence.

3 Additionally, there was a concern
4 that gate posts and fence posts being
5 permitted to double the height of the
6 allowable fence was excessive.

7 The Planning Commission at its
8 meeting of April 14, 2005, recommended that
9 Bill Number 050232 be approved, with the
10 recommendation that the word trellises be
11 removed from the bill, and that the height of
12 fence posts and gate posts be limited to six
13 feet.

14 I have prepared a proposed amendment
15 to this bill and at this time would submit
16 that to the committee.

17 That concludes my testimony. I'd be
18 happy to answer any questions.

19 COUNCIL PRESIDENT Verna: Mr.
20 Chapman, would it be necessary to remove the
21 word "trellis" if the overall height of the
22 fence or the architectural features were
23 limited to six feet?

24 MR. CHAPMAN: Madam President, it
25 was the recommendation of the commission that

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2 the height of the fence be limited to four
3 feet.

4 We didn't -- The commission didn't
5 address that particular question. But I
6 suppose that if the combined height of the
7 fence and trellis were limited to four feet,
8 that that would be consistent with the
9 Planning Commission's recommendation.

10 COUNCIL PRESIDENT Verna: Does L & I
11 agree with this amendment?

12 MR. HAIGLER: We are in concurrence
13 with the amendment, Madam President.

14 COUNCIL PRESIDENT Verna: All right.
15 Is there any testimony that you would like to
16 present us?

17 MR. HAIGLER: Yes, ma'am.

18 Good day, Council President Verna
19 and members of the committee. I am Otis
20 Haigler, Jr., Director of Legislative Affairs
21 for the Department of Licenses and
22 Inspections.

23 Today I'm here to provide testimony
24 on Bill 050232 which, if enacted, will amend
25 Chapter 14-200 of the Zoning Code, relating

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2 to fence height on the front property line of
3 residential properties.

4 The Department of Licenses and
5 Inspections, in its efforts to streamline the
6 regulatory process to improve service
7 provided to our stakeholders from time to
8 time conducts internal reviews of its
9 operations and codes that are enforced by the
10 department, to look for ways to streamline
11 its process and is eliminate requirements
12 which cause undue burden on the citizens we
13 serve.

14 With regard to the requirements of
15 Section 14-231, subsection four of the Zoning
16 Code, related to fence heights on the front
17 property line of residential properties, we
18 have found through experience and review that
19 an amendment of this section is warranted to
20 provide relief for homeowners who find
21 themselves in technical violation of the code
22 when purchasing a fence in the standard four
23 foot heights.

24 The current fence requirements of
25 Section 14-231 prohibits the installation of

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2 a fence on the front property line in excess
3 of three and a half feet in height.

4 Based on contact with local fence
5 retail outlets, we have been informed that
6 the standard height for fencing is either
7 four feet or six feet.

8 Sizes other than the standard height
9 or stock sizes are considered special orders
10 that generally cost more for the consumer to
11 purchase than the standard stock item.

12 Further, we have found through our
13 experience that the general public is not
14 aware of the three and a half foot fence
15 height requirement and make routine purchases
16 of fencing in the standard heights for
17 installation on their properties.

18 Enforcement of the current three and
19 a half foot fence provision often requires a
20 variance from the Zoning Board of Adjustment
21 for homeowners wishing to install a four foot
22 fence on their front property line.

23 This entails the payment of the \$100
24 fee for the hearing to be scheduled, and
25 could take many weeks before the hearing is

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2 held.

3 If the homeowner wanted an
4 accelerated hearing before the board, to
5 reduce the time of delay, an additional \$500
6 is needed for this service.

7 Since there has been little to no
8 opposition from the public regarding this
9 matter in the past, the board routinely has
10 granted the variance request.

11 After the variance request is
12 granted, the homeowner can now secure their
13 permit for an additional \$25 and install the
14 fence.

15 If a homeowner followed all the
16 outlined steps to comply with the current
17 requirements, it would cost at a minimum
18 \$125, excluding the time spent with the
19 department to apply for the permit and the
20 Zoning Board of Adjustment hearing which in
21 many cases, depending on the covered area and
22 type of fence purchased, is more than the
23 cost of the fence.

24 A minor amendment to the fence
25 requirements for installations on the front

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2 property line will aid to streamline the
3 permit application process and assist
4 homeowners with their efforts to improve the
5 esthetical appearance of their homes.

6 The department thanks the Building
7 Industry Association of Philadelphia for
8 highlighting this matter in their 2004 report
9 on building development in the City, and will
10 continue to work cooperatively with this
11 association to address other shared concerns,
12 in order to improve the service provided to
13 our stakeholders.

14 Thank you for the opportunity to
15 provide the department's testimony on this
16 issue, and I'd be happy to answer any
17 questions.

18 COUNCIL PRESIDENT Verna: Thank you.

19 Mr. Chapman, I think we have to
20 clarify the record. I believe when I asked
21 you about removing the trellis, if the
22 overall height of the fence with the
23 architectural features were limited to six
24 feet.

25 You said four feet.

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2 And yet, in your testimony I believe
3 you say that the commission is recommending
4 that the word "trellis" be removed from the
5 bill, and that the height of the fence posts
6 and gate posts be limited to six feet. Is it
7 four feet or six feet?

8 MR. CHAPMAN: Let me clarify that,
9 if I can, Madam President.

10 COUNCIL PRESIDENT VERNA: Please.

11 MR. CHAPMAN: The commission's --
12 The commission's recommendation was that the
13 height of the fence be four feet.

14 They also recommended that the word
15 "trellises" just be removed from the bill
16 completely, and also that gate posts and
17 fence posts be limited to a height of six
18 feet.

19 In response to your question, I said
20 that the commission didn't address the issue
21 of a fence with a two foot high trellis on it
22 that would make the fence and trellis a
23 combined six feet.

24 And I said that but if the combined
25 fence and trellis were limited to four feet,

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2 I suppose that would be consistent with the
3 Planning Commission's recommendation.

4 So, in other words, the Planning
5 Commission is recommending that a fence be
6 limited to four feet and that gate posts and
7 fence posts be limited to six feet.

8 COUNCIL PRESIDENT VERNA: I'll tell
9 you, it's about as clear as blue mud to me,
10 but I'll check it.

11 I will recognize Councilman O'Neill
12 at this time.

13 COUNCILMAN O'NEILL: Yes. Thank
14 you.

15 Gentlemen, this is primarily
16 directed to the Planning Commission, but
17 either of you can respond.

18 I don't know if I have 40,000 single
19 family homes in my district or 50, but
20 there's somewhere in that range.

21 Every one of them, I believe, is
22 impacted by this bill. And I'm not
23 necessarily against the idea of changing from
24 three and a half to four to make it easier
25 for people to get their fences from Home

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2 Depot.

3 But there's an issue here that's not
4 being addressed. I want to know if it was
5 addressed. I can't have this apply to those
6 40 or 50,000 homes, unless it is addressed.
7 And that is, the front of homes with solid
8 wall fences, I don't care if they're cheap
9 apache fences or the fancy white vinyl
10 fences... are offensive to a community. They
11 actually create a form of blight, visual
12 blight.

13 And many homes, row homes, twin
14 homes, single homes have raised front lawns.
15 They're not the same -- They're not the same
16 height as the sidewalk or the street.

17 So, there's -- there's an incline.
18 And people often put the fence on that
19 incline. Now, were the fence to be slatted,
20 were it to be a picket type fence, rather
21 than a solid fence in the front of the home,
22 air, light, view, it really doesn't have an
23 impact whether it's three and a half or four,
24 even if it is a raised front lawn.

25 But the solid wall, I won't find one

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2 person in my district, unless they already
3 have this, that thinks it is acceptable.

4 So, I would ask you how you feel,
5 whether there's been any discussions about
6 changing, as we move from three and a half to
7 four, changing the regulation for front of
8 the house fences, to be able to see through
9 them.

10 Some of these are large corner
11 properties that go -- You know, they wrap
12 around. And so, the wall that gets created
13 by this solid fence is enormous. So, I just
14 ask you to... I've talked to the sponsors
15 about this, and we've been in some
16 discussions. Thank you.

17 MR. CHAPMAN: Madam President, if I
18 could respond, personally that did not come
19 up in our discussion, but I have to say that
20 I would agree with the sentiments that
21 Councilman O'Neill just expressed.

22 We could -- We could probably amend
23 this bill with some language that would
24 require a certain percentage of the fence to
25 allow the penetration of light and air. I'm

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2 not exactly sure off the top of my head what
3 those words would be, but --

4 COUNCILMAN O'NEILL: There are other
5 jurisdictions that have that language, I
6 understand.

7 MR. CHAPMAN: Absolutely.

8 MR. HAIGLER: We would not be
9 opposed to an amendment to allow certain
10 openable area within the fence on the front
11 property line.

12 COUNCILMAN O'NEILL: Right.

13 MR. HAIGLER: Just make sure it's on
14 the front property line.

15 COUNCILMAN O'NEILL: Right, front of
16 the house. Wherever the front of the house
17 is.

18 MR. CHAPMAN: That's an excellent
19 suggestion, if I may say so.

20 COUNCILMAN O'NEILL: Thank you.

21 COUNCIL PRESIDENT VERNA: The Chair
22 recognizes Councilman DiCicco.

23 COUNCILMAN DiCICCO: Thank you,
24 Madam President, and I concur with Councilman
25 O'Neill. Myself and Councilman Mariano are

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2 the other sponsors of the bill.

3 I just placed a call, actually, to
4 Ventnor City, New Jersey, but the surveyor is
5 not available.

6 I know from personal experience,
7 doing the back of my house, that there's a
8 requirement that the fencing from the
9 property line must be a slatted picket type
10 fence at least the minimum of 15 feet back
11 from the property line before you can then
12 erect a solid fence between the party --
13 which becomes the party wall the property
14 line between the two adjacent properties.

15 So, we're going to ask... I know
16 Councilman Mariano is engaged in a discussion
17 with Mr. McDonald. And that we'll probably
18 vote this bill out as is, but we will have
19 amendments at the next -- for the next Rules
20 Committee meeting that will reflect some of
21 the opinions and recommendations that have
22 been made here.

23 But again, he's right, Councilman,
24 there are other jurisdictions. And I happen
25 to be engaged in doing it. Literally as we

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2 speak, there's fencing being placed up, and
3 there is a requirement.

4 I'm not sure what the requirement is
5 on the front side of the property, but I have
6 to believe -- would have to believe that it's
7 going to require -- that it would be
8 prohibited from doing a solid fence.

9 If they're saying in the back you
10 have to keep it open from 15 feet from the
11 property line, it just makes sense that it's
12 a slotted picket type fence in front, with a
13 height restriction as well.

14 COUNCIL PRESIDENT VERNA: The Chair
15 recognizes Councilman Kelly.

16 COUNCILMAN KELLY: Yes. Councilman,
17 I just want to ask if those other
18 jurisdictions, are they still -- Those
19 jurisdictions, are they limiting their fences
20 to four feet standard or are they --

21 COUNCILMAN DiCICCO: No. The only
22 jurisdiction I can speak of with some
23 knowledge is in Ventnor City, New Jersey,
24 there's a six foot height limitation, maximum
25 of six foot.

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2 So it's a ranch type house, big --
3 similar to properties in Northeast
4 Philadelphia. So you can put a maximum of
5 six feet. And that could be a solid fence.

6 But from the property line back to
7 wherever the house starts, because you
8 usually have a lawn, there's a minimum
9 requirement of 15 feet that the fence has to
10 be open fence, slatted picket type fence.

11 COUNCILMAN KELLY: Oh, slatted?

12 COUNCILMAN DiCICCO: Could be six
13 feet, but it's got to be at least open.

14 As to the front -- And what I just
15 said, I have to assume that it's going to be
16 the same requirement in the front. You can't
17 do a solid fence in the front or around the
18 perimeter of the property.

19 What the height limit there is I
20 don't know.

21 COUNCILMAN KELLY: What is the
22 height --

23 COUNCILMAN DiCICCO: They have
24 different zones in that township or that City
25 of Ventnor.

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2 Some zones would require... you can
3 actually put an eight foot fence. I guess
4 it's where it's more commercial, as opposed
5 to residential.

6 I don't have the facts. I'm
7 waiting. I'll get those over the next couple
8 weeks, and we can look at that as a template
9 to figure out what we might need to do here.

10 COUNCILMAN KELLY: What is the
11 height restriction in the front?

12 COUNCILMAN DiCICCO: I'm not sure of
13 that. I would assume... I'm only assuming.
14 It's probably four feet.

15 COUNCILMAN KELLY: Four feet?

16 COUNCILMAN DiCICCO: Because that
17 would match up with the 15 foot setback as
18 you come around to the back of the property,
19 but I could be wrong on that.

20 COUNCILMAN O'NEILL: My guess is
21 that these fences are being cut at four and
22 six because they're the standards that are
23 out there.

24 COUNCILMAN KELLY: They're the
25 standards.

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2 COUNCILMAN O'NEILL: But I think
3 there's another issue here; that's all.

4 COUNCILMAN DiCICCO: And not only is
5 it a question of esthetics; I think it's a
6 question of safety as well.

7 I mean, people can get behind that
8 fence, and... You know, it's a wall. I
9 mean, you're putting up a wall. I don't care
10 if it's vinyl or masonry; it's a wall.

11 And it does esthetically really lend
12 to the openness of the neighborhood. I mean,
13 we don't have this problem in South
14 Philadelphia, but...

15 COUNCILMAN KELLY: Setting or at
16 least putting this at four feet is going to
17 make a lot of sense because it's going to cut
18 down on the amount of variances that are
19 required in the L & I.

20 COUNCILMAN DiCICCO: But you're
21 going to want to allow people at least to do
22 six foot in the back where the yards butt up
23 if they want a little bit more privacy.

24 COUNCILMAN KELLY: I would think
25 that most of the fences that are in the City

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2 are probably four feet anyway.

3 MR. HAIGLER: That's correct.

4 COUNCILMAN KELLY: And you're just
5 making them all legal.

6 COUNCILMAN DiCICCO: In the row
7 house neighborhoods they are primarily six
8 foot. In the rowhouse neighborhoods.

9 COUNCILMAN KELLY: In the row
10 houses? They're behind them, right.

11 COUNCILMAN O'NEILL: The old
12 rowhouse neighborhoods.

13 COUNCILMAN DiCICCO: Right. There's
14 still a lot of --

15 COUNCILMAN O'NEILL: The new ones
16 have front lawns.

17 COUNCILMAN DiCICCO: We still have
18 concrete.

19 COUNCIL PRESIDENT VERNA: Thank you.

20 I believe we have several other
21 people that would like to testify. If you
22 could make your testimony rather brief, we
23 would appreciate it.

24 Again, I would ask you to testify --
25 give your name, and then proceed with your

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2 testimony.

3 MR. SAUER: Good morning, Madam
4 President, and members of Council. My name
5 is Rick Sauer.

6 COUNCIL PRESIDENT VERNA: I'm sorry,
7 sir. You're going to have to pull the
8 microphone closer to you.

9 MR. SAUER: Sure. Is that better?

10 Good morning, Madam President, and
11 members of Council. My name is Rick Sauer,
12 and I'm the Executive Director of the
13 Philadelphia Association of Community
14 Development Corporations.

15 And I want to thank you for the
16 opportunity to testify today, in particular,
17 on Bill 050232.

18 I'm here to actually support the
19 whole package of bills to update the Zoning
20 Code before you today and implement the
21 recommendations that were identified in the
22 BIA report released last year that we
23 endorsed, which makes many constructive
24 recommendations to improve Philadelphia's
25 development process.

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2 I think what we've seen is that the
3 cumbersome aspects of the development in
4 Philadelphia are barriers for both market
5 rate developers, affordable housing
6 developers and homeowners looking to improve
7 their existing homes, and ultimately increase
8 the cost and the time frame for doing
9 development improvement to homes.

10 And the Zoning Code, in particular,
11 has been long recognized as overly
12 complicated and technical. So, we're glad to
13 see that the City is reviewing the current
14 code, to figure out how we can streamline
15 that.

16 We're certainly supportive of that
17 process because we think it has great
18 potential to facilitate further development
19 and improvement in our neighborhoods.

20 We don't think, though, that we
21 should wait for a comprehensive overview to
22 address some specific short-term issues that
23 we think Council could take action on now.

24 So, in particular, this Bill 050232,
25 as we know, would raise the maximum height of

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2 front yard fence from three and a half to
3 four feet and permit homeowners to buy retail
4 fences that are commonly available.

5 We want to encourage homeowners to
6 improve the appearance of their properties.
7 And right now I think we're putting some
8 obstacles in their way to doing that.

9 There's an exhibit I think may have
10 been put up over there (Indicating) that lays
11 out some of the cost and time implications
12 for someone who wants to go out. Oh, I'm
13 sorry. Over on this side (Indicating).
14 Didn't see where he put it.

15 So, if you want to put up -- If you
16 don't want to get a custom built fence to
17 meet the three and a half foot requirement,
18 you have to go for the appeal to the Zoning
19 Board.

20 You -- Typically they request that
21 you have representation from a lawyer.
22 There's a series of weeks that it takes to go
23 through this process. And it could end up
24 costing the homeowner more to actually file
25 the paperwork and hire the attorney to

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2 represent them than to buy the fence itself..

3 COUNCILMAN O'NEILL: You don't need
4 an attorney unless you're a corporation.

5 MR. SAUER: I understand you're not
6 required to have an attorney. My
7 understanding is you're often requested,
8 though, to be represented.

9 In any case, I think what this bill
10 would do would help facilitate more
11 homeowners to be able to go out and buy the
12 standard fence that are available.

13 And we want to provide choice to
14 homeowners to be able to do that. So, we
15 encourage Council to take action and advance
16 this bill, to enable homeowners, as well as
17 others involved in neighborhood
18 revitalization, to improve the appearance of
19 our neighborhoods.

20 COUNCIL PRESIDENT VERNA: Thank you
21 very much.

22 MS. GRAY: Good morning, Madam
23 Chair.

24 COUNCIL PRESIDENT VERNA: Good
25 morning.

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2 MS. GRAY: Excuse me?

3 COUNCIL PRESIDENT VERNA: I said
4 good morning.

5 MS. GRAY: Oh. Good morning.

6 And members of Council. My name is
7 Rose Gray, and I'm Director of Development
8 for Asociacion de Puertorriquenos en Marcha,
9 and I'm here today in support of this bill.

10 Prior to my tenure with -- present
11 tenure with APM I served three mayors as the
12 administrative for the Zoning Board, the
13 Board of Building Standards, and the L & I
14 Review Board.

15 25 years later this bill is on the
16 table where it was back when I was the
17 administrator. And the thought process at
18 that time why we didn't increase the fence
19 was that they were considered -- four foot
20 was considered a spite fence.

21 I don't think six inches of fencing
22 makes a neighbor in disharmony with his
23 fellow neighbors. It is the neighbors that
24 make the disharmony.

25 So I think this is also a

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2 constituency issue, as well as a developer
3 issue, and affordable housing in particular
4 because the costs that were reflected by what
5 Mr. Sauer had said previously is evident.

6 The cost of getting a variance is
7 almost the cost of doing a fence. So, I
8 don't think we helped our constituency by
9 continuing to make them get manufactured
10 fencing, especially manufactured to meet the
11 Zoning Code.

12 So today we are in support of a four
13 foot limit. And my... What is it called
14 here? My brief addresses all the three
15 issues before you today.

16 So, I sincerely hope that you
17 consider this. And this is the beginning of
18 a dialog to look at other issues that the
19 Zoning Code misses presently, and to continue
20 with revisions. I think the time is now.
21 Thank you.

22 COUNCIL PRESIDENT VERNA: Thank you
23 very much.

24 The Chair recognizes Councilman
25 O'Neill.

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2 COUNCILMAN O'NEILL: I just want to
3 bring Mr. Chapman back for a quick question;
4 that's all; clarification.

5 COUNCIL PRESIDENT VERNA: Is Mr.
6 Chapman here?

7 COUNCILMAN O'NEILL: Tom, you're
8 familiar with the situation I mentioned with
9 the raised lawn, front lawns.

10 MR. CHAPMAN: Yes.

11 COUNCILMAN O'NEILL: Oftentimes
12 there's a retaining wall that has been built,
13 usually by the homeowner over the years, to
14 make the front lawn level in front of their
15 house.

16 MR. CHAPMAN: Right.

17 COUNCILMAN O'NEILL: So you might
18 have two, three, four sometimes five feet of
19 wall, brick or stone wall in front of the
20 house, and then a fence.

21 This has nothing to do with three
22 and a half to four. I'm just pointing out
23 that it's my understanding -- and you can
24 correct me. This is the clarification I'm
25 looking for.

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2 I come in for a fence on top of that
3 front wall. And this is a wall that's right
4 at the sidewalk. Looks very nice when you
5 drive by.

6 I then put a three and a half or a
7 four foot fence up. I'm not really concerned
8 about that issue. That is legal, right?
9 Under the three -- If it's three and a half
10 on top of that -- on top of that wall? The
11 wall doesn't enter into the height.

12 MR. HAIGLER: It does.

13 MR. CHAPMAN: Councilman, I think my
14 reading of the code is the opposite. And I
15 think Mr. Haigler would agree with me.

16 COUNCILMAN O'NEILL: Well, L & I has
17 some work to do, because I can tell you there
18 are...

19 MR. CHAPMAN: I believe that once
20 you erect --

21 COUNCILMAN O'NEILL: There are a lot
22 of them out there.

23 MR. HAIGLER: I think the retaining
24 wall issue is a separate issue. The
25 retaining wall issue is required as a

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2 building permit or building issue. A fence
3 is a zoning issue.

4 COUNCILMAN O'NEILL: Let's make sure
5 the record is clear. Is it the retaining
6 wall? Today. I know we haven't changed this
7 yet. So, I don't want to enter into a four
8 foot discussion.

9 But today over-the-counter permit,
10 not zoning variance. I've got a retaining
11 wall at my sidewalk in front of my front
12 lawn. Let's just say for argument it is
13 three feet tall.

14 Can I put more than a half a foot
15 above that as a fence, with a three and a
16 half foot limit or does the point of
17 measurement start with the top of the wall?

18 MR. CHAPMAN: Councilman, I can read
19 directly from the Zoning Code on that. And I
20 believe that you count the height of the
21 retaining wall, and then count the height of
22 the fence.

23 COUNCILMAN O'NEILL: Okay.

24 MR. CHAPMAN: So if the retaining is
25 three, and you want to put a three and a half

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2 foot fence on top of that, you have six and a
3 half feet of fencing.

4 COUNCILMAN O'NEILL: Thank you.
5 That's actually encouraging.

6 MR. CHAPMAN: Read right from the
7 Zoning Code under retaining walls, it says,
8 retaining walls shall be considered as fences
9 and controlled under this paragraph.

10 COUNCILMAN O'NEILL: Okay. Great.

11 There's an area -- It's not in my
12 district -- that's actually not too far from
13 an area that we both know down in Mayfair
14 that I have -- that I drive by every so
15 often. And it's pretty -- Right on Cottman
16 Avenue. It's pretty ugly. Okay. I just
17 assumed, since they're so visible, they were
18 legal. Thank you.

19 COUNCIL PRESIDENT VERNA: Thank you.
20 Are there any other questions or comments
21 from members of the committee?

22 Again, I would ask you to identify
23 yourself.

24 MR. RUST: Lawrence Rust,
25 representing the BIA. I wanted to address

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2 Councilman O'Neill's question about solid
3 fencing.

4 COUNCIL PRESIDENT VERNA: Councilman
5 O'Neill.

6 MR. RUST: I think this is a very
7 reasonable question and a reasonable concern.

8 However, right now, as the Zoning
9 Code is written, you can go in and apply for
10 and receive counter over the counter a permit
11 for a three and a half foot fence that is
12 solid.

13 So what we're talking about doing
14 with this bill is to increase it to four feet
15 tall.

16 COUNCILMAN O'NEILL: I'm disagreeing
17 with you.

18 MR. RUST: Okay.

19 COUNCILMAN O'NEILL: I honestly
20 disagree with you.

21 And I have about 40,000 homeowners
22 who would welcome the compromise between
23 lifting the limit and going to four, and
24 opening up the front fence and not having it
25 be a wall.

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2 Now, anyone who's interested in
3 design and neighborhood -- the look of a
4 neighborhood should think that's a friendly
5 amendment.

6 MR. RUST: No, no. I understand.

7 COUNCILMAN O'NEILL: And I don't
8 want to debate it; please.

9 I agree that somebody's making these
10 at four feet because the rest of the world is
11 doing it. But it's an opportunity to also do
12 what the rest of the world is doing and
13 they're not allowing solid fences in front of
14 houses.

15 MR. RUST: I'm not disagreeing.

16 COUNCILMAN O'NEILL: So, it was
17 something that was left out. I think we have
18 a nice conversation going with the Planning
19 Commission.

20 We all agree we want to amend it.
21 We have, I think, another hearing in a week.
22 And we'll have a good amendment, and we'll
23 pass it.

24 We're not talking about holding off
25 on this. There's no hidden agenda here. I

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2 actually think you guys have done us a
3 service by bringing these bills to us, but
4 that doesn't mean that there aren't some
5 issues out there that could be even more
6 helpful.

7 Once in a while we know something,
8 from talking to constituents, visiting
9 different neighborhoods. And I'm just trying
10 to add that to the mix.

11 MR. RUST: To complete my thought,
12 I'm not disagreeing with you at all, but what
13 I'm saying is that we're dealing with the
14 zoning issue, and your concerns are the place
15 to deal with them is really the Building
16 Code, because right now as it sits, the three
17 and a half foot fence can be solid. And I
18 happen to agree with you.

19 COUNCILMAN O'NEILL: This is going
20 to become a zoning issue, because if someone
21 wants to do a solid fence, and they want to
22 do it at four feet, they're going to have to
23 go to the Zoning Board.

24 And I just say you come here at your
25 own risk if you come back to us and say,

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2 that's a hardship for those people. They
3 want to have a wall in front of their house
4 instead of a fence.

5 So, it is a zoning issue. It
6 becomes a zoning issue if we create a
7 requirement that it be an open fence. But I
8 think it's a good requirement, just as going
9 to four feet is a good requirement.

10 MR. RUST: Thank you.

11 COUNCIL PRESIDENT VERNA: Thank you.
12 Are there any other questions or comments
13 from members of the committee?

14 (No response.)

15 COUNCIL PRESIDENT VERNA: Would
16 anyone else like to testify on this bill?

17 (No response.)

18 COUNCIL PRESIDENT VERNA: Seeing no
19 one, I would ask Mr. Ericson to please read
20 the title of Bill Number 050233.

21 CLERK: An ordinance, amending Title
22 14, entitled "Zoning and Planning," to add
23 definitions for certain architectural
24 features that are commonly located on
25 residential buildings, and to permit said

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2 architectural features on residential
3 buildings located in residentially zoned
4 districts, under certain terms and
5 conditions.

6 MR. CHAPMAN: Good morning once
7 again, Madam President, and members of the
8 Rules Committee. Thomas Chapman for the City
9 Planning Commission.

10 Bill Number 050233 amends Section
11 14-102 and 14-231 of the Zoning Code by
12 adding a number of definitions of
13 architectural features; and then further, by
14 permitting them in all residential districts.

15 This bill defines balustrades, bay
16 windows, chimneys, cornices, entranceway
17 covers, molding and belt courses, pents,
18 pilasters and rustications, and then permits
19 them in all residential districts so that
20 they are not considered as occupied area or
21 encroachments into the front, side or rear
22 yards, court or required setback. An
23 illustration of these terms are shown to your
24 left on the photo board.

25 Under the current provisions of the

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2 Zoning Code, all the aforementioned
3 architectural features would be considered
4 part of the occupied area calculations and
5 considered encroachments.

6 Because some interpretations of the
7 features have proven a detriment to new
8 construction and have helped to cause a
9 backlog at the Zoning Board of Adjustment,
10 the BIA's report specifically recommended
11 that these improvements be permitted without
12 any zoning implications.

13 The Planning Commission at its
14 meeting April 14, 2005, considered this bill
15 and recommended that Bill Number 050233 be
16 approved.

17 Thank you.

18 COUNCIL PRESIDENT VERNA: Thank you.

19 MR. HAIGLER: Good day, Council
20 President Verna and members of the committee.
21 I'm Otis Haigler, Jr., Director of
22 Legislative Affairs for the Department of
23 Licenses and Inspections.

24 Today I'm here to provide testimony
25 on Bill 050233 which, if enacted, will add

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2 definitions to the Zoning Code and permit
3 certain common architectural features on
4 residential properties.

5 This amendment was proposed as a
6 result of the report issued by the Building
7 Industry Association of Philadelphia,
8 concerning ways in which to streamline the
9 regulatory process in order to remove
10 impediments to development in the City.

11 Many of the recommendations in this
12 report have already been adopted by the
13 department, and we will continue to work
14 cooperatively with the association to address
15 other shared concerns, in order to improve
16 the service provided to our stakeholders.

17 The amendments highlighted in Bill
18 050233 are minor, esthetical enhancements
19 which will approve the appearance of
20 residential properties and assist homeowners
21 with this effort.

22 It is for this reason that the
23 department fully supports passage and
24 enactment of Bill 050233.

25 We will be offering a technical

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2 amendment to the bill, in order to clarify
3 the requirements governing when balustrades
4 are permitted.

5 The department thanks the Building
6 Industry Association of Philadelphia for
7 highlighting this matter in their 2004
8 report.

9 Thank you for the opportunity to
10 provide the department's testimony. And I
11 will be happy to answer any questions at this
12 time.

13 COUNCIL PRESIDENT VERNA: Thank you.

14 Do we have a copy of the amendment?

15 MR. HAIGLER: Yes, we do, Madam
16 President.

17 COUNCIL PRESIDENT VERNA: May we
18 have it, please?

19 Gentlemen, you both testified that
20 these changes to the Zoning Code are as a
21 result of recommendations contained in a 2003
22 report of the Building Industry Association
23 of Philadelphia.

24 Are there other recommendations of
25 the association, other than those that are

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2 being proposed to us today, that you
3 anticipate being implemented?

4 MR. HAIGLER: Well, we have already
5 implemented or started to implement areas in
6 the way of automation, automating our
7 processes, as you know, to streamline the
8 process of application approvals and
9 applications that are made to the department.

10 We hope to in the near future be
11 able to allow a lot of our application to be
12 applied for over the internet. This should
13 help the building industry tremendously so
14 they utilize this service a lot in their
15 process.

16 Something that's industry wide
17 already that I know I have my own little
18 favorite where I can get my registration for
19 my vehicle.

20 I love doing it over the internet.
21 Always procrastinate. I wait till the last
22 minute to register my vehicle, but it's easy
23 when I can go right on line and do that. And
24 it's a service that is provided and that we
25 would hope to provide in the near future.

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2 COUNCIL PRESIDENT VERNA: Thank you.

3 And is there a need for suspension
4 of the rules, and are you requesting that?

5 MR. HAIGLER: Well, we would like to
6 request a suspension of the rules, to permit
7 first reading at the next session of Council.
8 Thank you.

9 COUNCIL PRESIDENT VERNA: Thank you.
10 The Chair recognizes Councilman
11 Clarke.

12 COUNCILMAN CLARKE: Thank you, Madam
13 President. Good morning.

14 With respects to the projecting
15 architectural features, there's one that I do
16 have a question, the balustrade or some
17 people would probably call it a balcony, not
18 a balcony.

19 MR. HAIGLER: That's why we're
20 offering this friendly amendment, to reduce
21 the projection.

22 Currently, under the current
23 provision of the ordinance, I think the
24 projection says it has to be at least three
25 feet, no more than three feet.

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2 We're scaling that back to 24 inches
3 because we don't want that to be confused
4 with a balcony. You won't be able to stand
5 on it. It will be too small. It's an
6 architectural feature.

7 COUNCILMAN CLARKE: Okay. All
8 right. That was my question, the limitations
9 as it relates to protrusion.

10 MR. HAIGLER: That's correct. And
11 we're scaling that back to 24 inches.

12 COUNCILMAN CLARKE: What's the
13 limit, in terms of height? Would it be
14 second floor up or would it be on the first
15 floor?

16 MR. HAIGLER: It doesn't really say.
17 We have no language currently in the
18 definition as to where this would be located,
19 either first or second floor. But if it's
20 only 24 inches that it can protrude, it
21 probably really wouldn't make too much of a
22 difference either way.

23 COUNCILMAN CLARKE: If it were on
24 a... Just... If it were on a Center City
25 street...

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2 MR. HAIGLER: Well, yeah.

3 COUNCILMAN CLARKE: ...two feet out
4 from the building line on the first floor,
5 you don't think that could be problematic?

6 MR. HAIGLER: It wouldn't extend out
7 more than what the steps currently in the
8 front of the property would extend out from
9 the property.

10 COUNCILMAN CLARKE: But if the steps
11 were not on that particular side. As an
12 example, there's a corner property, say, Pine
13 Street. And then you have 18th Street where
14 the steps entering the property on 18th
15 Street, and then the side is Pine Street,
16 right? Where there are no steps, no entry.
17 And you have windows, and you have these
18 balustrades that could protrude two feet out
19 from the side of that building on the first
20 floor, do you see the potential for a
21 problem?

22 MR. HAIGLER: That will take some
23 thought. I understand where you're coming
24 from, Councilman. And you don't want to
25 encroach onto the public right of way and

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2 cause any concerns related to what the
3 already openable area. If you have -- If you
4 have a certain amount of sidewalk clearance,
5 unobstructed area on the sidewalk, you don't
6 want to encroach onto that area.

7 COUNCILMAN CLARKE: Right.

8 MR. CHAPMAN: Councilman, if I may,
9 typically in the situation that you
10 described, the windows are going to be
11 elevated somewhat up off the sidewalk maybe
12 six or seven or eight feet. So that at...
13 Where the building meets the ground, you
14 know, it would be possibly...

15 COUNCILMAN CLARKE: I only say that
16 because I have a friend who has a property,
17 and the windows are five feet, five and a
18 half feet.

19 I'm six three. Potential for me to
20 get knocked in the head is quite evident. I
21 think, Councilman O'Neill, you're around six
22 three or six four.

23 Councilman O'Neill and I might have
24 a problem walking down that street. And I'm
25 just concerned that if we allow these

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2 protrusions on --

3 MR. HAIGLER: I'm not exactly sure
4 if I've seen them typically at the first
5 floor level.

6 I mostly have seen this type of
7 feature at the second floor or upper floor
8 levels of the building.

9 I mean, I don't think I've... Maybe
10 somebody might have seen this in some area of
11 the City, but I don't think I've typically
12 seen this at the first floor level.

13 COUNCILMAN CLARKE: Okay. All
14 right.

15 MR. HAIGLER: Maybe one of the
16 architects --

17 COUNCILMAN CLARKE: For the record,
18 we're authorizing that, just for the record,
19 first floor.

20 MR. HAIGLER: This bill doesn't
21 prevent it at the first floor level.

22 COUNCILMAN CLARKE: Okay.

23 MR. HAIGLER: As it's currently
24 written, it doesn't prevent it at the first
25 floor level.

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2 COUNCILMAN CLARKE: All right.

3 Thank you.

4 COUNCIL PRESIDENT VERNA: Okay. Any
5 other questiones or comments from members of
6 the committee?

7 (No response.)

8 COUNCIL PRESIDENT VERNA: Do we have
9 anyone else to testify on this bill?

10 Please approach the witness table.
11 Again, I would ask you to identify yourself
12 for the record and proceed with your
13 testimony.

14 Again, Michael Johns, General
15 Manager for Program Development and Design
16 for the Philadelphia Housing Authority.

17 I just want to address what just
18 came up, in terms of the encroachment onto
19 the street, the actual building.

20 And George Claflin is going to
21 explain a little bit more about that. It
22 actually... This actually represents an
23 encroachment onto the front yard, not into
24 the right of way.

25 So the requirement of the two

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2 feet -- For example, if the Zoning Code
3 requires a front yard of ten feet, and you
4 have to have the ten feet from the right of
5 way or the pavement.

6 And then if you want to encroach two
7 feet to put this balustrade on, then you're
8 encroaching two feet onto the front yard,
9 never onto the pavement.

10 Like, for example, in a typical
11 North Philadelphia row home where your
12 property line is essentially the pavement,
13 that you couldn't do this balustrade two feet
14 out.

15 You would still have to go for some
16 type of a variance or something like that or
17 you'd have to go to the Streets Department
18 because they control the encroachment onto
19 the pavement.

20 But George is going to explain a
21 little bit more about that.

22 MR. CLAFLIN: I'm George Claflin. I
23 was introduced before. Practicing architect
24 and representing the American Institute of
25 Architects.

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2 May I have permission to approach
3 the graphic up there?

4 COUNCILMAN CLARKE: (Nods head up
5 and down.)

6 MR. CLAFLIN: This speaker
7 (Indicating) working?

8 COUNCILMAN CLARKE: Yes.

9 MR. CLAFLIN: Thank you.

10 We prepared a graphic of a typical
11 Philadelphia house. And this would -- The
12 issues here apply to all neighborhoods and
13 all house types, but we didn't really have
14 the time to do it for every type. And it
15 reviews this.

16 I think the key point, though, on
17 the balcony question is that all of this
18 relates to zoning required front rear and
19 side yards, not street relationships or
20 encroachment on the street space which is, as
21 I understand, regulated by the Streets
22 Department, and no change in that is proposed
23 here.

24 Just going from the bottom to the
25 top, rustication. That's an exaggeration of

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2 the masonry effect of the base.

3 And again, we're showing you
4 examples that you will recognize as
5 traditional architecture in Philadelphia.

6 COUNCILMAN CLARKE: I'm only asking
7 about the balustrade.

8 MR. CLAFLIN: (Indicating.)

9 COUNCILMAN CLARKE: Yes.

10 MR. CLAFLIN: Yes. That's the
11 example --

12 COUNCILMAN CLARKE: Would that be a
13 permissible use on a first floor? That's the
14 only question I have.

15 MR. CLAFLIN: If there were no front
16 yard, it would in my opinion not be
17 permissible. If there were a front yard,
18 yes.

19 COUNCILMAN CLARKE: We're talking
20 about Center City, no yard -- no front yards.

21 MR. CLAFLIN: If there were no front
22 yard, no, not on the first floor.

23 COUNCILMAN CLARKE: It would not be
24 permissible on the front or on the side of a
25 property that faced the street frontage. If

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2 you have a corner property -- Do you
3 understand what I'm saying? You have a
4 corner property --

5 MR. CLAFLIN: Yes, no encroachment
6 in the street space.

7 COUNCILMAN CLARKE: Okay. No
8 encroachment in the street. Okay.

9 MR. CLAFLIN: No encroachment in the
10 required street clearance.

11 COUNCILMAN CLARKE: Okay. All
12 right.

13 MR. CLAFLIN: So we have examples
14 here of rustication. That's the
15 exaggeration.

16 COUNCILMAN CLARKE: I'm okay with
17 that. I just had that one question about the
18 balustrade.

19 All right. Thank you.

20 MR. CLAFLIN: Rustication
21 exaggeration of the masonry effect at the
22 base, pilaster which is a non-structural
23 column often associated with an entrance
24 where you might see it on the surface of a
25 dwelling in another position, the entranceway

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2 cover, the pent which we see a lot of in
3 Society Hill. This is a small roof of --
4 intermediate to the height of the building,
5 that covers the entrance and is a tradition.
6 Certainly the bay window. The bay window is
7 not a full bay in this definition. This is a
8 bay window that starts above the floor line.
9 The molding and belt course which is a
10 decorative element that you see in many
11 Philadelphia buildings. The cornice which
12 you see at the top of many Philadelphia
13 buildings, and the chimney.

14 And the other point I want to make
15 is that these are shown as traditional. It
16 could be modern. There's no stylistic
17 suggestion here.

18 It is the opinion of many
19 architects, and certainly the AIA of
20 Philadelphia would agree with this, that the
21 buildings that face the street make the space
22 of the street.

23 They define what is really the
24 public space. And we are in general in favor
25 of making that public space as rich in

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2 architectural detail as is possible.

3 So, where owners and developers are
4 willing to provide these features, we think
5 that it is an appropriate flexibility in the
6 yard space, as required under the zoning, to
7 allow these features.

8 Thank you.

9 COUNCIL PRESIDENT VERNA: Thank you
10 very much.

11 Please identify yourself for the
12 record and proceed with your testimony.

13 MR. MCPHEDRIN: Good morning,
14 Council President. My name is Sue McPhedrin.
15 And I work for the Reinvestment Fund. I'm
16 also a Philadelphia resident.

17 Committee members may be most
18 familiar with TRF's recent role with NTI, but
19 for 20 years TRF has provided financing for
20 residential and other developments in
21 Philadelphia throughout the region.

22 We've helped to create more than
23 10,000 housing units, most of these in
24 Philadelphia, and most of them affordable.

25 For years we financed only

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2 affordable housing development. This was
3 just about the only game in town.

4 Now increasingly we receive
5 financing requests from market rate
6 developers in Philadelphia. This is a great
7 trend, and all of us who believe in strong
8 Philadelphia neighborhoods, would do well to
9 support it, along with continued, affordable
10 housing development which is also critical.

11 Developers consider many factors
12 when they decide where to build: Reasonable
13 costs, steady stream of buyers and renters,
14 available financing, public support and a
15 predictable development process are all
16 important.

17 Also critical are building and
18 zoning codes that reflect current best
19 practices and support the development of
20 homes that meet the needs of today's buyers.

21 This bill before you today, as well
22 as the two others, represent three
23 opportunities to bring Philadelphia's Zoning
24 Code in line with 21st century standards.

25 Removing three of the reasons why

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2 developers may need to seek a zoning variance
3 will translate into faster development
4 timetables, lower costs and better designs.

5 Many large cities have entirely
6 rewritten their codes to support modern urban
7 design trends.

8 While these three changes may seem
9 minor, they represent important first steps
10 towards modernizing our process and creating
11 an environment where builders and home buyers
12 can thrive.

13 Please support these amendments and
14 take this opportunity to promote the
15 redevelopment of Philadelphia neighborhoods.

16 I also have testimony here from Mr.
17 Shaheed Dewan, Chief Financial Officer of
18 Universal Community Homes which I'm happy to
19 read or hand in.

20 COUNCIL PRESIDENT VERNA: If you
21 have copies, I would suggest that you submit
22 to it each of the members, and we will give a
23 copy to the stenographer, and it will be made
24 part of the record.

25 MR. RUST: Thank you very much.

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2 COUNCIL PRESIDENT VERNA: Thank you.

3 Do we have anyone else to testify on this
4 bill?

5 Mr. Chapman.

6 MR. CHAPMAN: Thank you, Madam
7 President.

8 I want to get back a bit to
9 Councilman Clarke's question. I'm not sure
10 why this didn't occur to me when you asked
11 the question, but in the situation that you
12 described, that extension over the sidewalk,
13 that would become a Streets Department issue.

14 COUNCILMAN CLARKE: Yes.

15 MR. CHAPMAN: And you would need to
16 get -- You would need to -- You would need to
17 establish a certain amount of clearance, and
18 the depth of that balustrade or -- or...
19 Yeah, that's what we're talking about,
20 balustrade.

21 Once it got -- And I'm not sure
22 about this. But once it got to be either 18
23 or 24 inches, once it gets to that depth,
24 then it requires an ordinance of Council.

25 COUNCILMAN CLARKE: Okay.

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2 MR. CHAPMAN: So, you do have that
3 protection there.

4 COUNCILMAN CLARKE: Okay. Thank
5 you.

6 COUNCIL PRESIDENT VERNA: Thank you
7 very much.

8 Are there -- Do we have any other
9 witnesses to testify on this bill?

10 (No response.)

11 COUNCIL PRESIDENT VERNA: Seeing
12 none, I would ask Mr. Ericson to please read
13 the title of Bill Number 050339.

14 CLERK: An Ordinance to amend the
15 Philadelphia Zoning Maps by changing the
16 zoning designations of certain areas of land
17 located within an area bounded by Bridge
18 Street, Tacony Street, a line 245 feet north
19 of Sanger Street, the Delaware River and the
20 Frankford Creek.

21 MR. CHAPMAN: Good morning once
22 again, Council President Verna and members of
23 the Rules Committee.

24 Again, for the City Planning
25 Commission, my name is Thomas Chapman.

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2 Bill Number 050339 would rezone 1.4
3 acres of land located within the Frankford
4 Arsenal Business Center from the current
5 designation of G-2 general industrial to a
6 designation of C-3 commercial.

7 The purpose of this rezoning is to
8 allow for the commercial development of this
9 property.

10 The Frankford Arsenal property was
11 the subject of Bill Number 030068 which
12 rezoned approximately 46 acres of the 83 acre
13 Frankford Arsenal to a zoning designation of
14 C-3 commercial.

15 The subject bill will provide
16 additional area in the commercial development
17 in order to provide loading and better
18 circulation within the proposed development
19 of that site.

20 The Planning Commission at its
21 meeting of May 12, 2005, considered this bill
22 and recommended that it be approved.

23 Thank you.

24 COUNCIL PRESIDENT Verna: Thank you.

25 I'm assuming that when you state

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2 that the amendment would provide, quote,
3 loading, end of quote, I'm assuming that it
4 is for general use within the business center
5 or is it for one particular business?

6 MR. CHAPMAN: No. No, Madam
7 President.

8 This zoning would... There's a
9 proposal for the northern end of the
10 Frankford Arsenal.

11 COUNCIL PRESIDENT VERNA: Sorry.
12 Can't hear you.

13 MR. CHAPMAN: There's a proposal for
14 the northern end of the Frankford Arsenal
15 property to be developed with a shopping
16 center.

17 And the developer, after discussions
18 with several tenants, decided that they
19 needed to provide additional area within the
20 Frankford Business Center for this
21 development. And that's why we're here
22 before you today.

23 Most of the property needed for the
24 commercial development had been rezoned back
25 in 2003. And this is a relatively small

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2 rezoning.

3 COUNCIL PRESIDENT VERNA: Very well.

4 Are there any questions from members
5 of the committee?

6 The Chair recognizes Councilman
7 O'Neill.

8 COUNCILMAN O'NEILL: Mr. Chapman,
9 I'm not familiar with C-3. Could you just...
10 I know C-1. I know C-2. I know C-7. I
11 don't know a whole lot of other C's. What is
12 C-3 in relation to those or to area shopping
13 center, anything like that?

14 MR. CHAPMAN: Generally --

15 COUNCILMAN O'NEILL: What are the
16 distinguishing characteristics?

17 MR. CHAPMAN: Councilman, I guess
18 the most distinguishing characteristic
19 between, say, C-3, and area shopping center
20 is that C-3 would allow wholesale sales.

21 I don't think that the developer
22 plans to have any wholesale businesses here,
23 but that's really one of the main --

24 COUNCILMAN O'NEILL: What's the
25 difference between C-3 and C-7?

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2 MR. CHAPMAN: C-7 is more
3 restrictive, in terms of permitted uses.

4 COUNCILMAN O'NEILL: Okay.

5 MR. CHAPMAN: C-3 allows... As I
6 said, it allows wholesale uses and C-7
7 doesn't.

8 C-3 doesn't have a specific parking
9 requirement, and that's one aspect that
10 distinguishes it from area shopping center
11 and neighborhood shopping center and C-7.
12 But the developer's not going to build a
13 shopping center without plenty of parking.

14 COUNCILMAN O'NEILL: Okay. But he's
15 not required to or required to put any number
16 of spaces.

17 MR. CHAPMAN: That's correct.

18 COUNCILMAN O'NEILL: Okay. Thank
19 you.

20 COUNCIL PRESIDENT VERNA: Thank you.

21 Are there any other questions from
22 members of the committee on this bill?

23 (No response.)

24 COUNCIL PRESIDENT VERNA: Do we have
25 anyone else to testify on the bill?

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2 (No response.)

3 COUNCIL PRESIDENT VERNA: Mr.

4 Chapman, I note June the 16th can not come
5 soon enough for some of us. So, is there a
6 particular request that you would like to
7 make on this bill?

8 MR. CHAPMAN: Yes, Madam President.

9 Thank you. We would request that the rules
10 be suspended on this bill.

11 COUNCIL PRESIDENT VERNA: We will
12 certainly consider that.

13 Thank you.

14 MR. CHAPMAN: Thank you very much.

15 COUNCIL PRESIDENT VERNA: This will
16 conclude the public hearing of the Committee
17 on Rules.

18 (Public hearing concluded at 11:56
19 a.m.)

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1 Rules - 5/24/05

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3 COUNCIL OF THE CITY OF PHILADELPHIA
4 PUBLIC MEETING - COMMITTEE ON RULES

5 - - -

6 Room 400, City Hall
7 Philadelphia, Pennsylvania
8 Tuesday, May 24, 2005, 11:56 a.m.

9 - - -

9 BILL 050230 - An Ordinance amending Title 14 of
10 The Philadelphia Code, entitled
11 "Zoning and Planning," by amending
12 Chapter 14-200 entitled "Residential
13 Districts," by amending requirements
14 relating to courts in certain
15 Residential Districts, under certain
16 terms and conditions.

17 BILL 050232 - An Ordinance amending Title 14 of
18 The Philadelphia Code, entitled
19 "Zoning and Planning," by increasing
20 the permissible height for fences
21 located on the front lot line of
22 certain properties in residential
23 districts; and by permitting certain
24 architectural embellishments on
25 fences; all under certain terms and
conditions.

19 BILL 050233 - An Ordinance amending Title 14,
20 Entitled "Zoning and Planning," to
21 add definitions for certain
22 architectural features that are
23 commonly located on residential

24 - - -

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

1 Rules - 5/24/05

2 buildings, and to permit said
3 architectural features on
4 residential buildings located in
5 residentially zoned districts, under
6 certain terms and conditions.

7 BILL 050339 - An Ordinance to amend the
8 Philadelphia Zoning Maps by changing
9 the zoning designations of certain
10 areas of land located within an area
11 bounded by Bridge Street, Tacony
12 Street, a line 245 feet north of
13 Sanger Street, the Delaware River
14 and the Frankford Creek.

15 BILL 050285 - An Ordinance to amend the
16 Philadelphia Zoning Maps by changing
17 the zoning designations of certain
18 areas of land located within an area
19 bounded by Essington Avenue, 67th
20 Street, the Delaware River and the
21 former Pennypacker Avenue.

22 PRESENT:

23 COUNCIL PRESIDENT ANNA C. VERNA
24 COUNCILMAN DARRELL L. CLARKE
25 COUNCILMAN DiCICCO
COUNCILMAN JACK KELLY
COUNCILMAN JAMES F. KENNEY
COUNCILMAN RICHARD T. MARIANO
COUNCILWOMAN DONNA REED MILLER
COUNCILMAN MICHAEL NUTTER
COUNCILWOMAN BLONDELL REYNOLDS-BROWN

1 Rules - 5/24/05

2 - - -

3 P R O C E E D I N G S

4 - - -

5 COUNCIL PRESIDENT VERNA: We will
6 now go into our public meeting.

7 The Chair recognizes Councilman
8 Clarke regarding Bill Number 050285.

9 COUNCILMAN CLARKE: Thank you, Madam
10 President.

11 Madam President, I move that the
12 amendment to Bill Number 050285 be adopted.

13 COUNCIL PRESIDENT VERNA: Do I hear
14 a second?

15 COUNCILMAN O'NEILL: Second.

16 COUNCIL PRESIDENT VERNA: It has
17 been moved and second that the amendment as
18 proposed earlier be adopted.

19 All in favor will say aye.

20 (Chorus of "ayes.")

21 COUNCIL PRESIDENT VERNA: Those
22 opposed?

23 (No response.)

24 COUNCIL PRESIDENT VERNA: The ayes
25 have it, and the motion carries.

1 Rules - 5/24/05

2 Again the Chair recognizes
3 Councilman Clarke.

4 COUNCILMAN CLARKE: I move that Bill
5 Number 050285 as amended be adopted.

6 COUNCILMAN KELLY: Second.

7 COUNCILMAN CLARKE: And request for
8 suspension of the rules as to allow reading
9 at the next session of Council.

10 COUNCILMAN KELLY: Second.

11 COUNCIL PRESIDENT VERNA: It has
12 been moved and seconded that Bill Number
13 050285 be reported out of committee with a
14 favorable recommendation, as amended; also
15 that the rules of Council be suspended so as
16 to permit first reading at our next session
17 of Council.

18 All in favor will indicate by saying
19 aye.

20 (Chorus of "ayes.")

21 COUNCIL PRESIDENT VERNA: Those
22 opposed?

23 (No response.)

24 COUNCIL PRESIDENT VERNA: The ayes
25 have it, and the motion carries.

1 Rules - 5/24/05

2 Again the Chair recognizes
3 Councilman Clarke, regarding Bill Number
4 050230.

5 COUNCILMAN CLARKE: I move that Bill
6 Number 050230 be reported out of committee
7 with a favorable recommendation and request
8 for rules suspension.

9 COUNCILMAN KELLY: Second.

10 COUNCIL PRESIDENT VERNA: It has
11 been moved and seconded that Bill Number
12 050230 be reported out of committee with a
13 favorable recommendation; also, a
14 recommendation that the rules of Council be
15 suspended so as to permit first reading at
16 our next session of Council.

17 All in favor will indicate by saying
18 aye.

19 (Chorus of "ayes.")

20 COUNCIL PRESIDENT VERNA: Those
21 opposed?

22 (No response.)

23 COUNCIL PRESIDENT VERNA: The ayes
24 have it, and the motion carries.

25 The Chair recognizes Councilman

1 Rules - 5/24/05

2 Clarke regarding Bill Number 050232.

3 I'm sorry. Did we vote on that?

4 (Discussion held off the record.)

5 COUNCIL PRESIDENT VERNA: Okay.

6 There was an amendment introduced. I think

7 it was technical; was it not?

8 COUNCILMAN MARIANO: There was a

9 technical amendment, but there was other

10 amendments that we want to work out.

11 COUNCIL PRESIDENT VERNA: I know,

12 but there was a technical amendment.

13 What is your desire, then, as

14 sponsor?

15 COUNCILMAN MARIANO: This one? 32?

16 COUNCIL PRESIDENT VERNA: I want to

17 introduce the technical amendments.

18 COUNCIL PRESIDENT VERNA: Okay.

19 Without suspension.

20 COUNCILMAN MARIANO: I want to

21 introduce this amendment.

22 (Discussion held off the record.)

23 COUNCIL PRESIDENT VERNA: The Chair

24 recognizes Councilman Clarke.

25 COUNCILMAN CLARKE: Thank you, Madam

1 Rules - 5/24/05

2 President.

3 Madam President, I propose an
4 amendment to Bill Number 050232. Move for
5 the adoption of that amendment.

6 COUNCILMAN MARIANO: Second.

7 COUNCIL PRESIDENT Verna: It has
8 been moved and seconded.

9 COUNCILMAN O'NEILL: Copy of the
10 amendment. I haven't seen it. I may have it
11 in my pile.

12 COUNCIL PRESIDENT Verna: I believe
13 Mr. Chapman indicated it was a technical
14 amendment; did you not, Mr. Chapman? Did you
15 indicate that the amendment proposed on
16 050232 was a technical amendment?

17 COUNCILMAN O'NEILL: As I understand
18 it. Is that for the front -- The six feet is
19 allowed for in the front of the house for
20 a...

21 MR. CHAPMAN: Just for the posts.
22 Just for the gate post. The height of the
23 fence is four feet.

24 COUNCILMAN O'NEILL: Okay.

25 MR. CHAPMAN: That's all.

1 Rules - 5/24/05

2 COUNCIL PRESIDENT VERNA: Motion was
3 made and seconded.

4 All in favor of the adoption of the
5 amendment will say aye.

6 (Chorus of "ayes.")

7 COUNCIL PRESIDENT VERNA: Those
8 opposed?

9 (No response.)

10 COUNCIL PRESIDENT VERNA: The ayes
11 have it, and the amendment is adopted.

12 The Chair again recognizes
13 Councilman Clarke.

14 COUNCILMAN CLARKE: Move that Bill
15 Number 050232 be reported out of committee
16 with favorable recommendation.

17 UNIDENTIFIED COUNCIL PERSON:
18 Second.

19 COUNCIL PRESIDENT VERNA: It has
20 been moved and seconded that Bill Number
21 050232 be reported out of committee with a
22 favorable recommendation as amended.

23 All in favor will say aye.

24 (Chorus of "ayes.")

25 COUNCIL PRESIDENT VERNA: Those

1 Rules - 5/24/05

2 opposed?

3 (No response.)

4 COUNCIL PRESIDENT VERNA: The ayes
5 have it, and the motion carries.

6 The Chair again recognizes
7 Councilman Clarke regarding Bill Number
8 050233.

9 COUNCILMAN CLARKE: Move to adopt an
10 amendment to Bill Number 050233.

11 UNIDENTIFIED COUNCIL PERSON:
12 Second.

13 COUNCIL PRESIDENT VERNA: It has
14 been moved and seconded that the amendment as
15 presented be adopted.

16 All in favor will signify by saying
17 aye.

18 (Chorus of "ayes.")

19 COUNCIL PRESIDENT VERNA: Those
20 opposed?

21 (No response.)

22 COUNCIL PRESIDENT VERNA: The ayes
23 have it, and the motion carries.

24 Again the Chair recognizes
25 Councilman Clarke.

1 Rules - 5/24/05

2 COUNCILMAN CLARKE: Move that Bill
3 Number 050233 as amended be reported out of
4 committee with a favorable recommendation and
5 request for rules suspension, as to allow
6 first reading at our next session.

7 COUNCILMAN RAMOS: Second.

8 COUNCIL PRESIDENT VERNA: It has
9 been moved and seconded that Bill Number
10 050233 be reported out of committee with a
11 favorable recommendation, as amended; also, a
12 recommendation that the rules of Council be
13 suspended so as to permit first reading at
14 our next session of Council.

15 All in favor will indicate by saying
16 aye.

17 (Chorus of "ayes.")

18 COUNCIL PRESIDENT VERNA: Those
19 opposed?

20 (No response.)

21 COUNCIL PRESIDENT VERNA: The ayes
22 have it, and the motion carries.

23 Again the Chair recognizes
24 Councilman Clarke regarding Bill Number
25 050339.

1 Rules - 5/24/05

2 COUNCILMAN CLARKE: I move that Bill
3 Number 050339 be reported out of committee
4 with a favorable recommendation and a request
5 for rules suspension as to allow reading at
6 our next session of Council.

7 UNIDENTIFIED COUNCIL PERSON:
8 Second.

9 COUNCIL PRESIDENT VERNA: It has
10 been moved and seconded that Bill Number
11 050339 be reported out of committee with a
12 favorable recommendation; also, a
13 recommendation that the rules of Council be
14 suspended so as to permit first reading at
15 our next Council session.

16 All in favor will please indicate by
17 saying aye.

18 (Chorus of "ayes.")

19 COUNCIL PRESIDENT VERNA: Those
20 opposed?

21 (No response.)

22 COUNCIL PRESIDENT VERNA: The ayes
23 have it, and the motion carries.

24 I think this concludes our public
25 meeting of the rules committee. Thank you

1 Rules - 5/24/05

2 very much.

3 (Public meeting concluded at 12:06

4 p.m.)

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CERTIFICATE

I HEREBY CERTIFY that the proceedings and evidence are contained fully and accurately in the stenographic notes taken by me upon the public hearing and public meeting of The Philadelphia City Council, taken on May 24, 2005, and that this is a true and correct transcript of same.

DAVID A. DEIK, RPR and
Commissioner of Deeds

(The foregoing certification of this 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.)